

**Volume 38, No. 5, Pages 3934 to 4746,
April 22 – May 18, 2023**

FCC Record

**A comprehensive compilation of decisions,
reports, public notices and other documents
of the Federal Communications Commission
of the United States.**



FCC Record

Volume 38, No. 5, Pages 3934 to 4746, April 22 – May 18, 2023



FEDERAL COMMUNICATIONS COMMISSION

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PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-232

Released: April 24, 2023

ENFORCEMENT BUREAU COMMENCES 2023 EEO AUDITS

On April 24, 2023, the Enforcement Bureau issued the first of its Equal Employment Opportunity (EEO) audit letters for 2023 to randomly selected radio and television stations. In accordance with section 73.2080(f)(4) of the Commission's EEO rules,¹ the Enforcement Bureau annually audits the EEO programs of randomly selected broadcast licensees. Each year, approximately five percent of all radio and television stations are selected for EEO audits.

A list of the radio and television stations included in this audit as well as the text of the April 24, 2023 audit letter appears on the following pages, which are also located at the Enforcement Bureau's EEO headline page on the FCC website at: <https://www.fcc.gov/enforcement/eb-eo/equal-employment-opportunity-headlines>. The deadline for stations to upload responses to their FCC-hosted online public inspection files is June 8, 2023.

As a reminder, the Enforcement Bureau will no longer issue letters to licensees upon completion of our review of audit responses.² If questions arise during staff review, the Enforcement Bureau will contact the licensee.

Enforcement Bureau Contact: EB-EEO@fcc.gov or 202-418-1450

¹ 47 CFR § 73.2080(f)(4)

² See *Enforcement Bureau Continues 2022 EEO Audits*, Public Notice, DA 22-854, 2022 WL 3636697 (EB Aug. 19, 2022).



Federal Communications Commission
Washington, D.C. 20554

April 24, 2023

Dear Licensee:

1. In accordance with 47 CFR § 73.2080(f)(4), [Station call sign] (the Station) and all other stations, if any, in the same station employment unit (defined by 73.2080(e)(2) as commonly owned stations in the same market that share employees) (the Unit) has been randomly selected for an audit of its Equal Employment Opportunity (EEO) program. A copy of section 73.2080 of the Federal Communications Commission (FCC or Commission) rules can be found here: <https://www.fcc.gov/enforcement/eb-eeo/equal-employment-opportunity-rules>.

2. Audit Data Requested.

(a) If the Unit has fewer than five full-time employees (defined by section 73.2080(e)(1) as employees regularly assigned to work 30 hours a week or more), submit a response listing the Unit's full-time employees identified by job title (no personal names should be provided), the number of hours each is regularly assigned to work per week, and a response to Question 2(b)(vi) below. Please also see Questions 3 and 4 below for guidance regarding brokers and brokered stations.

(b) If the Unit employs five or more full-time employees, provide the following information:

(i) Copies of the Unit's two most recent EEO Public File Reports, described in section 73.2080(c)(6).

(ii) For each station in the Unit that maintains a website, the website address. If the Unit's most recent EEO Public File Report is not posted on each website as required by section 73.2080(c)(6), identify that website and explain why the report is not so posted. If the Unit does not maintain a website, but its corporate site contains a link to a site pertaining to the Unit, identify the corporate website address where the Unit's most recent EEO Public File Report is linked pursuant to section 73.2080(c)(6).

(iii) For each of the Unit's full-time positions filled during the period covered by the EEO Public File Reports noted above, or since acquisition of the Unit (if during that period), the date of hire as required by section 73.2080(c)(5)(vi) as well as dated copies of all advertisements, bulletins, letters, faxes, e-mails or other communications announcing the position, as described in section 73.2080(c)(5)(iii). However, to reduce the burden of responding to this audit, if a job notice was sent to multiple sources, the Unit may include in its response: (1) documentation showing one such notice was sent, (2) a list of the additional sources to which the notice was distributed, and (3) a statement confirming notices to all additional sources used to announce the vacancy were retained, as required by section 73.2080(c)(5)(iii).³ Include, however, copies of all job announcements sent to any organization (identified separately from other recruitment

³ For on-air announcements that aired multiple times to advertise the position, you may send a traffic log summary documenting the timeframe during which the announcements aired (in lieu of the log in its entirety). The log showing all air dates and times may be required for additional verification, but the Unit need not provide with its initial response.

sources) that has notified the Unit that it wants to be notified of the Unit's job openings, as described in section 73.2080(c)(1)(ii).

(iv) As required by section 73.2080(c)(5)(v), the total number of interviewees for each vacancy and the referral source for each interviewee for all the Unit's full-time vacancies filled during the period covered by the above-noted EEO Public File Reports.

(v) Dated documentation demonstrating performance of the Unit's recruitment initiatives described in section 73.2080(c)(2) during the period covered by the above-noted EEO Public File Reports, such as participation in job fairs, events with educational institutions, and mentoring or training programs for staff. Specify the Unit personnel involved in each recruitment initiative. In addition, provide the Unit's total number of full-time employees and state whether the population of the market in which any of the Unit's stations operates is 250,000 or more. Based upon these two factors and as required by sections 73.2080(c)(2) and (e)(3) of the Commission's rules, state whether the Unit is required to perform two or four points worth of initiative activities within a two-year period (measured from the date the stations in the Unit file their renewal applications and the second, fourth, sixth and eighth anniversaries of that date). If the Unit performed more than the required number of initiative activities, it may provide documentation for only the required amount in its response, i.e., two or four points worth. If any documentation provided appears inadequate, e.g., it is not dated or does not clearly prove the Unit's participation, the Commission may ask for additional verification.

(vi) Any pending or resolved complaints involving the Unit filed during the Unit's current license term(s) before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the Unit on the basis of race, color, religion, national origin, or sex. For each such complaint, provide: (1) a brief description of the allegations and issues involved; (2) the names of the complainant and other persons involved; (3) the date the complaint was filed; (4) the court or agency before which it is pending or by which it was resolved; (5) the file or case number; and (6) the disposition and date thereof or current status. Note that the Unit must report all complaints, regardless of their status or disposition.

(vii) In accordance with section 73.2080(b), during the Unit's current license term(s) (or since acquisition of the Unit (if during that period)), a description of the responsibilities of each level of Unit management responsible for implementing Unit EEO policies and how the Unit has informed employees and job applicants of its EEO policies and program.

(viii) In accordance with section 73.2080(c)(3), during the Unit's current license term(s) (or since acquisition of the Unit (if during that period)), a description of the Unit's efforts to analyze its EEO recruitment program to ensure that it is effective and to address any problems found as a result of such analysis.

(ix) As required by section 73.2080(c)(4), during the Unit's current license term(s) (or since acquisition of the Unit (if during that period)), a description of the Unit's efforts to analyze periodically its measures taken to examine pay, benefits, seniority practices, promotions, and selection techniques and tests to ensure that they provide equal

opportunity and do not have a discriminatory effect. If the Unit has one or more union agreements, describe how the Unit cooperates with each union to ensure EEO policies are followed for the Unit's union-member employees and job applicants.

(x) If your entity is a religious broadcaster and any of the Unit's full-time employees are subject to a religious qualification as described in section 73.2080(a) of the rules, the Unit should indicate that status in its response and provide data as applicable to its EEO program. For example, for those full-time hires subject to a religious qualification, you must provide only a record of the hire listed by job title and date filled, the recruitment sources used for the opening, and the source that referred the person hired. No other records are required for those hires. If five or more full-time positions are not subject to a religious qualification, the licensee must maintain and provide all records for such hires and complete the initiatives required under section 73.2080(c)(2). Otherwise, a religious broadcaster is not required to perform these initiatives.

(c) Resumes, company training manuals, posters, employee handbooks, and corporate guidebooks are not required to be submitted. If any of the information in these or similar materials is relevant to any part of this audit letter, the Unit may provide a summary of any content if it so wishes. If this audit requires an unusually burdensome volume of documentation, the Unit may contact EEO staff at (202) 418-1450 prior to the response deadline to discuss alternative ways of condensing the information.

3. Time Brokerage—Licensee of brokered station(s) receives audit letter.

If any station included in the Unit is subject to a time brokerage agreement, the licensee must immediately forward a copy of this letter to the broker under each such agreement. Additionally, if the Unit employs fewer than five full-time employees, the licensee must respond by providing a list of the Unit's full-time employees listed by job title, the number of hours each employee is assigned to work, and a response to Question 2(b)(vi) above. If the Unit employs five or more full-time employees, the licensee must respond fully to paragraph 2(b).

4. Time Brokerage—Broker receives audit letter.

(a) **Broker receives audit letter from brokered station licensee.** The broker must submit information requested in 2(b) above concerning information relating only to its own full-time employees working on behalf of the brokered station, as required by section 73.2080(f)(3) of the Commission's rules. If recruitment activity for those brokered station employees is maintained with that of other stations licensed to you, and you lack the ability to separate the information, submit information pertaining to both.

(b) **Broker receives audit letter directly from Commission.** If any station in the Unit is licensed to you, submit information requested in 2(b) above for the Unit's EEO program. If recruitment activity pertaining to full-time employees working on behalf of another station you broker is maintained with that of the Unit, and you lack the ability to separate the information, submit information pertaining to both.

(c) **Broker described in 4(a) or 4(b).** If full-time employees at the station you broker, combined with full-time employees at the Station (or Unit), total fewer than five, you need only

respond to this letter by submitting a list of full-time employees (identified by job title and number of hours regularly assigned to work per week) for both the brokered station(s) and subject Station as well as a response to Question 2(b)(vi).

5. Procedures.

(a) **The response to this audit letter must be uploaded to the FCC-hosted online public inspection file (<https://publicfiles.fcc.gov/>) belonging to each station in the Unit by no later than June 8, 2023.** The response should be placed in the EEO Audits, Investigations, and Complaints subfolder in the online public file (found at EEO Records>>Additional Documents>> EEO Audits, Investigations, and Complaints). Include in the response the Station's Facility ID Number and an e-mail address of a Station representative.

(b) Any extension of time must be requested at least five days prior to aforementioned deadline (via email to EB-EEO@fcc.gov), indicate the additional time the Unit believes it needs to complete its response (not to exceed 45 days) and will be granted only upon a showing of good cause. Unless and until an extension is granted, the original deadline remains in effect.

(c) If the Unit submitted an EEO audit response in 2021 or 2022 and/or the most recent license renewal application(s) applicable to the Unit were granted after February 1, 2021, send an email to EB-EEO@fcc.gov for additional guidance on whether a response is required. In the email, provide a reference to the relevant filings/applications before the Commission.

(d) The accuracy and completeness of the response must be certified by an officer, partner or other principal of the Station licensee or broker (as appropriate) or, in the case of a noncommercial educational station, by an officer, member or other principal of the licensee. (*See* 47 CFR § 1.16.). To knowingly and willfully make any false statement or conceal any material fact in response to this audit is punishable by fine or imprisonment (*see* 18 U.S.C. § 1001; 47 CFR § 1.17), revocation of any station license or construction permit (47 U.S.C. § 312(a)(1)), and/or forfeiture (47 U.S.C. § 503). Failure to respond to this audit letter by the deadline is punishable by sanctions in accordance with section 73.2080(g).

(e) As required by sections 73.3526(e)(10) (commercial stations) and 73.3527(e)(11) (noncommercial educational stations), a copy of this letter and the response must be placed in the FCC-hosted online public inspection file belonging to each station in the Unit. Consequently, the response should not include personal information about individuals, such as social security numbers, home addresses, or other personally identifiable information. The FCC does not require that employment units retain such information in their records, or that such information be provided in response to this letter.

(f) Upon receipt, audit responses will be reviewed for completeness. If any questions arise or there are missing materials, EEO staff will contact you. The Enforcement Bureau no longer issues letters to licensees upon completion of our review of audit responses.

Should you have any questions, please contact EEO Staff at EB-EEO@fcc.gov or (202) 418-1450. Thank you for your cooperation.

Sincerely,

/s/ Elizabeth Goldin

Elizabeth E. Goldin
Assistant Chief, Investigations & Hearings Division
Enforcement Bureau

APRIL 24, 2023 BROADCAST EEO AUDIT
RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
1.	KDLF	AM	6416	BOONE	IA	Latin World Broadcasting, Inc.
2.	KEZK-FM	FM	13507	ST. LOUIS	MO	Audacy License, LLC
3.	KRTI	FM	35564	GRINNELL	IA	Alpha Media Licensee LLC
4.	KRVI	FM	55165	MOUNT VERNON	MO	SM-KRVI, LLC
5.	KSGF-FM	FM	2924	ASH GROVE	MO	SM-KSGF-FM, LLC
6.	KVIK	FM	33080	DECORAH	IA	LA COMMUNICATIONS, INC.
7.	KVKI-FM	FM	19560	SHREVEPORT	LA	Townsquare License LLC
8.	KVVL	FM	48974	MARYVILLE	MO	REGIONAL MEDIA, INC.
9.	KZIA	FM	35556	CEDAR RAPIDS	IA	KZIA, INC.
10.	WACC	AM	28874	HIALEAH	FL	PAX Catholic Communications, Inc.
11.	WAKH	FM	58935	MCCOMB	MS	North Shore Broadcasting Company, Inc.
12.	WBIK	FM	70555	PLEASANT CITY	OH	AVC COMMUNICATIONS, INC.
13.	WBML	AM	67210	WARNER ROBINS	GA	WRWR-AM Radio LLC
14.	WBOJ	AM	36685	COLUMBUS	GA	88.5 The Truth, Inc.
15.	WBTW	DTV	66407	FLORENCE	SC	Nexstar Media, Inc.
16.	WCAU	DTV	63153	PHILADELPHIA	PA	NBC Telemundo License LLC
17.	WCAZ	AM	60017	CARTHAGE	IL	HANCOCK COUNTY BROADCASTING, LLC
18.	WCCQ	FM	10677	CREST HILL	IL	Alpha Media Licensee LLC
19.	WCGX	AM	68600	GALAX	VA	Twin County Broadcasting Corporation
20.	WCIL-FM	FM	65949	CARBONDALE	IL	MRR LICENSE LLC
21.	WCJK	FM	61053	MURFREESBORO	TN	Midwest Communications, Inc.
22.	WCJZ	FM	83101	CANNELTON	IN	Hancock Communications, Inc.
23.	WCLR	FM	15974	DEKALB	IL	Educational Media Foundation
24.	WCMR	AM	53650	ELKHART	IN	Progressive Broadcasting System, Inc.
25.	WCNB	FM	93231	DAYTON	IN	Community Radio Partners
26.	WCON-FM	FM	25814	CORNELIA	GA	Habersham Broadcasting Company
27.	WCPT	AM	16849	WILLOW SPRINGS	IL	WYPA LLC

APRIL 24, 2023 BROADCAST EEO AUDIT
RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
28.	WCTI-TV	DTV	18334	NEW BERN	NC	WCTI Licensee, LLC
29.	WCVV	FM	4640	BELPRE	OH	Belpre Educational Broadcasting Foundation
30.	WCWG	DTV	35385	LEXINGTON	NC	Hearst Properties Inc.
31.	WCWN	DTV	73264	SCHENECTADY	NY	WCWN Licensee, LLC
32.	WDBJ	DTV	71329	ROANOKE	VA	Gray Television Licensee, LLC
33.	WDBQ-FM	FM	30617	GALENA	IL	Townsquare License, LLC
34.	WDCA	DTV	51567	WASHINGTON	DC	Fox Television Stations, LLC
35.	WDVM-TV	DTV	25045	HAGERSTOWN	MD	NEXSTAR MEDIA INC.
36.	WDWG	FM	54861	ROCKY MOUNT	NC	First Media Radio, LLC
37.	WEAG-FM	FM	16906	STARKE	FL	Dickerson Broadcasting, Inc.
38.	WEDJ	FM	13794	DANVILLE	IN	Continental Broadcast Group, LLC
39.	WENZ	FM	2685	CLEVELAND	OH	Blue Chip Broadcasting Licenses, LTD
40.	WERO	FM	64609	WASHINGTON	NC	DICK BROADCASTING COMPANY, INC. OF TENNESSEE
41.	WESH	DTV	25738	DAYTONA BEACH	FL	Hearst Properties Inc.
42.	WETA-TV	DTV	65670	WASHINGTON	DC	Greater Washington Educational Telecommunications Association, Inc.
43.	WFCX	FM	56224	EASTPOINT	FL	East Bay Broadcasting, Inc.
44.	WFDC-DT	DTV	69532	ARLINGTON	VA	UniMas D.C. LLC
45.	WFDM-FM	FM	21842	FRANKLIN	IN	Pilgrim Communications, LLC
46.	WFEZ	FM	40408	MIAMI	FL	Cox Radio, LLC
47.	WFFH	FM	68347	SMYRNA	TN	SALEM Communications Holding Corporation
48.	WFLA-TV	DTV	64592	TAMPA	FL	Nexstar Media, Inc.
49.	WFNI	AM	19521	INDIANAPOLIS	IN	Emmis Radio License, LLC
50.	WFPX-TV	DTV	21245	ARCHER LODGE	NC	ION Media License Company, LLC
51.	WFSI	AM	43864	BALTIMORE	MD	Family Stations, Inc.
52.	WFSX-FM	FM	50321	ESTERO	FL	Sun Broadcasting, Inc.
53.	WFTS-TV	DTV	64588	TAMPA	FL	Scripps Broadcasting Holdings LLC

APRIL 24, 2023 BROADCAST EEO AUDIT
RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
54.	WFTT-TV	DTV	16788	VENICE	FL	Entravision Holdings, LLC
55.	WFTX-TV	DTV	70649	CAPE CORAL	FL	Scripps Broadcasting Holdings LLC
56.	WFXB	DTV	9054	MYRTLE BEACH	SC	Springfield Broadcasting Partners
57.	WFXP	DTV	19707	ERIE	PA	Mission Broadcasting, Inc.
58.	WFXU	DTV	22245	LIVE OAK	FL	Gray Television Licensee, LLC
59.	WGAP	AM	72087	MARYVILLE	TN	LOUD MEDIA LLC
60.	WGDQ	FM	68907	SUMRALL	MS	VERNON FLOYD DBA CIRCUIT BROADCASTING OF HATTIESBURG
61.	WGFT	AM	74164	CAMPBELL	OH	Y-Town Radio Broadcasting, LLC
62.	WGFW	FM	174083	DRAKES BRANCH	VA	GOD'S FINAL CALL & WARNING, INC.
63.	WGGS-TV	DTV	9064	GREENVILLE	SC	Carolina Christian Broadcasting, Inc.
64.	WGHB	AM	56566	FARMVILLE	NC	Pirate Media Group, LLC
65.	WGHP	DTV	72106	HIGH POINT	NC	Tribune Broadcasting Company II, LLC
66.	WGKB	AM	70771	WAUKESHA	WI	GOOD KARMA BROADCASTING, LLC
67.	WGNE-FM	FM	15897	MIDDLEBURG	FL	Renda Broadcasting Corp. of Nevada
68.	WGNT	DTV	9762	PORTSMOUTH	VA	Scripps Broadcasting Holdings LLC
69.	WGOV-FM	FM	9684	VALDOSTA	GA	W.G.O.V., Inc.
70.	WGOW-FM	FM	53956	SODDY-DAISY	TN	Radio License Holding CBC, LLC
71.	WGPB	FM	6797	ROME	GA	GEORGIA PUBLIC TELECOMMUNICATIONS COMMISSION
72.	WGPX-TV	DTV	65074	BURLINGTON	NC	INYO Broadcast Licenses LLC
73.	WGRZ	DTV	64547	BUFFALO	NY	Multimedia Entertainment, LLC
74.	WHAR	FM	47106	HAVELOCK	NC	Educational Media Foundation
75.	WHEI	FM	26688	TIFFIN	OH	SOARING EAGLE PROMOTIONS INC.
76.	WHGO	FM	174389	HERTFORD	NC	Pathway Christian Academy, Inc.
77.	WHGV	FM	76433	LA CROSSE	FL	Central Florida Educational Foundation, Inc.
78.	WHHL	FM	74578	HAZELWOOD	MO	Audacy License, LLC
79.	WHHM-FM	FM	10766	HENDERSON	TN	Southern Stone Communications, LLC

APRIL 24, 2023 BROADCAST EEO AUDIT
RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
80.	WHKW	AM	14772	CLEVELAND	OH	Salem Communications Holding Corporation
81.	WHKY-TV	DTV	65919	HICKORY	NC	Long Communications, LLC
82.	WHLH	FM	59825	JACKSON	MS	iHM Licenses, LLC
83.	WHLV-TV	DTV	24582	COCOA	FL	Trinity Broadcasting of Texas, Inc.
84.	WHNS	DTV	72300	GREENVILLE	SC	Gray Television Licensee, LLC
85.	WHNY-FM	FM	85416	HENRY	TN	Forever South Licenses, LLC
86.	WHPD	FM	69804	DOWAGIAC	MI	FAMILY BROADCASTING CORPORATION
87.	WHSV-TV	DTV	4688	HARRISONBURG	VA	Gray Television Licensee, LLC
88.	WHTJ	DTV	9990	CHARLOTTESVILLE	VA	VPM Media Corporation
89.	WHUT-TV	DTV	27772	WASHINGTON	DC	Howard University
90.	WHYY-TV	DTV	72338	WILMINGTON	DE	WHYY, Inc.
91.	WIAL	FM	7063	ELK MOUND	WI	Clear Water Brands, Inc.
92.	WIBM	AM	9248	JACKSON	MI	MCKIBBIN MEDIA GROUP, INC.
93.	WICU-TV	DTV	24970	ERIE	PA	SJL OF PENNSYLVANIA, INC.
94.	WICZ-TV	DTV	62210	BINGHAMTON	NY	Imagicom Binghamton, LLC
95.	WIDG	AM	42146	ST. IGNACE	MI	Relevant Radio, Inc.
96.	WIHG	FM	51113	ROCKWOOD	TN	3B Properties, Inc.
97.	WIHM-FM	FM	175887	HARRISBURG	IL	COVENANT NETWORK
98.	WIKV	FM	90470	PLYMOUTH	IN	Educational Media Foundation
99.	WJAC-TV	DTV	73120	JOHNSTOWN	PA	WJAC Licensee, LLC
100.	WJAL	DTV	10259	HAGERSTOWN	MD	Entravision Holdings, LLC
101.	WJEB-TV	DTV	29719	JACKSONVILLE	FL	Jacksonville Educators Broadcasting, Inc.
102.	WJFC	AM	18402	JEFFERSON CITY	TN	Lakeway Broadcasting, LLC
103.	WJLE-FM	FM	37052	SMITHVILLE	TN	Center Hill Broadcasting Corp., Inc.
104.	WJLP	DTV	86537	MIDDLETOWN TOWNSHIP	NJ	TV-49, Inc.
105.	WJPM-TV	DTV	61008	FLORENCE	SC	South Carolina Educational Television Commission

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RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
106.	WJST	FM	66942	SYLVESTER	GA	JETSTREAM MEDIA LLC
107.	WJTA	FM	175969	GLANDORF	OH	Holy Family Communications, Inc.
108.	WJTB-FM	FM	24376	SOUTH CONGAREE	SC	Augusta Radio Fellowship Institute, Inc.
109.	WJYZ	AM	6617	ALBANY	GA	iHM Licenses, LLC
110.	WKCF	DTV	53465	CLERMONT	FL	Hearst Properties Inc.
111.	WKDP	AM	19815	CORBIN	KY	Eubanks Broadcasting, Inc.
112.	WKEY-FM	FM	34354	KEY WEST	FL	RADIO ONE KEY WEST, LLC
113.	WKMG-TV	DTV	71293	ORLANDO	FL	Graham Media Group, Orlando, Inc.
114.	WKSO	FM	29955	NATCHEZ	MS	Will Perk Broadcasting
115.	WKSU	FM	34045	KENT	OH	Kent State University
116.	WKWY	FM	78223	TOMPKINSVILLE	KY	Frank Keeton Aircasters, Inc.
117.	WKYZ	FM	73170	KEY COLONY BEACH	FL	Keys Media Company, Inc.
118.	WLAB	FM	28467	FORT WAYNE	IN	Star Educational Media Network, Inc.
119.	WLAK	AM	47079	AMERY	WI	CIVIC MEDIA, INC.
120.	WLEE	AM	61280	WINONA	MS	BACK FOURTY BROADCASTING, LLC
121.	WLHR-FM	FM	54561	LAVONIA	GA	Lake Hartwell Radio, Inc.
122.	WLJD	FM	87539	CHARLEVOIX	MI	GOOD NEWS MEDIA, INC.
123.	WLKG	FM	67290	LAKE GENEVA	WI	CTJ Communications, Ltd.
124.	WLKN	FM	67716	CLEVELAND	WI	Seehafer Broadcasting Corp.
125.	WLKP	FM	38912	BELPRE	OH	Educational Media Foundation
126.	WLLS	FM	14646	BEULAH	MI	N Content Marketing, LLC
127.	WLND	FM	72371	SIGNAL MOUNTAIN	TN	Audacy License, LLC
128.	WLOV	AM	51125	WASHINGTON	GA	Southern Stone Broadcasting, Inc.
129.	WLQV	AM	42081	DETROIT	MI	SALEM Communications Holding Corporation
130.	WLRJ	FM	43459	GREENVILLE	MS	Educational Media Foundation
131.	WLTA	AM	42660	ALPHARETTA	GA	Salem Communications Holding Corporation
132.	WLTV-DT	DTV	73230	MIAMI	FL	WLTV License Partnership, G.P.

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RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
133.	WLTX	DTV	37176	COLUMBIA	SC	Pacific and Southern, LLC
134.	WLVE	FM	88081	MUKWONAGO	WI	Educational Media Foundation
135.	WLVT-TV	DTV	36989	ALLENTOWN	PA	Lehigh Valley Public Telecommunications Corporation
136.	WMAL-FM	FM	70037	WOODBIDGE	VA	Radio License Holdings LLC
137.	WMBB	DTV	66398	PANAMA CITY	FL	Nexstar Media Inc.
138.	WMGM-TV	DTV	61111	WILDWOOD	NJ	Univision Local Media, Inc.
139.	WMOR-TV	DTV	53819	LAKELAND	FL	Hearst Properties Inc.
140.	WMPS	AM	2802	BARTLETT	TN	Arlington Broadcasting Company
141.	WMYT-TV	DTV	20624	ROCK HILL	SC	Tribune Media Company
142.	WNBW-DT	DTV	83965	GAINESVILLE	FL	MPS Media of Gainesville License, LLC
143.	WNCB	FM	53596	CARY	NC	IHM Licenses, LLC
144.	WNCN	DTV	50782	GOLDSBORO	NC	Nexstar Media, Inc.
145.	WNCT-TV	DTV	57838	GREENVILLE	NC	Nexstar Media Inc.
146.	WNDV-FM	FM	41675	INDIANAPOLIS	IN	SOUND MANAGEMENT, LLC
147.	WNDX	FM	71438	LAWRENCE	IN	Radio License Holding SRC LLC
148.	WNET	DTV	18795	NEWARK	NJ	WNET
149.	WNML-FM	FM	7998	FRIENDSVILLE	TN	Radio License Holding CBC, LLC
150.	WNNF	FM	59593	CINCINNATI	OH	Cumulus Licensing LLC
151.	WNSP	FM	21227	BAY MINETTE	AL	Dot Com Plus LLC
152.	WNSR	AM	41062	BRENTWOOD	TN	Southern Wabash Communications of Middle Tennessee, Inc.
153.	WNST	AM	25523	TOWSON	MD	Nasty 1570 Sports, LLC
154.	WNVZ	DTV	9999	CULPEPER	VA	VPM MEDIA CORPORATION
155.	WNVZ	FM	40755	NORFOLK	VA	Audacy License, LLC
156.	WNWF	AM	73372	EVERGREEN	AL	Andala Enterprises, Inc.
157.	WNYO-TV	DTV	67784	BUFFALO	NY	New York Television, Inc.
158.	WNYT	DTV	73363	ALBANY	NY	WNYT-TV, LLC
159.	WOAH	FM	64632	GLENNVILLE	GA	Liberty Radio, Inc.

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RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
160.	WOKB	AM	87164	WINTER GARDEN	FL	Unity Broadcasting LLC
161.	WOSA	FM	28644	GROVE CITY	OH	The Ohio State University
162.	WOSL	FM	57353	NORWOOD	OH	Blue Chip Broadcasting Licenses, LTD
163.	WOWK-TV	DTV	23342	HUNTINGTON	WV	Nexstar Media Inc.
164.	WPAN	DTV	31570	FORT WALTON BEACH	FL	B&C Communications, LLC
165.	WPBS-TV	DTV	62136	WATERTOWN	NY	St. Lawrence Valley Educational Television Council
166.	WPCB-TV	DTV	13924	GREENSBURG	PA	Cornerstone TeleVision, Inc.
167.	WPMT	DTV	10213	YORK	PA	Tegna Broadcast Holdings, LLC
168.	WPPT	DTV	28480	PHILADELPHIA	PA	Lehigh Valley Public Telecommunications Corporation
169.	WPRT-FM	FM	43630	PEGRAM	TN	WYCQ, Inc.
170.	WPTV-TV	DTV	59443	WEST PALM BEACH	FL	Scripps Broadcasting Holdings LLC
171.	WPTZ	DTV	57476	PLATTSBURGH	NY	Hearst Stations Inc.
172.	WPUP	FM	51120	WATKINSVILLE	GA	Cox Radio, LLC
173.	WPXM-TV	DTV	48608	MIAMI	FL	ION Media License Company, LLC
174.	WPXP-TV	DTV	27290	LAKE WORTH	FL	INYO Broadcast Licenses LLC
175.	WPXU-TV	DTV	37971	JACKSONVILLE	NC	ION Television License, LLC
176.	WPXV-TV	DTV	67077	NORFOLK	VA	INYO Broadcast Licenses LLC
177.	WQAH-FM	FM	48737	ADDISON	AL	Abercrombie Broadcasting FM, Inc.
178.	WQBT	FM	8594	SAVANNAH	GA	iHM Licenses, LLC
179.	WQOF	AM	8681	WASHINGTON	DC	RELEVANT RADIO, INC.
180.	WQPO	FM	39492	HARRISONBURG	VA	Tidewater Communications, LLC
181.	WQTM	AM	2860	FAIR BLUFF	NC	Keith Baldwin
182.	WQTX	FM	72121	ST. JOHNS	MI	Midwest Communications, Inc.
183.	WRAL-TV	DTV	8688	RALEIGH	NC	CAPITOL BROADCASTING COMPANY, INC.
184.	WRAO	FM	175071	WISCONSIN RAPIDS	WI	Wisconsin Rapids Seventh-day Adventist Church
185.	WRAY-TV	DTV	10133	WAKE FOREST	NC	Radiant Life Ministries, Inc.

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RADIO & TELEVISION STATIONS

	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
186.	WRCG	AM	72090	COLUMBUS	GA	PMB Broadcasting, LLC
187.	WRDF	FM	29204	COLUMBIA CITY	IN	Fort Wayne Catholic Radio Group, Inc.
188.	WRGB	DTV	73942	SCHENECTADY	NY	WRGB Licensee, LLC
189.	WRPX-TV	DTV	20590	ROCKY MOUNT	NC	ION Television License, LLC
190.	WRRH	FM	55693	HORMIGUEROS	PR	RENACER BROADCASTERS CORPORATION
191.	WRXR-FM	FM	72375	ROSSVILLE	GA	Audacy License, LLC
192.	WRXY-TV	DTV	71580	TICE	FL	WEST COAST CHRISTIAN TELEVISION, INC
193.	WSAT	AM	43140	SALISBURY	NC	2B Productions, LLC
194.	WSET-TV	DTV	73988	LYNCHBURG	VA	WSET Licensee, LLC
195.	WSFL-TV	DTV	10203	MIAMI	FL	Scripps Broadcasting Holdings LLC
196.	WSGW-FM	FM	41842	CARROLLTON	MI	Alpha Media Licensee LLC
197.	WSKY-FM	FM	23352	MICANOPY	FL	Audacy License, LLC
198.	WSPA-TV	DTV	66391	SPARTANBURG	SC	Nexstar Media Inc.
199.	WSRV	FM	59970	GAINESVILLE	GA	Cox Radio, Inc.
200.	WSVN	DTV	63840	MIAMI	FL	SUNBEAM TELEVISION CORPORATION
201.	WSWB	DTV	73374	SCRANTON	PA	MPS Media of Scranton License, LLC
202.	WSYT	DTV	40758	SYRACUSE	NY	IMAGICOMM SYRACUSE, LLC
203.	WTAJ-TV	DTV	23341	ALTOONA	PA	Nexstar Media Inc.
204.	WTCE-TV	DTV	29715	FORT PIERCE	FL	Jacksonville Educators Broadcasting, Inc.
205.	WTJF-FM	FM	20390	DYER	TN	Forever South Licenses, LLC
206.	WTKE-FM	FM	10055	NICEVILLE	FL	OMNI BROADCASTING, LLC
207.	WTKR	DTV	47401	NORFOLK	VA	Scripps Broadcasting Holdings LLC
208.	WTRG	FM	17568	GASTON	NC	Byrne Acquisition Group, LLC
209.	WTTL-FM	FM	13800	MADISONVILLE	KY	Madisonville CBC, Inc.
210.	WTVE	DTV	55305	WILLOW GROVE	PA	RNN National, LLC
211.	WTVJ	DTV	63154	MIAMI	FL	NBC Telemundo License LLC
212.	WTVX	DTV	35575	FORT PIERCE	FL	WTVX Licensee, LLC

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	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
213.	WUCF-TV	DTV	12855	ORLANDO	FL	University of Central Florida Board of Trustees
214.	WUKS	FM	39239	ST. PAULS	NC	BEASLEY MEDIA GROUP LICENSES, LLC
215.	WUTR	DTV	57837	UTICA	NY	Mission Broadcasting, Inc.
216.	WUVC-DT	DTV	16517	FAYETTEVILLE	NC	WUVC License Partnership, G.P.
217.	WVCS	FM	175594	OWEN	WI	VCY America, Inc.
218.	WVCX	FM	73061	TOMAH	WI	VCY America, Inc.
219.	WVEA-TV	DTV	60559	TAMPA	FL	UniMas Tampa LLC
220.	WVHK	FM	69744	CHRISTIANSBURG	VA	MONTICELLO MEDIA LLC
221.	WVIJ	FM	53029	PORT CHARLOTTE	FL	LAKE ERIE COLLEGE OF OSTEOPATHIC MEDICINE, INC.
222.	WVKO-FM	FM	58633	JOHNSTOWN	OH	Lazo Media LLC
223.	WVLD	AM	69647	VALDOSTA	GA	Southern Communications, LLC
224.	WVPY	DTV	66378	NEW MARKET	VA	VPM MEDIA CORPORATION
225.	WVSN	DTV	67190	HUMACAO	PR	La Cadena Del Milagro, Inc.
226.	WWBT	DTV	30833	RICHMOND	VA	Gray Television Licensee, LLC
227.	WWCK-FM	FM	39678	FLINT	MI	Cumulus Licensing LLC
228.	WWCW	DTV	24812	LYNCHBURG	VA	Nexstar Media, Inc.
229.	WWIP	FM	90265	CHERITON	VA	Delmarva Educational Association
230.	WWKY-FM	FM	15527	PROVIDENCE	KY	Madisonville CBC, Inc.
231.	WWLD	FM	38640	CAIRO	GA	Cumulus Licensing LLC
232.	WWL-FM	FM	52435	KENNER	LA	Audacy License, LLC
233.	WWNY-TV	DTV	68851	CARTHAGE	NY	Gray Television Licensee, LLC
234.	WWQQ-FM	FM	28163	WILMINGTON	NC	Cumulus Licensing LLC
235.	WWQT	AM	54614	TRYON	NC	The Power Foundation
236.	WWSB	DTV	61251	SARASOTA	FL	Gray Television Licensee, LLC
237.	WWWX	FM	50052	OSHKOSH	WI	Cumulus Licensing LLC
238.	WXCW	DTV	61504	NAPLES	FL	Sun Broadcasting, Inc.
239.	WXEL-TV	DTV	61084	BOYNTON BEACH	FL	South Florida PBS, Inc.

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	CALL SIGN	SERVICE	FACILITY ID	CITY OF LICENSE	STATE	LICENSEE NAME
240.	WXPX-TV	DTV	6601	BRADENTON	FL	ION Media License Company, LLC
241.	WXTG	AM	25917	HAMPTON	VA	TL BROADCASTING LLC
242.	WYBW	FM	175255	KEY COLONY BEACH_	FL	Bible Broadcasting Network, Inc.
243.	WYHA	FM	22918	GRAND RAPIDS	MI	Bible Broadcasting Network, Inc.
244.	WYLV	FM	81317	MAYNARDVILLE	TN	Educational Media Foundation
245.	WYOU	DTV	17010	SCRANTON	PA	Mission Broadcasting, Inc.
246.	WYYX	FM	25412	BONIFAY	FL	Magic Broadcasting II, LLC
247.	WZBJ	DTV	15507	DANVILLE	VA	Gray Television Licensee, LLC
248.	WZLB	FM	60811	VALPARAISO	FL	JVC MEDIA OF FLORIDA, LLC
249.	WZRB	DTV	136750	COLUMBIA	SC	ION Media License Company, LLC
250.	WZRH	FM	117	LAPLACE	LA	Radio License Holding CBC, LLC



PUBLIC NOTICE

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DA 23-333

Released: April 28, 2023

STREAMLINED RESOLUTION OF REQUESTS RELATED TO ACTIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

CC Docket No. 02-6
WC Docket No. 21-93
WC Docket No. 10-90
WC Docket No. 02-60
WC Docket No. 06-122

Pursuant to our procedure for resolving requests for review, requests for waiver, and petitions for reconsideration of decisions related to actions taken by the Universal Service Administrative Company (USAC) that are consistent with precedent (collectively, Requests), the Wireline Competition Bureau (Bureau) grants, dismisses, or denies the following Requests.¹ The deadline for filing petitions for reconsideration or applications for review concerning the disposition of any of these Requests is 30 days from the release date of this Public Notice.²

Schools and Libraries (E-Rate)

CC Docket No. 02-6

Dismiss as Moot – Invoicing Records Demonstrate Full Funding Received³

Erie 1 BOCES, NY, Application No. 181002848, Request for Review, CC Docket No. 02-6 (filed Dec. 2, 2019)

¹ See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45 and 02-6, WC Docket Nos. 02-60, 06-122, 08-71, 10-90, 11-42, and 14-58, Public Notice, 29 FCC Rcd 11094 (WCB 2014). Sections 54.719(b) and 54.1718(a)(1) of the Commission's rules provide that any person aggrieved by an action taken by a division of USAC, after first seeking review at USAC, may seek review from the Commission. Sections 54.719(c) and 54.1718(a)(3) of the Commission's rules provide that parties seeking waivers of the Commission's rules shall seek review directly from the Commission. 47 CFR §§ 54.719(b)-(c); 54.1718(a)(1)-(2). In this Public Notice, we have reclassified as Requests for Waiver any appeals seeking review of a USAC decision that appropriately should have requested a waiver of the Commission's rules. Similarly, we have reclassified as Requests for Review any appeals seeking a waiver of the Commission's rules but that are, in fact, seeking review of a USAC decision.

² See 47 CFR §§ 1.106(f), 1.115(d); see also 47 CFR § 1.4(b)(2) (setting forth the method for computing the amount of time within which persons or entities must act in response to deadlines established by the Commission).

³ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Diversified Computer Solutions, Inc.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 5250, 5251, para. 3 (WCB 2012) (*Diversified Computer Solutions, Inc. Order*) (dismissing appeals as moot where invoicing records demonstrate that the entity was fully compensated for the funding it requested and all submitted invoices were funded).

Kansas City Unified School District 500, KS, Application No. 181037082, Request for Review, CC Docket No. 02-6 (filed Feb. 25, 2020)

Turner Unified School District 202, KS, Application No. 181038194, Request for Review, CC Docket No. 02-6 (filed Feb. 25, 2020)

Dismiss Because FCC Form 471 Application Filed Timely⁴

Diocese of Scranton Catholic Schools, PA, Application No. 231029625, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

St. Isidore Elementary School, CA, Application No. 231030030, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Dismiss Due to Lack of Adverse Decision⁵

Allegheny-Clarion Valley School District, PA, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2023)

Oxford Area School District, PA, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed Mar. 27, 2023 and Mar. 28, 2023)

Roxana Community Unit School District 1, IL, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2023)

Saint Joseph Catholic Academy, PA, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2023)

Saint Matthew School, PA, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2023)

Dismissed for Failure to Comply with the Commission's Basic Filing Requirements⁶

⁴ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Academy of Math and Science et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 9256, 9259, para. 7 (2010) (*Academy of Math and Science Order*) (finding that petitioners timely filed their FCC Forms 471 within the relevant FCC Form 471 application filing window).

⁵ See, e.g., *Requests for Review of the Decision of the Universal Service Administrator by Danbury Public Schools*; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 97-21; Order, 17 FCC Rcd 17380, para. 2 (WCB 2002) (dismissing an appeal where no adverse USAC decision had yet been issued).

Petitioners should refile a waiver request with the Commission when they receive an adverse decision regarding their late-filed E-Rate program applications from USAC.

⁶ 47 CFR § 54.721 (setting forth general filing requirements for requests for review of decisions issued by USAC, including the requirement that the request for review include supporting documentation); see also *Wireline Competition Bureau Reminds Parties of Requirements for Request for Review of Decisions by the Universal Service Administrative Company*, CC Docket Nos. 96-45, 02-6, WC Docket Nos. 02-60, 06-122, 10-90, 11-42, 13-184, 14-58, Public Notice, 29 FCC Rcd 13874 (WCB 2014) (reminding parties submitting appeals to the Bureau of the general filing requirements contained in the Commission's rules which, along with a proper caption and reference to the applicable docket number, require: (1) a statement setting forth the party's interest in the matter presented for review; (2) a full statement of relevant, material facts with supporting affidavits and documentation; (3) the question presented for review, with reference, where appropriate, to the relevant Commission rule, order or statutory provision; and (4) a statement of the relief sought and the relevant statutory or regulatory provision pursuant to which such relief is sought); *Universal Service Contribution Methodology*; *Request for Review by Alternative*

(continued....)

St. Paul Evang Lutheran School, WI, No Application Number Given, CC Docket No. 02-6 (filed Nov. 17, 2017)

Dismissed on Reconsideration⁷

Dice Communications, LLC (Terrell Independent School District, Uniondale Union Free School District), TX, Application Nos. 201007544, 201037012, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 28, 2022)

Ector County Independent School District, TX, Application No. 181020369, Petition for Reconsideration, CC Docket No. 02-6 (filed May 31, 2022)

Vyve Broadband A, LLC (Inola Public Library), OK, Application No. 211035740, Petition for Reconsideration, CC Docket No. 02-6 (filed Mar. 30, 2023)

Dismissed on Reconsideration – Untimely⁸

North Central Education Service District, OR, Application Nos. 477997, 526334, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 12, 2020)

Dismiss to Allow Appeal to be Filed with USAC⁹

Cave Creek Unified School District, AZ, Application No. 211017005, Request for Review, CC Docket No. 02-6 (filed Aug. 17, 2022)

(Continued from previous page) _____

Phone, Inc. and Request for Waiver, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011) (dismissing without prejudice a request for review that failed to meet the requirements of section 54.721 of the Commission's rules).

⁷ See, e.g., *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Allan Shivers Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 29 FCC Rcd 10356, 10357, para. 2 (WCB 2014) (dismissing petitions for reconsideration that fail to identify any material error, omission, or reason warranting reconsideration, and rely on arguments that have been fully considered and rejected by the Bureau within the same proceeding).

⁸ See, e.g., *Petitions for Reconsideration by Rockwood School District and Yakutat School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 13004, 13004, para. 2 (WCB 2011) (dismissing petitions for reconsideration because they were filed more than 30 days after the date of the Bureau's decisions).

⁹ See *Petitions for Reconsideration by Little Falls Township School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration, DA 23-110, para. 10 (WCB Feb. 8, 2023) (*Little Falls Township Order*) (dismissing without prejudice appeals that are filed with the Commission before being reviewed at USAC and waiving the 60-day appeal filing deadline to allow the party to refile its appeal at USAC and have it considered on the merits).

Parties seeking review of USAC decisions must first file an appeal with USAC. See 47 CFR § 54.719(a). Because the petitioners filed their appeal with the Commission first, we now provide them 60 days from the release date of this Public Notice to refile their appeal at USAC. Pursuant to the *Little Falls Township Order*, we also waive the 60-day appeal filing deadline, 47 CFR § 54.720(a), to allow the appeal to be considered on the merits by USAC without being considered late. See *Little Falls Township Order* at para. 10. Appeals for funding year 2016 and forward should be filed in the E-Rate Productivity Center portal, found here: [EPC](#). Appeals from funding year 2015 and prior funding years should be filed by email to Appeals@usac.org.

Granted¹⁰*Grant on Reconsideration – Invoice Ministerial and Clerical Error*¹¹

Greenville Electric Utility System (Greenville Independent School District), TX, Application No. 181017881, Petition for Reconsideration, CC Docket No. 02-6 (filed Jan. 19, 2020)

*Granting on Reconsideration – Waiver of Appeal Filing Deadline*¹²

Washington Office of Financial Management K-20 Education Network, WA, Application No. 161059633, Petition for Reconsideration, CC Docket No. 02-6 (filed Nov. 30, 2022)

*Granting Additional Time to Respond to USAC with Information During Invoicing*¹³

Accelerated Elementary and Secondary, AZ, Application No. 211033241, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Consolidated Networks Corporation (Sankofa Middle School), OK, Application No. 181001735, Request for Waiver, CC Docket No. 02-6 (filed July 24, 2020)

River Valley Local Schools, OH, Application No. 181028965, Request for Waiver, CC Docket No. 02-6 (filed Nov. 30, 2022)

¹⁰ We remand these applications to USAC and direct USAC to complete its review of the applications and issue a funding decision based on a complete review and analysis, no later than 90 calendar days from the release date of this Public Notice. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications. We also waive sections 54.507(d) and 54.514(a) of the Commission's rules and direct USAC to waive any procedural deadline that might be necessary to effectuate our ruling. *See* 47 CFR § 54.507(d) (requiring non-recurring services to be implemented by September 30 following the close of the funding year); 47 CFR § 54.514(a) (codifying the invoice filing deadline).

¹¹ *See, e.g., Petition for Reconsideration by Fall River Public School District; School and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration, 28 FCC Rcd 14650, 14652, para. 4 (WCB 2013) (*Fall River Public School District Order on Reconsideration*) (reversing a prior Bureau decision where evidence on reconsideration did not support the previous determination); *see Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Accomack County Public School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 23-48, paras. 7-9 (WCB Jan. 19, 2023) (*Accomack County Public School Order*) (granting a waiver where the E-Rate invoice filer entered the wrong application and funding request number on the request for reimbursement form).

¹² *See, e.g., Fall River Public School District Order on Reconsideration*, 28 FCC Rcd at 14652, para. 4 (reversing a prior Bureau decision where evidence on reconsideration did not support the previous determination); *Requests for Review of Decisions of the Universal Service Administrator by Savannah R-III School District; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 23 FCC Rcd. 12053, n.30 (WCB 2008) (*Savannah R-III School District Order*) (waiving section 54.720 of the Commission's rules because the issue on appeal should have been resolved by USAC and did not require the petitioner to file an appeal).

¹³ *See Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Accomack County Public School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, DA 23-48, para. 14 (WCB Jan. 19, 2023) (*Accomack County Public School Order*) (granting applicants' requests for review regarding denied funding during invoicing because they failed to respond to USAC's request for information within the USAC-specified time frame).

*Inadvertent Cancellation of FRN*¹⁴

Success Academy Charter Schools, NY, Application No. 211037375, Request for Review, CC Docket No. 02-6 (filed Sept. 23, 2022)

*Incorrect Service Delivery Deadline in USAC's System*¹⁵

DeKalb County School District, GA, Application No. 171045273, Request for Review and/or Waiver, CC Docket No. 02-6 (filed Feb. 26, 2020 and July 8, 2020)

*Late-Filed FCC Form 471 Applications – Due to Circumstances Beyond Their Control*¹⁶

Chumash Library Learning Center, CA, Application No. 231039186, Request for Waiver, CC Docket No. 02-6 (filed Mar. 28, 2023)

*Late-Filed FCC Form 471 Applications – Filed Within 14 Days of the Close of the Window*¹⁷

Academia Adventista Metropolitana, PR, Application No. 231038614, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Academia Cristiana Cohelet, PR, Application No. 231038654, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Academia Regional Adventista Central, PR, Application No. 231038671, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Academy 360, CO, Application No. 231038824, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Adolph Schreiber Hebrew Academy, NY, Application No. 231038749, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Antilles Military Academy, PR, Application No. 231038699, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

¹⁴ *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Joseph Jingoli & Son, Inc., et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 19227, 19228-29, paras. 3-4 (WCB 2007) (granting petitioners' requests to restore mistakenly cancelled funding requests).

On remand, we instruct USAC to determine if the entities included in Success Academy Charter School's funding request number 2199057790 are eligible for support.

¹⁵ *See Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 34 FCC Rcd 1015, 1016, para. 6 (WCB 2019) (granting waivers of the service implementation and invoice filing deadlines when applicants received notifications from USAC with the incorrect service implementation deadline).

¹⁶ *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Abbotsford School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 15299, 15300, para. 2 (WCB 2012) (waiving the deadline where applicants filed their applications beyond 14 days of the filing window deadline because of delays beyond their control).

¹⁷ *See, e.g., Academy of Math and Science Order*, CC Docket No. 02-6, Order, 25 FCC Rcd at 9259, para. 8 (finding special circumstances existed to justify granting waiver requests for petitioners who filed their FCC Form 471 applications within 14 days of the filing window deadline).

Archer City School District, TX, Application No. 231012496, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Ascension Lutheran Christian School, IN, Application Nos. 231038858, 231038856, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Athens City School District, AL, Application No. 231038820, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Barrow County School District, GA, Application No. 231038739, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Bath County Public School District, VA, Application No. 231039188, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Beauregard Parish School Board, LA, Application No. 231038663, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Beloit Turner School District, WI, Application No. 231039002, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Berkeley Township School Dist, PA, Application No. 231038759, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Bishop Brady High School, NH, Application No. 231018275, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Bondurant-Farrar Community School District, IA, Application No. 231037266, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Bonita Elementary School, AZ, Application No. 231038911, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Bridgeprep Academy of Doral, FL, Application No. 231038876, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of Duval, FL, Application No. 231038877, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of Hollywood Hills, FL, Application No. 231038880, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of North Miami Beach, FL, Application No. 231038881, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of Orange, FL, Application No. 231038882, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of Osceola, FL, Application No. 231038883, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of Palm Beach, FL, Application No. 231038884, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of Riverview, FL, Application No. 231038885, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy of Village Green, FL, Application No. 231038887, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeprep Academy South, FL, Application No. 231038886, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Bridgeway Academy, OH, Application No. 231039178, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Brighton School District 1, WI, Application No. 231038805, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Bruce Guadalupe Community School, WI, Application No. 231038823, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Bruce Guadalupe Community School, WI, Application No. 231038819, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Buffalo Independent School District I 4, OK, Application No. 231038998, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Burlington School District RE-6J, CO, Application No. 231039162, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Butner Independent School District, OK, Application No. 231038617, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Caesar Rodney School District, DE, Application No. 231038764, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Calhoun Community Unit School District 40, IL, Application No. 231038597, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Carter County Public Library District, KY, Application No. 231038907, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Catholic Memorial High School, WI, Application No. 231038906, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)¹⁸

Cesar Chavez Community School, NM, Application No. 231038919, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Charter School of New Castle, DE, Application No. 231039011, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

¹⁸ Catholic Memorial High School listed the incorrect application number in its request for waiver. In this Public Notice, we are including the correct application number for the FCC Form 471 that was filed out of window.

Cheder Lubavitch Hebrew Day School, Inc., IL, Application No. 231039074, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023, Apr. 10, 2023)

Cheder Lubavitch Hebrew Day School, Inc., IL, Application No. 231038868, Request for Waiver, CC Docket No. 02-6 (Apr. 11, 2023)

Cheder Lubavitch Girls School, IL, Application No. 231038870, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Cheder Lubavitch Girls School, IL, Application No. 231038871, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Chester County Library System, PA, Application No. 231039076, Request for Waiver, CC Docket No. 02-6 (Apr. 11, 2023)

Chesterfield County Public Schools, VA, Application No. 231035474, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Childrens Home Of Wyoming Conference, NY, Application Nos. 231038693, 231038694, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Clearview Library District, CO, Application No. 231038658, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Cleveland Independent School District, TX, Application No. 231019856, Request for Waiver, CC Docket No. 02-6 (Apr. 11, 2023)

Coffee County School System, Georgia, GA, Application No. 231039114, Request for Waiver, CC Docket No. 02-6 (Apr. 11, 2023)

Colegio Evangelico Del Nazareno, PR, Application No. 231038701, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Colegio Hector Urdaneta, PR, Application No. 231038705, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Community School District R 6, MO, Application No. 231038656, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Corbin Public Library, KY, Application No. 231038591, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Cortelyou Educational Center-Bedford, Cortelyou Educational Center-Marlborough, NY, Application Nos. 231036117, 231038676, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

County Of Dallas, AR, Application No. 231038782, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Crawford County School District, GA, Application No. 231037525, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Crestwood School District, MI, Application No. 231038848, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Crestwood School District, MI, Application No. 231038849, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Crestwood School District, MI, Application No. 231038913, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Crestwood School District, MI, Application No. 231038897, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Dekalb Agriculture Technology & Environment, Inc., GA, Application No. 231038720, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023, Apr. 10, 2023)

Dekalb Agriculture Technology & Environment, Inc., GA, Application No. 231038927, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Desert Star Academy, AZ, Application No. 231039052, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Detroit Community Schools, MI, Application No. 231038811, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Detroit Community Schools, MI, Application No. 231038828, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Diocese of Bridgeport Schools, CT, Application No. 231038983, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Diocese of Scranton Catholic Schools, PA, Application No. 231038718, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Dreamers Academy, FL, Application No. 231038800, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Du Quoin Public Library, IL, Application No. 231007610, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Eagle Charter Schools of Nevada, NV, Application No. 231038731, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2023)

East Buchanan Community School District, IA, Application Nos. 231014321, 231014149, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

East Holmes School District, OH, Application No. 231038869, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

El Dorado Union High School District, CA, Application No. 231038817, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Elfers Christian School, FL, Application No. 231038761, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Emmetsburg Community School District, IA, Application No. 231038890, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Exeter School District R 6, MO, Application No. 231019706, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Fairview School District, NJ, Application No. 231038725, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Finkelstein Memorial Library, NY, Application No. 231039041, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Fremont County School District #14, WY, Application No. 231034167, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Fulton Academy of Science and Technology Consortium, GA, Application No. 231039053, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Garland County, AR, Application No. 231029017, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Georgetown Independent School District, TX, Application No. 231038650, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Georgia Board of Regents-Peachnet, GA, Application No. 231033500, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Gibson Memorial Library, IA, Application No. 231038853, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Gibson Memorial Library, IA, Application No. 231038912, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Gill Memorial Library, NJ, Application No. 231023887, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

Gloucester County School District, VA, Application No. 231039130, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

Gold Rush Home Study Charter School, CA, Application No. 231038898, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2023)

Great Hearts Academies Arizona, AZ, Application Nos. 231038634, 231038767, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Great Prairie AEA, IA, Application No. 231039127, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Greenfield Union School District, CA, Application No. 231038611, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Happy Land Christian Academy, PR, Application Nos. 231038645, 231038647, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Harrison School District Two, CO, Application No. 231039006, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Helias High School, MO, Application No. 231038772, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Holy Family Parochial School, AL, Application No. 231038835, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Holy Redeemer Christian Academy, Application No. 231039173, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Hooker Independent School District 23, OK, Application No. 231038737, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Hortonville School District, WI, Application No. 231038997, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Hunting Park Christian Academy, PA, Application Nos. 231039033, 231039035, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Immanuel Lutheran School, WI, Application No. 231038653, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Isle School District 473, MN, Application No. 231038816, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Janesville Consolidated School District, IA, Application No. 231020140, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Johnston Public Schools, RI, Application No. 231038697, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Jonesboro Independent School District, TX, Application No. 231038766, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

J. Paul Taylor Academy, NM, Application No. 231039031, Request for Waiver, CC Docket No. 02-6 (filed Apr. 14, 2023)

Keota Community School District, IA, Application No. 231038594, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Kinnelon Borough School District, NJ, Application No. 231038902, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

Lakeland School District, PA, Application No. 231039103, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

La Salle Academy, PA, Application No. 231038934, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Lathrop School District, MO, Application No. 231039025, Request for Waiver, CC Docket No. 02-6 (filed Apr. 13, 2023)

Las Vegas-Clark County Library District, NV, Application No. 231038929, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Leland Community Unit School District No. 1, IL, Application No. 231038593, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Lenape Regional High School District, NJ, Application No. 231038855, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Letcher County Library District, KY, Application Nos. 231038773, 231038771, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Libertas College Preparatory, CA, Application Nos. 231038608, 231038732, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Lima School District 12, MT, Application No. 231038769, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Limestone County School District, AL, Application No. 231035421, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Lincoln Township Library, NE, Application No. 231038781, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Lincoln Township Library, NE, Application No. 231039177, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

Linwood Public Charter School, LA, Application No. 231038688, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023, Apr. 1, 2023)

Los Alamos Public Schools, NM, Application No. 231018576, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Los Fresnos Consolidated Independent School District, TX, Application No. 231038586, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Louisville Free Public Library, KY, Application No. 231038991, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Lowell Joint School District, CA, Application No. 231038860, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

Lumpkin County School District, GA, Application No. 231039014, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Lumpkin County School District, GA, Application No. 231039017, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Lynchburg City School District, VA, Application No. 231038698, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

MacDowell Preparatory Academy, MI, Application No. 231038740, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Maimonides Academy, FL, Application No. 231038651, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Marlborough School District, NJ, Application No. 231039080, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Marlborough School District, NJ, Application No. 231038899, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Marquette University High School, WI, Application No. 231038715, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Marty Indian School, SD, Application No. 231038631, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Maryknoll School, HI, Application Nos. 231038615, 231038621, 231038628, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Medford Township Board of Education, NJ, Application No. 231038722, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023, Apr. 6, 2023)

Mid Columbia Library, WA, Application No. 231039160, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Middle Grove School District C 1, MO, Application No. 231039197, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Middle Grove School District C 1, MO, Application No. 231039190, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Mine Hill Township School District, NJ, Application No. 231038905, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Mission Elementary School, CA, Application No. 231038679, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Montessori Del Mundo Charter School, CO, Application Nos. 231038864, 231038863, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Mother of Our Redeemer Catholic School, FL, Application No. 231039135, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Mount Carmel Area School District, PA, Application No. 231039131, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Native Village Of Eagle Library, AK, Application No. 231019624, Request for Waiver, CC Docket No. 02-6 (filed Apr. 13, 2023)

Netcong Elementary School, NJ, Application Nos. 231023764, 231039201, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

Newark Boys Chorus School, NJ, Application No. 231038713, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023, Apr. 3, 2023)

New Designs Charter Schools, CA, Application No. 231038691, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

New Milford Public Schools, CT, Application No. 231038990, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Newton Unified School District 373, KS, Application No. 231038741, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Newton Unified School District 373, KS, Application Nos. 231038783, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

New World Educational Center, AZ, Application No. 231039181, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Nicholas County Public Library, KY, Application No. 231038854, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Nicolet High School, WI, Application No. 231038601, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Northeast Randolph School District R4, MO, Application No. 231039200, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Northern Arizona Academy for Career Development, AZ, Application No. 231038629, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Northern Arizona Academy for Career Development, AZ, Application No. 231038627, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

North Plainfield School District, NJ, Application No. 231039155, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Ocali Charter High School, FL, Application Nos. 231038812, 231038918, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Ocean Township School District, NJ, Application No. 231034718, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Ohio County Public Library, WV, Application No. 231039086, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Oklahoma Office of Juvenile Affairs - Oklahoma Youth Academy, OK, Application No. 231038792, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Old Bethel Christian Academy, LA, Application No. 231038747, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Orange Board Of Education, NJ, Application No. 231038612, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Owens Elementary School District 6, AZ, Application No. 231038910, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Parlier Unified School District, CA, Application No. 231039175, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)¹⁹

Passaic City School District, NJ, Application No. 231039072, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Pike School District R 3, MO, Application No. 231038814, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Polaris Charter Academy Elementary School, IL, Application No. 231038936, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Putnam County District Library, OH, Application No. 231039028, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Raul Yzaguirre School for Success, TX, Application Nos. 231038632, 231038635, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Robeson County Public Schools, NC, Application No. 231038724, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Rocky J. Adkins Public Library, KY, Application No. 231038757, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Saint Leo the Great School, CA, Application No. 231038636, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023, Apr. 3, 2023)

Saint Leo the Great School, CA, Application No. 231038599, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

Sanilac Intermediate School District, MI, Application No. 231038751, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Schaumburg Township District Library, IL, Application No. 231039039, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Scholarship Preparatory School Santa Ana 2, CA, Application No. 231038729, Request for Waiver, CC Docket No. 02-6 (filed Mar. 1, 2023, Apr. 3, 2023)

Sculptor Charter School, FL, Application No. 231038682, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Ser-Ninos Charter School, TX, Application No. 231038745, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Shepherd Public School District, MI, Application No. 231039113, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

¹⁹ Parlier Unified School District listed the incorrect application number in its request for waiver. In this Public Notice, we are listing the correct application number for the FCC Form 471 that was filed out of window.

Snake River School District 52, ID, Application No. 231038683, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Solare Collegiate Charter School, NM, Application No. 231038630, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Somerset County Educational Services Commission, NJ, Application No. 231038696, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Somerset Public School District, MA, Application No. 231039010, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

South Winneshiek Community School District, IA, Application No. 231038940, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Stey-Nevant Public Library, PA, Application No. 231038582, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

St. Cecilia School, PA, Application No. 231038659, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

St. Charles School, AZ, Application No. 231039142, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

St. Gabriels Catholic School, TX, Application No. 231038765, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

St. John Evangelist School, IN, Application No. 231038673, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

St. John Vianney School, AZ, Application No. 231039192, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

St. Lucy School, CA, Application No. 231038241, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

St. Mary School, MA, Application No. 231038932, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2023)

St. Peter Indian Mission School, AZ, Application Nos. 231038827, 231038826, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

St. Philip Lutheran School, IL, Application No. 231038859, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

St. Thomas School, IL, Application No. 231038901, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Straight School District 80, OK, Application No. 231038738, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Suburban Baptist School, IN, Application No. 231039164, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Success School District R 6, MO, Application No. 231038917, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Sullivan County Library, TN, Application No. 231039040, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Summit Learning Charter, OR, Application No. 231038808, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Taylor County School District, GA, Application No. 231039078, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Texas City Independent School District, TX, Application No. 231019858, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

The Greene County Career & Technology Center, PA, Application No. 231038752, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

The Kingdom Christian Academy, PR, Application No. 231038613, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Town School for Boys, CA, Application No. 231038681, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Trinity Lutheran Grade School, WI, Application No. 231038662, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Tularosa Municipal School District, NM, Application No. 231038596, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Union Christian Academy, AR, Application No. 231038714, Request for Waiver, CC Docket No. 02-6 (filed Mar. 31, 2023)

Union School District 5, OR, Application No. 231038763, Request for Waiver, CC Docket No. 02-6 (filed Apr. 3, 2023)

United Brethren in Christ Academy, FL, Application No. 231039119, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Valley Torah High School, CA, Application No. 231038743, Request for Waiver, CC Docket No. 02-6 (filed Apr. 1, 2023)

Van Buren School District 42, NJ, Application No. 231039180, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Victory Academy, Inc., PR, Application No. 231038981, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Warren County Public School District, KY, Application No. 231038655, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Watts Learning Center Charter Middle School, CA, Application No. 231039042, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Weldon City School District, NC, Application No. 231038796, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

West Orange Public Schools, NJ, Application No. 231038793, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Westville School District 2, IL, Application No. 231038851, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Wilder School District 133, ID, Application No. 231038841, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Williamsburg Community School District, IA, Application No. 231039001, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2023)

Williamsville Central School District, NY, Application No. 231038839, Request for Waiver, CC Docket No. 02-6 (filed Apr. 5, 2023)

Wilsona School District, CA, Application No. 231038806, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2023)

Windham Southeast S U 48, VT, Application No. 231038657, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Windham Southeast S U 48, VT, Application No. 231038644, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Winfield-Mount Union Community School District, IA, Application No. 231036925, Request for Waiver, CC Docket No. 02-6 (filed Apr. 9, 2023)

Wood-Ridge School District, NJ, Application No. 231036662, Request for Waiver, CC Docket No. 02-6 (filed Apr. 6, 2023)

Wyoming Public Library, IA, Application No. 231038678, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

Young Audiences Charter Schools, LA, Application No. 231039123, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

*Ministerial and/or Clerical Errors*²⁰

Emmons School District 33, IL, Application No. 211017743, Request for Review, CC Docket No. 02-6 (filed Jan. 26, 2023)

Georgia Board of Regents – Peachnet, Application No. 221034198, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2023, supplemented Apr. 14, 2023)

Orofino Jt School District 171, ID, Application No. 211030193, Request for Waiver, CC Docket No. 02-6 (filed Mar. 16, 2023)

²⁰ See, e.g., *Ann Arbor Public Schools Order*, 25 FCC Rcd at 17319-20, nn.5, 9, 10, 20 (granting waivers where the applicant omitted an entity that was included on a source list; entered the wrong category of service on its FCC Form 471; or entered the incorrect expiration date for a contract).

*Ministerial and/or Clerical Errors – FRN Omitted from FCC Form 471 Application*²¹

Bloomfield School District R 14, MO, Application No. 231039232, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

*Ministerial and/or Clerical Errors – Invoicing*²²

Bruneau Valley District Library, ID, Application No. 201009742, Request for Waiver, CC Docket No. 02-6 (filed Dec. 10, 2021)

Clark County School District, KY, Application No. 201036556, Request for Waiver, CC Docket No. 02-6 (filed May 19, 2022)

CENIC- Corporation for Education Network Initiatives in California, CA, Application No. 161059807, Request for Waiver, CC Docket No. 02-6 (filed Dec. 18, 2020)

Center City Public Charter Schools, DC, Application No. 181018579, Request for Waiver, CC Docket No. 02-6 (filed Apr. 1, 2020)

Fontana Regional Library, NC, Application No. 201004346, Request for Waiver, CC Docket No. 02-6 (filed May 19, 2022)

Haywood County School District, NC, Application No. 201004776, Request for Waiver, CC Docket No. 02-6 (filed May 25, 2022)

Johnston County Public Schools, KS, Application No. 791462, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2021)

Laguna Department of Education, NM, Application No. 181042419, Request for Waiver, CC Docket No. 02-6 (filed Feb. 27, 2020)

Oskaloosa Community School District, IA, Application No. 201036095, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2022)

Philadelphia Performing Arts Charter School, PA, Application No. 201046945, Request for Waiver, CC Docket No. 02-6 (filed Jan. 17, 2022)

Prosser School District #116, WA, Application No. 171034099, Request for Waiver, CC Docket No. 02-6 (filed Oct. 10, 2019)²³

²¹ See *id.* (permitting applicant to include add a request omitted from its FCC Form 471, but included on its source list). The petitioner did not realize this funding request was omitted until the FY 2023 application filing window had closed. The petitioner then filed FCC Form 471 Application No. 231039232 out-of-window for this funding request. We direct USAC to add this funding request to one of the petitioner's timely-filed FY 2023 FCC Form 471 applications or treat FCC Form 471 Application No. 231039232 as timely filed.

²² See *Accomack County Public School Order*, DA 23-48, at paras. 7-9 (granting waivers where the E-Rate invoice filers entered the wrong service start date, application number, funding request number, customer bill date or inadvertently requested an invoice filing deadline extension for the wrong funding request number). We also waive section 54.720 of the Commission's rules because the petitioner filed its waiver request within 60 days of discovering or receiving notice of the ministerial or clerical error. See *id.* at para. 12.

²³ Consistent with precedent, we also find good cause exists to waive section 54.720(a) or (b) of the Commission's rules, which requires petitioners to file their appeals within 60 days of a USAC decision or action for Prosser School (continued....)

Scio School District 95C, OR, Application No. 201022668, Request for Waiver, CC Docket No. 02-6 (filed Dec. 21, 2021)

St. Michael the Archangel Catholic School, IL, Application No. 201013381, Request for Waiver, CC Docket No. 02-6 (filed Jan. 21, 2022)

Taylor County School District, WV, Application No. 201045962, Request for Waiver, CC Docket No. 02-6 (filed June 17, 2022)

Winton Woods City Schools, OH, Application No. 191014887, Request for Waiver, CC Docket No. 02-6 (filed Feb. 18, 2020)

*Permissible Advance Installation*²⁴

Oregon Trail School District 46, OR, Application No. 201006922, Request for Waiver, CC Docket No. 02-6 (filed Dec. 16, 2022)

*Permissible Service Implementation Delay*²⁵

Johnston County Public Schools, KS, Application No. 201032627, Request for Waiver, CC Docket No. 02-6 (filed Mar. 29, 2023)

Denied

*Late-Filed FCC Form 471 Applications*²⁶

Leaders Preparatory School, FL, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed Mar. 24, 2023)

(Continued from previous page) _____

District #116. *See, e.g., Savannah R-III School District Order*, 23 FCC Rcd. at 12053, n.30 (waiving section 54.720 of the Commission's rules because the issue on appeal should have been resolved by USAC and did not require the petitioner to file an appeal).

²⁴ *See Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8921-22, para. 132-133 (2014) (allowing applicants to seek support for category two eligible services purchased on or after April 1 before the funding year).

²⁵ *See, e.g., Request for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13652-3, para. 2 (WCB 2014) (granting late-filed extensions of the service implementation deadline when applicants demonstrated they were unable to complete implementation on time for reasons beyond the service providers' control and made significant efforts to secure the necessary extensions in a timely manner).

²⁶ *See, e.g., Academy of Math and Science Order*, 25 FCC Rcd at 9261-62, para. 13 (denying waivers of the FCC Form 471 application filing window deadline where petitioners failed to present special circumstances justifying waivers of our rules).

*Late-Filed Invoice or Invoice Deadline Extension*²⁷

Bas Mikroh Girls School, Bnos Spinka, Yeshiva Ketana of Bensonhurst, NY, Application Nos. 181004713, 201040131, 211040722, Request for Waiver, CC Docket No. 02-6 (filed Dec. 21, 2022)

Broward Junior Academy, FL, Application No. 211040941, Request for Waiver, CC Docket No. 02-6 (filed Apr. 11, 2023)

Griffin Technology Academies, CA, Application No. 201040572, Request for Waiver, CC Docket No. 02-6 (filed Jun. 29, 2022)

Junction City School District, OR, Application No. 211014275, Request for Waiver, CC Docket No. 02-6 (filed Dec. 30, 2022)

Mt. Vernon Township High School, IL, Application Nos. 201028164, 201028174, 201038637, Request for Waiver, CC Docket No. 02-6 (filed Oct. 7, 2022)

Ohio Public Library Information Network, OH, Application No. 201019439, Request for Waiver, CC Docket No. 02-6 (filed Jan. 5, 2022)²⁸

Pontiac Academy for Excellence, MI, Application No. 211000804, Request for Waiver, CC Docket No. 02-6 (filed Jan. 26, 2023)

Regional Office of Education Boone Winnebago County, IL, Application No. 181011276, Request for Waiver, CC Docket No. 02-6 (filed Jan. 8, 2020)

St. John School, MA, Application No. 181033753, Request for Waiver, CC Docket No. 02-6 (filed Apr. 23, 2020)

Wilmington School District 209u, IL, Application No. 211031739, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2023)

²⁷ 47 CFR § 54.514. *See also, e.g., Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 3834, 3836, para. 8 (WCB 2016) (denying requests for waiver of the Commission's invoice filing deadline rule for petitioners that failed to demonstrate extraordinary circumstances justifying a waiver); *see also Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8966, para. 240 (2014) (establishing that it is generally not in the public interest to waive the Commission's invoicing rules absent extraordinary circumstances).

²⁸ We find that Ohio Public Library Information Network did not demonstrate that its inability to obtain an invoice filing deadline extension was due to a ministerial or clerical error. *See Accomack County Public School Order* at para. 8 (granting a waiver when the E-Rate participant inadvertently requested an invoice filing deadline extension for the wrong funding year or wrong funding request number, or left off one or more funding request numbers from a timely-filed invoice filing deadline extension request). In this instance, the invoice deadline extension filer did not wait to verify that the extension was complete before leaving USAC's E-Rate portal.

*Relying on FCC Form 470 That Did Not Seek Bids on Types of E-Rate Services Later Requested*²⁹

David Douglas School District 40, OR, Application No. 201033579, Request for Waiver, CC Docket No. 02-6 (filed Dec. 14, 2022)

*Records Indicate Funding Received for Eligible Services Portion of Invoice*³⁰

Strongville City School District, OH, Application No. 201039029, Request for Review, CC Docket No. 02-6 (filed Jan. 4, 2023)

*Untimely Filed Appeals or Waiver Requests*³¹

Apache Junction Unified School District, AZ, Application No. 201002917, Request for Waiver, CC Docket No. 02-6 (filed May 31, 2022)

Eagle Christian Academy, TX, Application No. 221028296, Request for Waiver, CC Docket No. 02-6 (filed Aug. 29, 2022)

New Springs Schools, NJ, Application No. 211038909, Request for Waiver, CC Docket No. 02-6 (filed Apr. 7, 2023)

Roachdale Charter School, NY, Application No. 171019280, Request for Waiver, CC Docket No. 02-6 (filed Mar. 30, 2023)

²⁹ See, e.g., *Request for Review of a Decision of the Universal Service Administrator by Albert Lea Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 4533, 4541, para. 14 (WCB 2009); *Petition for Reconsideration by Chicago Public Schools; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 9289, 9289-90, para. 5 (WCB 2014) (denying appeals of applicants that filed FCC Forms 470 that did not include the types of services for which the applicants later requested E-Rate funding for).

³⁰ The invoice request was paid at 75% to exclude the ineligible services that were improperly included in the request. See, e.g., *Requests for Review of the Decisions of the Universal Service Administrator by Aiken County Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 22 FCC Rcd 8735, 8737-40, paras. 6, 9-10 (2007) (*Aiken County Public Schools Order*); *Requests for Review of Decisions of the Universal Service Administrator by Business Technologies, Inc. et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17033 (WCB 2010) (directing USAC to provide applicants with the opportunity to have their funding requests reassessed after they removed ineligible services from their E-rate applications).

³¹ See, e.g., *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684, 5688, para. 6 (WCB 2010); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823, para. 1 (WCB 2014) (denying requests for review and/or waiver on the grounds that the petitioners failed to (1) submit their appeals either to the Commission or to USAC within 60 days or failed to submit their waiver requests to the Commission within 60 days as required by the Commission's rules; and (2) did not demonstrate special circumstances required for the Commission to waive the rule).

Emergency Connectivity Fund**WC Docket No. 21-93****Dismissed as Moot**³²

Arcadia Public School District, NE, Application No. ECF202201036, Request for Review, CC Docket No. 02-6 (filed Jan. 23, 2023)

Reedsburg School District, WI, Application Nos. ECF202200114, ECF202200315, Request for Waiver, WC Docket No. 21-93 (filed Mar. 10, 2023)

Dismiss to Allow Appeal to be Filed with USAC³³

Colegio del Sagrado Corazon de Jesus, PR, Application No. ECF202205801, Request for Review, WC Docket No. 21-93 (filed Feb. 22, 2023)

Granted³⁴*Eligible Services*³⁵

Smithtown Central School District, NY, Application No. ECF202110697, Request for Review, WC Docket No. 21-93 (filed May 25, 2022)

*Ministerial and/or Clerical Errors*³⁶

³² See, e.g., *Diversified Computer Solutions, Inc. Order*, 27 FCC Rcd at 5251, para. 3 (dismissing appeals as moot where invoicing records demonstrate that the entity was fully compensated for the funding it requested and all submitted invoices were funded). Consistent with the Commission's decision to adopt the similar appeal and waiver rules that govern all of the Universal Service Fund programs, including the E-Rate program, and to leverage existing E-Rate processes and forms in the Emergency Connectivity Fund program, we rely on E-Rate program precedent to resolve these petitions for waiver of the Emergency Connectivity Fund program rules.

³³ See *Little Falls Township School District Order*, at para. 10 (dismissing without prejudice appeals that are filed with the Commission before being reviewed at USAC, and waiving the 60-day appeal filing deadline to allow the party to refile its appeal at USAC). Consistent with the Commission's decision to adopt the similar appeal and waiver rules that govern all of the Universal Service Fund programs, including the E-Rate program, and to leverage existing E-Rate processes and forms in the Emergency Connectivity Fund program, we rely on E-Rate program precedent to this petition for waiver of the Emergency Connectivity Fund program rules. We note that the Commission adopted a shortened waiver and appeal timeframe of 30 days in the Emergency Connectivity Fund Program due to the short-term, emergent nature of the program. See 47 CFR § 54.1718; *Establishing the Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696, 8740, 8746, paras. 90, 107 (2021) (*Emergency Connectivity Fund Report and Order*).

³⁴ See *supra* note 10.

³⁵ See, e.g., *Aiken County Public Schools Order*, 22 FCC Rcd at 8737-38, para. 6 (granting appeals where USAC incorrectly determined the funding requests were for ineligible services). Consistent with the Commission's decision to adopt the similar appeal and waiver rules that govern all of the Universal Service Fund programs, including the E-Rate program, and to leverage existing E-Rate processes and forms in the Emergency Connectivity Fund program, we rely on E-Rate program precedent to resolve this Emergency Connectivity Fund program appeal.

³⁶ See, e.g., *Ann Arbor Public Schools Order*, 25 FCC Rcd at 17320-21, para. 2, n.5 (permitting applicant to add an omitted item that was on its source list). Consistent with the Commission's decision to adopt the similar appeal and waiver rules that govern all of the Universal Service Fund programs, including the E-Rate program, and to leverage existing E-Rate processes and forms in the Emergency Connectivity Fund program, we rely on E-Rate program precedent to resolve these petitions for waiver of the Emergency Connectivity Fund program rules.

Flossmoor School District 161, IL, Application No. ECF202106526, Request for Review, WC Docket No. 21-93 (filed Feb. 11, 2022)

*Waiver of Service Delivery Deadline*³⁷

East Stroudsburg Area School District, PA Application No. ECF222118595, Request for Waiver, WC Docket No. 21-93 (filed Apr. 12, 2023)

High-Cost Program (Connect America Fund)
WC Docket No. 10-90

Granted

*HUBB Milestone Certification Reporting*³⁸

Westgate Communications LLC Waiver Request – Allow USAC to Open HUBB for Milestone Certification, WC Docket No. 10-90 (filed Mar. 23, 2023).

Rural Health Care Program
WC Docket No. 02-60

Granted

*Waiver of the Appeal Filing Deadline*³⁹

³⁷ See, e.g., *Requests for Waiver of the Decisions of the Universal Service Administrator by Grants/Cibola County School District and Jemez Pueblo Tribal Consortium*, CC Docket No. 02-6, Order, 33 FCC Rcd 10048, 10051, para. 8 (WCB 2018) (waiving the special construction service delivery deadline because the applicant was unable to complete implementation for reasons beyond the service provider's control and the petitioner made good faith efforts to comply with Commission rules and procedures). We waive the network construction service delivery deadline and direct USAC to set a new service delivery deadline of April 19, 2024, and adjust any associated administrative or procedural deadlines, including the invoice deadline, that might be necessary to effectuate our ruling. We also waive any associated administrative or procedural deadlines that might be necessary to effectuate our ruling. See *supra* note 10. Consistent with the Commission's decision to adopt the similar appeal and waiver rules that govern all of the Universal Service Fund programs, including the E-Rate program, and to leverage existing E-Rate processes and forms in the Emergency Connectivity Fund program, we rely on E-Rate program precedent to resolve this petition for waiver of the Emergency Connectivity Fund program rules.

³⁸ Westgate Communications LLC timely certified enough locations by March 1, 2023 to meet its interim milestone but did not timely make the separate certification that it met the milestone. See *Connect America Fund, et al.*, WC Docket Nos. 10-90 et al., Order, 36 FCC Rcd 13976, paras 9-10 (granting waiver to allow carrier to report locations after the deadline for the reporting year when locations were timely uploaded to the High Cost Universal Broadband (HUBB) portal but due to an inadvertent administrative oversight were not timely certified).

³⁹ See *Rural Health Care Support Mechanism; Promoting Telehealth in Rural America*, WC Docket Nos. 02-60 and 17-310, Order, 36 FCC Rcd 7051, 7063, para. 32 (WCB 2021) (*2021 COVID-19 RHC Relief Order*) (declining to automatically extend deadlines for all appeals and waiver requests, but noting that "[a] petitioner may seek a waiver of the deadline to file an appeal or waiver request if it reasonably attempted to meet the deadline but was unable to do so due to the COVID-19 pandemic and it filed within a reasonable amount of time after the deadline."); see also *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 06-122, Public Notice, 36 FCC Rcd 4371, 4377, n.21 (WCB 2021) (waiving section 54.720(b) for a late filing in the Rural Health Care program because the petitioner submitted its appeal to USAC only one business day late). Bluebonnet Trails submitted its appeal to USAC on Oct. 1, 2021, which was 4 days late and was during the year when the *2021 COVID-19 RHC Relief Order* was issued. See *2021 COVID-19 RHC Relief Order*, 36 FCC Rcd at 7051, 7063, paras. 1, 32 (released on Apr. 8, 2021). In light of the COVID-19 pandemic and the fact that the Request for Review and Waiver was filed shortly after the deadline, (continued....)

Bluebonnet Trails Community Services Consortium, TX, Request for Review and Waiver, WC Docket No. 02-60, Funding Request No. 20819211 (filed Dec. 6, 2021)

Contribution Methodology
WC Docket No. 06-122

Dismissed Without Prejudice

*Waiver of FCC Form 499-A Revision Deadline*⁴⁰

Rapid Wire Communications LLC, Request for Waiver, WC Docket No. 06-122 (filed Feb. 27, 2023)

Denied

*Waiver of FCC Form 499-Q Revision Deadline*⁴¹

Cloudli Communications, Inc., Request for Waiver, WC Docket No. 06-122 (filed Mar. 20, 2023)

For additional information concerning this Public Notice, please contact James Bachtell in the Telecommunications Access Policy Division, Wireline Competition Bureau, at james.bachtell@fcc.gov or (202) 418-2694.

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we grant a waiver of the deadline to file an appeal, make no finding on the underlying substantive issues in this appeal and remand to USAC for further review. We direct USAC to consider all documents that Bluebonnet Trails submitted with its appeal to USAC.

⁴⁰ 47 CFR § 54.721. See, e.g., *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by CML Communications LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 335 (WCB 2011); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator and Request for Waiver by Alternative Phone, Inc.*, WC Docket No. 06-122, Order, 26 FCC Rcd 6079 (WCB 2011); *Universal Service Contribution Methodology, Request for Review of Decision of Universal Service Administrator by Dorial Telecom LLC*, WC Docket No. 06-122, Order, 26 FCC Rcd 3799 (WCB 2011) (all finding requests procedurally defective for failure to comply with 47 CFR § 54.721).

⁴¹ See, e.g., *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc. et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Order, 25 FCC Rcd 10861 (WCB 2010) (denying deadline waivers where claims of good cause amount to no more than simple negligence, errors by the petitioner, or circumstances squarely within the petitioner's control); *Federal-State Joint Board on Universal Service; Request for Review by National Network Communications, Inc.*, CC Docket No. 96-45, Order, 22 FCC Rcd 6783 (WCB 2007) (finding that good cause was not shown when filer claimed it did not have skilled personnel to interpret and correctly apply FCC Form 499 instructions).

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Shenandoah Telecommunications Company

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File No.: EB-SED-22-00034239
CD Acct. No.: 202332100008
FRN: 0002064145

ORDER

Adopted: April 24, 2023**Released: April 24, 2023**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether Shenandoah Telecommunications Company (Shentel) failed to deliver 911 calls during a 911 outage between April 6, 2022, and April 22, 2022, in four West Virginia counties. As Congress and the Commission have found, robust and reliable 911 service is a critical national priority, as those calling first responders must be able to rely on their calls being completed. It is therefore incumbent upon the Commission to ensure that reliable 911 service is available at all times. To settle this matter, Shentel will implement a compliance plan and pay a \$227,200 civil penalty.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation regarding Shentel's compliance with the Commission's 911 rules, including section 9.11 of the Commission's rules.¹

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Shentel's basic qualifications to hold or obtain any Commission license or authorization.²

4. Accordingly, **IT IS ORDERED** that pursuant to section 4(i) Communications Act of 1934, as amended (Act),³ and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,⁴ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** in accordance with the terms of the attached Consent Decree.

¹ 47 CFR § 9.11.

² See 47 CFR § 1.93(b).

³ 47 U.S.C. § 154(i).

⁴ 47 CFR §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Mr. Christopher E. French, President and Chief Executive Officer, Shenandoah Cable Television, LLC, 500 Shentel Way, Edinburg, Virginia 22824, and to K.C. Halm, Esq., Counsel for Shenandoah Telecommunications Company, Davis Wright Tremaine LLP, 1300 K Street, NW, Suite 500 East, Washington, D.C. 20005.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Shenandoah Telecommunications Company

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File No.: EB-SED-22-00034239

CD Acct. No.: 202332100008

FRN: 0002064145

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Shenandoah Telecommunications Company, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether Shentel violated section 9.11 of the Commission's rules in connection with disrupted 911 calls between April 6, 2022, and April 22, 2022, in four West Virginia counties. The disrupted 911 calls had one-way audio, meaning that the public safety answering point operators could not hear the 911 callers. To resolve this matter, Shentel agrees to the terms and conditions below, including the implementation of a compliance plan and payment of a \$227,200 civil penalty.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) "911 Rules" means sections 4.5, 4.7, and 9.11(b) of the Rules,¹ and other Communications Laws governing the delivery of 911 calls to Public Safety Answering Points (PSAPs).
 - (b) "Act" means the Communications Act of 1934, as amended.²
 - (c) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "CD Acct No." means account number 202332100008, associated with payment obligations described in paragraph 17 of this Consent Decree.
 - (f) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
 - (g) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Shentel is subject by virtue of its business activities, including but not limited to the 911 Rules.
 - (h) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 12.

¹ 47 CFR §§ 4.5, 4.7, 9.11(b).

² 47 U.S.C. § 151 *et seq.*

- (i) “Covered Employees” means all employees and agents of Shentel who perform, supervise, oversee, or manage the performance of, duties that relate to Shentel’s responsibilities under the Communications Laws, including the 911 Rules.
- (j) “Effective Date” means the date by which both the Bureau and Shentel have signed the Consent Decree and the Bureau has released an Adopting Order.
- (k) “Investigation” means the investigation commenced by the Bureau in File No. EB-SED-22-00034239 regarding whether Shentel violated the 911 Rules.
- (l) “Operating Procedures” means the standard internal operating procedures and compliance policies established by Shentel to implement the Compliance Plan.
- (m) “Parties” means Shentel and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (o) “Shentel” or “Company” means Shenandoah Telecommunications Company and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

II. BACKGROUND

3. Section 9.11(b)(2)(ii) requires interconnected Voice over Internet Protocol (VoIP) service providers to transmit “[a]ll 911 calls” to public safety answering points (PSAPs).³ On April 6, 2022, Shentel experienced a disruption of 911 service in Boone, Wyoming, Lewis, and McDowell Counties in West Virginia where Shentel provided interconnected VoIP service.⁴ The disruption began during Shentel’s implementation of planned and concurrent upgrades to its network. Shentel was replacing Session Border Controllers (SBCs) and also transitioning customers to a new 911 routing service. The 911 routing service transition occurred before replacement of the SBCs was completed. Subscribers whose interconnected VoIP service transitioned to the new 911 routing service, but whose service had not already transitioned from the old SBCs to the new SBCs, experienced one-way audio during 911 calls. However, the Automatic Number Information (ANI)⁵ and Automatic Location Information (ALI)⁶ were delivered to the PSAPs. The new 911 routing service could not route the callers’ voice signals to the PSAPs without the new SBCs in place, and, in the West Virginia counties of Boone, Wyoming, Lewis, and McDowell, the audio signal on 911 calls was limited. Because of how the new 911 routing service integrated with the old SBCs, the calls were connected with one-way audio only, and the 911 callers’ audio was not transmitted to the PSAPs. The PSAP operators could not hear the callers, but the callers could hear the PSAP operators.⁷ Because ANI/ALI were delivered, the PSAP operators were able to affirmatively place return calls to communicate with the 911 callers. The disruption of 911 service was resolved on April 22, 2022.⁸

4. On September 15, 2022, the Bureau issued a Letter of Inquiry (LOI) to Shentel directing it to submit a sworn written response relating to disruption of 911 service in April 2022, and the Bureau

³ 47 CFR. § 9.11(b)(2)(ii).

⁴ Response to Letter of Inquiry from K.C. Halm, Counsel to Shenandoah Telecommunications Company, Davis Wright Tremaine LLP, to Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau at 4, 5, 8 (Oct. 19, 2022) (on file in EB-SED-22-00034239) (LOI Response).

⁵ See 47 CFR § 9.3.

⁶ *Id.*

⁷ LOI Response at 4, 5, 8.

⁸ *Id.* at 8, Response to Inquiry 11.i.

issued follow-up questions on November 4, 2022, and December 8, 2022.⁹ Shentel timely responded to each of the Bureau's inquiries.¹⁰

5. Shentel and the Bureau subsequently engaged in settlement negotiations. To resolve this matter, the Company and the Bureau enter into this Consent Decree and agree to the following terms and conditions.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

7. **Jurisdiction.** Shentel agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Shentel agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute any new proceeding on its own motion against Shentel concerning the matters that were the subject of the Investigation, or to set for hearing the question of Shentel's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.¹¹

10. **Admission.** Shentel admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 9 herein, that paragraph 3 contains a true and accurate description of facts underlying the Investigation.

11. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Shentel shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Shentel complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to

⁹ Letter of Inquiry from Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Christopher E. French, President and Chief Executive Officer, Shenandoah Telecommunications Company and K.C. Halm, Counsel to Shenandoah Telecommunications Company, Davis Wright Tremaine LLP (Sept. 15, 2022) (on file in EB-SED-22-00034239); E-mail from Kathy Harvey, Attorney Advisor, Spectrum Enforcement Division, FCC Enforcement Bureau, to K.C. Halm, Counsel to Shenandoah Telecommunications Company, Davis Wright Tremaine LLP, (Nov. 4, 2022 11:25 EDT) (on file in EB-SED-22-00034239); E-mail from Matthew Gibson, Deputy Chief, Spectrum Enforcement Division, FCC Enforcement Bureau to K.C. Halm, Counsel to Shenandoah Telecommunications Company, Davis Wright Tremaine LLP, (Dec. 8, 2022 16:24 EST) (on file in EB-SED-22-00034239).

¹⁰ LOI Response; Response to Supplemental Letter of Inquiry from K.C. Halm, Counsel to Shenandoah Telecommunications Company, Davis Wright Tremaine LLP, to Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Nov. 18, 2022) (on file in EB-SED-22-00034239); Response to Supplemental Letter of Inquiry from K.C. Halm, Counsel to Shenandoah Telecommunications Company, Davis Wright Tremaine LLP, to Elizabeth Y. Mumaw, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Dec. 14, 2022) (on file in EB-SED-22-00034239).

¹¹ See 47 CFR § 1.93(b).

discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the 911 Rules prior to assuming his/her duties.

12. **Compliance Plan.** For purposes of settling the matters set forth herein, Shentel agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the 911 Rules, Shentel shall implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, Shentel shall establish Operating Procedures that all Covered Employees must follow to help ensure Shentel's compliance with the 911 Rules. The Operating Procedures shall include, but are not limited to, the following:
 - i. **Develop and Improve Upon 911 Processes.** Shentel shall develop and implement, or where processes already exist, improve upon, processes in the evolving 911 environment to (1) *Identify* risks that could result in disruptions to 911 service; (2) *Protect* against such risks; (3) *Detect* 911 outages when they occur; (4) *Respond* to such outages with remedial actions; and (5) *Recover* from such outages as soon as practicable.
 - ii. **Develop Compliance Checklist.** Shentel shall develop a compliance checklist that describes the steps that a Covered Employee must follow to ensure compliance with the 911 Rules.
 - iii. **Implement Best Practices Relating to Testing Network Elements and Upgrades.** Shentel shall establish and implement Operating Procedures (including, as necessary, reviewing and revising any existing procedures) to ensure that all planned maintenance activities, network upgrades, and network updates, (including all phases of such maintenance, upgrades, and updates) are tested in a laboratory or other test environment that simulates the target network and load (including, as applicable, interim operating states) prior to the first application in the network. Shentel shall do so in a manner consistent with any applicable FCC *Communications Security, Reliability, and Interoperability Council* (CSRIC) best practices, relating to testing of network elements and upgrades. These Operating Procedures shall, at a minimum, adhere to the following CSRIC best practices, and any future revisions thereto, relating to testing of network elements and upgrades: 13-10-0559 ("Network Operators, Service Providers, and Public Safety should consider validating upgrades, new procedures and commands in a lab or other test environment that simulates the target network and load prior to the first application in the field") and 13-10-0600 ("Network Operators and Service Providers should establish and document a process to plan, test, evaluate and implement major change activities in their network").
 - iv. **Implement Best Practices to Manage 911 Disruptions.** Shentel shall establish and implement Operating Procedures (including, as necessary, reviewing and revising any existing procedures) for developing, implementing, testing, evaluating, and updating plans for managing 911 disruptions. These Operating Procedures shall adhere to the following CSRIC best practice, and any future revision to this best practice, relating to the testing and updating of plans for management of 911 disruptions: 13-9-0579 ("Network Operators, Service Providers, and Public Safety should routinely team to develop, implement, test, evaluate and update, as needed, plans for managing 9-1-1 disruptions (e.g., share

information about network and system security and reliability where appropriate”)).

- v. **Implement Best Practices for 911 Network Components.** Shentel shall establish and implement Operating Procedures (including, as necessary, reviewing and revising any existing procedures) for actively monitoring and managing the 911 network components using network management controls, where available, to quickly restore 911 service and provide priority repair during network failure events. These Operating Procedures shall adhere to the following CSRIC best practice, and any future revision to this best practice, relating to monitoring and managing the 911 network components using network management controls, to quickly restore 911 service and provide priority repair during network failure events: 13-9-0574 (“Network Operators, Service Providers, and Public Safety should actively monitor and manage the 9-1-1 network components using network management controls, where available, to quickly restore 9-1-1 service and provide priority repair during network failure events. When multiple interconnecting providers and vendors are involved, they will need to cooperate to provide end-to-end analysis of complex call-handling problems”).
 - vi. **Review and Implement New or Revised Best Practices.** Within thirty (30) calendar days of the release by CSRIC of any new best practices relating to the testing of network upgrades and network updates, Shentel shall incorporate, where feasible, such new best practices into the Operating Procedures and shall establish a timeline for their incorporation into its test program.
 - vii. **Review and Update Shentel’s NORS Procedures.** Shentel shall establish and implement Operating Procedures (including, as necessary, reviewing and revising any existing procedures) regarding the Commission’s Network Outage Reporting System (NORS) and 911 special facility reporting criteria are met under the 911 Rules. Such training shall specifically include instruction on the method of calculating “user minutes” under section 4.7 of the 911 Rules.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the 911 Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Shentel’s compliance with the 911 Rules and this Consent Decree. Shentel shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Shentel shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Shentel shall establish and implement a Compliance Training Program on compliance with the 911 Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Shentel’s obligation to report any noncompliance with the 911 Rules under paragraph 13 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Shentel shall repeat compliance training on an annual basis and shall

periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness. Such Compliance Training Program shall include requirements that applicable Covered Employees possess and maintain network certifications from the network equipment manufacturers, if available, for equipment used in Shentel's network to transport 911 calls.

13. **Reporting Noncompliance.** Shentel shall report any noncompliance with the 911 Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that Shentel has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Shentel has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, via Kathy.Harvey@fcc.gov and EB-SED-Response@fcc.gov.

14. **Compliance Reports.** Shentel shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Shentel's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the 911 Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Shentel, stating that the Compliance Officer has personal knowledge that Shentel: (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 13 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.¹²
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Shentel, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that Shentel has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Shentel has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission via Kathy.Harvey@fcc.gov and EB-SED-Response@fcc.gov.

15. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 11 through 14 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

¹² 47 CFR § 1.16.

16. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act¹³ against Shentel or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Shentel with the Communications Laws.

17. **Civil Penalty.** Shentel will pay a civil penalty to the United States Treasury in the amount of Two Hundred Twenty-Seven Thousand Two Hundred Dollars (\$227,200) within thirty (30) calendar days of the Effective Date. Shentel acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).¹⁴ Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Shentel shall send electronic notification of payment to Kathy.Harvey@fcc.gov and EB-SED-Response@fcc.gov on the date said payment is made. Payment of the Civil Penalty must be made by credit card using the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:¹⁵

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159¹⁶ or printed CORES form¹⁷ must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁸ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/core/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the

¹³ 47 U.S.C. § 208.

¹⁴ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

¹⁵ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

¹⁶ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

¹⁷ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/core/userLogin.do>.

¹⁸ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

“Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.

- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/core/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

18. **Event of Default.** Shentel agrees that an Event of Default shall occur upon the failure by Shentel to pay the full amount of the Civil Penalty on or before the due date specified in this Consent Decree.

19. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Civil Penalty shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Civil Penalty, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Shentel.

20. **Waivers.** As of the Effective Date, Shentel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. Shentel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Shentel nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Shentel shall waive any statutory right to a trial *de novo*. Shentel hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act¹⁹ relating to the matters addressed in this Consent Decree.

21. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

22. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

23. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Shentel does not expressly consent) that provision will be superseded by such Rule or order.

¹⁹ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

24. **Successors and Assigns.** Shentel agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

25. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

26. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

27. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

28. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

29. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Loyaan A. Egal
Chief
Enforcement Bureau

Date

Derek Rieger
Vice President - Legal & General Counsel
Shenandoah Telecommunications Company

Date

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Waiver of 5.9 GHz Band Rules to	)	ET Docket No. 19-138
Permit Initial Deployment of Cellular Vehicle-to-	)	
Everything Technology	)	

ORDER

Adopted: April 24, 2023

Released: April 24, 2023

By the Chiefs, Public Safety and Homeland Security Bureau, Office of Engineering and Technology, and Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order, the Public Safety and Homeland Security Bureau, the Office of Engineering and Technology, and the Wireless Telecommunications Bureau (collectively, the Bureaus) address the request (Joint Waiver Request) by Audi of America, Inc., Ford Motor Company, Jaguar Land Rover, the Utah Department of Transportation, the Virginia Department of Transportation, AAEON Technology Inc., Advantech Co., Ltd., Applied Information, Inc., Cohda Wireless Pty Ltd., Commsignia, Inc., Danlaw Inc., HARMAN International Industries, Inc., Kapsch TrafficCom USA Inc., and Panasonic Corporation of North America (collectively, the C-V2X Joint Waiver Parties) for a waiver of certain Commission rules applicable to intelligent transportation systems (ITS) operations in the upper 30 megahertz (5.895-5.925 GHz) portion of the 5.850-5.925 GHz Band (5.9 GHz band). The Joint Waiver Request seeks a waiver of the current Dedicated Short-Range Communication (DSRC) based rules to allow for the use of Cellular Vehicle-to-Everything (C-V2X) technology in the upper 30 megahertz of the 5.9 GHz band prior to adoption of final C-V2X-based rules. The C-V2X equipment subject to the Joint Waiver Request would operate in the 5905-5925 MHz portion of the 5.9 GHz band using a 20-megahertz channel.

2. Specifically, the C-V2X Joint Waiver Parties wish to “collectively deploy and facilitate deployment of [C-V2X] technology immediately”¹ pursuant to a waiver of 47 CFR § 2.106, NG160² to allow nationwide use of the upper frequencies of the 5.9 GHz Band for C-V2X-based ITS operations, conditioned on the technical parameters set forth in Appendix 1 of the Joint Waiver Request.³ They also

¹ Request for Waiver of 5.9 GHz Band Rules to Permit Initial Deployments of Cellular Vehicle-to-Everything Technology, Ford Motor Company, et al., ET Docket No. 19-138, at 1 (filed Dec. 13, 2021) (*Joint Waiver Request*), https://www.fcc.gov/ecfs/file/download/DOC-5f6d7d2ef3400000-A.pdf?file_name=C-V2X%20Waiver%20Request%2012%2013%202021.pdf. More recently, the parties submitted additional information on the request to the Commission. See Letter from the C-V2X Joint Waiver Parties to Marlene H. Dortch, Secretary, FCC, ET Docket No. 19-138 (filed Apr. 20, 2022) (*Joint Waiver Request Supplement*), <https://www.fcc.gov/ecfs/document/104201266008794/1>.

² “In the band 5895-5925 MHz, the use of the non-federal mobile service is limited to operations in the Intelligent Transportation Systems radio service.” 47 CFR § 2.106, NG160.

³ *Joint Waiver Request* Appendix 1 at 10-11; *Joint Waiver Request Supplement* at 3. The *Joint Waiver Request Supplement* did not change the technical parameters proposed in the *Joint Waiver Request*.

seek a waiver of certain part 90 and part 95 rules (47 CFR §§ 90.375, 90.377, 90.379, 95.3159,⁴ 95.3163, 95.3167, and 95.3189) governing the operation of roadside units (RSUs) and on-board units (OBUs)⁵ in the upper 30 megahertz of the 5.9 GHz band. For the reasons stated below, and subject to the technical parameters and conditions set forth herein, the Bureaus grant a waiver to the C-V2X Joint Waiver Parties to deploy C-V2X technology within the 5.895-5.925 GHz band.

II. BACKGROUND

3. On November 20, 2020, the Commission released the *5.9 GHz First Report and Order, Further Notice of Proposed Rulemaking, and Order of Proposed Modification*, which adopted new rules for the 5.9 GHz band.⁶ The Report and Order portion of the item (*5.9 GHz First R&O*) made spectrum available for unlicensed uses by designating the lower 45 megahertz of the band (5.850-5.895 GHz) for unlicensed operations while continuing to dedicate the upper 30 megahertz (5.895-5.925 GHz) for ITS operations.⁷ Additionally, the Commission ordered that ITS operations in the upper band transition from DSRC-based technology to C-V2X-based technology.⁸ The Commission noted that in the 20 years since it had adopted DSRC as the standard for ITS services in the 5.9 GHz band, DSRC-based technology had barely been deployed, and consequently, the spectrum had largely remained unused.⁹ It further noted that in the intervening years, several auto manufacturers and stakeholders in the consumer automobile market “have turned their attention to C-V2X, in part because of its use of cellular-based protocols and ability to enable rapid development and deployment of ITS applications.¹⁰ As a result, the Commission determined that it must modernize its rules to allow for the deployment of C-V2X technology in the upper 30 megahertz of the 5.9 GHz band, positioning the United States to be a global leader at the forefront of continued C-V2X technology development.¹¹ In the Further Notice portion of the item (*5.9 GHz FNPRM*), the Commission sought comment on the timeline for the transition to C-V2X-based technology, as well as proposed rules for the technical and operational parameters of C-V2X, which would ultimately govern ITS operations in the band.¹² The Commission has not yet rendered a decision on the *5.9 GHz FNPRM*.

4. The *5.9 GHz First R&O* also stated that the Commission would permit existing or future part 90 ITS licensees to operate C-V2X-based roadside units in the 5.895-5.925 GHz band within their geographic licensing areas by obtaining a waiver of the Commission’s rules, subject to specific conditions, and directed the relevant bureaus to provide guidance to such waiver applicants on a

⁴ 47 CFR § 95.3159 is a reserved section and does not presently contain any regulatory information. Thus, we dismiss this aspect of the Joint Waiver Request as moot.

⁵ See 47 CFR §§ 90.375, 90.377, 90.379, 95.3163, 95.3167, and 95.3189. DSRC information is transmitted via roadside units that are licensed on the basis of non-exclusive geographic areas under part 90 (subpart M) of the Commission’s rules, 47 CFR §§ 90.370-395. Vehicular DSRC on-board units are authorized (i.e., licensed by rule) under part 95 (subpart L) of the Commission’s rules, 47 CFR §§ 95.3101-3189.

⁶ *Use of the 5.850-5.925 GHz Band*, ET Docket No. 19-138, First Report and Order, Further Notice of Proposed Rulemaking, and Order of Proposed Modification, 35 FCC Rcd 13440 (2020), *petitions for review denied sub nom. Intelligent Transp. Soc’y of America v. FCC*, 45 F.4th 406 (D.C. Cir. 2022) (*5.9 GHz First R&O*).

⁷ *Id.*

⁸ *Id.* at 13446.

⁹ See 35 FCC Rcd at 13441, para. 3.

¹⁰ *Id.* at 13441-42, para 3.

¹¹ *Id.* at 13476, para. 102.

¹² *Id.* at 13501-08, and 1365, paras. 13, 58, 147, 151-168. The Commission also sought comment on a proposal to require all ITS operations in the 5.895-5.925 GHz band to either convert to C-V2X or cease operating two years after the effective date of a future rulemaking in this proceeding. See 35 FCC Rcd at 13500, para. 147.

streamlined waiver process for this purpose.¹³ However, nothing in the *5.9 GHz First R&O* purported to prevent parties from submitting a request for waiver pursuant to the Commission's existing waiver standard.¹⁴ The *5.9 GHz First R&O* further stated that manufacturers will need waivers to obtain equipment certification of C-V2X on-board units as well as a waiver to permit such device operation prior to the Commission adopting final rules for C-V2X-based on-board units.¹⁵ On August 6, 2021, the Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau issued a joint Public Notice providing guidance and additional guidelines for submitting a streamlined waiver requesting early deployment of C-V2X operations,¹⁶ and for the equipment certification process for C-V2X equipment.¹⁷

5. *Request for Waiver.* The C-V2X Joint Waiver Parties submitted a request for relief pursuant to section 1.925 to allow (1) certain automakers to deploy C-V2X-based OBUs in their cars sold in the United States; (2) the named state departments of transportation (state DOTs) to deploy C-V2X operations, including RSUs and OBUs, throughout the relevant state borders; and (3) identified equipment manufacturers to obtain the necessary equipment certifications for their C-V2X equipment.¹⁸ Specifically, the group of automakers (Audi, Ford, and Jaguar Land Rover) seek a waiver of certain rules that they contend will facilitate C-V2X use in their vehicle fleets nationwide as soon as possible by waiving rules related to C-V2X OBU operations.¹⁹ The state DOTs seek a waiver of certain rules to deploy C-V2X RSUs throughout their respective states under the FCC ITS licenses each currently holds,²⁰ to allow each of the identified automakers to deploy C-V2X-based OBUs in all their cars sold in the United States.²¹ The C-V2X Joint Waiver Parties request permission for nationwide C-V2X OBU operations.²² And the identified equipment manufacturers seek waiver, to the extent necessary, of certain rules limiting the upper 30 megahertz of the 5.9 GHz band to DSRC-based technology, to allow the identified equipment manufacturers to obtain the equipment certifications for their C-V2X equipment.²³

¹³ *5.9 GHz First R&O* at 13464-65, para. 55.

¹⁴ See *Guidance PN* at 2 (noting that waiver requests that do not satisfy the streamlined process “will be evaluated by the same Section 1.925 waiver standard in the general review process afforded to all licensees and applicants”).

¹⁵ *Id.* at 13465, para. 56.

¹⁶ See *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Provide Guidance for Waiver Process to Permit Intelligent Transportation System Licensees to Use C-V2X Technology in the 5.895-5.925 GHz Band*, Public Notice, DA 21-962 (WTB, PSHSB Aug. 6, 2021) (*Guidance PN*).

¹⁷ See *Guidance PN* at 2. Pursuant to the Commission's part 2 rules, certification of C-V2X-based equipment must be obtained prior to marketing, sale, or operation of this equipment for use under any waiver authorizing operation of C-V2X-based equipment. In addition to the licensing rules that require waiver to permit C-V2X operation, an equipment manufacturer (or other entity requesting certification of C-V2X equipment) will need a waiver to obtain equipment certification of C-V2X-based equipment (whether roadside units or on-board units) as well as a waiver to permit operation of such equipment prior to the Commission's adoption of final C-V2X rules. See generally 47 CFR §§ 2.901 *et seq.* (subpart J – Equipment Authorization Procedures). See also *Guidance PN* at 3.

¹⁸ *Joint Waiver Request* at 4-5. The C-V2X Joint Waiver Parties did not request streamlined treatment under the waiver process outlined in the *Guidance PN* and instead seek a waiver under the section 1.925 waiver standard. See *Joint Waiver Request* at 2, fn. 4, pp. 5-8.

¹⁹ *Joint Waiver Request Supplement* at 4.

²⁰ *Joint Waiver Request* at 4-5. Utah DOT holds FCC license WQCE200. Virginia DOT holds FCC license WQCU200.

²¹ *Joint Waiver Request* at 4-5.

²² *Joint Waiver Supplement* at 4.

²³ *Joint Waiver Supplement* at 5. This aspect of the waiver request does not require a waiver of the Commission's Part 2 rules governing equipment authorization. See generally 47 CFR §§ 2.901 *et seq.* (subpart J – Equipment Authorization Procedures).

The C-V2X Joint Waiver Parties request flexibility to deploy C-V2X technology based on LTE-based C-V2X technology, as well as 5G-based C-V2X technology.²⁴

6. In their request, the C-V2X Joint Waiver Parties ask the Commission to permit C-V2X-based operations that meet the technical parameters set forth in Appendix 1 of their filing on the upper 20-megahertz portion (5905-5925 MHz) of the 5.9 GHz band, pending adoption of final C-V2X-based rules.²⁵

III. DISCUSSION

A. Waiver Standard

7. The C-V2X Joint Waiver Parties are seeking a waiver pursuant to section 1.925 of the Commission's rules. Section 1.925 of the Commission's rules states that the agency may grant a waiver if it is shown that the underlying purpose of the rule at issue would not be served or would be frustrated by application to the instant case, and a grant would be in the public interest, or where, "in view of unique or unusual factual circumstances," application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.²⁶ In addition, section 1.3 provides that the Commission may waive any provision of its rules on its own motion for good cause.²⁷

8. The C-V2X Joint Waiver Parties seek a waiver of 47 CFR §§ 90.375, 90.377, 90.379, 95.3163, 95.3167, and 95.3189, the rule sections that establish the technical requirements mandating DSRC-based technology in the upper 30 megahertz of the 5.9 GHz band,²⁸ to allow the use of C-V2X-based technology in the band and to provide adjustments to the technical parameters where the two technologies differ. As discussed below, we find that a waiver of these rules is warranted under section 1.925, subject to the C-V2X Joint Waiver Parties' commitment to adhere to the technical parameters in their petition as well as the additional conditions imposed by this Order which are intended to protect DSRC and federal incumbents from potentially harmful interference caused by C-V2X operations in the upper 30 megahertz of the 5.9 GHz band.²⁹ Regarding DSRC incumbents in particular, the C-V2X Joint Waiver Parties have shown that C-V2X waivers are unlikely to result in interference to DSRC operations given the extremely sparse deployment of DSRC equipment over the course of the last two decades, as

²⁴ *Joint Waiver Request Supplement* at 4, notes 15, 16.

²⁵ *Joint Waiver Request* Appendix 1 at 10-11; *Joint Waiver Request Supplement* at 3; C-V2X Joint Waiver Parties Aug. 29, 2022 Reply Comments at 11.

²⁶ 47 CFR § 1.925(b)(3)(i)-(ii).

²⁷ 47 CFR § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown."); *see also* *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²⁸ The part 90 rules provide for the licensing and registration of non-exclusive RSU licenses and licensing areas using DSRC frequencies; these rules list frequencies available to eligible applicants in the 5.9 GHz band for RSUs; set maximum EIRP and antenna height, and priority communications; and provide that DSRC RSUs operating in the upper 30 megahertz of the 5.9 GHz band must comply with the technical standard Institute of Electrical and Electronics Engineers (IEEE) 802.11p-2010. *See* 47 CFR §§ 90.375, 90.377, and 90.379. The part 95 rules provide that DSRC OBUs may operate in the upper 30 megahertz of the 5.9 GHz band; they establish the OBU transmit power limit (1.0 mW); and require that OBUs operating in the upper 30 megahertz of the 5.9 GHz band must also comply with (IEEE) 802.11p-2010. *See id.* §§ 95.3163, 95.3167, and 95.3189.

²⁹ "To facilitate granting of qualifying waiver requests, and in light of the alternate technical specifications proposed in their waiver, we would generally expect the ITS waiver applicant to include a demonstration showing that their requested waiver would not cause a greater potential for interference to other users operating in the 5.895-5.925 GHz band than DSRC-based operations in this band, and otherwise to address how the public interest would be served by such a waiver under Section 1.925. Based on the proposed change in technical parameters, the waiver request should also address any conditions (e.g., coordination zone radius, per 47 CFR § 90.371(b)) necessary to protect Federal Government Relocation Services." *See Guidance PN* at 2, n. 10.

the Commission itself has acknowledged.³⁰ We also agree with the C-V2X Joint Waiver Parties that the state Departments of Transportation, signatories to the Joint Waiver Request, are indeed best positioned to ensure that C-V2X RSUs do not interfere with existing DSRC operations since the state DOTs are the same entities that would have deployed DSRC RSUs in the first instance.³¹

9. The C-V2X Joint Waiver Parties also seek a waiver of 47 CFR § 2.106, NG160, but we find that such a waiver is unnecessary. Section 2.106 merely limits operations in the upper 30 megahertz of the 5.9 GHz band to ITS services.³² The Joint Waiver Request does not contemplate deploying non-ITS operations in the upper 30 megahertz of the 5.9 GHz band. Therefore, the request for a waiver of this provision is dismissed as moot.

10. We also find that, pursuant to section 1.925(b)(3)(i) of the Commission's rules, the underlying purpose of the Commission's rules governing ITS operations would not be served by denying the Joint Waiver Request and thereby delaying or precluding C-V2X operations in the upper 30 megahertz of the 5.9 GHz band.³³ In the *5.9 GHz First R&O*, the Commission expressly reserved 30 megahertz of spectrum in the 5.9 GHz band for "vital" ITS operations, using C-V2X technology after a transition period in lieu of the previously designated DSRC technology.³⁴ The C-V2X Joint Waiver Parties contend, and we agree, that granting the Joint Waiver Request serves the public interest by encouraging widespread deployment of ITS operations using V2X technology. To deny the Joint Waiver Request and insist on application of the current DSRC-based rules would be contrary to the public interest as it would further entrench the DSRC technology the Commission determined needs to be replaced and preclude rapid deployment of the technology the Commission has identified as best suited to promote the most efficient and effective use of the spectrum. The Commission expressly determined that the public interest dictates a transition to C-V2X technology as soon as possible, and stated its intent to permit early deployment through the waiver process, subject to specified conditions and limited to transportation and vehicle safety-related communications.³⁵ We therefore agree with the C-V2X Joint Waiver Parties that permitting C-V2X technologies to deploy now, prior to adoption of final C-V2X rules, will serve the public interest by advancing vehicular safety and promoting interoperability.³⁶ As the Commission stated in the *5.9 GHz First R&O*, "[t]o promote the most effective and efficient use of the upper 30 megahertz of spectrum in the 5.9 GHz band, [. . .] we [. . .] conclude that C-V2X technology provides the best means of achieving our goals for ITS in the coming years."³⁷ Allowing the deployment of the C-V2X technology at issue here also serves the public interest by allowing interested parties to invest all ITS resources towards

³⁰ See Joint Waiver Request Supplement at 4; see also 35 FCC Rcd at 13441, para. 3.

³¹ See Joint Waiver Request at 7.

³² "In the band 5895-5925 MHz, the use of the non-federal mobile service is limited to operations in the Intelligent Transportation Systems radio service." 47 CFR § 2.106, NG160.

³³ 47 CFR § 1.925(b)(3)(i).

³⁴ See *5.9 GHz First R&O* at 13441, para. 1.

³⁵ See *5.9 GHz First R&O* at 13446, para. 13 ("We further conclude that, to promote the most efficient and effective use of the spectrum that will continue to be designated for ITS, only a single technology is appropriate, and we will require use of C-V2X technology. Pending resolution of the transition of ITS operations to C-V2X, ITS licensees will be able to continue their DSRC-based operations, or, alternatively, to deploy C-V2X-based operations by obtaining a waiver subject to specified conditions.").

³⁶ See *5.9 GHz First R&O* at 13443 para. 8 ("C-V2X-based technology has gained momentum as a means of providing transportation and vehicle safety-related communications.") In discussing ITS operations using C-V2X technologies in the 5.9 GHz band, the Commission stated its view "that a single standard for ITS in this band is most likely to promote interoperability between vehicles and infrastructure in the United States, enable robust automotive safety communications, and accelerate the nationwide deployment of ITS applications while reducing implementation costs." See *id.* at 13480, para. 99.

³⁷ See *id.* at 13479, para. 95.

C-V2X technology, instead of using scarce resources to support outdated DSRC technology while they are simultaneously developing and deploying C-V2X devices.

11. With few exceptions,³⁸ commenters in the record overwhelmingly support granting the waiver. For example, the Alliance for Automotive Innovation opined that “expedited grant of the Waiver Request is necessary to ensure that lifesaving C-V2X technology is integrated into the vehicle models at the design stage.”³⁹ The Intelligent Transportation Society of America commented that expedited deployment of C-V2X technology will enable a more efficient transition from DSRC technology as required by the First Report and Order and FNPRM.⁴⁰ NCTA specifies that it does not oppose the C-V2X Joint Waiver Parties’ request provided the grant is conditioned on compliance with the conditions and technical parameters the C-V2X Joint Waiver Parties describe in their filing (i.e., in Appendix 1 of the *Joint Waiver Request*).⁴¹ We agree with NCTA in part, and as discussed in greater detail below, we condition this grant, among other conditions, on the C-V2X Joint Waiver Parties’ proposed technical specifications regarding frequency range, channel bandwidth, OBU transmitter output, out of band emission limits, and OBU/RSU EIRP limits, with an additional EIRP limit for CV2X OBUs at ± 5 degrees in elevation from the horizontal plane, as requested by the National Telecommunications and Information Administration (NTIA).⁴² NCTA further suggests that “if the Commission grants a waiver permitting vehicular and portable C-V2X operations at 33 dBm EIRP, as the parties request,” the Commission should state whether that power limit is consistent with NTIA analysis previously filed in the 5.9 GHz proceeding (which considered only 23 dBm EIRP C-V2X operations in vehicles), and provide details on why this is the case.⁴³ This analysis, NCTA contends, will be relevant as the Commission proceeds to adopt final rules for C-V2X.

12. Continental Automotive Systems (Continental), although supportive of the Commission’s efforts to promote and accelerate the deployment of C-V2X technology and not raising any concerns

³⁸ See Chris Lemire Jun. 15, 2022 Comments (objects that “[t]he new suggested 5.850 GHz - 5.925GHz Band will interfere with and receive interference from the control links and video transmissions of Hobbyist /COT drones, RC Cars, and Security Camera systems.”); Ian Gresov Jun. 14, 2022 Comments (HAM operator and FPV Drone hobbyist requests that Commission not allow use of C-V2X in 5.9 GHz band since “the other frequencies that we use already experience heavy interference from Wi-Fi access points”); Richard Roy Jul. 28, 2022 Comments at 1 (objects to the request for failing to adhere to the waiver process prescribed by the FCC in its *Guidance PN* and for failing to describe why adhering to current FCC rules, specifically the technical parameters governing DSRC operations, would be “disadvantageous to C-V2X-based technology”); Richard Roy Oct. 11, 2022 Reply Comments at 2 (argues that the FCC should deny all C-V2X waiver requests to avoid “spending taxpayer dollars on an inferior technology with no future,” rescind the *5.9 GHz First R&O* mandating the cessation of DSRC operations in the 5.9 GHz band, and remove the *FNPRM* in docket 19-138 from any further consideration); and Shel Leader Aug. 28, 2022 Comments at 2 (objects that the proposed C-V2X-based rules are unnecessary and that the Commission should keep the DSRC-based protocols rather than “force a change to an unproven communication protocol.”)

³⁹ See, Alliance for Automotive Innovation Jul. 28, 2022 Comments at 5; see also National School Transportation Association Oct. 11, 2022 Comments at 2 (“NSTA believes that in order to support and promote continuous deployment of safety-critical communications systems, we need to lend our support to this Joint Waiver Request.”); NTSB Aug. 29, 2022 Comments at 4 (“Implementing [C-V2X] technology now is a critical step toward reducing the number of crashes and fatalities on our roadways.”)

⁴⁰ See Intelligent Transportation Society of America Jul. 28, 2022 Comments at 2.

⁴¹ NCTA Jul. 28, 2022 Comments at 2. NCTA – The Internet & Television Association is the principal trade association for the U.S. broadband and pay television industries. It represents more than 90% of the U.S. cable market, more than 200 cable networks, and equipment suppliers and providers of other services to the cable industry. See <https://www.ncta.com/about>. Some NCTA members provide Wi-Fi in the unlicensed 5.850-5.895 GHz (U-NII-4) and 5.925-6.425 GHz (U-NII-5) bands that are adjacent to the 5.895-5.925 GHz band. NCTA June 2, 2021 Comments, ET Docket No. 19-138, at 25-26.

⁴² See discussion at III.B. *infra*.

⁴³ *Id.*

relating to interference or other technical issues, objects that “grant of the requested waivers is premature until the Commission addresses unpredictable intellectual property licensing distortions caused by setting C-V2X as the de facto standard for all future connected vehicle communications.”⁴⁴ Continental requests that the Commission require licenses for C-V2X technology “to be available to all automotive industry participants subject to Commission regulations on [fair, reasonable, and non-discriminatory terms]”⁴⁵ as a condition to the grant of this waiver. Continental’s concern regarding patent issues has previously been raised in the docket for the 5.9 GHz rulemaking and the Commission sought comment in the Further Notice on the patent concerns raised by Continental.⁴⁶ The Commission may, if necessary, address the issues raised by Continental when adopting any final rules.⁴⁷ Until then, and to avoid prejudging Commission action on this matter, we condition this waiver on the outcome of any Commission action in the pending rulemaking proceeding, including any action addressing C-V2X patent licensing issues.

13. As a general matter, commenters that do not support the waiver request argue against the decision the Commission already made in the *5.9 GHz First R&O* to transition use of the upper 30 megahertz of the 5.9 GHz band to C-V2X-based technology.⁴⁸ However, the period to seek reconsideration of the Commission’s decision in this proceeding has passed and this is not the appropriate forum to raise objections to the Commission’s rules. Moreover, as discussed below, we believe that the record before us shows that the conditions we impose on C-V2X operations in this order will address any real world potential for harmful interference to incumbent operations.

14. After reviewing the record before us, we find that a waiver in this case will facilitate early C-V2X deployment as the Commission envisioned in the *5.9 GHz First R&O* and that the underlying purpose of the rules would be frustrated by their application here. Although we are conditioning the waiver grant on a requirement that grantees maintain the ability to conform to the final

⁴⁴ See Continental Automotive Systems Jul. 28, 2022 Comments at 2; see also Letter from Craig A. Gilley, Counsel to Continental, to Marlene H. Dortch, Secretary, FCC, ET Docket No. 19-138, at 2 (filed Dec. 5, 2022) (reiterating and supporting arguments made in “Continental’s past filings”); European Association of Automotive Manufacturers (CLEPA) et al. Aug. 29, 2022 Joint Comments at 1 (objects that “patent rights for standardized technologies required under the Commission’s proposed regulation are not, as a practical matter, available to many industry participants.”); CLEPA et al. July 2, 2021 Joint Reply Comments at 1 (“Concerns raised by Continental and AT&T in their comments regarding the unavailability of licenses for CV2-X technologies are, unfortunately, well-founded.”).

⁴⁵ See Continental Automotive Systems Jul. 28, 2022 Comments at 6; see also Vortezon Jul. 27, 2022 Comments at 5 (supports the Joint Waiver Request contingent upon there being no prohibition on the eligibility of a new C-2VX entrant to apply for a license of C-2VX spectrum in the future once the Commission issues the final C-V2X rules).

⁴⁶ See *Further Notice*, 34 FCC Rcd at 13506, n.432.

⁴⁷ Contrary to Continental’s earlier comments in which it opined that its standard essential patent (SEP) licensing concerns could be remedied “by operation of a final rule or via waiver” (Continental Jul. 28, 2022 Comments at 6), Continental has more recently argued that the Commission must deal with the SEP licensing issues it has raised as part of the waiver process and not at a later stage “after products have already been deployed.” See Letter from Craig A. Gilley, Counsel for Continental Automotive Systems, to Marlene H. Dortch, Secretary, FCC, ET Docket No. 19-138, at 4 (filed December 5, 2022). Continental argues that once products are deployed, “OEMs may have no choice but to bend to coercive injunctions [sic] demands, and thus will become locked into long-term licensing agreements on unfair and unreasonable terms . . .” *Id.* Continental’s arguments are highly speculative. We are not persuaded that they need to be addressed as part of or prior to our analysis of this waiver request.

⁴⁸ See Chris Lemire Jun. 15, 2022 Comments; Ian Gresov Jun. 14, 2022 Comments; Richard Roy Jul. 28, 2022 Comments at 1; Richard Roy Oct. 11, 2022 Reply Comments at 2; and Shel Leader Aug. 28, 2022 Comments at 2. Chris Lemire and Ian Gresov express concern about possible interference to their operations, but they fail to address the Joint Waiver Request, or the specific technical parameters proposed therein. Shel Leader completely ignores the Joint Waiver Request as well. As such, they provide no basis to deny the request. While Richard Roy does offer a critique of the Joint Waiver Request (i.e., that the technical parameters in Appendix 1 are not consistent with the current Part 90 and Part 95 technical rules for DSRC-based technology), his main objection and directive is that the Commission “rethink the rulemaking of November 2020.” Richard Roy Jul. 28, 2022 Comments at 5.

C-V2X operational, technical, and transition rules ultimately adopted by the Commission, we take this action without presuming any particular outcome of the pending rulemaking proceeding. Thus, in deploying pursuant to the waiver conditions set forth in this Order, the waiver proponents assume the risk associated with any such outcome. Based on the record before us, we grant a waiver to the C-V2X Joint Waiver Parties for the specified deployments, with conditions to protect incumbent licensees and interests.

15. We waive the Part 90 and 95 rule requirements that mandate DSRC technology in favor of C-V2X operation pursuant to the conditions articulated below. Specifically, we grant to the Virginia and Utah State Departments of Transportation waiver of 47 CFR §§ 90.375 (governing RSU license areas, communication zones and registrations) and 90.377 (RSU frequencies available, maximum power limit, antenna height, and priority communications). We grant to the Virginia and Utah State Departments of Transportation and the equipment manufacturers (AAEON Technology Inc., Advantech Co., Ltd., Applied Information, Inc., Cohda Wireless Pty Ltd., Commsignia, Inc., Danlaw Inc., HARMAN International Industries, Inc., Kapsch TrafficCom USA Inc., and Panasonic Corporation of North America) waiver of 47 CFR §§ 90.379 (governing Technical Standards for RSUs). And we grant to the Virginia and Utah State Departments of Transportation, the equipment manufacturers (AAEON Technology Inc., Advantech Co., Ltd., Applied Information, Inc., Cohda Wireless Pty Ltd., Commsignia, Inc., Danlaw Inc., HARMAN International Industries, Inc., Kapsch TrafficCom USA Inc., and Panasonic Corporation of North America), and the auto manufacturers (Audi of America, Inc., Ford Motor Company, and Jaguar Land Rover) waiver of 47 CFR §§ 95.3163 (providing that DSRC On-Board Units are permitted to operate in the upper 30 megahertz of the 5.9 GHz band), 95.3167 (maximum power limit for DSRC OBUs), and 95.3189 (technical standard for DSRC OBUs).

16. In waiving the DSRC-based technology requirement and the specific Part 90 and Part 95 technical rules identified above with respect to operation in the upper 30 megahertz of the 5.9 GHz band, we find that certain conditions are necessary to protect federal operations and incumbent DSRC systems in the band. We find that these technical restrictions are warranted to ensure that C-V2X systems deployed under this waiver are not inconsistent with the Commission's proposals and the spirit and intent that the Commission has envisioned for this spectrum. We also find that certain conditions are necessary to ensure that waiver recipients are on notice that they may need to adjust their C-V2X operations in a timely manner once the Commission adopts final rules applicable to their C-V2X operations pursuant to this waiver grant.

B. Waiver Grant Conditions

17. *Scope of the Waiver.* With respect to ITS licensees, this waiver is limited to those licensees that joined in the waiver request – i.e., the Virginia and Utah Departments of Transportation – to allow them to deploy C-V2X infrastructure that satisfies all conditions of this Order, including RSUs and OBUs, within their jurisdictions. The geographic area of the waiver is limited to the area encompassing the legal jurisdictions of Virginia and Utah. This condition will ensure that, as the waiver request indicates, the applicable ITS licensees can ensure that their operations will not jeopardize any DSRC operations in these areas.

18. All operations authorized pursuant to this waiver are limited to transportation and vehicle safety-related communications.

19. All C-V2X operations permitted pursuant to this waiver are limited to the 5905-5925 MHz frequencies using a 20-megahertz channel.

20. With respect to non-licensee automakers, this waiver is similarly limited to the named auto manufacturers requesting relief in the Joint Waiver Request.⁴⁹ This Order allows each of the named automakers to deploy C-V2X-based OBUs that satisfy all conditions herein in all of their vehicles

⁴⁹ The named auto manufacturers in the Joint Waiver Request are Audi of America, Inc., Ford Motor Company, and Jaguar Land Rover.

operating in the United States.

21. With respect to equipment manufacturers, this waiver is limited to those manufacturers of RSU and OBU equipment requesting relief in the C-V2X Joint Waiver Request.⁵⁰ This waiver order provides each of the named equipment manufacturers eligibility to obtain the necessary equipment certifications for their RSUs and OBUs. Equipment authorization requirements continue to apply to all RSUs and OBUs under this waiver order.⁵¹ Any application for equipment authorization will need to include a copy of this waiver order.

22. C-V2X operations under this waiver order are authorized on a secondary basis to the Federal radiolocation service operating on a primary basis within the 5.895-5.925 GHz band and must protect these Federal operations from harmful interference. The NTIA has reviewed the technical parameters proposed by the C-V2X Joint Waiver Parties in Appendix 1 to their petition and agrees that spectrum usage should be limited to 5905-5925 MHz and that EIRP for both OBUs and RSUs be limited to 33 dBm, as the C-V2X Joint Waiver Parties request.⁵² In addition, “to adequately protect the primary 5.9 GHz band for federal radiolocation services during this waiver period,” NTIA also requests that C-V2X OBUs be limited to an EIRP of 27 dBm at ± 5 degrees in elevation from the horizontal plane.⁵³ The C-V2X Joint Waiver Parties concur with this condition.⁵⁴

23. *Technical Requirements and Restrictions.* All RSUs and OBUs authorized under this Order must operate using the technical characteristics and operating parameters, including power, height, and out-of-band emission limits, specified below, in order to ensure compliance with all existing technical rules applicable to ITS operations other than the requirement to use DSRC-based technology:

C-V2X OBU and RSU Operations

Frequency Range	Channel Bandwidth	OBU Limits	RSU EIRP Limit
5905-5925 MHz	20 MHz	20 dBm Transmitter Output Power 33 dBm EIRP*; 27dBm EIRP within 5 degrees of horizontal	33 dBm EIRP

*EIRP (equivalent isotropically radiated power)

⁵⁰ The named equipment manufacturers in the Joint Waiver Request are: AAEON Technology Inc., Advantech Co., Ltd., Applied Information, Inc., Cohda Wireless Pty Ltd., Commsignia, Inc., Danlaw Inc., HARMAN International Industries, Inc., Kapsch TrafficCom USA Inc., and Panasonic Corporation of North America.

⁵¹ See generally 47 CFR §§ 2.901 *et seq.* (subpart J – Equipment Authorization Procedures) and 47 CFR § 2.905 (Marketing of radio frequency devices prior to equipment authorization).

⁵² See Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Ronald T. Repasi, Acting Chief, FCC Office of Engineering and Technology, ET Docket No. 19-138 (filed April 14, 2023) at 3. See also, *Joint Waiver Request* Appendix 1 at 10-11; *Joint Waiver Request Supplement* at 3; C-V2X Joint Waiver Parties Aug. 29, 2022 Reply Comments at 11.

⁵³ *Id.*

⁵⁴ See Letter from the C-V2X Joint Waiver Parties to Marlene H. Dortch, Secretary, FCC, ET Docket No. 19-138 (filed Apr. 20, 2023).

C-V2X Out-of-Band Emissions (OOBE) Limits

Frequency Offset (MHz from Channel Edge)	OOBE EIRP Limits for C-V2X Transmissions (dBm/100 kHz)**
0.0	-16.0
1.0	-22.0
10.0	-30.0
20.0	-40.0

**See IEEE 802.11p-2010 Table I.8

24. The state DOTs' C-V2X RSU operations must protect DSRC and primary non-federal fixed-satellite service (Earth-to-space) operations in the 5.895-5.925 GHz band from harmful interference. Prior to commencing C-V2X operations, the State DOTs must successfully coordinate with all DSRC incumbent(s) whose licensed areas either overlap or are within 25 miles of the license areas of the State DOTs. The purpose of this coordination is to ensure that harmful interference will not occur.⁵⁵ In addition, within 30 days of commencing operations, the State DOTs must file a report in the Universal Licensing System (ULS) confirming successful coordination (including the names of the DSRC incumbents and dates coordination was completed), or if applicable, certifying that coordination was unnecessary, and include a grandfathered list of state DOT RSU locations that will be converted from DSRC to C-V2X operation. FCC staff will add a C-V2X special condition to these RSU locations and forward the grandfathered state DOT RSU list to NTIA.

25. *RSU registration requirements.* Licensees must register each RSU in ULS before operating the RSU. RSUs included in the grandfathered DSRC RSU list being converted to C-V2X do not need to be filed in ULS. RSU registrations are subject to the requirements of 47 CFR § 1.923 as applicable (antenna structure registration, environmental review, international coordination, and quiet zones). Additionally, RSUs at locations subject to NTIA coordination⁵⁶ may not begin operation until the licensee receives NTIA approval. Registrations are not effective until the Commission posts them in ULS. It is the licensee's responsibility to delete from the registration database any RSUs that have been discontinued.⁵⁷

26. *Compliance with Final Rules.* We intend by this Order to enable a fast transition to the next generation of technology in this spectrum band while the Commission contemplates the framework for final rules. Consistent with this goal, we condition the waiver on the requirement that each waiver recipient will ensure that RSU and OBU operations and devices authorized under the waiver will comply with the final rules or other guidance provided by the Commission in any timeframe determined by the Commission. This approach ensures that waiver recipients, including but not limited to equipment manufacturers, will consider the pendency of the final rulemaking, and incorporate technology that will allow prompt and efficient regulatory compliance with respect to individual RSUs, OBUs, and C-V2X-based operations once any relevant final rules are implemented. Equipment manufacturers, in particular, must take steps to ensure that they can update or disable any OBUs deployed pursuant to this Order to bring these units into compliance with the final rules. Recipients of this waiver should be aware that the Commission may further tailor this and other waiver conditions, if needed and as appropriate, as part of any determination it makes in the rulemaking proceeding.

IV. ORDERING CLAUSES

27. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and section 1.925 of the Commission's rules, 47 CFR § 1.925, the

⁵⁵ Setting the coordination distance at 25 miles will ensure that C-V2X RSU operators are able to identify any neighboring DSRC incumbents.

⁵⁶ See 47 CFR § 90.371(b).

⁵⁷ See 47 CFR § 90.375(b).

request to waive the requirements of sections 90.375, 90.377, 90.379, 95.3163, 95.3167, and 95.3189 of the Commission's rules, 47 CFR §§ 90.375, 90.377, 90.379, 95.3163, 95.3167, and 95.3189, is HEREBY GRANTED subject to the conditions outlined in section III.B. above.

28. IT IS FURTHER ORDERED that the request to waive the requirements of 47 CFR § 2.106, NG160 and 47 CFR § 95.3159 is HEREBY DISMISSED as moot.

29. These actions are taken under delegated authority pursuant to sections 0.31, 0.131, 0.191, 0.241, 0.331 and 0.392 of the Commission's rules, 47 CFR §§ 0.31, 0.131, 0.191, 0.241, 0.331, and 0.392 and the *5.9 GHz First R&O*.⁵⁸

FEDERAL COMMUNICATIONS COMMISSION

Debra Jordan
Chief, Public Safety and Homeland Security Bureau

Ronald Repasi
Chief, Office of Engineering and Technology

Joel Taubenblatt
Chief, Wireless Telecommunications Bureau

⁵⁸ *5.9 GHz First R&O* at 13424-65, paras. 55-56.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Spectrum Five LLC	)	IB Docket No. 20-399
	)	
Petition for Enforcement of Operational Limits and	)	
for Expedited Proceedings to Revoke Satellite	)	
Licenses	)	

ORDER

Adopted: April 24, 2023

Released: April 24, 2023

By the Chief, Enforcement Bureau:

1. On November 6, 2020, Spectrum Five LLC (Spectrum Five) filed the above-captioned Petition asking the Commission to require Intelsat License LLC (Intelsat) to come into compliance with the terms of its licenses for the Intelsat 30 (Call Sign S2887) and Intelsat 31 (Call Sign S2924) satellites located at the 95 degrees west longitude (95° W.L.) orbital location.¹ On April 12, 2023, Spectrum Five withdrew its Petition.² We have reviewed the request to withdraw and find that it raises no substantial or material question of fact.

2. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), the Petition of Spectrum Five for Enforcement of Operational Limits and for Expedited Proceedings to Revoke Satellite Licenses **IS DISMISSED WITH PREJUDICE** to the filing of any future petition, complaint, or other request for relief by Spectrum Five regarding (1) the claims set forth in the Spectrum 5 Petition or (2) any claims arising from the same set of facts, and that this proceeding **IS TERMINATED** and the docket is closed.

3. This action is taken pursuant to authority delegated by sections 0.111 and 0.311 of the Commission's rules.³

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

¹ See Petition of Spectrum Five for Enforcement of Operational Limits and for Expedited Proceedings to Revoke Satellite Licenses, IB Docket No. 20-399 (filed Nov. 6, 2020) (Spectrum Five Petition).

² See Letter from Samuel L. Feder, Counsel for Spectrum Five, LLC, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 20-399 (April 12, 2023).

³ 47 CFR §§ 0.111, 0.311.



PUBLIC NOTICE

Federal Communications Commission
45 L Street, NE
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 23-346
April 24, 2023

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES
REGION 42 (VIRGINIA) 700 MHz AND 800 MHz REGIONAL PLANNING COMMITTEES
TO HOLD MEETINGS

PR Docket No. 90-221 and WT Docket 02-378

The Region 42 Regional Planning Committees will hold two consecutive meetings beginning at 3:30 p.m. on Tuesday, May 9, 2023. The meetings will be held at the Colonial Williamsburg Resorts, Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia, 23185, in Allegheny Room A. The 700 MHz meeting will convene at 3:30 p.m. and the 800 MHz will convene immediately following.

The Region 42 700 MHz agenda is below:

- Call to order
- Introductions
- Approval of Minutes
- Approval of Agenda
- Old Business
- Chairman's remarks on issues of importance in Region 42
- New Business
- Other Business

The Region 42 800 MHz agenda is below:

- Call to order
- Introductions
- Approval of Minutes
- Approval of Agenda
- Old Business
- Chairman's remarks on issues of importance in Region 42
- New Business
- Other Business
- Adjourn

The Region 42 RPC meetings are open to the public. All public safety providers in Region 42 may utilize these 700 MHz and 800 MHz frequencies. It is essential that eligible public safety agencies in all areas of government, including state, municipality, county, and Native American Tribal be represented in order to ensure that each agency's future spectrum needs are considered in the allocation process. Administrators who are not oriented in the communications field should delegate someone with this knowledge to attend, participate, and represent their agency's needs.

All interested parties wishing to participate in planning for the use of public safety spectrum in the 700 MHz and 800 MHz bands within Region 42 should plan to attend. For further information, please contact:

C. J. Shaffer
Chairman, Region 42 (700 MHz) RPC
Hanover County Emergency Communications
P.O. Box 470
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R. W. Thompson
Chairman, Region 42 (800 MHz) RPC
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- FCC -



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
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DA 23-347

Released: April 24, 2023

ENFORCEMENT BUREAU REQUESTS LETTERS OF INTENT TO BECOME THE REGISTERED INDUSTRY CONSORTIUM FOR TRACEBACKS

EB Docket No. 20-22

Letters of Intent Date: May 24, 2023.

Comment Date: June 8, 2023.

Reply Comments Date: June 15, 2023.

The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) requires the Federal Communications Commission (Commission) to “issue rules to establish a registration process for the registration of a single consortium that conducts private-led efforts to trace back the origin of suspected unlawful robocalls.”¹ Commission rules require any new consortium that seeks to be selected as the single registered consortium to file a Letter of Intent to conduct private-led traceback efforts.² The incumbent is not required to file a Letter of Intent.³ The Commission’s rules require the Enforcement Bureau (Bureau) to issue a public notice, no later than April 28th of each year, seeking such registrations.⁴

By this Public Notice, the Bureau requests interested consortia to provide Letters of Intent in accordance with the Commission’s rules and the *Consortium Registration Order*. We also invite comment on those Letters of Intent.

Background. Unlawful prerecorded or artificial voice message calls—robocalls—plague the American public. In many instances, unlawful robocalls include inaccurate or misleading caller identification information, known as spoofed caller ID. The spoofed caller ID makes it more difficult to identify the source of the call. In order to enforce the laws prohibiting illegal robocalls, government and industry work together to trace unlawful spoofed robocalls to their origination—a process known as “traceback.” Congress acknowledged the beneficial collaboration between the Commission and the private sector on traceback issues and, in section 13(d) of the TRACED Act, required the Commission to register a single consortium to conduct private-led efforts to trace back suspected unlawful robocalls.

¹ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), Pub. L. No. 116-105, § 13(d)(1), 133 Stat. 3274, 3287 (2019).

² 47 CFR § 64.1203(b).

³ *Id.* § 64.1203(c); see also *Implementing Section 13(d) of the Pallone-Thune Robocall Abuse Criminal Enforcement and Deterrence Act*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3113, 3116, para. 12 (2020) (*Consortium Registration Order*).

⁴ 47 CFR § 64.1203(a); see also *Consortium Registration Order*, 35 FCC Rcd at 3115, para. 9.

The Commission set forth a set of principles for the Bureau to use in selecting the registered consortium and to ensure that the registered consortium complies with the statutory requirements.⁵ The current registered consortium is USTelecom – The Broadband Association’s Industry Traceback Group (ITG).⁶

Letter of Intent Requirements. The TRACED Act requires that the Commission seek registrations for the traceback consortium on an annual basis.⁷ The Bureau requests interested consortia, other than the incumbent registered consortium, to provide Letters of Intent in accordance with the Commission’s rules and the *Consortium Registration Order*.⁸ The Letter of Intent must demonstrate that the interested consortium satisfies the statutory and regulatory requirements necessary to serve as the single registered consortium.

Any consortium must: (1) demonstrate that it is a neutral third party; (2) demonstrate that it is competent to manage the private-led traceback efforts; (3) include its written best practices, and an explanation thereof, regarding management of its traceback efforts and the participation of voice services providers in the consortium’s traceback efforts; (4) certify that, consistent with section 222(d)(2) of the Communications Act, the consortium’s efforts will focus on fraudulent, abusive, or unlawful traffic; and (5) certify that the consortium has notified the Commission that it intends to conduct traceback efforts in advance of registration as the single registered consortium.⁹ The Letter of Intent must also include a certification that, if selected to be the single registered consortium, the consortium will remain in compliance with the statutory requirements; conduct an annual review for compliance; and promptly notify the Commission of any changes that reasonably bear on its certification.¹⁰ The Bureau will select

⁵ *Consortium Registration Order*, 35 FCC Rcd at 3117-22, paras. 15-29 (discussing the Commission’s interpretation of section 13(d) of the TRACED Act).

⁶ In 2020, ITG was the only applicant to file a Letter of Intent for the role of consortium. See Letter of Intent from Patrick Halley, Senior Vice President of Policy & Advocacy, USTelecom, and Jessica Thompson, Manager of Policy & Advocacy, USTelecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed May 21, 2020) (USTelecom Letter of Intent). On July 27, 2020, the Bureau selected ITG as the registered consortium. See *Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, 35 FC Rcd 7886, 7886-87, para. 3 (EB 2020) (2020 Consortium Selection Order). In response to the Commission’s Annual Public Notice of 2021, ZipDX LLC (ZipDX) submitted a Letter of Intent to be designated as the registered consortium. See Letter of Intent from David Frankel, CEO, ZipDX LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed May 27, 2021) (ZipDX 2021 Letter of Intent). On August 21, 2021, after thorough consideration, the Bureau retained the ITG as the registered consortium. See *Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, 36 FCC Rcd 12782, 12782 para. 1 (EB 2021) (2021 Consortium Selection Order). In response to the Commission’s Annual Public Notice of 2022, ZipDX submitted a Letter of Intent to be designated as the registered consortium. See Letter of Intent from David Frankel, CEO, ZipDX LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed May 20, 2022) (ZipDX 2022 Letter of Intent). ZipDX withdrew its 2022 Letter of Intent on July 25, 2022. See Letter from David Frankel, CEO, ZipDX LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 20-22 (filed July 25, 2022) (ZipDX Withdrawal Letter). On August 22, 2022, after consideration of all the statutory requirements and commenters’ input, the Bureau selected the incumbent ITG as the registered consortium. See *Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 22-870 at 1 (EB 2022) (2022 Consortium Selection Order).

⁷ See TRACED Act § 13(d)(2).

⁸ See 47 CFR § 64.1203(b); *Consortium Registration Order*, 35 FCC Rcd at 3115, paras. 10-11.

⁹ See 47 CFR § 64.1203(b)(1)-(4); *Consortium Registration Order*, 35 FCC Rcd at 3115, para. 11.

¹⁰ See 47 CFR § 64.1203(b)(5); see also *Consortium Registration Order*, 35 FCC Rcd at 3116, para. 13.

as the single registered consortium, the entity that best meets these requirements and the principles the Commission identified in the *Consortium Registration Order*.¹¹

The incumbent registered consortium does not need to file a new Letter of Intent.¹² The certifications contained in the registered consortium's initial Letter of Intent will continue in effect for each subsequent year unless the incumbent consortium notifies the Commission otherwise in writing on or before May 24, 2023.¹³ If any entity files a Letter of Intent, the Bureau seeks comment on each of the applicants, including the incumbent (see instructions below). The Bureau will select the single registered consortium by August 22, 2023.

Registration Process. Letters of Intent must be submitted electronically via ECFS (<https://www.fcc.gov/ecfs/>) in EB Docket No. 20-22. If consortia wish to include confidential information as part of their Letters of Intent, they must submit: (1) a redacted, public version via ECFS; and (2) a non-redacted, confidential version electronically to the Enforcement Bureau. Filing consortia should contact Kristi Thompson by phone at (202) 418-1318 or e-mail at kristi.thompson@fcc.gov to arrange electronic submission of the non-redacted version. Confidential material must be marked as such and requests for confidential treatment must conform to the requirements of section 0.459 of the Commission's rules.¹⁴

Deadline to Submit Letters of Intent. May 24, 2023.

Ex Parte Rules. The proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules.¹⁵ 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 (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) 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 their 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 section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules, 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.¹⁶

Request for Comments and Reply Comments on Selection of Traceback Consortium. The Bureau invites interested parties to comment on the submission of Letters on Intent filed by interested consortia,

¹¹ See *Consortium Registration Order*, 35 FCC Rcd at 3117-21, paras. 15-28.

¹² See 47 CFR § 64.1203(c).

¹³ *Id.*

¹⁴ *Id.* § 0.459.

¹⁵ *Id.* §§ 1.1200 et seq.

¹⁶ *Id.* § 1.49(f).

as well as on the continuation of USTelecom ITG as the single registered consortium. Interested parties may file comments on or before June 8, 2023, and reply comments on or before June 15, 2023.

Submission Process. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).¹⁷

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent 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.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701, U.S.
- Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals and to mitigate the transmission of COVID-19.¹⁸

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

Deadline to Submit Comments. June 8, 2023.

Deadline to Submit Reply Comments. June 15, 2023.

Additional Information. For further information, contact Kristi Thompson, Chief, Telecommunications Consumers Division, Enforcement Bureau, at (202) 418-1318 or kristi.thompson@fcc.gov.

¹⁷ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (May 1, 1998).

¹⁸ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>; see also FCC, *How to File Paper Documents with the FCC*, (June 1, 2021), <https://www.fcc.gov/reports-research/guides/how-file-paper-documents-fcc> ("Once our COVID restrictions are lifted we will ONLY accept hand deliveries at our Annapolis Junction address.").



Federal Communications Commission
Washington, D.C. 20554

April 25, 2023

DA 23-348
In Reply Refer to:
1800B3-ATS
Released April 25, 2023

Our Lady of the Snows Foundation, Inc.
c/o Stuart W. Nolan, Jr., Esq.
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Idaho State Board of Education
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1629 K Street NW, Suite 300
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In re: **NCE MX Group 82**

**Our Lady of the Snows Foundation,
Inc.**

New NCE FM, Ketchum, Idaho
Facility ID No. 763565
Application File No. 0000167668

Idaho State Board of Education

New NCE FM, Ketchum, Idaho
Facility ID No. 768287
Application File No. 0000166951

Petition to Deny

Dear Counsel,

We have before us the application filed by Our Lady of the Snows Foundation, Inc. (OLSF), and an amendment to the dismissed application of Idaho State Board of Education (ISBE), which seeks *nunc pro tunc* reinstatement of that application.¹ Both applications sought construction permits for new noncommercial educational (NCE) FM stations in Ketchum, Idaho, were determined to be mutually exclusive (MX), and were designated by the Media Bureau (Bureau) as NCE MX Group 82.² The

¹ Application File Nos. 0000167668 (OLSF Application) and 0000166951 (ISBE Application); *see also* ISBE Application, Amendment (filed Mar. 14, 2023) (March Amendment). ISBE did not file a separate petition for reconsideration of the dismissal of its application. Accordingly, we will treat the March Amendment as a petition for reconsideration.

² *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the November 2021, Filing Window for New Noncommercial Educational Stations; Opens Window to Accept Settlements and Technical*

Commission identified the OLSF Application as the tentative selectee of the group.³ We also have before us the Petition to Deny (Petition) the OLSF Application filed by ISBE⁴ and a related responsive pleading.⁵ For the reasons set forth below, we deny the March Amendment, dismiss the Petition as moot, and grant the OLSF Application.⁶

Background. The subject applications were filed during the November 2021 NCE FM filing window.⁷ Because both applications proposed to serve the same community, in the *Second Comparative Order*, the Commission conducted a point system analysis.⁸ The Commission awarded both OLSF and ISBE three points under the established local applicant criterion, and awarded OLSF two points under the diversity of ownership criterion.⁹ The Commission thus identified the OLSF Application as the tentative selectee of NCE MX Group 82.¹⁰

In the Petition, ISBE argues that the OLSF Application was not entitled to three points under the established local applicant criterion nor two points under the diversity of ownership criterion because OLSF was not established two years prior to the snap shot date for establishing points,¹¹ but was in fact only incorporated on October 5, 2020.¹² In the Opposition, OLSF argues that it “is the recently incorporated manifestation of a previously unincorporated foundation founded five years prior to the Freeze Date” and is therefore entitled to points under the established local applicant criterion.¹³ OLSF

Amendments, MB Docket No. 20-343, Public Notice, 36 FCC Rcd 16452 (MB 2021) (*MX Groups and Settlement Public Notice*).

³ *Comparative Consideration of 32 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, FCC 22-78 at 15, paras. 57-58 (Oct. 25, 2022) (*Second Comparative Order*).

⁴ Pleading File No. 0000204323 (filed Nov. 23, 2022) (Petition).

⁵ OLSF filed an Opposition to the Petition. Pleading File No. 0000204817 (filed Dec. 5, 2022). OLSF separately filed a signed copy of the sworn declaration of the co-chair of OLSF, Claire Goodyear. Pleading File No. 0000204834 (filed Dec. 5, 2022). ISBE did not file a Reply as of the date of this letter.

⁶ In the *Second Comparative Order*, the Commission directed Bureau staff to “consider any petitions, comments, and objections to determine whether there is any substantial and material question of fact concerning whether grant of the tentatively selected application would serve the public interest.” *Second Comparative Order* at 22, para. 101. The Commission delegated authority to the Bureau staff “to act on any routine matter that may be raised, including whether the applicant is eligible, as certified, for the points awarded herein, and whether the application complies with all relevant Commission rules and policies.” *Id.* at 22, para. 102.

⁷ *Media Bureau Announces NCE FM New Station Application Filing Window; Window Open from November 2, 2021, to November 9, 2021*, MB Docket No. 20-343, Public Notice, 36 FCC Rcd 7449 (MB 2021) (*Procedures Public Notice*).

⁸ *Second Comparative Order* at 15, para. 57.

⁹ *Id.* at 15, para. 58.

¹⁰ *Id.*

¹¹ The snap shot date for the 2021 NCE Window was November 9, 2021, which was the day the window closed. *Procedures Public Notice*, 36 FCC Rcd at 7459.

¹² Petition at 2.

¹³ Opposition at 5.

further asserts that the ISBE Application is defective for failing to provide coverage to the community of license—Ketchum, Idaho—and should be dismissed, thereby making the OLSF Application a singleton.¹⁴

On March 14, 2023, the Bureau reviewed the ISBE Application to determine whether it was acceptable for filing,¹⁵ identified numerous defects in the ISBE Application,¹⁶ dismissed it, and afforded ISBE 30 days in which to correct the defects in the application.¹⁷ ISBE promptly filed the March Amendment, which revised Antenna Location Data field of the ISBE Application to identify new coordinates for the proposed station's transmitter.¹⁸ ISBE explained that the purpose of the amendment was "to correct the coordinates" of the original ISBE Application.¹⁹

Discussion. Initially, we find that the March Amendment is unacceptable because it is a major amendment and creates new mutual exclusivities, which are explicitly prohibited by the *MX Groups and Settlement Public Notice*.²⁰ The March Amendment constitutes a prohibited major change amendment because its proposed 60 dbu contour does not overlap with the 60 dbu contour of the original Application.²¹ Moreover, the March Amendment creates additional overlap with the OLSF Application.²² Thus, the March Amendment is unacceptable and we deny it.

We reject ISBE's argument that the March Amendment should be accepted because it purports to correct typographical errors in the original Application. The Commission has explicitly required that "for radio station applications, that the antenna location coordinates specified in Item 3 of the FCC Form 340

¹⁴ *Id.* at 2-3.

¹⁵ Once an application is identified as a potential tentative selectee, the staff studies the application for defects and, if the application is unacceptable for filing, dismisses the application and affords them one opportunity to submit a curative amendment. *See Second Comparative Order* at 22, para. 99.

¹⁶ For example, the antenna coordinate data in the ISBE Application differed from that provided in the attached engineering exhibit. *See* Application at Antenna Location Data and Attach. "NEW 207A Ketchum ID Engr.pdf". When determining technical acceptability, the Bureau staff relies on the data contained within the application data fields and does not rely on the data contained in engineering exhibits. *See Roman Catholic Diocese of Portland, Maine, et. al.*, Memorandum Opinion and Order, 29 FCC Rcd 15068, 15072, para. 8 (2014) (*Diocese of Portland*).

¹⁷ *Actions*, Public Notice, Report No. PN-2-230316-01 (MB Mar 16, 2023) ("Dismissed 3/14/2023 via Public Notice for the following reasons: Section 73.515 violation - fails to provide any coverage of Ketchum, ID (0% of the population and area); Section 73.509 violations - (1) 243 sq. km. overlap received from first-adjacent channel Class C0 licensed station KLRI(FM), Rugby, ID; (2) 15 sq. km. overlap caused to and 323 sq. km. received from second-adjacent channel Class C0 licensed station KEFX(FM), Twin Falls, ID; and (3) 15 sq. km. overlap caused to and 323 sq. km. received from third-adjacent channel Class C0 licensed station KAWZ(FM), Twin Falls, ID. SEE DA 21-1516 for general information about this dismissal and for information about filing curative amendments.").

¹⁸ March Amendment at Antenna Location Data.

¹⁹ *Id.* at Attach. "NEW 207A Ketchum- purpose of amendment.pdf".

²⁰ *See MX Groups and Settlement Public Notice*, 36 FCC Rcd at 16455 ("Only minor engineering amendments, . . . will be accepted. Amended applications must specify rule-compliant facilities. Applications that are amended and create any new application conflicts, or that worsen any existing conflicts (such as increasing existing overlap), will be dismissed.").

²¹ *See* 47 CFR § 73.3573(a).

²² Specifically, the overlap between the ISBE Application's 60 dBu protected contour and the OLSF Application's 40 dBu interfering contour has gone from 227 sq. km (with the facilities in the dismissed original ISBE Application) to 553 sq. km. (with the facilities in the March Amendment).

Tech Box . . . or [its] equivalent[] in future form revisions, be set forth accurately.”²³ The Commission further “direct[ed] that the staff may make any technical and legal evaluations of, and take any actions regarding, such applications based upon the stated antenna location coordinates specified in the Tech Box, without resort to any other data in the Tech Box *or elsewhere in the application or attachments*. Such staff actions may include, but are not limited to, dismissal of such defective applications and *refusal to accept amendments where such amendments would conflict with accurate and rule-compliant window-filed applications*.”²⁴

Here, although the attachment in the original ISBE Application described a rule-complaint site,²⁵ the coordinate data contained in the Application’s “Antenna Location Data” field identified a non-compliant site. ISBE cannot attempt to file a non-compliant amendment on the theory that the data in the Application was a typographical error. Accordingly, we deny the March Amendment to the ISBE Application. Because ISBE has utilized its sole opportunity to file a curative amendment, it can no longer amend its application.²⁶

Furthermore, our dismissal of the ISBE Application renders the Petition moot. The Petition only challenged the points awarded to the OLSF Application. The OLSF application is now a singleton. Accordingly, we grant the OLSF Application.²⁷

Conclusion/Action. Accordingly, the March 14, 2023, amendment to the application of Idaho State Board of Education for a construction permit for a new noncommercial educational FM station at Ketchum, Idaho (Application File No. 0000166951) **IS DENIED** and when treated as a petition for reconsideration **IS DENIED**.

IT IS FURTHER ORDERED that the Petition to Deny filed by Idaho State Board of Education **IS DISMISSED AS MOOT**.

²³ See *Diocese of Portland*, 29 FCC Rcd at 15072, para. 8. The current FCC Form 2100, Schedule 340 is the LMS-based equivalent of the FCC Form 340, which was used in CDBS .

²⁴ *Id.* (emphasis added).

²⁵ Application at “NEW 207A Ketchum ID Engr.pdf”.

²⁶ A dismissed applicant has *one* opportunity to file a minor curative amendment to its application and a petition for reconsideration, requesting reinstatement of the application *nunc pro tunc*. See *Commission States Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications*, Public Notice, 56 RR 2d 776 (1984); 47 CFR § 1.106. The amendment and petition for reconsideration must be filed within 30 days of the dismissal of the application.

²⁷ Because the OLSF Application is now a singleton, it is not subject to the conditions stated in the *Second Comparative Order*. See *Second Comparative Order* at 28, para. 120 (conditioning grant of the OLSF Application on compliance with section 73.7005 of the Rules, 47 CFR § 73.7005).

IT IS FURTHER ORDERED that the application of Our Lady of the Snows Foundation for a construction permit for a new noncommercial educational FM station at Ketchum, Idaho (Application File No. 0000167668) **IS GRANTED.**

Sincerely,
Albert Shuldiner
Chief, Audio Division
Media Bureau

cc (via electronic mail):

Claire Goodyear. (clairegoodyear@me.com)
(Representative for Our Lady of the Snows Foundation, Inc.)

Tom Michael (tommichael@boisestate.edu)
(Representative for Idaho State Board of Education)

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In re Application of	)	
	)	
New World Broadcasting Company, Inc.	)	FRN: 0006387625
	)	Facility ID No. 14897
For Renewal of License for	)	File No. 0000106775
Station KCLF(AM)	)	
New Roads, Louisiana	)	

ORDER

Adopted: April 25, 2023

Released: April 25, 2023

By the Chief, Audio Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and New World Broadcasting Company, Inc. (Licensee), the licensee for Station KCLF(AM), New Roads, Louisiana (Station). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal application (Application) for the Station. In particular, the Consent Decree resolves the Bureau's investigation of Licensee's compliance with the Online Public Inspection File Rule contained in section 73.3526 of the Commission's rules (Rules).¹ The Bureau's Audio Division suspended processing of the Application because Licensee did not comply with its public file obligations in section 73.3526.

2. The Bureau and Licensee have negotiated the attached Consent Decree in which Licensee stipulates that it violated section 73.3526 of the Rules. Pursuant to the Consent Decree, Licensee agrees, among other things, to implement a comprehensive compliance plan to ensure future compliance with its online public inspection file obligations and, one year after entering into the Consent Decree, submit a compliance report to the Audio Division.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau's consideration of potential violations of the Rules.

4. Based on the record before us, we conclude that nothing in that record creates a substantial and material question of fact as to whether Licensee possess the basic qualifications to be a Commission licensee.

5. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 4(i), 4 (j) and 503(b) of the Communications Act of 1934, as amended,² and by the authority delegated by Sections 0.61 and 0.283 of the Commission's rules,³ the Consent Decree attached hereto **IS ADOPTED** without change, addition or modification.

6. **IT IS FURTHER ORDERED** that the investigation by the Media Bureau of the matters noted above **IS TERMINATED**.

¹ 47 CFR § 73.3526.

² 47 U.S.C. § 154(i)(6) 154(j), and 503(b).

³ 47 CFR §§ 0.61, 0.283.

7. **IT IS FURTHER ORDERED** that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to New World Broadcasting Company, Inc., c/o Roosevelt Germillion, 803 Parent Street, PO Box 9, New Roads, LA 70760.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Online Public Inspection Files of)	File No.: 0000106775
	)
New World Broadcasting Company, Inc.)	FRN: 0006387625
	)
Licensee of Station KCLF(AM)	)
New Roads, Louisiana	

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and New World Broadcasting Company, Inc. (hereafter “Licensee,” as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Media Bureau’s investigation into the Licensee’s compliance with section 73.3526 of the Commission’s rules,¹ relating to the maintenance of online public inspection files. To resolve this matter, the Licensee agrees to implement a comprehensive Compliance Plan to ensure its future compliance with section 73.3526.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:
- (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Media Bureau of the Commission.
 - (d) “Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Covered Employees” means all employees and agents of the Licensee who are responsible for performing, supervising, overseeing, or managing activities related to the maintenance of online public inspection files, as required by the Online Public Inspection File Rule.
 - (f) “Effective Date” means the date by which both the Bureau and the Licensee have signed the Consent Decree.
 - (g) “Investigation” means the Bureau’s decision to hold and not process the Licensee’s license renewal application identified in Appendix A due to the noncompliance with its public file obligations.
 - (h) “Licensee” means New World Broadcasting Company, Inc., and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
 - (i) “Online Public Inspection File Rule” means 47 CFR § 73.3526.
 - (j) “Parties” means the Licensee and the Bureau, each of which is a “Party.”
 - (k) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

¹ 47 CFR § 73.3526.

II. BACKGROUND

3. Section 73.3526 requires radio station licensees to maintain an online public inspection file and to upload certain documents to the Commission's public inspection file database throughout the year. It is crucial that stations maintain online public inspection files that are complete and up to date because the information in them directly affects, among other things, the public's ability to be informed about a station's compliance with its obligations.

4. The Licensee owns and operates one or more radio stations licensed by the Commission. The Licensee recently filed an application for renewal of radio station licenses. Further, we have determined that the Licensee did not comply with the Online Public Inspection File Rule. That application is identified in **Appendix A**. Based on the Licensee's noncompliance with the Online Public Inspection File Rule, the Bureau commenced the Investigation and suspended processing that license renewal application.

5. The radio industry is recovering from a recent dramatic reduction in sponsorship revenues which, in turn, placed the industry, including the Licensee, under significant, ongoing financial stress. The Bureau believes that the exceptional circumstances brought about by the industry's economic situation present a unique situation which, on balance, warrant resolution of the Bureau's investigation under the terms and conditions described below.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

7. **Jurisdiction.** The Licensee agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

8. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In addition, the Bureau agrees to process the Licensee's pending radio license renewal application identified in Appendix A in the ordinary course. In consideration for such, the Licensee agrees to the terms, conditions, and procedures contained herein.

10. The Bureau agrees that, in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute, on its own motion or in response to any petition to deny or other third-party objection, any new proceeding, formal or informal, or take any action on its own motion against the Licensee concerning the matters that were the subject of the Investigation. The Bureau also agrees that, in the absence of new material evidence, it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or to set for hearing the question of the Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.²

11. **Admission of Liability.** The Licensee admits for the purpose of this Consent Decree that it failed to timely place records in its online public inspection file, in repeated violation of section 73.3526 of the Rules.

² See 47 CFR § 1.93(b).

12. Pursuant to section 503(b)(2)(E) of the Act, in exercising its forfeiture authority, the Commission may consider, among other things, “any history of prior offenses” by the licensee.³ The Licensee acknowledges that the Commission or its delegated authority may consider the Licensee’s admission of liability in this Consent Decree in proposing any future forfeiture against Licensee in the event the Licensee is determined to have apparently committed a violation of the Act, the Rules, or of any orders of the Commission after the Effective Date, whether related to the online public inspection file and record keeping or otherwise.

13. **Compliance Officer.** Within 30 calendar days after the Effective Date, the Licensee shall designate a senior manager to serve as a Compliance Officer and to discharge the duties set forth below. The Compliance Officer shall report directly to the Licensee’s Chief Executive Officer (or equivalent senior officer/owner) on a regular basis, and shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have specific knowledge of the Online Public Inspection File Rule prior to assuming his/her duties. The Bureau acknowledges that the Compliance Officer, Chief Executive Officer, and/or owner may be the same individual.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, the Licensee agrees that it shall, within 30 calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Online Public Inspection File Rule, and with the terms and conditions of this Consent Decree. The Compliance Plan, with the exception of the Compliance Report described below in paragraph 15(c), shall apply to all radio stations owned by the Licensee. The Compliance Plan shall contain, at a minimum, the following elements:

- (a) **Compliance Manual.** The Compliance Plan shall include a Compliance Manual that is distributed to all Covered Employees. The Licensee may adopt a Compliance Manual that it has prepared or one that has been prepared by an outside source, such as a trade association (e.g., the National Association of Broadcasters), another licensee, or a law firm. The Compliance Manual shall:
 - i. thoroughly explain the requirements embodied in the Online Public Inspection File Rule;
 - ii. contain Operating Procedures that Covered Employees must follow to help ensure the Licensee’s compliance with the Online Public Inspection File Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Licensee’s stations upload all required information to their online public inspection files in a timely manner and otherwise maintain full, complete, and up to date information therein. The Operating Procedures shall also include a compliance checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Online Public Inspection File Rule; and
 - iii. be periodically reviewed and revised as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective.
- (b) **Compliance Training Program.** If the Licensee has Covered Employees, the Compliance Plan shall include a Compliance Training Program to provide periodic training to those Covered Employees on complying with the Online Public Inspection File Rule. As part of the compliance training program, Covered Employees shall be advised of the Licensee’s obligation to report any noncompliance with the Online Public Inspection File Rule and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall receive initial training under the compliance training program within 30 calendar days after the Effective Date, except that

³ See 47 U.S.C. § 503(b)(2)(E).

any person who becomes a Covered Employee at any time after such initial training is provided shall receive training under the compliance training program within 30 calendar days after the date he or she becomes a Covered Employee. The Licensee shall provide training under the compliance training plan on at least an annual basis, and it shall periodically review and revise the compliance training program as necessary to ensure that it remains current, complete, and effective.

(c) **Compliance Report.** One year after entering into this Consent Decree, the Licensee shall submit a compliance report to the Bureau for each station listed in Appendix A. The compliance report shall contain a certification of the Licensee's compliance with the Online Public Inspection File Rule during the previous year. The compliance report shall be submitted to the Bureau no later than 30 days after the one-year anniversary of the Effective Date. The Bureau may, within its sole discretion, require the Licensee to submit more frequent or additional compliance reports in accordance with the terms of paragraph 16 below.

- i. The compliance report shall include a certification by the Compliance Officer stating that the Compliance Officer has personal knowledge that the Licensee: (i) has established and implemented the Compliance Plan; (ii) has utilized the operating procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree.
- ii. The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with section 1.16 of the Rules,⁴ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- iii. If the Compliance Officer is unable to provide the requisite certification, the Compliance Officer shall provide the Bureau with a report detailing the noncompliance, as described below.
- iv. The compliance report shall be submitted to the Audio Division staff: Alexander Sanjenis (alexander.sanjenis@fcc.gov).

15. **Reporting Noncompliance.** The Licensee shall, for each station it owns, report any instance of noncompliance with the Online Public Inspection File Rule, and any instance of noncompliance with any applicable terms and conditions of this Consent Decree within 10 calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each such instance of noncompliance; (ii) the steps that the Licensee has taken or will take to remedy such noncompliance, including the schedule on which such actions will be taken; and (iii) the steps that the Licensee has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventative action will be taken. All reports of noncompliance shall be submitted to the Audio Division staff: Alexander Sanjenis (alexander.sanjenis@fcc.gov).

16. **Termination Date.** The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate upon submission of the Compliance Report pursuant to Paragraph 14(c), *provided* the Bureau is satisfied that the Licensee has demonstrated substantial compliance with its obligations. If the Bureau is not satisfied that the Licensee has demonstrated substantial compliance with its obligations, the Bureau may, within its sole discretion and authority, extend the termination date of this Consent Decree for up to an additional 24 months.

17. **Further Violation(s).** The Licensee acknowledges that the Bureau retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent

⁴ 47 CFR § 1.16.

liability for forfeitures, for any apparent willful and/or repeated violation by the Licensee of the Online Public Inspection File Rule that occurs during the term of this Consent Decree.

18. **Waivers.** As of the Effective Date, the Licensee waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. The Licensee shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or Adopting Order, neither the Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Licensee shall waive any statutory right to a trial *de novo*. The Licensee hereby agrees to waive any claims it may have under the Equal Access to Justice Act⁵ relating to the matters addressed in this Consent Decree.

19. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

20. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

21. **Subsequent Rule or Order.** The Parties agree that if any provision of this Consent Decree conflicts with any subsequent Rule or Order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which the Licensee does not expressly consent) that provision will be superseded by such Rule or Order.

22. **Successors and Assigns.** The Licensee agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

23. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

24. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

25. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

26. **Authorized Representative.** Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

⁵ See 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

27. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.



Albert Shuldiner
Chief, Audio Division

4/25/2023
Date

Roosevelt Germillion
New World Broadcasting Company, Inc.

Date

27. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Albert Shuldiner
Chief, Audio Division

Date

Roosevelt Germillion

Roosevelt Germillion
New World Broadcasting Company, Inc.

April 20, 2023

Date

Appendix A

Station Call Sign
KCLF(AM)

Community of License
New Roads, Louisiana

Application for License Renewal File No.
0000106775



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 23-350
Released: April 25, 2023

**DOMESTIC SECTION 214 APPLICATION GRANTED
FOR THE TRANSFER OF CONTROL OF
POINT BROADBAND HOLDINGS, LLC AND ITS SUBSIDIARIES
TO BP BROADBAND AGGREGATOR, L.P.**

WC Docket No. 23-52

By this Public Notice, the Wireline Competition Bureau grants an application filed by BP Broadband Aggregator, L.P. (BP Broadband); Point Broadband Holdings, LLC (Point Broadband); Sunset Fiber, LLC (Sunset Fiber); Sunset Digital Communications, LLC (Sunset Digital); Point Broadband of Alabama, LLC (Point Broadband-AL); Point Broadband Fiber Holding, LLC (Point Broadband Fiber) and Point Broadband Acquisition, LLC (Point Broadband Acquisition) (Sunset Digital, Sunset Fiber, Point Broadband-AL, Point Broadband Fiber and Point Broadband Acquisition) (Licensees) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ to transfer control of Point Broadband and Licensees to BP Broadband.²

On March 10, 2023, the Bureau released a Public Notice seeking comment on the Application.³ The Bureau did not receive comments or petitions in opposition to the Application.

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² Joint Application of BP Broadband Aggregator, L.P., Point Broadband Holdings, LLC, Sunset Fiber, LLC, et al. for Grant of Authority to Transfer Control, WC Docket No. 23-52 (filed Feb. 10, 2023) (Application). Applicants filed supplements to their Application on March 6, 2023, April 17, 2023, and April 19, 2023. Letter from Andrew D. Lipman, et al., Counsel for BP Broadband Aggregator, L.P. and Matthew S. DelNero, et al., Counsel for Point Broadband Holdings, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-52 (filed Mar. 6, 2023) (Mar. 6 Supplement); Letter from Andrew D. Lipman, et al., Counsel for BP Broadband Aggregator, L.P. and Matthew S. DelNero, et al., Counsel for Point Broadband Holdings, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-52 (filed Apr. 17, 2023) (Apr. 17 Supplement); and Letter from Andrew D. Lipman, et al., Counsel for BP Broadband Aggregator, L.P. and Matthew S. DelNero, et al., Counsel for Point Broadband Holdings, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-52 (filed Apr. 19, 2023) (Apr. 19 Supplement). Applicants also filed applications for the transfer of authorizations associated with international services and wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ See *Domestic Section 214 Application Filed for the Transfer of Control of Point Broadband Holdings, LLC and its Subsidiaries to BP Broadband Aggregator, L.P.*, WC Docket No. 23-52, Public Notice, DA 23-198 (WCB Mar. 10, 2023).

Applicants and Description of Transaction

Point Broadband, a Delaware limited liability company, serves as the parent company of Point Broadband Fiber, an eligible telecommunications carrier, which provides telecommunications services in parts of Tennessee.⁴ Point Broadband Fiber wholly owns Sunset Digital, Sunset Fiber, and Point Broadband-AL.⁵ Sunset Digital and Sunset Fiber, LLC provide telecommunications services in parts of Virginia.⁶ Sunset Digital receives \$23,787,562.15 in Connect America Fund (CAF) Phase II Auction 903 (CAF Phase II auction support) to serve 6,942 locations in Virginia, and \$5,472,692.98 in CAF Phase II auction support to serve 2,049 locations in Tennessee.⁷ Point Broadband Fiber is authorized to receive a total of \$78,414,413.10 in Rural Digital Opportunity Fund (RDOF) Phase I support to serve eligible locations in five states (Alabama, Georgia, New York, Michigan, and Virginia) and must serve 34,472 locations by the end of the sixth calendar year, subject to subsequent adjustment based on the Commission's published revised location counts.⁸ In addition, Point Broadband Fiber is authorized to receive \$24,539,724.34 CAF Phase II auction support to serve 15,830 locations in Michigan.⁹ GTCR Investment XIII LLC (GTCR), a Delaware corporation, currently holds approximately 61.2% of the fully-diluted equity interests of Point Broadband through various investment funds, with Point Broadband's remaining equity being held by management and outside investors.¹⁰

⁴ Mar. 6 Supplement at 1; Application at 4, 15. Point Broadband Fiber also provides broadband and interconnected voice-over-Internet Protocol (VoIP) services in Alabama, Georgia, Michigan, New York, Ohio, Maryland, and Virginia. Mar. 6 Supplement at 1. Point Fiber Broadband participates in the Affordable Connectivity Program. Application at 16.

⁵ Application at Exh. A, Chart 2 (Pre-Close Ownership of Licensees).

⁶ Mar. 6 Supplement at 1. Sunset Fiber participates in the E-Rate and Rural Health Care programs. Application at 16.

⁷ Apr. 19 Supplement at 1 (*citing Connect America Fund*, WC Docket No. 10-90, Order, DA 23-117 (WCB 2023) (*Connect America Fund Order*)); Mar. 6 Supplement at 1, 3 (Mar. 6 Supplemental Exhibit C); *Connect America Fund Phase II Auction Support Authorized for 387 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 9406, Attach A at 9424-31 (Authorized Recipients Summary) (WCB/OEA 2019) (*CAF Phase II Public Notice*); *Connect America Fund*, WC Docket No. 10-90, Order, DA 23-117 (WCB rel. Feb. 9, 2023) (adjusting the CAF Phase II auction support and obligations of several CAF Phase II auction support recipients, including those of Sunset Digital in both Virginia and Tennessee).

⁸ Apr. 17 Supplement at 1; Mar. 6 Supplement at 1, 3 (Mar. 6 Supplemental Exhibit C); *RDOF Support Authorized for 466 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, 36 FCC Rcd 13574, 13575-76, and Attach. A at 13599-607 (Authorized Recipients Summary) (WCB/OEA 2021) (*RDOF Public Notice*).

⁹ Apr. 19 Supplement at 1 (*citing Connect America Fund Order*); Mar. 6 Supplement at 1, 3 (Mar. 6 Supplemental Exhibit C); *Transfer of Connect America Fund Phase II Auction Support to Point Broadband Fiber Holdings, LLC*, WC Docket No. 10-90, Public Notice, 36 FCC Rcd 7464 (WCB 2021) (authorizing Point Broadband Fiber to receive the CAF Phase II auction support awarded to Crystal Automation Systems, Inc d/b/a Casair not already disbursed to Casair as of September 2020 in connection with the approval of a joint 214 transfer application); *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 5966 (WCB 2019) (authorizing Crystal Automation Systems to provide service to 17,610 locations in Michigan); *see also Notice of Domestic Section 214 Authorization Granted*, WC Docket No. 20-261, Public Notice, 35 FCC Rcd 10494 (WCB 2020) (authorizing Point Broadband Fiber's acquisition of the CAF II obligations and support of Crystal Automation Systems, Inc.).

¹⁰ Application at 6, Exh. A, Chart 1: Pre-Close Ownership of Point Broadband Acquisition. Applicants state that control of GTCR is held by the Managing Directors of GTCR, all U.S. citizens. *Id.* Certain entities affiliated or under common management with GTCR also hold a 10% or greater direct or indirect equity interest in the following telecommunications-related entities: Consumer Cellular, Inc., which provides resold CMRS service, including between the U.S. and points abroad pursuant to an international section 214 authorization; Mega Broadband

Applicants state that BP Broadband, a Delaware limited partnership, serves as an investment vehicle that was created for the purposes of the proposed transaction and aggregates the investment of private equity and infrastructure funds managed by Berkshire Partners LLC (Berkshire Partners).¹¹ BP Broadband does not provide telecommunications services and does not hold any authorizations.¹² Applicants state that no person or entity that directly or indirectly owns or controls 10% or more of BP Broadband also directly or indirectly owns or controls 10% or more of another telecommunications provider in the United States.¹³

Pursuant to the Unit Purchase Agreement, Point Broadband will issue and sell to BP Broadband new securities constituting 31.8% of the fully-diluted equity interests of Point Broadband.¹⁴ Thus, following BP Broadband's full investment and the consummation of the Transaction, BP Broadband will hold approximately 31.8% of the fully-diluted equity interests of Point Broadband, and GTCR will hold approximately 40.0% of the fully-diluted equity interests of Point Broadband.¹⁵ Applicants state that "GTCR currently controls a majority of the Board and as a result of the Transaction, GTCR's control of Point Broadband will be diluted and post-closing control will be exercised jointly by GTCR and BP Broadband through their minority equity investments, joint control of the Board, and the exercise of their mutual consent rights."¹⁶

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity, and that BP Broadband's capital investment will enhance the Licensees' ability to meet their respective obligations for their CAF and RDOF locations under the company's existing management.¹⁷

Discussion

We find, upon consideration of the record, that a grant of the Application will serve the public interest, convenience, and necessity. To make this determination under Commission precedent, we consider whether the proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.¹⁸ We then employ a

Investments Holdings, LLC, which, through its subsidiaries, provides video, broadband Internet access, and interconnected VoIP services in 16 states; Gogo, Inc., which provides broadband and other connectivity solutions to the business aviation market; and Clearwave Fiber LLC, which, with its subsidiaries, provides telecommunications services and other services in five states. *Id.* at 13.

¹¹ *Id.* at 3. Applicants state that Berkshire Fund X, the primary Berkshire investment fund investing in Point Broadband, is held by the 32 Managing Members of Berkshire Partners, all of whom are U.S. citizens. *Id.* at 3, Exh. A, Chart 3: Post-Close Ownership of Point Broadband Acquisition.

¹² *Id.* at 8.

¹³ *Id.* at 13.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 6.

¹⁶ *Id.*

¹⁷ *Id.* at 7-8, 15.

¹⁸ See, e.g., *Application of Verizon Communications Inc. and América Móvil S.A.B. de C.V. for Consent to Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112, IBFS File No. ITC-T/C-20200930-00173, Memorandum Opinion and Order, FCC 21-121, at 8, para. 21 (Nov. 22, 2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale*

balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.¹⁹ The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.²⁰

We find that there are no potential public interest harms identified in the record. First, the proposed transaction will not result in a reduction of competition. BP Broadband and its affiliates do not provide domestic telecommunications service,²¹ and thus there will be no physical overlap or reduction in service providers in any markets as a result of the transaction. Further, Applicants state that, because the transaction is occurring at the holding company level, it will be “transparent to customers and should not cause customer confusion or disruption.”²² Applicants state that Licensees will “continue to provide high-quality communications offerings to their customers at the same rates, terms, and conditions,”²³ and we thus expect no potential harm to existing customers to result from the transaction.

Second, Licensees remain financially, managerially, and technically obligated to meet all public interest and performance obligations associated with the receipt of CAF Phase II and RDOF funding in accordance with the Commission’s pre-transaction approval of its applications for support, and we expect that the proposed transaction will not negatively impact these obligations.²⁴ Applicants have confirmed that they intend to retain existing management and deployment plans and to not increase the debt levels of Sunset Digital and Point Broadband (USF Recipients).²⁵ Applicants maintain that the proposed transaction “does not involve any changes to USF Recipients that would compromise their ability to meet their service obligations and that Applicants anticipate that Sunset Digital and Point Broadband Fiber will continue to meet their CAF-II and RDOF obligations respectively.”²⁶ Applicants contend that “the Transaction and BP Broadband’s injection of equity funding will provide the USF Recipients (and the other Licensees) with access to additional capital operational expertise and resources to support their

International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, ITC-214-20110901-00289, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and Subsidiaries, Debtors-in-Possession), Assignors, to Time Warner Cable Inc. (Subsidiaries), Assignees; Adelphia Communications Corporation, (and Subsidiaries, Debtors-in-Possession), Assignors and Transferors et al.*, MB Docket No. 05-192, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8219-21, paras. 27-28 (2006) (*Adelphia-TWC Order*)).

¹⁹ See *Verizon-TracFone Order* at 8, para. 21 (citing *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9140, para. 18 (2015) (*AT&T-DIRECTV Order*)) (further citations omitted).

²⁰ See *Verizon-TracFone Order* at 8, para. 21 (citing *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 18; *Adelphia-TWC Order*, 21 FCC Rcd at 8217, para. 23; *Application of EchoStar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and EchoStar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002)) (further citations omitted).

²¹ Application at 8, 13.

²² *Id.* at 8.

²³ *Id.*

²⁴ See *id.* at 15-16.

²⁵ *Id.* at 15.

²⁶ *Id.*

ability to meet their high-cost universal services obligations.”²⁷ Overall, we conclude that the record in this proceeding does not support a finding of a public interest harm.

We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.²⁸ Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.²⁹ Where potential harms appear unlikely, as is the case with the Application before us here, the Commission accepts a lesser degree of magnitude and likelihood than when harms are present.³⁰

Applicants assert that the infusion of capital resulting from the proposed transaction will “accelerate Point Broadband Fiber’s expansion of its fiber network to support symmetrical Gigabit speed Internet service.”³¹ Applicants claim that the transaction will provide additional capital and operational experience and expertise that will “build on the Licensees’ existing assets and support investment in new infrastructure while the Licensees continue to offer high-quality services to customers.”³² Applicants assert that this additional investment will benefit customers by “enabling the Licensees to bring more robust fiber-based services to more customers.”³³ Further, Applicants contend that “the Transaction will enhance, and not compromise, the ability of Sunset Digital and Point Broadband Fiber to meet their respective obligations under CAF-II and RDOF.”³⁴

The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor,³⁵ and accelerating private sector deployment of advanced services is one of the aims of the Communications Act.³⁶ In light of the Applicants’ commitments to meet all of Licensees’ federal high-cost funding obligations³⁷ and the fact that Applicants are prepared to devote additional capital to accelerate facilities-based service offerings,³⁸ we find it likely that the proposed transaction would result in some public interest benefits. Absent any potential harms, and considering that the proposed transaction is likely to yield some benefits, we find, on balance, that the proposed transaction serves the public interest.

Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04 of the Commission’s rules, 47 CFR §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants

²⁷ *Id.*

²⁸ See *AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, paras. 273-74.

²⁹ See *id.* at 9237-38, paras. 275-76.

³⁰ See *id.*

³¹ Application at 7.

³² *Id.* at 7.

³³ *Id.* at 8.

³⁴ *Id.*

³⁵ See, e.g., *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

³⁶ See *Verizon-TracFone Order* at 9, para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Pub. L. No. 104-104, Preamble, 110 Stat. 56 (1996) (one purpose of the Act is to “accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services”)).

³⁷ Application at 2, 11-12.

³⁸ *Id.* at 7.

the Application discussed in this Public Notice, subject to Applicants' compliance with all applicable obligations.³⁹

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice.⁴⁰ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

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³⁹ See *CAF Phase II Public Notice*, 34 FCC Rcd at 5967-71; *RDOF Public Notice* at 1-9 (listing obligations of authorized support recipients).

⁴⁰ We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 23-52 that the proposed transaction has closed, with the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 23-351
April 25, 2023

**DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE
TRANSFER OF CONTROL OF BIG RIVER TELEPHONE COMPANY, LLC
TO i3 CIRCLE HOLDINGS, LLC**

WC Docket No. 23-66

By this Public Notice, the Wireline Competition Bureau grants an application filed by Big River Telephone Company, LLC (Big River) and i3 Circle Holdings, LLC (i3 Circle) (together, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent to transfer control of Big River to i3 Circle.²

On March 13, 2023, the Bureau released a public notice seeking comment on the Application.³ No party filed comments in opposition to a grant of the Application, and the Bureau finds, upon consideration of the record, that granting the Application will serve the public interest, convenience, and necessity.⁴

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

**Domestic Section 214 Application Filed for the Transfer of Control of
Big River Telephone Company, LLC to i3 Circle Holdings, LLC,**

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² Application for the Transfer of Control of Domestic Section 214 Authorization of Big River Telephone Company, LLC to i3 Circle Holdings, LLC, WC Docket No. 23-66 (filed Feb. 22, 2023). Applicants also filed applications for the transfer of authorizations associated with wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ *Domestic Section 214 Application Filed for the Transfer of Control of Big River Telephone Company, LLC to i3 Circle Holdings, LLC*, WC Docket No. 23-66, Public Notice, DA 23-207 (WCB 2023).

⁴ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

WC Docket No. 23-66, Public Notice, DA 23-207 (WCB 2023).

For further information, please contact Dennis Johnson at (202) 418-0809, Competition Policy Division, Wireline Competition Bureau.

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PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-352

Released: April 25, 2023

2023-2024 ALLOCATIONS FOR THE NATIONAL DEAF-BLIND EQUIPMENT DISTRIBUTION PROGRAM

CG Docket No. 10-210

Under the National Deaf-Blind Equipment Distribution Program (NDBEDP), also called “iCanConnect,” the Federal Communications Commission (FCC or Commission) may provide up to \$10 million annually from the interstate telecommunications relay service fund (TRS Fund) to support local programs that distribute equipment to eligible low-income individuals who are deafblind, so that these individuals can access telecommunications service, Internet access service, and advanced communications services.¹ By this notice, the Commission’s Consumer and Governmental Affairs Bureau (CGB) announces the funding allocations for the NDBEDP for 2023-2024.²

As directed by the *NDBEDP Permanent Program Order*, for 2023-2024, CGB will set aside \$250,000 for national outreach efforts to be conducted by the Perkins School for the Blind.³ In addition, pursuant to that order, CGB will set aside \$150,000 towards the maintenance of the centralized database to be used by certified programs for reporting and reimbursement purposes.⁴

The remaining \$9,600,000 of funding for 2023-2024 will be used to reimburse certified programs for the cost of equipment and authorized related services, up to each certified program’s funding allocation.⁵ Pursuant to the *NDBEDP Permanent Program Order*, initial funding allocations for 2023-2024 are calculated by providing a minimum base amount of \$50,000 for each jurisdiction plus a portion of the remaining available funding in an amount proportionate to the population of that jurisdiction.⁶ CGB reminds certified entities that the below amounts are intended to serve as initial allocations only. To maximize available funds under the NDBEDP, CGB may make (1) voluntary reallocations between certified programs at any time during the TRS Fund year and (2) involuntary reallocations when

¹ 47 U.S.C. § 620; *see also* 47 CFR §§ 64.6201-64.6219; *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, CG Docket No. 10-210, Report and Order, 31 FCC Rcd 9178 (2016) (*NDBEDP Permanent Program Order*).

² The fund year for the NDBEDP runs from July 1 through June 30 of the following year, which coincides with the TRS Fund year. *See generally* 47 CFR § 64.604(c)(5)(iii)(H).

³ *See NDBEDP Permanent Program Order*, 31 FCC Rcd at 9236-37, 9242, paras. 135, 149.

⁴ *See id.* at 9242, 9250-51, paras. 149, 169 (authorizing CGB to allocate an amount necessary from the \$10 million available annually from the TRS Fund for the NDBEDP for the development and maintenance of the centralized database); 47 CFR § 64.6205 (directing CGB to designate an NDBEDP Administrator to determine annual funding allocations and reallocations).

⁵ *See* 47 CFR § 64.6213.

⁶ *NDBEDP Permanent Program Order*, 31 FCC Rcd at 9242, para. 149.

individual program performance indicates that NDBEDP funds could be more fully utilized by other certified programs.⁷

The initial allocations for the 56 covered jurisdictions are as follows:⁸

State	NDBEDP Certified Program	2023-2024
Alabama	Alabama Institute for Deaf and Blind	\$152,436
Alaska	Assistive Technology of Alaska	\$64,809
Arizona	Perkins School for the Blind	\$198,561
Arkansas	Perkins School for the Blind	\$111,483
California	Lighthouse for the Blind and Visually Impaired	\$837,893
Colorado	Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind	\$167,892
Connecticut	Connecticut Tech Act Project	\$123,203
Delaware	University of Delaware – Center for Disabilities Studies	\$70,559
Florida	Helen Keller National Center for DeafBlind Youth and Adults	\$499,060
Georgia	Georgia Center of the Deaf and Hard of Hearing	\$270,300
Hawaii	Helen Keller National Center for DeafBlind Youth and Adults	\$79,073
Idaho	University of Idaho – Center on Disabilities and Human Development	\$89,144
Illinois	Lester and Rosalie Anixter Center (Chicago Hearing Society)	\$303,996
Indiana	Perkins School for the Blind	\$187,940

⁷ NDBEDP Permanent Program Order, 31 FCC Rcd at 9244, para. 153.

⁸ Population figures for these calculations are derived from U.S. Census data. See U.S. Census Bureau, Annual Estimates of the Resident Population for the United States, Regions, States, District of Columbia, and Puerto Rico: April 1, 2020 to July 1, 2022 (NST-EST2022-POP), <https://www2.census.gov/programs-surveys/popest/tables/2020-2022/state/totals/NST-EST2022-POP.xlsx> (accessed Apr. 3, 2023); U.S. Census Bureau, Table 1. Population of Guam: 2010 and 2020, <https://www2.census.gov/programs-surveys/decennial/2020/data/island-areas/guam/population-and-housing-unit-counts/guam-phc-table01.pdf> (Oct. 28, 2021); U.S. Census Bureau, Table 1. Population of Guam: 2010 and 2020, <https://www2.census.gov/programs-surveys/decennial/2020/data/island-areas/american-samoa/population-and-housing-unit-counts/american-samoa-phc-table01.pdf> (Oct. 28, 2021); U.S. Census Bureau, Table 1. Population of the Commonwealth of the Northern Mariana Islands: 2010 and 2020, <https://www2.census.gov/programs-surveys/decennial/2020/data/island-areas/commonwealth-of-the-northern-mariana-islands/population-and-housing-unit-counts/commonwealth-northern-mariana-islands-phc-table01.pdf> (Oct. 28, 2021); U.S. Census Bureau, Table 1. Population of the United States Virgin Islands: 2010 and 2020, <https://www2.census.gov/programs-surveys/decennial/2020/data/island-areas/us-virgin-islands/population-and-housing-unit-counts/us-virgin-islands-phc-table01.pdf> (Oct. 28, 2021).

State	NDBEDP Certified Program	2023-2024
Iowa	Helen Keller National Center for DeafBlind Youth and Adults	\$114,609
Kansas	Assistive Technology for Kansans	\$109,293
Kentucky	Helen Keller National Center for DeafBlind Youth and Adults	\$141,091
Louisiana	Affiliated Blind of Louisiana Training Center	\$142,664
Maine	Perkins School for the Blind	\$77,966
Maryland	Perkins School for the Blind	\$174,447
Massachusetts	Perkins School for the Blind	\$190,946
Michigan	Perkins School for the Blind	\$252,560
Minnesota	Perkins School for the Blind	\$165,414
Mississippi	Perkins School for the Blind	\$109,351
Missouri	Missouri Assistive Technology	\$174,716
Montana	Perkins School for the Blind	\$72,668
Nebraska	Nebraska Assistive Technology Partnership	\$89,727
Nevada	Perkins School for the Blind	\$114,150
New Hampshire	Northeast Deaf and Hard of Hearing Services, Inc.	\$78,166
New Jersey	New Jersey Commission for the Blind and Visually Impaired	\$236,968
New Mexico	Perkins School for the Blind	\$92,662
New York	Helen Keller National Center for DeafBlind Youth and Adults	\$447,226
North Carolina	North Carolina Division of Services for the Deaf and the Hard of Hearing	\$265,982
North Dakota	North Dakota Assistive	\$65,731
Ohio	Perkins School for the Blind	\$287,322
Oklahoma	Oklahoma Department of Rehabilitation Services	\$131,148
Oregon	Access Technologies, Inc.	\$135,596
Pennsylvania	Institute on Disabilities – Temple University	\$311,868
Rhode Island	Perkins School for the Blind	\$72,079
South Carolina	Perkins School for the Blind	\$156,642
South Dakota	South Dakota Department of Human Services	\$68,367
Tennessee	Tennessee Public Utility Commission	\$192,347

State	NDBEDP Certified Program	2023-2024
Texas	Perkins School for the Blind	\$656,213
Utah	Perkins School for the Blind	\$118,249
Vermont	Perkins School for the Blind	\$63,062
Virginia	Perkins School for the Blind	\$225,298
Washington	Perkins School for the Blind	\$207,173
West Virginia	Perkins School for the Blind	\$85,835
Wisconsin	Wisconsin Bureau of Aging and Disability Resources	\$168,954
Wyoming	Wyoming Institute for Disabilities – University of Wyoming	\$61,736
Other Jurisdictions	NDBEDP Certified Program	2023-2024
District of Columbia	TCS Access	\$63,562
American Samoa	Helen Keller National Center for DeafBlind Youth and Adults	\$51,004
Guam	Helen Keller National Center for DeafBlind Youth and Adults	\$53,106
Northern Mariana Islands	Helen Keller National Center for DeafBlind Youth and Adults	\$50,955
Puerto Rico	Perkins School for the Blind	\$115,039
U.S. Virgin Islands	Perkins School for the Blind	\$51,759
	Subtotal	\$9,600,000
	National Outreach	\$250,000
	Centralized Database Maintenance	\$150,000
	Total	\$10,000,000

ACCESSIBLE FORMATS: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530.

FOR FURTHER INFORMATION: Contact Jackie Ellington, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-1153 or Jackie.Ellington@fcc.gov.

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PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
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DA 23-353

Released: April 26, 2023

COMMENT DATES SET FOR PETITION OF GLOBALVRS FOR VIDEO RELAY SERVICE EXOGENOUS COST REIMBURSEMENT

CG Docket Nos. 03-123 and 10-51

Comments Due: May 9, 2023

Reply Comments Due: May 19, 2023

On April 4, 2023, the Consumer and Governmental Affairs Bureau sought comments in response to the petition of ASL Services Holdings, LLC dba GlobalVRS (GlobalVRS) for exogenous cost reimbursement for the provision of Video Relay Service (VRS) to people who are deafblind.¹ Comments and reply comments are due 14 days after publication in the Federal Register, and replies are due 10 days after the comment date.²

On April 25, 2023, a summary of the petition was published in the Federal Register. Accordingly, comments must be filed by May 9, 2023, and replies must be filed by May 19, 2023.³

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

For further information, please contact Ross Slutsky, Disability Rights Office, Consumer and Governmental Affairs Bureau, by e-mail at Ross.Slutsky@fcc.gov.

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¹ See Comments Sought on Petition of GlobalVRS for Video Relay Service Exogenous Cost Reimbursement, CG Docket Nos. 03-123 and 10-51, Public Notice, DA 23-289 (CGB Apr. 4, 2022) (GlobalVRS Petition Public Notice) *see also*, Emergency Petition of ASL Services Holdings, LLC dba GlobalVRS for DeafBlind Video Relay Services Exogenous Cost Reimbursement, CG Docket Nos. 03-123 and 10-51 (filed Mar. 21, 2023) (Petition), <https://www.fcc.gov/ecfs/document/10321175009780/1> (redacted).

² GlobalVRS Petition Public Notice at 1. *See also* 47 CFR § 1.2.

³ Federal Communications Commission, Comment Sought on Petition of GlobalVRS for Video Relay Service Exogenous Cost Reimbursement, 88 Fed. Reg. 24986 (Apr. 25, 2023).



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-354

Released: April 26, 2023

VIDEO RELAY SERVICE PROVIDERS' COST AND DEMAND DATA TO BE PLACED IN THE RECORD

CG Docket Nos. 03-123 and 10-51

Oppositions Due: May 3, 2023

On May 20, 2021, the Federal Communications Commission (Commission) adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on Telecommunications Relay Services (TRS) Fund compensation for the provision of video relay service (VRS).¹ The current compensation plan for VRS expires on June 30, 2023.²

To assist the Commission's consideration of compensation options, the Consumer and Governmental Affairs Bureau (CGB or Bureau) intends to place in the record of this rulemaking proceeding the cost and demand data filed this year by each VRS provider with the Interstate TRS Fund administrator. Specifically, the Bureau intends to place in the record each VRS provider's completed TRS Fund Annual Provider Form and TRS Fund Annual Provider Form Appendix, as filed with the TRS Fund administrator (2023 VRS Provider Cost and Demand Data). The 2023 VRS Provider Cost and Demand Data will be designated as Highly Confidential Information subject to the terms of the *Third Protective Order* and will not be available to the general public, but may be examined by appropriate persons on behalf of interested parties, subject to protections for confidentiality.³

Affected parties have until May 3, 2023, to oppose placing the 2023 VRS Provider Cost and Demand Data in the record, subject to the *Third Protective Order*. If submission of the data into the record is opposed, the procedures set forth in 47 CFR § 0.461(i) shall apply. All filings should refer to CG Docket No. 10-51 and CG Docket No. 03-123.

After the 2023 VRS Provider Cost and Demand Data is placed in the record, outside persons participating or intending to participate in the proceeding who are not involved in competitive decision-making activities and who have signed the Acknowledgment of Confidentiality attached to the *Third Protective Order* may review the 2023 VRS Provider Cost and Demand Data in accordance with the

¹ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Notice of Proposed Rulemaking and Order, 36 FCC Rcd 8802 (2021) (*Notice*).

² See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, DA 22-699, at 4, para. 14 (CGB June 30, 2022).

³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket Nos. 03-123, 10-51, and 13-24, Order and Third Protective Order, 33 FCC Rcd 6802 (CGB 2018) (*Third Protective Order*).

terms of the *Third Protective Order*.⁴ Reviewing Parties should request the 2023 VRS Provider Cost and Demand Data from the relevant Submitting Parties, i.e., from each VRS provider whose filed data they wish to review.⁵ We emphasize that persons seeking to review the VRS Provider Cost and Demand Data may do so only for purposes of participating in this proceeding and must have adequate protections in place to prevent improper use or disclosure of the information.⁶ The Submitting Party has three business days to file with the Commission and serve an objection to the disclosure of the data to a specific individual requesting access.⁷ A Submitting Party that has not filed an objection must provide access to the data no later than the fourth business day from the date of the request. Submitting Parties that do not object to a disclosure are encouraged to provide access to the 2023 VRS Provider Cost and Demand Data at an earlier date.

The Submitting Party shall make the 2023 VRS Provider Cost and Demand Data available in an electronic format.⁸ Submitting Parties are not required to *transmit* the data electronically,⁹ but may choose to do so.

Under the Commission's current procedures for the submission of filings and other documents, submissions in this matter may be filed electronically (i.e., through ECFS) or on paper to the Commission.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.
- Paper Filers:
 - Parties who choose to file by paper must file an original and one copy 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 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.
 - Currently, the Commission does not accept any hand delivered or messenger delivered filings as a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. In the event that the Commission announces the lifting of COVID-19 restrictions, a filing window will be opened at the Commission's office located at 9050 Junction Drive, Annapolis Junction, Maryland 20701.¹⁰
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

⁴ See *id.* at 6815, Appx. C. Persons seeking to review the 2023 VRS Provider Cost and Demand Data may do so only for purposes of participating in this proceeding and must have adequate protections in place to prevent improper use or disclosure of the information. See *id.* at 6811, Appx. A, para. 14.

⁵ See *id.* at 6809, Appx. A, para. 6.

⁶ See *id.* at 6811, Appx. A, para. 14.

⁷ See *id.* at 6809, Appx. A, para. 7.

⁸ See *id.* at 6810, Appx. A, para. 9.

⁹ *Id.*

¹⁰ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020).

- U.S. Postal Service first-class, Express, and Priority mail may be addressed to 45 L Street, NE, Washington, DC 20554.

Accessible Materials. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

For further information, contact Michael Scott, Disability Rights Office, Consumer and Governmental Affairs Bureau, at michael.scott@fcc.gov or (202) 418-1264.

-FCC-



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
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DA 23-355

Released: April 28, 2023

WIRELINE COMPETITION BUREAU AND OFFICE OF ECONOMICS AND ANALYTICS SEEK COMMENT ON PROPOSED 2023 MANDATORY DATA COLLECTION FOR INCARCERATED PEOPLE'S COMMUNICATIONS SERVICES

WC Docket Nos. 23-62, 12-375

Comment Date: 30 days after date of publication in the Federal Register

Reply Comment Date: 45 days after date of publication in the Federal Register

I. INTRODUCTION AND BACKGROUND

By this Public Notice, the Wireline Competition Bureau (WCB or Bureau) and the Office of Economics and Analytics (OEA) (collectively, WCB/OEA) seek comment on the contours and specific requirements of the proposed 2023 Mandatory Data Collection for incarcerated people's communications services (IPCS). In issuing this Public Notice, we act pursuant to the Commission's directive so that it is able to implement the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (Martha Wright-Reed Act or Act).¹

On January 5, 2023, President Biden signed into law the Martha Wright-Reed Act, expanding the Commission's statutory authority over communications between incarcerated people and the non-incarcerated to include "any audio or video communications service used by inmates . . . regardless of technology used."² The new Act also amends section 2(b) of the Communications Act of 1934, as amended (the Communications Act), to make clear that the Commission's authority extends to intrastate as well as interstate and international communications services used by incarcerated people.³

The Martha Wright-Reed Act directs the Commission to "promulgate any regulations necessary to implement" the Act, including its mandate that the Commission establish a "compensation plan" ensuring that all rates and charges for IPCS "are just and reasonable," not earlier than 18 months and not later than 24 months after the Act's January 5, 2023 enactment date.⁴ The Act requires the Commission to consider, as part of its implementation, the costs of "necessary" safety and security measures, as well as "differences in costs" based on facility size, or "other characteristics."⁵ It also allows the Commission to

¹ *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62, 12-375, Notice of Proposed Rulemaking and Order, FCC 23-19, at 33, para. 84 (2023) (*2023 IPCS Notice* or *2023 IPCS Order*); see Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. No. 117-338, 136 Stat. 6156 (Martha Wright-Reed Act or Act); 47 U.S.C. §§ 152(b), 153(1)(E), 276(b)(1)(A), (d).

² Martha Wright-Reed Act § 2(a)(2), (b).

³ *Id.* § 2(c).

⁴ *Id.* §§ 2, 3(a); 47 U.S.C. § 276(b)(1)(A).

⁵ Martha Wright-Reed Act § 3(b)(2).

“use industry-wide average costs of telephone service and advanced communications services and the average costs of service of a communications service provider” in determining just and reasonable rates.⁶

In recent years, the Commission has collected data from providers of calling services for incarcerated people as part of its ongoing efforts to establish just and reasonable rates for those services that reduce the financial burdens imposed on incarcerated people and their loved ones, while ensuring that providers are fairly compensated for their services.⁷ In requiring or allowing the Commission to consider certain types of costs, the new Act contemplates that the Commission would undertake an additional data collection. To ensure that it has the data it needs to meet its substantive and procedural responsibilities under the Act, the Commission delegated authority to WCB/OEA to “update and restructure” the Commission’s most recent data collection “as appropriate in light of the requirements of the new statute.”⁸ This delegation requires that we collect “data on all incarcerated people’s communications services from all providers of those services now subject to” the Commission’s ratemaking authority, including, but not limited to, requesting “more recent data for additional years not covered by the [Third Mandatory Data Collection].”⁹

In seeking comment on our proposals for the proposed 2023 Mandatory Data Collection, we do not seek additional comment on the questions and other issues previously raised in the *2023 IPCS Notice* or in relevant prior Commission or Bureau notices.¹⁰ Such comment is more appropriately submitted during the comment period specifically established for the *2023 IPCS Notice*.¹¹ Thus, comments in response to this Public Notice need not include advocacy regarding issues raised in that *2023 IPCS Notice*, including how the Commission should interpret the language of the Martha Wright-Reed Act to ensure that it implements the statute in a manner that fulfills Congress’s intent, the extent to which particular types of safety and security measures are necessary to provide IPCS, or the appropriate treatment of site commissions.

⁶ *Id.* § 3(b)(1).

⁷ The Commission previously sought data related to audio services provided to incarcerated persons, now included in IPCS, on three occasions. *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 14107 (2013); *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Second Report and Order and Third Further Notice of Proposed Rulemaking, 30 FCC Rcd 12763, 12862, para. 198 (2015); *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking, 36 FCC Rcd 9519, 9619-20, para. 221 (2021) (*2021 ICS Order*).

⁸ *2023 IPCS Notice* at 2, para. 2; *2023 IPCS Order* at 33, para. 84. The Commission’s most recent data collection is referred to as the Third Mandatory Data Collection. *Rates for Interstate Inmate Calling Services*, Order, DA 22-52, at 1, para. 1 (WCB Jan. 18, 2022) (*Third MDC Order*).

⁹ *2023 IPCS Order* at 33, para. 84; *id.* at 33-34, para. 85. The Commission directed WCB/OEA to modify the template and instructions of the most recent data collection to the extent appropriate to timely collect such information to cover the additional services and providers now subject to the Commission’s authority. *Id.* at 33-34, para. 85.

¹⁰ As explained in the *2021 ICS Order*, the purpose of a data collection is to provide the Commission with sufficient information to resolve various issues it is considering as part of a rulemaking. *2021 ICS Order*, 36 FCC Rcd at 9618-19, paras. 218, 221.

¹¹ See *Comment Dates Set for Notice Implementing the Martha Wright-Reed Act to Ensure Just and Reasonable Rates and Charges for Incarcerated People’s Communications Services*, WC Docket Nos. 23-62, 12-375, Public Notice, DA 23-306 (WCB Apr. 10, 2023) (announcing that comments and reply comments in response to the *2023 IPCS Notice* are due no later than May 8, 2023, and June 6, 2023, respectively); see also *Third MDC Order* at 4, para. 8 (explaining that a data collection is “not the proper administrative vehicle to . . . change Commission rules”).

II. OVERALL STRUCTURE OF THE DATA COLLECTION

A. Overall Approach

Pursuant to our delegated authority, we propose updated instructions, templates, and a certification form for the proposed 2023 Mandatory Data Collection, referenced in Appendix A.¹² We seek comment on all aspects of these proposed documents. Do they seek all the information the Commission will need to establish a compensation plan ensuring that IPCS rates and charges are just and reasonable and that IPCS providers are fairly compensated, consistent with the Martha Wright-Reed Act?¹³ If not, what steps should we take to improve the proposed documents? The Commission's prior data collections have demonstrated that detailed and specific instructions and templates are essential to ensure that providers use comparable procedures to determine and report their costs, revenues, demand units, and other data.¹⁴ We invite comment on whether the proposed instructions and templates are sufficiently detailed to accomplish this objective. If not, what additional instructions, inquiries, or fields should we add? Conversely, are there any instructions, inquiries, or fields that could be removed because they are unnecessary?

We propose to retain the overall structure of the Third Mandatory Data Collection, while revising and supplementing the definitions, instructions, and templates to accommodate the Commission's expanded authority. To a large extent, the specific information we propose to collect, and the related instructions (including those relating to cost allocation), parallel the information collected by, and the instructions for, the Third Mandatory Data Collection. We invite comment on this approach. We ask that any commenter supporting an alternative approach, either with regard to the data collection as a whole or a particular aspect, explain in detail how that alternative approach would enable the Commission to discharge its responsibilities under the Martha Wright-Reed Act and the Communications Act.

Reporting Period. In the Third Mandatory Data Collection, we required providers to submit data and other information for calendar years 2019, 2020 and 2021.¹⁵ We propose to generally limit the forthcoming data collection to calendar year 2022 data. We invite comment on this proposal. Does it properly balance the need for information, including cost data, on the video and intrastate services that were not previously subject to the Commission's ratemaking authority against the additional burdens providers would encounter in developing that information for years prior to 2022? Should we instead require providers to incorporate information on their video and intrastate IPCS operations into their data collection responses for 2020 and 2021, and to report that information in addition to information for 2022?

Cost Categories. The Martha Wright-Reed Act expands the Commission's authority under section 276(b)(1)(A) of the Communications Act to include "advanced communications services," as defined in sections 3(1)(A), (B), (D), and new (E) of the Communications Act.¹⁶ Those provisions of section 3(1), in turn, define "advanced communications services" as including (1) "interconnected VoIP [Voice over Internet Protocol] service," (2) "non-interconnected VoIP service," (3) "interoperable video conferencing service," and (4) "any audio or video communications service used by inmates for the purpose of communicating with individuals outside the correctional institution where the inmate is held,

¹² The draft instructions and template are posted on the Commission's website. *See* Appx. A. The template consists of a Word document and Excel spreadsheets. For simplicity, we refer to these respective portions of the template as the Word template and the Excel template.

¹³ *See 2023 IPCS Order* at 32-34, paras. 83-86.

¹⁴ *See, e.g., 2021 ICS Order*, 36 FCC Rcd at 9621, para. 224 (highlighting one commenter's view that "many of the issues with the current dataset [i.e., the dataset from the Second Mandatory Data Collection] appear to have arisen due to differing provider interpretations of instructions and terms, and that the Commission should minimize the potential for such differing interpretations as much as possible").

¹⁵ *Third MDC Order* at 13, para. 36.

¹⁶ 47 U.S.C. §§ 153(1)(A)-(B), (D)-(E), 276(b)(1)(A).

regardless of technology used.”¹⁷ It also extends the Commission’s ratemaking authority to intrastate as well as interstate and international IPCS.¹⁸

We propose to require providers to allocate their investments and expenses among audio IPCS, video IPCS, safety and security measures, various types of ancillary services, and other services and products, on both a company-wide and a facility-specific basis for 2022.¹⁹ We invite comment on this proposal. Should we specify any additional categories for providers to use? Alternatively, would a more limited group of cost categories still allow the Commission to discharge its ratemaking responsibilities?

Are separate cost data for audio IPCS and video IPCS services necessary, or sufficient, for the Commission to ensure just and reasonable rates for those services? If not, what alternative approach should we use? What are the challenges of allocating IPCS costs between audio and video services? Do IPCS providers maintain sufficient records to directly assign or directly attribute significant percentages of their costs to audio IPCS and video IPCS?²⁰ If not, how should providers allocate their IPCS costs between these two categories of services?

Our proposed instructions and templates would not require providers to subdivide their audio IPCS costs or their video IPCS costs into more discrete categories. We seek comment on this approach. What different types of audio and video services do IPCS providers offer to incarcerated people? Do the costs of providing audio IPCS vary depending on whether it is a traditional voice service, an interconnected VoIP service, a non-interconnected VoIP service, or another type of audio service used by incarcerated people to communicate with the non-incarcerated? For example, do providers pay intercarrier compensation charges for some types of IPCS but not for others? Do non-interconnected voice services have their own unique costs? Are the net cost differences among types of video IPCS sufficiently significant and measurable in a meaningful way to justify the additional burden of separate reporting? If separate reporting is justified, how should we revise the proposed instructions and templates to capture those cost differences? Similarly, do the costs of providing video IPCS vary depending on the nature of the video service? To the extent there are such variations, how should we revise the instructions and templates to capture them?

Intrastate and International IPCS. In the Third Mandatory Data Collection, we required providers to report costs of providing inmate calling services on a total company basis, without separating them into interstate/international and intrastate components.²¹ Although companies had the option to allocate their total company costs between interstate/international and intrastate inmate calling services,²² no provider exercised this option. Accordingly, we propose to follow our previous approach and require companies to report costs for IPCS without separation between these jurisdictions and provide an option for separate reporting for companies that elect to do so. We seek comment on this proposal. Do the costs of either audio IPCS or video IPCS vary significantly depending on whether they are interstate, intrastate,

¹⁷ 47 U.S.C. §§ 153(1)(A)-(B), (D)-(E), 276(d). The Communications Act’s definitions of “interconnected VoIP service,” “interoperable video conferencing service,” and “non-interconnected VoIP service” are set forth in 47 U.S.C. § 153(25), (27), and (36), respectively.

¹⁸ Martha Wright-Reed Act § 2(c).

¹⁹ See Appx. A, Incarcerated People’s Communications Services 2023 Mandatory Data Collection, Proposed Instructions, §§ IV.C.2.a-b, IV.D.1.a-b, (2023). The types of ancillary services are automated payment services, live agent service, paper bill/statement service, single-call and related services, third-party financial transaction services, and other ancillary services. *Id.*

²⁰ *Id.* §§ IV.C.2.a-b, IV.D.1.a-b.

²¹ Calling Services for Incarcerated People Third Mandatory Data Collection Instructions, § IV.C.2.a, http://www.fcc.gov/sites/default/files/2022_mdc_-_instructions_to_third_mandatory_data_collection_1.18.2022.docx (last visited Apr. 26, 2023) (link provided in *Third MDC Order* at Appx. A, Third Mandatory Data Collection Instructions and Template).

²² *Id.* § IV.C.2.

or international? If so, how should we revise the proposed instructions and templates to capture those differences?²³ The proposed instructions also require providers to separately report expenses related to routing and completing communications to international destinations as operating expenses. Will the proposed instructions yield accurate and usable data sufficient for the Commission to evaluate these expenses? Why or why not? Are there changes we should consider to the proposed instructions in this regard? If so, what are they?

Costs of Providers' Safety and Security Measures. The Martha Wright-Reed Act specifies that the Commission "shall consider," as part of its ratemaking, "costs associated with any safety and security measures necessary to provide" telephone service and advanced communications services in correctional institutions.²⁴ To facilitate the Commission's consideration of such costs, we propose to require providers to report the costs they incurred to provide safety and security measures during 2022, both in the aggregate and in specific categories. Determining those costs would involve several steps.

First, the proposed instructions would require providers to allocate a portion of their total-company investments and expenses to a company-wide "safety and security measures" category and to exclude those investments and expenses from all other cost categories. This allocation would be done in accordance with the detailed cost allocation hierarchy set forth in the instructions. The "safety and security measures" category thus would encompass all safety and security services and products that the companies provide, regardless of whether they are provided in connection with audio, video, or unregulated services, or in connection with traditional telephone or advanced communications services. Do commenters agree with this approach? Instead, should providers be required to report their costs of safety and security measures separately for different categories of services? Why or why not? If safety and security costs are not treated as a separate service or as multiple separate services, then how should the Commission organize the data collection to be able to consider the costs of necessary safety and security measures?

Second, the proposed instructions would require each provider to allocate their annual total expenses incurred in providing safety and security measures among seven company-level categories using the provider's best estimate of the percentage of those expenses attributable to each category.²⁵ We seek comment on the benefits and burdens of this approach. We invite comment on the categories of safety and security measures in the proposed instructions. How, if at all, should they be changed? Are there other examples of specific safety and security measures that should be included in the illustrative lists included in each of the categories? If so, what are these measures and how should they be categorized? Are there other categories of safety and security measures that should be included? If so, which ones? Alternatively, are there categories that should be removed? If so, which ones should be removed and why? Do commenters agree with the proposed approach of requiring providers to allocate annual total expenses on an estimated percentage basis or should we instead require providers to perform a detailed allocation of actual investments and expenses among the seven categories? To the extent commenters argue that a more detailed cost allocation would be more appropriate, commenters should explain and justify in detail the cost allocation method they propose and the benefits and burdens of their approach.

²³ In the Third Mandatory Data Collection, we required inmate calling services providers to report their payments to carriers for terminating international communications as an operating expense without jurisdictional separation on both a total-company and a facility-by-facility basis. *Id.* §§ IV.C.2.b.3.c, D.1.b.3.c. The proposed instructions and Excel template would continue this approach.

²⁴ Martha Wright-Reed Act § 3(b)(2).

²⁵ Annual total expenses is the sum of annual operating expenses and annual capital expenses. The seven categories are: expenses related to the Communications Assistance for Law Enforcement Act, law enforcement support services, communication security services, communication recording services, communication monitoring services, voice biometrics services, and other safety and security measures.

Third, after reporting the best estimate of the percentage of the company's annual total expenses of providing safety and security measures for each category, the proposed instructions would direct providers to report for each of those same categories the company's best estimate of the percentage of safety and security expenses attributable to audio IPCS, video IPCS, ancillary services, and other services and products. Would this approach provide reasonably accurate data on the portions of each category of providers' safety and security costs that are attributable to audio IPCS, video IPCS, ancillary services, and other services and products? Why or why not? If not, is there another allocation method we should consider? If so, what do commenters propose and why would it be preferable to the allocation set forth in the proposed instructions?

Providers would also report facility-level safety and security costs for each facility. The proposed instructions would require providers to first identify whether they provide safety and security measures at each facility they serve. Providers would do so by indicating "Yes" or "No" in the appropriate cell on the Excel template for each of the seven identified categories of safety and security measures at each facility. Wherever providers offer a given safety and security measure, the proposed instructions would then require the provider to allocate its company-wide safety and security annual total expenses for that category among the individual facilities at which that service is offered. Providers would then further allocate those amounts at each facility between audio IPCS, video IPCS, ancillary services, and other services and products. We seek comment on this approach. Would it accurately capture the costs of providing the seven identified categories of safety and security measures at each facility? Why or why not? If not, how could we change the facility-level reporting to identify the safety and security measures providers offer at the facilities they serve and the cost of providing those measures? Will the subsequent allocation between audio IPCS, video IPCS, ancillary services, and other services and products be sufficiently accurate to capture the costs of providing those safety and security measures in connection with these other services? Why or why not? Are there other methods we should consider that would allow the Commission to evaluate the costs of safety and security measures offered in connection with audio IPCS, video IPCS, ancillary services and other services and products, to the extent cost differences exist? If so, what do commenters propose and why?

Costs of Facilities' Safety and Security Measures. In the *2023 IPCS Notice*, the Commission sought comment on how it could determine the costs associated with necessary safety and security measures "to the extent resources of the facilities are used to provide these measures."²⁶ Consistent with that request, we propose to require providers to report any verifiable, reliable, and accurate information in their possession about the costs the facilities they serve incur to provide safety and security measures in connection with the provision of IPCS.²⁷ To the extent providers have such information for any specific facility, the instructions would direct providers to report the annual total expenses facilities incur using the same seven categories proposed in connection with reporting provider-incurred safety and security costs. We seek comment on the benefits and burdens of this approach. Is there a better approach the Commission could use to obtain the costs facilities incur in providing safety and security measures? The proposed instructions require providers to be able to reproduce, on request, documentation sufficient to explain and justify the accuracy and reliability of any data they report regarding the expenses incurred by facilities for safety and security measures. Do commenters agree with this approach? Will it enable the Commission to evaluate the reliability and accuracy of any data receives? If not, how should providers be required to demonstrate the accuracy and reliability of the data they provide regarding the costs facilities incur to provide safety and security measures? To the extent providers are not able to establish the

²⁶ *2023 IPCS Notice* at 24, para. 56.

²⁷ To assist the Commission in obtaining the broadest possible view of the costs that facilities incur, the proposed instructions also ask providers to indicate whether they have any verifiable, reliable, and accurate information on other facility-incurred costs that are not safety and security costs. To the extent providers have such information, the proposed instructions require that providers be able to reproduce, on request, documentation sufficient to fully explain and justify the accuracy and reliability of any data they report regarding the expenses incurred by facilities that are not safety and security costs.

accuracy and reliability of the data they rely on, how should the Commission accurately account for these expenses?

B. Specific Instructions

We seek comment on the proposed instructions and whether they provide sufficient guidance to ensure that providers use uniform methodologies and report the required information in a consistent manner. Are there any changes that would clarify the proposed instructions or increase uniformity across providers' responses, particularly regarding how to report and allocate their costs? If so, what specific changes should we make? Is there alternative or additional language that would minimize ambiguity in any instruction? Commenters should explain the potential benefits and burdens of alternative or additional language they propose.

The proposed instructions also address many data requests that are not specifically described below. We seek comment on all aspects of the proposed instructions, including on requests that we do not specifically seek comment on in this Public Notice.

Definitions. The proposed instructions contain new and revised definitions reflecting the Commission's expanded authority over IPCS. We seek comment on these definitions. Are they sufficiently clear?²⁸ If not, how should they be modified? Are there any undefined terms we should define? Are there any terms that should be added to the proposed instructions that would assist filers in furnishing the Commission with the relevant data? If so, what are they and how should they be defined? Should any proposed definitions be removed?

Required Information. The proposed instructions would provide guidance for the collection of a variety of data on audio IPCS, video IPCS, safety and security measures, various types of ancillary services, and other services and products. We seek detailed comment on whether we should collect additional data or, conversely, reduce the data providers are required to submit. Commenters urging that we should request different data should explain how their proposals would affect the Commission's ability to meet its responsibilities under the Martha Wright-Reed Act and the Communications Act. Would the benefits of requesting different data justify the costs? Why or why not?

Response Granularity. We propose that all providers submit data both at the company-wide level and for each correctional facility in which the provider offered IPCS during 2022.²⁹ We seek comment on this approach. We propose this method to fully account in a coherent way for the shared costs providers incur as some of the assets or labor they use to provide IPCS are also used to provide other services, and are used to provide IPCS to multiple facilities. If parties believe that a different level of granularity is appropriate, please explain. Assuming we should require providers to report data on a facility-level basis, how should we require providers that do not track costs on a facility level to respond? Are the cost allocation procedures set forth in the proposed instructions sufficient to enable these providers to allocate costs down to the facility and, if not, what additional procedures should we require? Are there any additional data we should seek that would help ensure that providers allocate costs to facilities in a manner that more accurately reflects how such costs are incurred?

Cost Allocation. We propose several steps for providers to follow in allocating their costs among various services, as set forth in the proposed instructions. What refinements, if any, should we make to our proposed cost allocation methodology? Is there an alternative methodology that would better ensure that providers allocate their costs in a manner consistent with how they are incurred? If so, what is that methodology and why would it produce more accurate results than the proposed method? Would the benefits of an alternative methodology justify the costs?

Financial Information. The proposed instructions retain the requirements that providers report financial data in accordance with generally accepted accounting principles (GAAP) and asset values that

²⁸ See, e.g., 2021 ICS Order, 36 FCC Rcd at 9621, para. 224.

²⁹ See, e.g., *id.* at 9620-21, para. 223.

reflect the results of recent impairment testing.³⁰ Is this the correct approach? If not, why not? Are other or additional instructions needed to ensure that the carrying value of any provider's assets is not misstated?³¹ If so, what other instructions should we adopt?

Site Commissions. The proposed instructions retain in large part the questions concerning company-wide and facility-level site commission data from the Third Mandatory Data Collection. Are there specific changes we should consider, either to the overall structure or level of disaggregation for site commission data? If so, what changes do commenters suggest and why? As explained in the attached proposed instructions, we propose new narrative questions in a separate Word template designed to obtain information about interstate, intrastate, and international site commissions, including whether and how the formulas providers use to calculate monetary site commissions differ among interstate, intrastate, and international communications. We also propose a new Word template question seeking information about whether providers pay site commissions separately on audio and video services and how those site commissions are calculated. We invite comment on these proposed questions and ask commenters to suggest alternative questions that would help the Commission obtain reliable and accurate data and information on site commission payments for interstate, intrastate, and international, as well as for audio and video communications.

Ancillary Services. While the proposed instructions retain essentially the same company-wide and facility-level questions about ancillary services that we asked as part of the Third Mandatory Data Collection, we invite comment on potential changes that we should consider. Do commenters suggest that we add or remove questions in these sections? If so, what should be added or removed? Is there a better structure or approach that would yield more accurate, reliable, or useful data? If so, what do commenters propose? Given the Commission's expanded authority under the Martha Wright-Reed Act, we propose new Word template questions that would seek information on how providers assess ancillary service charges on interstate, intrastate, and international communications, in light of the Commission's previous conclusion that "ancillary service charges generally cannot be practically segregated between the interstate and intrastate jurisdiction."³² We also propose to add Word template questions regarding the ancillary service charges or other charges assessed in connection with video services and whether there are any differences between the types of ancillary service charges assessed in connection with video and audio IPCS. We invite comment on these questions. Are there other questions we should ask that would assist the Commission in evaluating any differences based on either the jurisdiction of the communications service or whether the charges are being assessed in connection with an audio or video service? Are providers currently assessing any other charges in connection with video communications that fall outside of the five ancillary service charges permitted under the Commission's rules?³³ If so, what are they and how should they be addressed in the data collection? Are there particular questions we should ask to help the Commission understand how providers assess ancillary service charges in circumstances where service offerings might be mixed between audio and video services?

³⁰ Under GAAP, an asset or asset group is impaired when its carrying amount, that is, the value reflected on the balance sheet, net of depreciation or amortization, exceeds its fair market value. In that case, the value of the impaired asset or asset group is written down and the reduced value is reflected on the balance sheet and a loss is recorded on the income statement. *Wireline Competition Bureau and Office of Economics and Analytics Seek Comment on Upcoming Third Mandatory Data Collection for Inmate Calling Services*, WC Docket No. 12-375, Public Notice, 36 FCC Rcd 13859, 13861 (WCB/OEA 2021).

³¹ See *2021 ICS Order*, 36 FCC Rcd at 9551-32, para. 77 (explaining how Global Tel*Link Inc. (GTL) argued that it could not respond to a WCB request for additional cost, revenue, and cost allocation information because it "does not maintain records that would allow it to respond," leading the Commission to adjust GTL's reported data in setting interim provider-related rate caps); *id.* at 9555-56, para. 86.

³² *Rates for Interstate Inmate Calling Services*, WC Docket No. 12-375, Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 8485, 8495, para. 28 (2020).

³³ 47 CFR § 64.6020.

C. Reporting Template

We propose to require providers to submit the requisite data using a reporting template, to be filed through the Commission's Electronic Comment Filing System (ECFS).³⁴ The proposed template consists of a Word document (Appendix A to the instructions) for responses requiring narrative information and Excel spreadsheets (Appendix B to the instructions) for responses that require numeric or other information. We seek comment on proposed modifications in the template seeking data relevant to the Commission's expanded jurisdiction, including modifications to collect data on video IPCS and safety and security measures. We also seek suggestions for improvements we can make to the template. Is there an alternative organization that would reduce any perceived burdens, without compromising the reliability and accuracy of the data we are able to collect? Are there other organizational or substantive improvements we can make to the reporting template? Do any questions require clarification?

D. Timeframe for Provider Responses to the Data Collection

We invite comment on the timeframe for provider responses to the data collection. In the *2023 IPCS Order*, the Commission explained that "[a]ny new or modified requirements that require approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act shall be effective on the date specified in a notice published in the Federal Register announcing OMB's approval."³⁵ Importantly, the Martha Wright-Reed Act imposes a statutory requirement that the Commission "promulgate any regulations necessary to implement" the Act, not earlier than 18 months and not later than 24 months after the Act's January 5, 2023 enactment date.³⁶ As the Commission explained in the *2023 IPCS Order*, "[a]ny unnecessary delay in our efforts to collect appropriate information would be inconsistent with, and undermine the Commission's ability to meet the deadlines contained in, the Act."³⁷ Given these constraints, we propose to require providers to file their responses to the data collection within 90 days of the release of our order approving the data collection. Do commenters agree with this timeframe? Would it afford providers sufficient time to prepare and submit their responses while also allowing the Commission to act expeditiously to implement the Martha Wright-Reed Act within the statutory timeframe? Why or why not? Should we instead consider a shorter, or longer, timeframe for providers to respond to the data collection? If so, what timeframe do commenters propose and why?

E. Digital Equity and Inclusion

As part of the Commission's continuing effort to advance communications equity for all,³⁸ including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality, we invite comment on any equity-related considerations³⁹

³⁴ See, e.g., Inmate Calling Services Mandatory Data Collection, WC Docket No. 12-375, General Instructions, at 2, https://apps.fcc.gov/edocs_public/attachmatch/DOC-343708A3.docx (last visited Apr. 28, 2023) (requiring responses to the Second Mandatory Data Collection to be made using ECFS).

³⁵ *2023 IPCS Order* at 34, para. 85.

³⁶ Martha Wright-Reed Act § 3(a).

³⁷ *2023 IPCS Order* at 35, para. 87.

³⁸ Section 1 of the Communications Act provides that the Commission "regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex." 47 U.S.C. § 151.

³⁹ We define the term "equity" consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. See Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

and benefits that may be associated with the upcoming data collection. Specifically, we seek comment on how our proposals for that collection may promote or inhibit advances in diversity, equity, inclusion, and accessibility.

III. PROCEDURAL MATTERS

Filing of Comments and Replies. Pursuant to sections 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 ECFS. *See* FCC, Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (May 1, 1998).⁴⁰

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy 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 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.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.⁴¹

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in this Public Notice and the instructions in order to facilitate our internal review process.

People with Disabilities. We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

Ex Parte Presentations. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁴² 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).

⁴⁰ The Protective Order previously issued in this proceeding permits parties to designate certain material as confidential. *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Inmate Calling Services*, WC Docket Nos. 23-62, 12-375, Protective Order, DA 23-298 (WCB Apr. 5, 2023). Filings that contain confidential information should be appropriately redacted and filed pursuant to the procedure described in that Order. *See also Rates for Inmate Calling Services*, WC Docket No. 12-375, Order, 35 FCC Rcd 9267 (WCB 2020) (clarifying non-confidential treatment for certain information).

⁴¹ *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OS 2020).

⁴² 47 CFR § 1.1200 *et seq.*

Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 the 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 section 1.1206(b) of the Commission's rules.⁴³ Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Supplemental Initial Regulatory Flexibility Analysis. As required by the Regulatory Flexibility Act,⁴⁴ the Commission has prepared a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Public Notice. The Supplemental IRFA is set forth in Appendix B. The Commission requests written public comments on the Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments provided in this Public Notice. The Commission will send a copy of this Public Notice, including the Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.⁴⁵ In addition, summaries of this Public Notice and the Supplemental IRFA will be published in the Federal Register.⁴⁶

Initial Paperwork Reduction Act Analysis. The Public Notice, and the attached instructions and templates, contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the OMB for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding.⁴⁷ In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198; *see* 44 U.S.C. § 3506(4), we seek comment on how the Commission will further reduce the information collection burden for small business concerns with fewer than 25 employees.

Additional Information. For further information, please contact Ahuva Battams, Wireline Competition Bureau, Pricing Policy Division, at (202) 418-1565 or ahuva.battams@fcc.gov. Please copy mandatorydatacollection@fcc.gov on any email correspondence.

-FCC-

⁴³ 47 CFR § 1.1206(b).

⁴⁴ *See* 5 U.S.C. § 603.

⁴⁵ *See id.* § 603(a).

⁴⁶ *Id.*

⁴⁷ Contemporaneously with the publication of this Public Notice in the Federal Register, we will publish a notice in the Federal Register seeking comment pursuant to the PRA on the information collection requirements for the proposed 2023 Mandatory Data Collection in the 2023 *IPCS Notice* and this Public Notice. We will consider comments submitted in response to both Federal Register notices in finalizing this information collection for submission to OMB.

APPENDIX A**Proposed 2023 Mandatory Data Collection Instructions,
Templates, and Certification Form**

The instructions, template, and certification form for the proposed 2023 Mandatory Data Collection are available through this link: <https://docs.fcc.gov/public/attachments/DOC-393014A1.docx>.

APPENDIX B

Supplemental Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Wireline Competition Bureau (WCB) and the Office of Economics and Analytics (OEA) (collectively, WCB/OEA) have prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Public Notice to supplement the Commission's Regulatory Flexibility Analyses completed in the *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, Notice of Proposed Rulemaking and Order.² We request written public comment on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments provided on the first page of this Public Notice. The Commission will send a copy of the Public Notice, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).³ In addition, the Public Notice and the Supplemental IRFA (or summaries thereof) will be published in the Federal Register.⁴ This present Supplemental IRFA conforms to the RFA.⁵

A. Need for, and Objectives of, the Proposed Rules

2. In this Public Notice, WCB/OEA seek comment on the contours and specific requirements of the proposed 2023 Mandatory Data Collection for incarcerated people's communications services (IPCS). In issuing this Public Notice, we act pursuant to the Commission's directive so that it will be able to implement the Martha Wright-Reed Just and Reasonable Communications Act of 2022 (Martha Wright-Reed Act or Act).⁶ The Commission determined that this data collection would enable it to "meet both [its] procedural obligations (to consider certain types of data) and [its] substantive responsibilities (to set just and reasonable rates and charges)" under the Martha Wright-Reed Act and the Communications Act of 1934, as amended (the Communications Act).⁷ Likewise, it directed WCB/OEA "to update and restructure the most recent data collection as appropriate to implement the Martha Wright-Reed Act."⁸

3. On January 5, 2023, President Biden signed into law the Martha Wright-Reed Act, expanding the Commission's statutory authority over communications between incarcerated people and the non-incarcerated to include "any audio or video communications service used by inmates . . . regardless of technology used."⁹ The new Act also amends section 2(b) of the Communications Act, to

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62, 12-375, Notice of Proposed Rulemaking and Order, FCC 23-19, at Appx. A (Mar. 17, 2023) (*2023 IPCS Notice* or *2023 IPCS Order*).

³ See 5 U.S.C. § 603(a).

⁴ *Id.*

⁵ See *id.* § 604.

⁶ *2023 IPCS Order* at 33, para. 84 (Mar. 17, 2023); see Martha Wright-Reed Just and Reasonable Communications Act of 2022, Pub. L. No. 117-338, 136 Stat. 6156 (Martha Wright-Reed Act or the Act); 47 U.S.C. §§ 152(b), 153(1)(E), 276(b)(1)(A), (d).

⁷ *2023 IPCS Order* at 33, para. 83.

⁸ *Id.* at 32, para. 82 (citing the Martha Wright-Reed Act §§ 2-3).

⁹ Martha Wright-Reed Act § 2(a)(2), (b).

make clear that the Commission's authority extends to intrastate as well as interstate and international communications services used by incarcerated people.¹⁰

4. The Martha Wright-Reed Act directs the Commission to "promulgate any regulations necessary to implement" the Act, including its mandate that the Commission establish a "compensation plan" ensuring that all rates and charges for IPCS "are just and reasonable," not earlier than 18 months and not later than 24 months after the Act's January 5, 2023 enactment.¹¹ The Act requires the Commission to consider, as part of its implementation, the costs of "necessary" safety and security measures, as well "differences in costs" based on facility size, or "other characteristics."¹² It also allows the Commission to "use industry-wide average costs of telephone service and advanced communications services and the average costs of service of a communications service provider" in determining just and reasonable rates.¹³

5. Pursuant to their delegated authority, WCB/OEA have drafted instructions, a template, and a certification form for the proposed 2023 Mandatory Data Collection¹⁴ and are issuing this Public Notice to seek comment on all aspects of these proposed documents.

B. Legal Basis

6. The proposed action is pursuant to sections 1, 2, 4(i)-(j), 5(c), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i)-(j), 155(c), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Act, Pub. L. No. 117-338, 136 Stat. 6156 (2022).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Would Apply

7. 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 2023 Mandatory Data Collection. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹⁵ In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act.¹⁶ 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.¹⁷

8. As noted above, an IRFA was incorporated in the *2023 IPCS Notice*.¹⁸ In that analysis, the Commission described in detail the small entities that might be affected. Accordingly, in this Public

¹⁰ *Id.* § 2(c).

¹¹ *Id.* § 3(a); 47 U.S.C. § 276(b)(1)(A).

¹² Martha Wright-Reed Act § 3(b)(2).

¹³ *Id.* § 3(b)(1).

¹⁴ See Appx. A, *supra*.

¹⁵ See 5 U.S.C. § 601(6).

¹⁶ See *id.* § 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."

¹⁷ See 15 U.S.C. § 632.

¹⁸ *2023 IPCS Notice* at 38, Appx. A (Initial Regulatory Flexibility Analysis).

Notice, for the Supplemental IRFA, we hereby incorporate by reference the descriptions and estimates of the number of small entities from the *2023 IPCS Notice's* IRFA.¹⁹

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

9. The Public Notice seeks comment on the specifics of the proposed 2023 Mandatory Data Collection to ensure that the Commission receives the data it needs to meet its substantive and procedural responsibilities under the Act. The proposed 2023 Mandatory Data Collection would require IPCS providers to submit, among other things, data and other information on calls, demand, operations, company and contract information, information about facilities served, revenues, site commission payments, the costs of safety and security measures, video IPCS, and ancillary fees. The proposed 2023 Mandatory Data Collection may require entities, including small entities and IPCS providers of all sizes, currently subject to our inmate calling services rules to be subject to modified or new reporting or other compliance obligations. This may also be the case for providers newly subject to the Commission's expanded regulatory authority, such as providers offering only intrastate or certain advanced communications. In addition, we recognize that our actions in this proceeding may affect the reporting, recordkeeping, and other compliance requirements for several groups of small entities. In assessing the cost of compliance for small entities and for providers of incarcerated people's communications services of all sizes, at this time WCB/OEA are not in a position to determine whether the proposed 2023 Mandatory Data Collection will impose any significant costs for compliance in general. We anticipate the information we receive in comments, including any cost and benefit analyses, will help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from the proposals and inquiries we make in the Public Notice.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

10. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such 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 such small entities."²⁰ We will consider all of these factors when we receive substantive comment from the public and potentially affected entities.

11. The proposed 2023 Mandatory Data Collection is a one-time request and does not impose a recurring obligation on providers. Because the Commission's *2023 IPCS Order* requires all IPCS providers to comply with the proposed 2023 Mandatory Data Collection,²¹ the collection will affect smaller as well as larger IPCS providers. WCB/OEA have taken steps to ensure that the data collection template is competitively neutral and not unduly burdensome for any set of providers. For example, the Public Notice proposes to collect data for a single calendar year instead of three calendar years, as in the previous data collection. Additionally, the Public Notice asks whether there are ways of minimizing the burden of the data collection on providers while still ensuring that the Commission collects all the data needed to meet its goals.

12. WCB/OEA will consider the economic impact on small entities, as identified in comments filed in response to the Public Notice and this Supplemental IRFA, in reaching their final

¹⁹ *Id.* at 38, Appx. A, paras. 5-21.

²⁰ 5 U.S.C. § 603(c)(1)-(4).

²¹ *2023 IPCS Order* at 32, para. 82.

conclusions and finalizing the instructions, template, and certification form for the proposed 2023 Mandatory Data Collection.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

13. None.



Federal Communications Commission
Washington, D.C. 20554

April 26, 2023

DA 23-356

WC Docket No. 02-60

Mark Sweeney
Vice President
Rural Health Care Division
Universal Service Administrative Company
700 12th St. NW #900
Washington, DC 20005

Dear Mr. Sweeney:

The purpose of this letter is to notify the Universal Service Administrative Company that the Wireline Competition Bureau approves the Rural Health Care Program Funding Year 2023 Funding Request Review Procedures, subject to further modifications and/or instruction from the Commission.

Thank you for your attention to this matter.

Sincerely,

/s/ Bryan P. Boyle
Bryan P. Boyle
Deputy Division Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

Cc: Trent Harkrader, Chief, Wireline Competition Bureau
Adam Copeland, Associate Bureau Chief, Wireline Competition Bureau
Jodie Griffin, Chief, Telecommunications Access Policy Division
Mark Stephens, Managing Director



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L STREET NE
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: <http://www.fcc.gov> (or <ftp.fcc.gov>)
TTY (202) 418-2555

DA No. 23-357

Report No. TEL-02267

Thursday April 27, 2023

International Authorizations Granted

Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)

By the Chief, Telecommunications and Analysis Division, Office of International Affairs:

The following applications have been granted pursuant to the Commission's processing procedures set forth in sections 63.12 and 63.20 of the Commission's rules. 47 CFR §§ 63.12, 63.20.

Unless otherwise noted, these grants authorize the applicants to: (1) become a facilities-based international common carrier subject to 47 CFR §§ 63.21, 63.22 and/or a resale-based international common carrier subject to 47 CFR §§ 63.21, 63.23; (2) assign or transfer control of international section 214 authority in accordance with 47 CFR § 63.24; or (3) exceed the foreign ownership benchmarks applicable to common carrier radio licensees under 47 U.S.C. § 310(b); see Subpart T of Part 1 of the Commission's rules, 47 CFR §§ 1.5000-5004.

THIS PUBLIC NOTICE SERVES AS EACH NEWLY AUTHORIZED CARRIER'S SECTION 214 CERTIFICATE. It contains general and specific conditions, which are set forth below. Newly authorized carriers should carefully review the terms and conditions of their authorizations. Failure to comply with general or specific conditions of an authorization, or with other relevant Commission rules and policies, could result in fines and forfeitures.

Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, in regard to the grant of any of these applications may be filed within 30 (thirty) days of this public notice. See 47 CFR § 1.4(b)(2).

ITC-ASG-20211220-00202 E

Windstream Services, LLC

Assignment

Grant of Authority

Date of Action: 04/26/2023

Current Licensee: Windstream Services, LLC, Debtor-In-Possession

FROM: Windstream Services, LLC, Debtor-In-Possession

TO: Windstream Services, LLC

On December 20, 2021, a notification of the pro forma assignment of an international section 214 authorization, ITC-214-19980925-00658, held by Windstream Services, LLC, Debtor-in-Possession (Holdings DIP) to Windstream Services, LLC (Windstream) was filed. The notification was subsequently amended on January 29, 2022, February 8, 2022, and April 21, 2023 (April 21, 2023 Amendment).

On February 25, 2019, Holdings DIP filed voluntary petitions for relief for itself, Windstream, and Windstream's subsidiaries under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York. See Windstream Holdings, Inc., Debtors, Chapter 11, Case No. 19-22312 (Bankr. S.D. NY 2019). On April 1, 2020, Holdings DIP filed a plan of reorganization proposing a restructuring that would allow Holdings DIP, Windstream, and Windstream's subsidiaries to emerge from bankruptcy. On June 26, 2020, the Bankruptcy Court approved the plan of reorganization and issued a final order approving the plan of reorganization and the restructuring transactions contemplated therein. See Findings of Fact, Conclusions of Law and Order Confirming the First Amended Joint Chapter 11 Plan of Reorganization of Windstream Holdings, Inc. et al., Case No 19-22312 (Bankr. S.D. NY 2020). The subject of this pro forma assignment was part of the restructuring that occurred when Windstream emerged from bankruptcy on September 21, 2020. See Notice of (I) Entry of Confirmation Order, (II) Occurrence of Effective Date, and (III) Related Bar Dates, Case No. 19-22312 (Bankr. S.D. NY 2020).

The applicant "acknowledges that [the] notice of pro forma assignment is not timely filed" and "any oversight in filing was inadvertent and unintentional." April 21, 2023 Amendment. The applicant further states that "[i]n the midst of a very complicated set of transactions to emerge from bankruptcy, Windstream did not submit a notice as contemplated by 47 C.F.R. § 63.24" but that "as soon as it became aware that notice had not been filed, Windstream took steps to file an appropriate notice." Id.

Action on this notification is without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules, and without prejudice to Commission action on other related, pending applications or petitions.

ITC-T/C-20230419-00050 E

Velocity Telephone, Inc.

Transfer of Control

Grant of Authority

Date of Action: 04/25/2023

Current Licensee: Velocity Telephone, Inc.

FROM: Velocity Telephone, Inc.

TO: Velocity Telephone, Inc.

On April 19, 2023, Velocity Telephone Inc. (Velocity), a Minnesota corporation that holds an international section 214 authorization (ITC-214-20090911-00413), filed a notification of the pro forma transfer of control of Velocity, effective December 31, 2019. Upon his retirement, Ronald L. Cleven transferred his 40% interest in Velocity to James C. Lundberg who controlled Velocity through his 60% majority ownership of the carrier. James C. Lundberg, a U.S. citizen, now holds a 100% ownership interest in Velocity Telephone Inc.

INFORMATIVE

ITC-214-20000818-00489

Spectrotel Services, LLC

By letter dated February 15, 2023, the Commission was notified that Spectrotel, LLC has changed its name to Spectrotel Services, LLC.

CONDITIONS APPLICABLE TO INTERNATIONAL SECTION 214 AUTHORIZATIONS

(1) These authorizations are subject to the Exclusion List for International Section 214 Authorizations, which identifies restrictions on providing service to particular countries or using particular facilities. The most recent Exclusion List is at the end of this Public Notice. The list applies to all U.S. international carriers, including those that have previously received global or limited global section 214 authority, whether by Public Notice or specific written order. Carriers are advised that the attached Exclusion List is subject to amendment at any time pursuant to the procedures set forth in Streamlining the International Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95-118, 11 FCC Rcd 12884 (1996), para. 18. A copy of the current Exclusion List is maintained in the FCC Reference Information Center and is available at <https://www.fcc.gov/exclusion-list-international-section-214-authorizations>. It is also attached to each Public Notice that grants international Section 214 authority.

(2) The export of telecommunications services and related payments to countries that are subject to economic sanctions may be restricted. For information concerning current restrictions, call the Office of Foreign Assets Control, U.S. Department of the Treasury, (202) 622-2520.

(3) Carriers shall comply with the requirements of Section 63.11 of the Commission's rules, which requires notification by, and in certain circumstances prior notification by, U.S. carriers acquiring an affiliation with foreign carriers. A carrier that acquires an affiliation with a foreign carrier will be subject to possible reclassification as a dominant carrier on an affiliated route pursuant to the provisions of section 63.10 of the rules.

(4) A carrier may provide switched services over its authorized resold private lines in the circumstances specified in section 63.23(d) of the rules, 47 CFR § 63.23(d).

(5) Carriers shall comply with the "No Special Concessions" rule, section 63.14, 47 CFR § 63.14.

(6) Carriers regulated as dominant for the provision of a particular communications service on a particular route for any reason other than a foreign carrier affiliation under section 63.10 of the rules shall file tariffs pursuant to Section 203 of the Communications Act, as amended, 47 U.S.C. § 203, and Part 61 of the Commission's Rules, 47 CFR Part 61. Carriers shall not otherwise file tariffs except as permitted by section 61.19 of the rules, 47 C.F.R. § 61.19. Except as specified in section 20.15 with respect to commercial mobile radio service providers, carriers regulated as non-dominant, as defined in section 61.3, and providing detariffed international services pursuant to section 61.19, must comply with all applicable public disclosure and maintenance of information requirements in sections 42.10 and 42.11.

(7) International facilities-based service providers must file and maintain a list of U.S.-international routes on which they have direct termination arrangements with a foreign carrier. 47 CFR § 63.22(h). A new international facilities-based service provider or one without existing direct termination arrangements must file its list within thirty (30) days of entering into a direct termination arrangement(s) with a foreign carrier(s). Thereafter, international facilities-based service providers must update their lists within thirty (30) days after adding a termination arrangement for a new foreign destination or discontinuing an arrangement with a previously listed destination. See Process For The Filing Of Routes On Which International Service Providers Have Direct Termination Arrangements With A Foreign Carrier, ITC-MS-20181015-00182, Public Notice, 33 FCC Rcd 10008 (IB 2018).

(8) Any U.S. Carrier that owned or leased bare capacity on a submarine cable between the United States and any foreign point must file a Circuit Capacity Report to provide information about the submarine cable capacity it holds. 47 CFR § 43.82(a)(2). See <https://www.fcc.gov/circuit-capacity-data-us-international-submarine-cables>.

(9) Carriers should consult section 63.19 of the rules when contemplating a discontinuance, reduction or impairment of service.

(10) If any carrier is reselling service obtained pursuant to a contract with another carrier, the services obtained by contract shall be made generally available by the underlying carrier to similarly situated customers at the same terms, conditions and rates. 47 U.S.C. § 203.

(11) To the extent the applicant is, or is affiliated with, an incumbent independent local exchange carrier, as those terms are defined in section 64.1902 of the rules, it shall provide the authorized services in compliance with the requirements of section 64.1903.

(12) Except as otherwise ordered by the Commission, a carrier authorized here to provide facilities-based service that (i) is classified as dominant under section 63.10 of the rules for the provision of such service on a particular route and (ii) is

affiliated with a carrier that collects settlement payments for terminating U.S. international switched traffic at the foreign end of that route may not provide facilities-based switched service on that route unless the current rates the affiliate charges U.S. international carriers to terminate traffic are at or below the Commission's relevant benchmark adopted in International Settlement Rates, IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19806 (1997). See also Report and Order on Reconsideration and Order Lifting Stay in IB Docket No. 96-261, FCC 99-124 (rel. June 11, 1999). For the purposes of this rule, "affiliated" and "foreign carrier" are defined in section 63.09.

(13) Carriers shall comply with the Communications Assistance for Law Enforcement Act (CALEA), see 47 CFR §§ 1.20000 et seq.

(14) Every carrier must designate an agent for service in the District of Columbia. see 47 U.S.C. § 413, 47 CFR §§ 1.47(h), 64.1195.

Exclusion List for International Section 214 Authorizations

The following is a list of countries and facilities not covered by grant of global section 214 authority under section 63.18(e)(1) of the Commission's Rules, 47 CFR § 63.18(e)(1). Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate section 214 application pursuant to section 63.18(e)(3) of the Commission's Rules. See 47 CFR § 63.22(c).

Countries:

None.

Facilities:

Any non-U.S.-licensed space station that has not received Commission approval to operate in the U.S. market pursuant to the procedures adopted in the Commission's DISCO II Order, IB Docket No. 96-111, Report and Order, FCC 97-399, 12 FCC Rcd 24094, 24107-72 paragraphs 30-182 (1997) (DISCO II Order). Information regarding non-U.S.-licensed space stations approved to operate in the U.S. market pursuant to the Commission's DISCO II procedures is maintained at <https://www.fcc.gov/approved-space-station-list>.

This list is subject to change by the Commission when the public interest requires. The most current version of the list is maintained at <https://www.fcc.gov/exclusion-list-international-section-214-authorizations>.

For additional information, contact the Office of International Affairs, Telecommunications and Analysis Division at (202) 418-1480.



Federal Communications Commission
Washington, D.C. 20554

April 27, 2023

DA 23-358

In Reply Refer To:

1800B3-ARR

Released:

Christian Ministries of the Valley, Inc.
c/o James E. Price, III
P.O. Box 1877
LaFayette, GA 30728
(sent by electronic email to: sterlingjamesp@gmail.com)

CCS Radio, Inc.
c/o Otis Dyson
P.O. Box 22602
Beaumont, TX 77720
(sent by electronic email to: otis@kghy.org)

Call Communications Group, Inc.
c/o Robert Robbins
20808 SW 83rd Ave
Cutler Bay, FL 33189
(sent by electronic email to: radiodataservices@radiodataservices.com)

Vida Ministry Inc.
c/o Dan J. Alpert, Esq.
2120 21st Rd. N.
Arlington, VA 22201
(sent by electronic email to: DJA@COMMLAW.TV)

In re:

NCE MX Group 200

**Christian Ministries of the Valley,
Inc.**

New NCE (FM), Port Arthur, Texas
Facility ID No. 762635
Application File No. 0000166728

CCS Radio, Inc.

New NCE (FM), Port Arthur, Texas
Facility ID No. 766799
Application File No. 0000166698

Call Communications Group, Inc.

New NCE (FM), Beaumont, Texas
Facility ID No. 768966
Application File No. 0000167747

Vida Ministry Inc.
New NCE (FM), Central Gardens,
Texas
Facility ID No. 768210
Application File No. 0000167104

Petition to Deny

Dear Applicants:

We have before us four mutually exclusive (MX) applications filed by Call Communications Group, Inc. (CCGI), Vida Ministry Inc. (VMI), Christian Ministries of the Valley, Inc. (CMV), and CCS Radio, Inc. (CCSR) for construction permits for new noncommercial educational (NCE) FM stations in Texas, which the Media Bureau (Bureau) designated as NCE MX Group 200.¹ The Commission identified the VMI Application as the tentative selectee of the group.² We also have before us a Petition to Deny the VMI Application³ filed by CCGI, and related responsive pleadings.⁴ For the reasons set forth below, we grant in part and deny in part the Petition, grant the VMI Application, and dismiss the CCGI, CMV, and CCSR⁵ Applications.⁶

¹ *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the November 2021, Filing Window for New Noncommercial Education Stations; Opens Window to Accept Settlements and Technical Amendments*, Public Notice, 36 FCC Rcd 16452 (MB 2021); *see also* Application File Nos. 0000167747 (CCGI Application); 0000167104 (VMI Application); 0000166728 (CMV Application); and 0000166698 (CCSR Application).

² *Comparative Consideration of 34 Groups of Mutually Exclusive Applications for Permits to Construct New Noncommercial Educational FM Stations*, Memorandum Opinion and Order, FCC 23-5, at 22, paras. 89-91 (Jan. 24, 2023) (*Third Comparative Order*).

³ *See* Pleading File No. 0000210918 (filed Feb. 16, 2023) (Petition).

⁴ *See* Motion for Extension of Time, Pleading File No. 0000212271 (filed Mar. 8, 2023) (explaining that counsel for VMI was unavailable for two weeks due to COVID, and stating that CCGI consented to grant of the request); Opposition, Pleading File No. 0000212563 (filed Mar. 15, 2023); Reply, Pleading File No. 0000212735 (filed Mar. 20, 2023).

⁵ CCGI also filed Informal Objections to the CMV and CCSR Applications. Pleading File Nos. 0000178480 and 0000178495 (filed Jan. 3, 2022). It is the Bureau's well-settled policy not to consider petitions to deny or informal objections filed against non-tentative selectees. *See Centro Familiar de Restauracion y Vida*, Letter Order, DA 22-771 (MB 2022) (citing 47 CFR § 73.3584(a)). Moreover, the Informal Objections raise the same issues that were raised in the Petition. Accordingly, we will not consider these pleadings and dismiss them herein.

⁶ In the *Third Comparative Order*, the Commission directed Bureau staff to "consider any petitions, comments, and objections to determine whether there is any substantial and material question of fact concerning whether grant of the tentatively selected application would serve the public interest." *Third Comparative Order* at 26, para. 108. The Commission delegated authority to the Bureau staff "to act on any routine matter that may be raised, including whether the applicant is eligible, as certified, for the points awarded herein, and whether the application complies with all relevant Commission rules and policies." *Id.*

Background. The subject applications were filed during the November 2021, NCE FM filing window.⁷ In the *Third Comparative Order*,⁸ the Commission determined that no applicant claimed eligibility for a fair distribution preference, and therefore, proceeded to a point system analysis.⁹ No applicant claimed points as an established local applicant or state-wide network. The Commission awarded CCGI and VMI two points each for diversity of ownership.¹⁰ The Commission further determined that no applicant was entitled to points under the best technical proposal criterion because no applicant proposed to serve at least 10% more area and population than the next best proposal.¹¹ CMV and CCSR were credited with zero points and eliminated, and CCGI and VMI, with two points each, proceeded to a tie-breaker analysis.¹² CCGI was eliminated under the first tie-breaker.¹³ Thus, the Commission identified VMI as the tentative selectee of NCE MX Group 200.¹⁴

In the Petition, CCGI argues that the Group 200 comparative analysis was based on inaccurate and unsupported calculations, due to CMV and CCSR's improper inclusion of significant areas of water in their new coverage area calculations.¹⁵ Specifically, CCGI demonstrates that the actual coverage area of CMV's proposal is approximately 1,321 square kilometers, or 42.6% less than the 1,881.6 square kilometers it originally claimed.¹⁶ CCGI also demonstrates that the actual coverage area of CCSR's proposal is approximately 806.23 square kilometers, or 73.2% less than the 1,402.2 square kilometers it originally claimed.¹⁷ CCGI asserts that excluding the CMV and CCSR Applications, CCGI is eligible for two points under best technical proposal because it would serve 25% more area and population than the remaining application, that of VMI, and thus CCGI should be the new tentative selectee.¹⁸

In its Opposition, VMI argues that accepting CCGI's calculations would not produce a different result than the Commission reached in the *Third Comparative Order* because no applicant would serve at least 10% more area and population than the next application.¹⁹ VMI also maintains that Schedule 340 does not require an attachment explaining the applicant's technical parameters calculation, but merely requires that applicants include an exhibit in their public inspection files.²⁰

In its Reply, CCGI reiterates that the CMV and CCSR calculations lacked support and further argues that: 1) the *NCE Filing Procedures Public Notice* requires applicants to include an application

⁷ *Media Bureau Announces NCE FM New Station Application Filing Window; Window Open from November 2, 2021, to November 9, 2021*, MB Docket No. 20-343, Public Notice, 36 FCC Rcd 7449 (MB 2021).

⁸ *Third Comparative Order* at 22, paras. 89-91.

⁹ *Id.* at para. 89.

¹⁰ *Id.* at para. 90. CMV and CCSR did not claim points under this criterion.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at para. 91.

¹⁴ *Id.*

¹⁵ Petition at 1-2. The Petition includes two maps explaining CCGI's analysis.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 2.

¹⁹ Opposition at 3-4.

²⁰ *Id.* at 2-3, citing Schedule 340 Instructions.

exhibit supporting the new area served, rather than including it in a public inspection file;²¹ 2) CMV and CCSR's certifications of their area coverage calculations are improper, and neither CMV nor CCSR has amended its coverage claims;²² and 3) the Commission lacks a rational basis to accept erroneous and unsupported population claims made in the two applications.²³

Discussion. Pursuant to section 309(d) of the Communications Act of 1934, as amended,²⁴ petitions to deny and informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest.²⁵

VMI, CMV, and CCSR do not refute CCGI's claims that CMV and CCSR each erroneously calculated the new area that its proposal would serve, and the Bureau staff has independently verified that the CMV and CCSR Applications incorrectly included significant areas of water in each of their calculations. Therefore, we grant the Petition in part. Accepting CCGI's calculations, however, does not automatically render the CCGI application the new tentative selectee, as CCGI proposes.

CCGI incorrectly suggests that CMV and CCSR should be excluded altogether from the best technical proposal calculation. In cases where non-tentative selectees have provided inaccurate area and population coverage data, however, we do not dismiss the applications.²⁶ Rather, we reanalyze the applicants' technical proposals using the corrected data.²⁷ Thus, we will reanalyze the applicants' technical proposals using the revised figures that CCGI provided.²⁸

²¹ Reply at 1-2; *Media Bureau Announces NCE FM New Station Filing Procedures and Requirements for November 2- 9, 2021, Window; Limited Application Filing Freeze to Commence on October 5, 2021*, Public Notice, 36 FCC Rcd 11458, 11466 (MB 2021) (*NCE Filing Procedures Public Notice*) ("Each applicant must include an application exhibit explaining how it calculated the technical parameters. The applicant should specify the year and blocks of census information used and the method used to determine area.").

²² Reply at 2-3.

²³ *Id.* at 3.

²⁴ 47 U.S.C. § 309(d).

²⁵ See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197, n.10 (1990), *aff'd sub nom. Garden State Broad. L.P. v. FCC*, 996 F. 2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986) (petitions to deny and informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested).

²⁶ CCGI also asserts that the CMV and CCSR Applications should not be considered because they did not provide documentation explaining their area and population calculations. CCGI, however, cites to no instance where we have dismissed an application on this basis. Moreover, although we have denied applicants their claimed points based on insufficient supporting documentation, we have never dismissed an application, and excluded an applicant from our comparative analysis, due to incomplete documentation.

²⁷ See, e.g., *Comparative Consideration of 18 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 26 FCC Rcd 803, 809, para. 16 (2011) (using objector's population figures where it claims a competing applicant's application had incorrect area figures because it erroneously included large area of water and applicant did not provide corrected figures).

²⁸ For purposes of this analysis, we will again use the population numbers specified in the applications, which are not in dispute. We reject CCGI's claim that the CMV and CCSR Applications should not be considered because "the Bureau lacks a rational basis to accept potentially erroneous or unsupported application claims." Reply at 3.

As noted in the *Third Comparative Order*, CCGI's proposed 60 dBu contour would encompass 1,157 square kilometers with a population of 218,225 and VMI, 539 square kilometers and 114,876 people.²⁹ Using CCGI's calculations, CMV's proposed 60 dBu contour would encompass 1,321 square kilometers with a population of 221,770, and CCSR, 806.23 square kilometers and 108,218 people. Thus, accepting CCGI's undisputed claim that CMV and CCSR's actual coverage areas are 1,321 and 806.23 square kilometers, respectively, there is still no applicant eligible for points under the best technical proposal criterion because no applicant proposes to serve at least 10% more area *and* population than the next best proposal. CCGI does not challenge any other points calculation. Accordingly, the points total has not changed. Because VMI still has the highest point total, it remains the tentative selectee, and we need not refer this group to the Commission to conduct a new point system analysis.³⁰ Therefore, we deny in part the Petition to the extent it seeks to have CCGI declared the new tentative selectee of NCE MX Group 200.

Conclusion/Actions. For the reasons set forth above, **IT IS ORDERED** that the Petition to Deny filed by Call Communications Group, Inc., on February 16, 2023 (Pleading File No. 0000210918), **IS GRANTED IN PART AND DENIED IN PART**, and the Informal Objections filed by Call Communications Group, Inc., on January 3, 2022 (Pleading File Nos. 0000178480 and 0000178495) **ARE DISMISSED**.

IT IS FURTHER ORDERED that the Application filed by Vida Ministries Inc. (Application File No. 0000167104) for a construction permit for a new NCE FM station in Central Gardens, Texas, **IS GRANTED CONDITIONED UPON** that selectee's compliance with section 73.7005 of the Commission's rules, 47 CFR § 73.7005, which sets forth a four-year period in which an applicant, that is awarded a permit by use of the point system, must maintain the comparative qualifications for which it received points, and must comply with the restrictions on station modifications and acquisitions.

IT IS FURTHER ORDERED that the mutually exclusive application of Christian Ministries of the Valley, Inc. (Application File No. 0000166728) **IS DISMISSED**.

IT IS FURTHER ORDERED that the mutually exclusive application of Call Communications Group, Inc. (Application File No. 0000167747) **IS DISMISSED**.

Acceptance of applicants' area and population figures is neither irrational nor arbitrary, and is critical to Bureau staff's efficient processing of new NCE FM applications. The Bureau does not process and review each application for acceptability and grantability. Rather, to efficiently process and grant applications, the Bureau only reviews, accepts for filing, and processes the one application identified, after the comparative analysis, as the tentative selectee of the MX Group. Potential arguments that erroneous data or claims affected the comparative analysis may be raised, and are considered, in the petition to deny process. *See, e.g., Third Comparative Order* at para. 14 ("in considering this criterion [best technical proposal] we have accepted applicant's coverage and population claims."); *Cultural Energy*, Letter Order, 26 FCC Rcd 12766, 12768 (MB 2011) (considering objections against non-tentative selectees are wasteful and inefficient).

²⁹ *Third Comparative Order* at 22, para. 90.

³⁰ *Third Comparative Order* at 26, para. 108 ("We delegate to the staff authority to act on any routine matter that may be raised, including whether the applicant is eligible, as certified, for the points awarded herein, and whether the application complies with all relevant Commission rules and policies."). *See also Comparative Consideration of 76 Groups of Mutually Exclusive Applications for Permits to Construct New or Modified Noncommercial Educational FM Stations*, Memorandum Opinion and Order, 22 FCC Rcd 6101, 6162, n.230 (2007) ("If the Bureau finds that there are no new or novel questions, or material questions that would cause the tentative selectee to have fewer than or the same number of points as another applicant in the group, the staff would act on the petition(s) to deny, and by public notice grant the application of the tentative selectee and dismiss the competing mutually exclusive application. This function is consistent with the Bureau's delegated authority." (citations omitted)).

IT IS FURTHER ORDERED that the mutually exclusive application of CCS Radio, Inc.
(Application File No. 0000166698) **IS DISMISSED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L STREET NE
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: <http://www.fcc.gov> (or <ftp.fcc.gov>)
TTY (202) 418-2555

DA No. 23-359

Friday April 28, 2023

Report No. SAT-01720

Satellite Licensing Division and Satellite Programs and Policy Division Information

Actions Taken

The Commission, by its Space Bureau, took the following actions pursuant to delegated authority. The effective date of these actions is the release date of this Notice, except where an effective date is specified.

SAT-LOA-20220526-00055	E S3146	Turion Space Corp.	
Launch and Operating Authority			
Grant of Authority			Effective Date: 04/26/2023

Nature of Service: Other

On April 26, 2023, the Satellite Programs and Policy Division granted, with conditions, authority to Turion Space Corp. to deploy and operate one satellite, DROID.001, in low-Earth, non-geostationary orbit. DROID.001 would deploy to an altitude between 525-575 kilometers with an inclination of 97.5 degrees and then maneuver to 550 kilometers (+/- 25 kilometers) with an inclination of 97.5 degrees (+/- 0.1 degrees). Turion Space is authorized to conduct space operations and space research in the following frequency bands: 8025-8400 MHz (space-to-Earth), 2200-2290 MHz (space-to-Earth) for service downlink and telemetry operations, and 2025-2110 MHz (Earth-to-space) for command operations. Turion Space's application was processed in accordance with the small satellite licensing procedures in section 25.122 of the Commission's rules, 47 CFR § 25.122.

SAT-LOA-20230209-00032	E S3159	Outpost Technologies Corporation	
Launch and Operating Authority			
Grant of Authority			Effective Date: 04/27/2023

Nature of Service: Other

On April 27, 2023, the Satellite Programs and Policy Division granted, with conditions, authority to Outpost Technologies Corporation to deploy and operate one non-geostationary satellite orbit satellite, Outpost Mission 0, to conduct testing and space operations using the 401-402 MHz (space-to-Earth) and 449.75-450.25 MHz (Earth-to-space) frequency bands. The satellite will be deployed to a 525 km (±25 kilometers) altitude with approximately 97.5 degree (±0.1 degree) inclination. Outpost's application was processed in accordance with the small satellite licensing procedures in section 25.122 of the Commission's rules, 47 CFR § 25.122.

SAT-LOA-20230301-00044	E S3161	Launcher Inc.	
Launch and Operating Authority			
Grant of Authority			Effective Date: 04/26/2023

Nature of Service: Other

On April 26, 2023, the Satellite Programs and Policy Division granted, with conditions, authority to Launcher Inc. to deploy and operate, for a period of less than two years, one non-geostationary orbit spacecraft, the Orbiter SN3, that would deploy four customer spacecraft. The Orbiter SN3 would operate in the 2025-2110 MHz (Earth-to-space) band for command operations and in the 2200-2290 MHz (space-to-Earth) band for telemetry and other downlink operations. The spacecraft would be deployed in sun-synchronous orbit at 525 kilometers (± 25 kilometers) altitude with approximately 97.5 degree (± 0.1 degree) inclination.

SAT-MOD-20230324-00063	E	S2917	Viasat, Inc.
Modification			
Grant of Authority			Effective Date: 04/27/2023

Nature of Service: Fixed Satellite Service

On April 27, 2023, the Satellite Programs and Policy Division granted the request of Viasat, Inc. to extend the launch and begin operations milestone for the VIASAT-3 space station for 30 days, from April 30, 2023, to May 31, 2023. VIASAT-3 will operate from the 88.9° W.L. orbital location and use the 18.3-19.3 GHz and 19.7-20.2 GHz (space-to-Earth); and 28.1-29.1 GHz and 29.5-30.0 GHz (Earth-to-space) frequencies.

SAT-STA-20230314-00059	E		Viasat, Inc.
Special Temporary Authority			
Grant of Authority			Effective Date: 04/27/2023

On April 27, 2023, the Satellite Programs and Policy Division granted, with conditions, the request of Viasat, Inc. to conduct in-orbit testing (IOT) with the Viasat-3/Viasat-89US space station for a period of up to 30 days, including certain tests involving operations at power density levels higher than previously authorized. Viasat is authorized to conduct IOT using the following frequency bands: 17.7-19.3 (space-to-Earth), 19.7-20.2 GHz (space-to-Earth), 27.5-29.1 GHz (Earth-to-space), and 29.5-30.0 GHz (Earth-to-space).

SAT-STA-20230407-00078	E	S3143	Intelsat License LLC
Special Temporary Authority			
Grant of Authority			Effective Date: 04/26/2023

On April 26, 2023, the Satellite Programs and Policy Division granted, with conditions, Intelsat License LLC's request for special temporary authority for a period of up to 60 days, to conduct telemetry, tracking and command operations necessary to drift the Galaxy 35 space station to the 93.1° W.L. orbital location and to maintain Galaxy 35 at the 93.1° W.L. orbital location.

For more information concerning this Notice, contact the Satellite Licensing Division and Satellite Programs and Policy Division at (202) 418-0719.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Lingo Telecom, LLC	)	Complaint No. 6106714
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

ORDER

Adopted: April 28, 2023

Released: April 28, 2023

By the Acting Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau:

1. In this Order, we consider a complaint alleging that Lingo Telecom, LLC (Lingo) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.¹ We conclude that Lingo's actions violated the Commission's slamming rules, and we therefore grant Complainant's complaint.

2. Section 258 of the Communications Act of 1934, as amended (the Act), prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.² The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.³ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that satisfies our rules; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the order.⁴ The Commission has also adopted rules to limit the liability of subscribers when an unauthorized carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.⁵

3. The Commission's slamming rules prohibit misrepresentations on sales calls to further reduce the incidence of slamming.⁶ Under the rules, upon a finding of material misrepresentation during

¹ See Informal Complaint No. 6106714 (filed Mar. 19, 2023); *see also* 47 CFR §§ 64.1100 – 64.1190.

² 47 U.S.C. § 258(a).

³ See 47 CFR § 64.1120.

⁴ See *id.* § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

⁵ These rules require the unauthorized carrier to absolve the subscriber where the subscriber has not paid his or her bill. If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. See *id.* §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.* Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. See *id.* §§ 64.1140, 64.1170.

⁶ *Id.* § 64.1120(a)(1)(i)(A).

the sales call, the consumer's authorization to change carriers will be deemed invalid even if the carrier has some evidence of consumer authorization of a carrier switch, e.g., a third-party verification (TPV) recording. Sales misrepresentations may not be cured by a facially valid TPV.⁷ The rule provides that a consumer's credible allegation of misrepresentation shifts the burden of proof to the carrier to provide evidence to rebut the consumer's claim regarding misrepresentation. The Commission made clear that an accurate and complete recording of the sales call may be the carrier's best persuasive evidence to rebut the consumer's claim that a misrepresentation was made on the sales call.⁸

4. We received Complainant's complaint alleging that Complainant's telecommunications service provider had been changed without Complainant's authorization.⁹ In the complaint, Complainant also alleges that Lingo's telemarketer lied to him to get him to agree to Lingo's service, saying Lingo was part of AT&T. Complainant stated that "based on that statement, I switched."¹⁰

5. Pursuant to our rules, we notified Lingo of the complaint.¹¹ Lingo responded, stating that its records show that Complainant signed a three-year contract, indicating that he understood that Lingo would be his new service provider.¹² Lingo also provided a TPV recording, which Lingo says shows that Complainant confirmed he was authorized to make changes to his service and agreed to move forward with the switch to Lingo.¹³ Lingo did not, however, address Complainant's misrepresentation allegation and did not provide a recording of the sales call or any other evidence related to the sales call.

6. The Division thoroughly reviewed all the evidence in the record provided by both the Complainant and Lingo. Based on the evidence in the record, we find Complainant's allegation of a sales call misrepresentation to be credible. We further find that Lingo has failed to provide persuasive evidence to rebut Complainant's misrepresentation claim and therefore that Complainant's authorization to change carriers is invalid. As the Commission stated in the *2018 Slamming Order*, "[w]hen a consumer's decision to switch carriers is predicated on false information provided in a sales call, that consumer's authorization to switch carriers can no longer be considered binding."¹⁴ We therefore find that Lingo's actions resulted in an unauthorized change in Complainant's telecommunications service provider, as defined by the rules, and we discuss Lingo's liability below.¹⁵

⁷ See *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges*, 33 FCC Rcd 5773, 5778-80, paras. 17-19 (2018) (*2018 Slamming Order*); 47 CFR § 64.1120(a)(1)(i)(A).

⁸ See *2018 Slamming Order*, 33 FCC Rcd at 5781, para. 23. The Commission also stated that a carrier is uniquely positioned via its access to sales scripts, recordings, training, and other relevant materials relating to sales calls to proffer evidence to rebut a consumer's claims. *Id.*

⁹ See Informal Complaint No. 6106714.

¹⁰ *Id.*

¹¹ 47 CFR § 1.719 (Commission procedure for informal complaints filed pursuant to section 258 of the Act); *id.* § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹² See Lingo Response to Informal Complaint No. 6106714 (filed Mar. 31, 2023) (*Lingo Response*).

¹³ *Lingo Response* at 1. On the TPV recording, the Lingo representative tells Complainant that his "underlying service is still AT&T; however, your billing and customer service will be with Lingo."

¹⁴ *2018 Slamming Order*, 33 FCC Rcd at 5779, para. 18 (citing *Advantage Forfeiture Order*, 32 FCC Rcd 3723, 3725-30, paras. 7-13 (2017) (finding that the carrier's TPV recordings did not disprove that unlawful misrepresentations were made during the telemarketing calls and further, that questions posed during the separate TPV calls did not cure those misrepresentations)).

¹⁵ If Complainant is unsatisfied with the resolution of the complaint, the Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 CFR § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See *id.* § 1.719.

7. Lingo must remove all charges incurred for service provided to Complainant for the first 30 days after the alleged unauthorized change in accordance with the Commission's liability rules.¹⁶ We have determined that Complainant is entitled to absolution for the charges incurred during the first 30 days after the unauthorized change occurred and that neither the Complainant's authorized carrier nor Lingo may pursue any collection against Complainant for those charges.¹⁷ Any charges imposed by Lingo on the Complainant for service provided after this 30-day period shall be paid by the Complainant to the authorized carrier at the rates the Complainant was paying the authorized carrier at the time of the unauthorized change of their telecommunications service provider.¹⁸

8. Accordingly, IT IS ORDERED that, pursuant to section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and sections 0.141, 0.361, and 1.719 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.719, the complaint filed against Lingo Telecom, LLC IS GRANTED.

9. IT IS FURTHER ORDERED that, pursuant to section 64.1170(d) of the Commission's rules, 47 CFR § 64.1170(d), Complainant is entitled to absolution for the charges incurred during the first 30 days after the unauthorized change occurred and that Lingo Telecom, LLC may not pursue any collection against Complainant for those charges.

10. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kristi Thornton
Acting Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

¹⁶ See *id.* § 64.1160(b). In its response, Lingo stated that a "courtesy adjustment" was issued to Complainant's account bringing the balance to zero. *Lingo Response* at 2.

¹⁷ See *id.* § 64.1160(d).

¹⁸ See *id.* § 64.1140, 64.1160.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
One Ministries, Inc.	)	MB Docket No. 23-4
	)	CSR 9006-A
For Modification of the Television Market of	)	
Station KQSL, Fort Bragg, California	)	

MEMORANDUM OPINION AND ORDER

Adopted: April 28, 2023

Released: April 28, 2023

By the Senior Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. One Ministries, Inc., (One Ministries or Petitioner), licensee of commercial television station KQSL(DT), Fort Bragg, California (Facility ID No. 8378) (KQSL or Station), filed the above-captioned Petition¹ requesting modification of the Station's television market to include the communities in Santa Rosa, California served by Comcast² systems on which KQSL is not currently being carried on a mandatory basis (Communities or Santa Rosa Communities). The Petitioner states that Santa Rosa is located within the San Francisco-Oakland-San Jose Designated Market Area (DMA) and, therefore, is presumptively part of KQSL's market.³ The Petition is opposed by Comcast.⁴ One Ministries filed a Reply.⁵ For the reasons stated below, the Petition is denied.

II. BACKGROUND

A. Market Modification Procedures

2. Pursuant to section 614 of the Communications Act of 1934, as amended (the Act), and implementing rules adopted by the Commission in its *Must Carry Order*, commercial broadcast television

¹ One Ministries, Inc. Petition for Special Relief for Modification of the Television Market for Station KQSL, MB Docket No. 23-4 (filed Dec. 19, 2022), <https://www.fcc.gov/ecfs/document/1219001906354/1> (KQSL Petition or Petition). The Media Bureau issued a public notice seeking comment on the Petition. *Special Relief and Show Cause Petitions*, Public Notice, Report No. 0505 (MB Jan. 5, 2023).

² The Petitioner states that according to the Commission's Cable Operations and Licensing Systems (COALS) database, Comcast does business in the communities at issue herein under the name "Comcast of California/Connecticut/Michigan." For ease of reference, the Petitioner refers to the relevant cable system as "Comcast" throughout its pleading. Petition at n.2. We do the same herein.

³ Petition at 1. Specifically, the Petitioner is seeking to add Santa Rosa (CA0658) and Santa Rosa (CA0255). *Id.* at n.3.

⁴ Opposition to One Ministries, Inc. Petition for Special Relief for Modification of the Television Market for Station KQSL, MB Docket No. 23-4 (filed Feb. 3, 2023) (Comcast Opposition). Comcast requested an extension of time to file its Opposition to which One Ministries consented. The Media Bureau granted Comcast's extension as requested. *See* Email from Steven Broecker, Senior Deputy Chief, Policy Division, Media Bureau, FCC, to Robert Scott, MB Docket No. 23-4 (Jan. 5, 2023).

⁵ Reply to Opposition to Petition for Special Relief for Modification of the Television Market for Station KQSL, MB Docket No. 23-4 (filed Feb. 24, 2023) (Reply). One Ministries sought an unopposed extension of time to file its pleading, which was granted by the Media Bureau. *See* Email from Steven Broecker, Senior Deputy Chief, Policy Division, Media Bureau, FCC, to Ari Meltzer, Outside Counsel for One Ministries (Feb. 7, 2023).

stations are entitled to assert mandatory carriage rights on cable systems located within the station's market.⁶ A station's default market for this purpose is its DMA as defined by Nielsen Media Research.⁷ A DMA is a geographic market designation that defines each television market exclusive of others, based on measured viewing patterns. Essentially, each county in the continental United States is allocated to a market based on which stations receive a preponderance of total viewing hours in the county.⁸

3. Under the Act, however, the Commission also is directed to consider changes in a station's local market. Section 614(h)(1)(C) provides that the Commission may:

with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section.⁹

In considering such requests, the Act provides that:

the Commission shall afford particular attention to the value of localism by taking into account such factors as –

- (I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;
- (II) whether the television station provides coverage or other local service to such community;
- (III) whether modifying the market of the television station would promote consumers' access to television broadcast station signals that originate in their State of residence;¹⁰
- (IV) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and
- (V) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.¹¹

⁶ *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, MM Docket Nos. 90-4, 92-259, 92-295, Report and Order, 8 FCC Rcd 2965, 2976-77, paras. 42-47 (1993) (*Must Carry Order*).

⁷ Section 614(h)(1)(C) of the Act, as amended by the Telecommunications Act of 1996, provides that a station's market shall be determined by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns. 47 U.S.C. § 534(h)(1)(C). Section 76.55(e) requires that a commercial broadcast television station's market be defined by Nielsen Media Research's DMAs. 47 CFR § 76.55(e). *See also Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, CS Docket No. 95-178, Order on Reconsideration and Second Report and Order, 14 FCC Rcd 8366 (1999).

⁸ *See Measurement and Reporting Geographies* (Nielsen Local Reference Supplement 2007-2008), <https://ecfsapi.fcc.gov/file/6519864809.pdf>.

⁹ 47 U.S.C. § 534(h)(1)(C).

¹⁰ The STELA Reauthorization Act of 2014, Pub. L. No. 113-200, 128 Stat. 2059 (2014), enacted December 4, 2014, added a new statutory factor, denominated as factor III above. *See also Amendment to the Commission's Rules Concerning Mkt. Modification, Implementation of Section 102 of the STELA Reauthorization Act of 2014*, MB Docket No. 15-71, Report and Order, 30 FCC Rcd 10406 (2015) (*STELAR Market Mod. Order*).

¹¹ 47 U.S.C. § 534(h)(1)(C)(ii)(I)-(V). The legislative history of the provision states that:

(continued....)

4. In order to establish a station's relationship to the community at issue as required by the Act, section 76.59(b) of the Commission's rules requires requests for market modification to be supported by the following evidence:

- (1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market;
- (2) Noise-limited service contour maps (for full-power digital stations) or protected contour maps (for Class A and low power television stations) delineating the station's technical service area and showing the location of the cable system headends or satellite carrier local receive facilities and communities in relation to the service areas;¹²
- (3) Available data on shopping and labor patterns in the local market;
- (4) Television station programming information derived from station logs or the local edition of the television guide;
- (5) Cable system channel line-up cards or other exhibits establishing historic carriage, such as television guide listings;
- (6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both cable and noncable households or other specific audience indicia, such as station advertising and sales data or viewer contribution records; and
- (7) If applicable, a statement that the station is licensed to a community within the same state as the relevant community.¹³

where the presumption in favor of [DMA] carriage would result in cable subscribers losing access to local stations because they are outside the [DMA] in which a local cable system operates, the FCC may make an adjustment to include or exclude particular communities from a television station's market consistent with Congress' objective to ensure that television stations be carried in the area in which they serve and which form their economic market.

* * * *

[This subsection] establishes certain criteria which the Commission shall consider in acting on requests to modify the geographic area in which stations have signal carriage rights. These factors are not intended to be exclusive, but may be used to demonstrate that a community is part of a particular station's market.

H.R. Rep. 102-628, 102d Cong., 2d Sess. 97 (1992). In adopting rules to implement section 614(h)(1)(C), the Commission indicated that requested changes should be considered on a community-by-community basis rather than on a county-by-county basis, and that they should be treated as specific to particular stations rather than applicable in common to all stations in the market. *Must Carry Order*, 8 FCC Rcd at 2977, n.139.

¹² See also 47 CFR § 76.59, Note to Paragraph (b)(2) ("Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit").

¹³ 47 CFR § 76.59(b). Petitions for special relief to modify television markets that do not include all of the above evidence, or reflect at least an effort to obtain the evidence, must be dismissed without prejudice at the outset of the proceeding, but may be re-filed at a later date with the appropriate filing fee. *La Plata County, Colorado Petitions for Modification of the Satellite Television Markets of KDVR-TV, KCNC-TV, KMGH-TV, and KUSA-TV, Denver, Colorado*, MB Docket Nos. 16-366, 16-367, 16-368, 16-369, Memorandum Opinion and Order, 34 FCC Rcd 5030, 5038, para. 16 (2019). See also *STELAR Market Mod Order*, 30 FCC Rcd at 10424, para. 22. Parties may submit

(continued....)

B. KQSL

5. KQSL is licensed to Fort Bragg, California, a community located in Mendocino County, California.¹⁴ Its primary broadcast location is a site on top of Cahto Peak, near Laytonville, California using a directional antenna at 26 kW ERP that transmits the Station's signal north toward Eureka, east toward Red Bluff, and south over a portion of Sonoma County.¹⁵ In 2011, Comcast successfully petitioned to modify KQSL's market to exclude the Communities, as well as others outside the scope of the instant proceeding.¹⁶ In granting Comcast's petition, the Media Bureau (Bureau) found that KQSL had "no history of carriage and no discernible viewership in the communities at issue."¹⁷ It also found that the Station's noise-limited service contour did not cover the communities, that it was geographically distant from the communities at an average distance of 140 miles, and that it was separated from those communities by mountainous terrain.¹⁸ Finally, although KQSL stated that it "intended" to "provide Asian language programming targeted to Bay Area residents," the Bureau did not consider this expressed intention a sufficient basis for treating KQSL as a specialty station.¹⁹

C. The Petition

6. One Ministries asserts that the factors that previously caused the deletion of the Communities from KQSL's market no longer apply.²⁰ KQSL has constructed a distributed transmission system (DTS) that supplements KQSL's original transmitter atop Cahto Peak with a separate transmitter in Cloverdale.²¹ The Petitioner explains that the DTS construction supported the Bureau's grant of an earlier KQSL Petition to add Cloverdale to KQSL's television market in 2021.²² According to the Petitioner, KQSL further modified its DTS by moving its second DTS site to Geyserville, which resulted in improved coverage in portions of KQSL's contour that were terrain shielded from the main KQSL transmitter.²³ As a result, the Petitioner asserts that KQSL has extended its signal further south, allowing broader coverage across Sonoma County.²⁴ In addition, the Petitioner states that the DTS transmitter site is located 23 miles from Santa Rosa, thus supporting its inclusion in KQSL's market.²⁵ One Ministries describes KQSL as an independent, Christian television station that has served the San Francisco-

whatever additional evidence they deem appropriate and relevant. *Petition of Tobacco Valley Communications to Exclude Eureka and Communities in North Lincoln County from the Local Market of Several Spokane, Washington Broadcasters and Include it [sic] in the Local Market of Several Missoula, Montana Broadcasters*, MB Docket No. 15-152, Memorandum Opinion and Order, 31 FCC Rcd 8972, 8976, n.22 (MB 2016).

¹⁴ Petition at 2. KQSL's main studio is located at 2240 Professional Drive in Santa Rosa. *Id.* at 2-3.

¹⁵ FCC File No. BLCDDT-20090610AAS.

¹⁶ *In re Comcast Cable Communications, LLC for Modification of the San Francisco-Oakland-San Jose, California DMA*, Memorandum Opinion and Order, 26 FCC Rcd 14453 (2011) (*KQSL 2011 Order*).

¹⁷ *Id.* at 14463, para. 15.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Petition at 3.

²¹ LMS File No. 0000058621.

²² *In re One Ministries, Inc. for Modification of the Television Market of Station KQSL, Fort Bragg, California*, Memorandum Opinion and Order, 36 FCC Rcd 12391, 12396, para. 9 (2021) (*KQSL 2021 Order*).

²³ LMS File No. 0000187371.

²⁴ Petition at Exhibit A (Longley-Rice Analysis and Map); Exhibit E (Translator Contours).

²⁵ *Id.* at Exhibit B (Distances to Communities). According to the Petitioner, this Exhibit demonstrates that the distance from the DTS transmitter site to Santa Rosa is 31.3 miles by car and 22.9 miles "as the crow flies." *Id.* at n.13.

Oakland-San Jose DMA for decades.²⁶ The Petitioner asserts that, in addition to improved signal coverage, KQSL has invested in delivering programming about Santa Rosa and is originating from the Station's main studio located in Santa Rosa to better serve viewers in the Communities who are not well served by other stations in the DMA.²⁷ It further contends that this is reflected in KQSL's viewership in Sonoma County, which demonstrates the strong connection between KQSL and the Communities.²⁸ One Ministries argues that the Communities are now properly within the Station's market and therefore the market should be modified accordingly.²⁹

7. The Petitioner notes that the Bureau has previously considered the effect of deploying a DTS on a station's market. Like KQSL, California stations KVMD and KILM had been the subject of market modifications that resulted in the deletion of a number of communities from their markets.³⁰ Both later built DTS and successfully petitioned to return the deleted communities to their markets.³¹

8. As noted above, Comcast opposes the Petition to add the Communities back into KQSL's market.³² Comcast argues that KQSL's new DTS does not warrant or justify a change in its market to cover the Santa Rosa Communities.³³ Comcast contends that the decisions cited by the Petitioner undermine, rather than support, its Petition, because in each case the analysis centered on new DTS operations that allowed the stations to deliver a good signal to all – or almost all – of the communities at issue.³⁴ Here, Comcast notes, KQSL's second DTS transmitter fails to cover any part of Santa Rosa.³⁵ According to Comcast, although the Petitioner claims that modified DTS signal “now extends further south,” it admits that the signal is now only “closer to Santa Rosa.”³⁶ Comcast asserts that because KQSL's over-the-air coverage fails to reach any part of the Santa Rosa Communities, its modified signal is a negative and decisive factor that warrants denial of the Petition under relevant Commission

²⁶ Petition at 2. Petitioner states that KQSL, then licensed to another broadcaster, signed on the air as KFWU in 1990. *Id.* at n.5.

²⁷ *Id.* at 2, 4.

²⁸ *Id.* at Exhibit C (KQSL Nielsen Ratings).

²⁹ *Id.* at 4.

³⁰ *Time Warner Cable Petition for Special Relief*, Memorandum Opinion and Order, 18 FCC Rcd 21384 (2003) (*KVMD 2003 Order*); *Time Warner Cable Petition for Modification of the Television Market of Television Station KHIZ(TV), Barstow, California*, Memorandum Opinion and Order, 18 FCC Rcd 20536 (MB 2003) (*KILM 2003 Order*). The Petitioner notes that at the time of the initial market modification order, the station's call sign was KHIZ. For clarity, the Petitioner refers to the station in this petition as KILM, and we do the same. Petition at n.23.

³¹ *KVMD Licensee Company, LLC for Modification of the Television Market of Station KVMD(TV), Twentynine Palms, CA*, Memorandum Opinion and Order, 36 FCC Rcd 2349 (MB 2020) (*KVMD 2020 Order*); *KAZN-TV Licensee, LLC for Modification of the Television Market for KILM, Barstow, California*, Memorandum Opinion and Order, 30 FCC Rcd 8126, 8131, para. 9, n.32 (MB 2015) (*KILM 2015 Order*).

³² Comcast Opposition at 1.

³³ *Id.* Comcast notes that in authorizing full power television stations to use DTS facilities, the Commission expressed concern that DTS must not be used to undermine localism and that a DTS service area should not shift a station's primary focus from its community of license. *Id.* at 1-2, citing *Digital Television Distributed Transmission System Technologies*, Report and Order, 23 FCC Rcd 16731 (2008) (*DTS Order*).

³⁴ Comcast Opposition at 3, citing *KILM 2015 Order*, 30 FCC Rcd at 8135-36, para. 21 (“KILM has submitted the supporting data to demonstrate that all of the Communities at issue here are within the KILM NLSC, are predicted to receive signals stronger than 41 dBu, and therefore now have over-the-air coverage.”); *KVMD 2020 Order*, 36 FCC Rcd at para. 9 (“According to the Petitioner, KVMD now places a noise limited service contour over almost all of the Communities and the Station is geographically proximate to those Communities.”).

³⁵ Comcast Opposition at 3-4.

³⁶ *Id.* at 4, citing Petition at 4 n.12.

precedent.³⁷

III. DISCUSSION

9. After evaluation of the five market modification factors enumerated below, we do not find sufficient support for modification of the Station's market to include the addition of the Santa Rosa Communities. Accordingly, the Petition is denied.

A. Statutory Factors

1. Historical Carriage

10. The first statutory factor we must consider is "whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community."³⁸ When analyzing a station's historic carriage, consideration is given not only to carriage by the operator that is the subject of the request, but also to whether the station is carried by competitors in the relevant communities.³⁹

11. The Petitioner asserts that KQSL is currently and has previously been carried within the Santa Rosa Communities by a number of MVPDs.⁴⁰ Today, the Station is carried in the Communities on systems operated by AT&T U-verse, DirecTV, and DISH Network, and is also carried on a locally-focused streaming network called BayAreaBTV. Petitioner acknowledges that KQSL has been carried for a period of twelve years or less on each system.⁴¹ Additionally, the Petitioner states that although Comcast does not carry KQSL in Santa Rosa, it does carry the Station on its Healdsburg system in Windsor, California, which is adjacent to Santa Rosa, and in the nearby communities of Cloverdale, Geyserville, and Healdsburg, all of which are in the same county (Sonoma) as Santa Rosa.⁴²

12. In opposition, Comcast argues that KQSL lacked any historic carriage in the Santa Rosa Communities until just over a decade ago, notwithstanding more than 30 years of operation.⁴³ It argues that carriage in the Communities by DISH and DIRECTV fails to support the Petition, citing the *KQSL 2021 Order*'s observation that "'DMA-wide DBS carriage is of limited relevance to the question of historic carriage in communities.'"⁴⁴ Comcast also contends that the Commission should give minimal weight to KQSL's carriage in Sonoma by AT&T's U-Verse, arguing that carriage by competitors pursuant to a retransmission consent agreement does not constitute meaningful evidence of historic carriage sufficient to compel mandatory carriage by a competing MVPD.⁴⁵ Moreover, Comcast disputes

³⁷ *Id.*

³⁸ 47 U.S.C. § 534(h)(1)(C)(ii)(I).

³⁹ *Petition for Modification of Philadelphia, PA Designated Market Area with Regard to Station WACP, Atlantic City, NJ*, Memorandum Opinion and Order, 29 FCC Rcd 1835, 1845, para. 19, n.77 (MB 2014).

⁴⁰ Petition at 10.

⁴¹ *Id.* and Exhibit D (Cable Provider Channel Lineups) and Exhibit O (Length of Carriage of KQSL by MVPDs). The Petitioner notes that KQSL has been carried on U-Verse since October 23, 2012; by DirecTV since April 1, 2015; and by DISH Network since October 26, 2011. *Id.* at 10.

⁴² Petition at Exhibit R (Comcast Channel Lineups for Nearby Communities).

⁴³ Comcast Opposition at 4-5. *See also KQSL 2011 Order* at 14463, para. 15 ("The record unambiguously demonstrates that KQSL has no history of carriage and no discernable viewership in the communities at issue . . . [even though] KQSL has been on-the-air for over 20 years.").

⁴⁴ Comcast Opposition at 5, citing *KQSL 2021 Order* at para. 15.

⁴⁵ Comcast Opposition at 6. Although acknowledging that Commission precedent does not distinguish between voluntary and mandatory carriage by competitors for purposes of this factor, Comcast argues that a voluntary agreement to carry a station without must-carry rights is inconclusive as to a local nexus. *KQSL 2021 Order* at n.47. *Id.* at n.24.

that KQSL should be given historic carriage credit in Santa Rosa merely because Comcast recently began carrying the Station on its adjacent Healdsburg system pursuant to the *KQSL 2021 Order*.⁴⁶ Finally, Comcast disputes the relevance of the Station's carriage on the BayAreaBTV streaming service in the Communities, arguing that a broadcast station's availability on the Internet has no bearing on a market analysis pursuant to section 614 of the Communications Act.⁴⁷

13. In reply, One Ministries notes that in the *KVMD 2020 Order* the Bureau found that the first factor weighed in favor of the petitioner where it was determined that the station had carriage by other MVPDs within and immediately adjacent to the communities.⁴⁸ One Ministries argues that its Petition is even stronger because of the length of carriage of KQSL in Santa Rosa by the other named MVPDs.⁴⁹ Moreover, as in KVMD, the Petitioner asserts that "[Comcast] itself carries [KQSL] on one or more adjacent systems."⁵⁰ Comcast does not dispute that KQSL is already carried on its Healdsburg system, which serves part of Sonoma County.⁵¹ The Petitioner argues that this demonstrates a nexus exists between KQSL and communities in Sonoma County, such as Santa Rosa.⁵² Moreover, the Petitioner argues that while Comcast suggests that such carriage should be discounted because it results from the *KQSL 2021 Order*, no authority is cited for this distinction.⁵³ The Petitioner contends that "[e]ven if this carriage in adjacent communities is not dispositive, it provides additional evidence of historical carriage."⁵⁴

14. The Petitioner further argues that the fact that Comcast has not previously carried KQSL in Santa Rosa itself is irrelevant given the Station's recent change in circumstances.⁵⁵ In particular, the Bureau considered in the *KQSL 2011 Order* that, under a prior licensee, KQSL was broadcasting Retro Television Network, which was available on another San Francisco Station and the Station's sole transmitter was located northeast of Fort Bragg.⁵⁶ Since the acquisition of the Station by One Ministries, the Petitioner argues that it has completely changed KQSL's programming, which includes adding a significant amount of programming about and originating in Santa Rosa.⁵⁷ This is in addition to the construction and refinement of an additional transmitter near Cloverdale.⁵⁸ As such, the Petitioner asserts that "[t]hese changed circumstances directly contribute to the nexus between KQSL and Santa Rosa and

⁴⁶ *Id.*

⁴⁷ *Id.*, citing 47 U.S.C. § 534(h)(1)(C). Comcast notes that BayAreaBTV does not appear as an MVPD on the FCC's COALS system or hold a franchise. See California Pub. Utils. Comm'n, Video Franchising, Franchises issued by the PUC, available at <https://www.cpuc.ca.gov/regulatory-services/licensing/video-franchising#Franchises>. One Ministries responds that "[t]o the extent that BayAreaBTV's carriage of KQSL does not establish historical carriage because BayAreaBTV is an IP service, it nevertheless provides evidence of viewing patterns and KQSL's service to the Communities." Reply at n.16.

⁴⁸ Reply at 6, citing *KVMD 2020 Order* at para. 16.

⁴⁹ *Id.* The Petitioner notes that the Bureau was unable to establish length of carriage from the record in the KVMD proceeding. *KVMD 2020 Order* at para. 16, n.54 (stating that there "is not enough information in the record to determine how long KVMD has been carried by these MVPDs").

⁵⁰ *Id.* at para. 16.

⁵¹ Reply at 7.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.* at 7; *KQSL 2011 Order* at paras. 6-7.

⁵⁷ Reply at 7.

⁵⁸ *Id.*

render Comcast's prior carriage decisions inapposite."⁵⁹

15. Our rules and precedent make no distinction between mandatory and voluntary historic carriage, and we conclude that both types of carriage can evidence historic carriage. In this regard, we note that KQSL has been carried in Santa Rosa by one MVPD, U-Verse, for slightly over a decade. KQSL is also now being carried on Comcast's adjacent cable system in Healdsburg, but that carriage has been ongoing for fewer than two years.⁶⁰ Furthermore, Comcast correctly observes that DMA-wide DBS carriage is of limited relevance, and carriage by non-MVPDs, such as BayAreaBTV, is of no relevance, under this first factor. We therefore find that this first statutory factor weighs only slightly in favor of the requested modification.

2. Local Service

16. Second, we consider "whether the television station provides coverage or other local service to such community."⁶¹ This statutory factor can be satisfied by demonstrating the Station's signal coverage, its geographic proximity to the Communities, shopping and labor patterns between the Station's community of license and the Communities, as well as locally-focused programming broadcast by the Station.

17. *Signal Coverage.* Petitioner states that in 2021 KQSL began broadcasting using a DTS from a second transmitter site located in Sonoma County.⁶² In 2022, KQSL modified its Sonoma County DTS site to expand its signal coverage further south, closer to Santa Rosa.⁶³ The Petitioner acknowledges that KQSL's 41 dBu noise limited service contour does not reach Santa Rosa,⁶⁴ but notes that it supplements its over-the-air coverage with a number of translator stations, including KDAS-LD (Facility ID No. 129433) and KUKR-LD (Facility ID No. 182689), which are licensed to Santa Rosa, and KZHD-LD (Facility ID No. 126508), which is licensed to nearby Rohnert Park.⁶⁵ One Ministries states that KUKR-LD, KDAS-LD, and KZHD-LD place a digital contour over the Comcast headends serving Santa Rosa and surrounding areas.⁶⁶

18. In Opposition, Comcast argues that Commission precedent does not support relying on translator coverage to compensate for lack of over-the-air coverage by the primary signal.⁶⁷ Specifically, Comcast cites the *KQSL 2011 Order* stating that "translator 'coverage does not lessen the relevance of the parent's failure to place a Grade B contour over the subject cable communities as Grade B coverage is indicative of the station's natural market.'"⁶⁸

⁵⁹ *Id.*

⁶⁰ Comcast suggests that such carriage should be discounted because it results from the *KQSL 2021 Order*, but cites no authority supporting this premise. And indeed, One Ministries might reply by the same logic that its *lack of* carriage in Santa Rosa should be discounted because it results from the *KQSL 2011 Order*. In any case, we reject Comcast's argument.

⁶¹ 47 U.S.C. § 534(h)(1)(C)(ii)(II).

⁶² Petition at 12.

⁶³ *Id.* at Exhibit A (Longley-Rice Analysis and Maps); Exhibit E (Translator Contours).

⁶⁴ Reply at 8. The noise-limited service contour, or NLSC, of a modern digital station is the equivalent of an analog "Grade B" contour.

⁶⁵ Petition at Exhibit E (Translator Contours).

⁶⁶ *Id.* More specifically, the Petitioner states that Comcast's Rohnert Park headend is encompassed. Petition at n.55 and Exhibit E (Translator Contours) and Exhibit F (Comcast Headends).

⁶⁷ Comcast Opposition at 7.

⁶⁸ *Id.*, citing *KQSL 2011 Order* at para. 13, n.61, 15 (quoting *Time Warner New York City Cable Group*, 11 FCC Rcd 6528, 6539 (1996)). Comcast notes that the *KQSL 2011 Order* is fully consistent with longstanding

(continued....)

19. *Geographic Proximity.* Petitioner contends that the Commission will consider the distance between the DTS transmitter site and the relevant communities to demonstrate geographic proximity.⁶⁹ One Ministries notes that the DTS transmitter is located 23 miles from Santa Rosa,⁷⁰ and that the DTS transmitter site is connected to Santa Rosa via major transportation routes, including U.S. Highway 101.⁷¹

20. In response, Comcast argues that One Ministries erroneously emphasizes the distance between Santa Rosa and its secondary DTS in Geyserville, rather than the distance between Santa Rosa and its primary transmitter or KQSL's community of license, Fort Bragg.⁷² Comcast argues that the Commission's DTS rules are intended to improve service to a station's "local" community, not to the community in which it locates a DTS.⁷³ Comcast notes that the distance between Fort Bragg and Santa Rosa is at least 110 miles by car, and 90.4 miles as the crow flies.⁷⁴ Comcast asserts that the location of KQSL's new DTS does nothing to minimize the mountainous terrain and travel distance that creates a natural geographic barrier separating Fort Bragg and Santa Rosa.⁷⁵ For instance, the minimum driving distance on major transportation routes between Santa Rosa and Fort Bragg is two hours and twenty

Commission precedent, citing *Time Warner Cable for Modification of Television Station WGOT-TV*, Memorandum Opinion and Order, 14 FCC Rcd 12118, para. 4 (1999) ("The Commission has held that translator coverage does not lessen the relevance of the parent station's failure to place technical signal coverage over the subject's communities and that translators are secondary service stations explicitly not entitled to carriage in their own right, particularly where, as here they are not serving their traditional role of filling gaps in the station's coverage area but are extending the station's coverage beyond the reach of the parent stations' signal contour). Comcast further notes that the sole case relied upon by One Ministries for its claim that it can rely on translators to establish its coverage area rested on other statutory factors in that unopposed petition and did not consider the station's over-the-air coverage as a basis for the decision. See *Petition* at 13 n.54 (citing *Mapale LLC for Modification of the Miami, Florida DMA*, Memorandum Opinion and Order, 24 FCC Rcd 8366, para. 9 (2009); *Mapale LLC*, 24 FCC Rcd at 8375, para. 13 (summarizing the decisional factors).

⁶⁹ *Petition* at 13, citing *KVMD 2020 Order* at paras. 18, 25.

⁷⁰ *Id.* at Exhibit B (Distances to Communities) (showing that the distance from the Geyserville transmitter site to Santa Rosa is 31.3 miles driving and 22.9 as the crow flies). Petitioner argues that this compares favorably to the WRNN cases, which added communities up to 100 miles from the station's community of license. *WRNN License Company, LLC for Modification for the Television Market of Station WRNN-TV, New Rochelle, New York*, Memorandum Opinion and Order, 35 FCC Rcd 1838 (MB 2020) (*WRNN Altice Order*) (adding a community that was 101.7 miles from New Rochelle); *WRNN License Company, LLC for Modification of the Television Market of Station WRNN-TV, New Rochelle, New York*, Memorandum Opinion and Order, 35 FCC Rcd 9363 (MB 2020) (*WRNN Comcast Order*) (adding communities up to 77 miles from New Rochelle as the crow flies and 86 miles driving).

⁷¹ *Id.* at Exhibit Q (Major Transportation Route Between DTS Site and Communities). See also Exhibit G (Major Transportation Routes Between Communities and Fort Bragg) (showing that Fort Bragg is connected to Santa Rosa via major transportation routes including US Highway 1, State Highway 20, and US Highway 101).

⁷² Comcast Opposition at 9. Contra One Ministries, Comcast argues that the *KVMD 2015 Order* did not suggest that the distance from the DTS transmitter to the communities at issue held any decisional significance. *Id.* at 10.

⁷³ *Id.*, citing *DTS Order* at para. 20. Comcast states that the Petitioner does not provide the distance from its secondary transmitter site to Fort Bragg. Comcast states that it calculated the distance to be approximately 70 miles using the coordinates for those locations provided by the Petitioner in Exhibit B. See *Nissenblatt Declaration* at Exhibit A.

⁷⁴ *Id.*; *Petition* at Exhibit G (driving distances); *id.* at 13-14 (crow flies distances). Comcast argues that the WRNN cases are easily distinguished, as they involved communities that were generally encompassed by the station's NLSC despite their distance from the community of license. *Id.* at 10.

⁷⁵ Comcast Opposition at 9.

minutes and Comcast asserts that is not considered a realistic commuting option.⁷⁶

21. *Shopping and Labor Patterns.* Petitioner claims that KQSL's community of license, Fort Bragg, and Santa Rosa share strong economic connections because Santa Rosa is the closest mid-sized city to Fort Bragg, a tourist destination.⁷⁷ It also asserts that Fort Bragg and the Communities share many of the same demographic characteristics and service offerings⁷⁸ that result in frequent travel between the two communities.⁷⁹ Additionally, the Petitioner argues that labor patterns also connect Fort Bragg to the Santa Rosa Communities, but provides only circumstantial evidence in favor of this theory.⁸⁰

22. Comcast argues that Petitioner's assertions regarding Fort Bragg's status as a tourist destination and its demographic makeup are irrelevant,⁸¹ and that no Census data or other data is presented that supports the Petitioner's assertions of economic or labor connections.⁸² Comcast asserts that these arguments were reviewed by the Commission in the *KQSL 2021 Order*, which concluded that "One Ministries has failed to demonstrate meaningful economic connections between Fort Bragg and any of the Communities."⁸³ Comcast argues that no evidence is presented to show that residents of the Santa Rosa Communities regularly commute to Fort Bragg, shop there, or are connected to Fort Bragg in any meaningful way.⁸⁴ In reply, the Petitioner states that "[b]ecause the factors regarding shopping and labor patterns remain unchanged from the 2021 Petition [it] does not address them any further . . . except to note that unlike many of the communities in the 2021 Petition, Santa Rosa is on the same side of the Bay as Fort Bragg and there is daily bus service between the communities."⁸⁵

23. *Locally-Focused Programming.* Petitioner states that "a significant part of KQSL's broadcast schedule includes programming that originates in Santa Rosa and/or specifically targets viewers

⁷⁶ *Id.*, citing Petition at Exhibit G.

⁷⁷ Petition at 14, 15.

⁷⁸ *Id.* at Exhibit I (discussing that the closest major stores such as Best Buy, Burlington Coat Factory, REI, and DSW and some car repair services for Fort Bragg residents are located in Santa Rosa). In addition, the Petitioner states that the main newspaper for Fort Bragg, the Press Democrat, is headquartered in Santa Rosa. *Id.*

⁷⁹ *Id.* at 14-15.

⁸⁰ *Id.* at 15 (noting that, according to U.S. Census data, 2.95 percent of the workforce in Fort Bragg have what it terms "super commutes" in excess of 90 minutes, and asserts without supporting evidence that some of them probably work in or near Santa Rosa). The Petitioner explains that although Census data "does not provide granular detail as to where those 'super commuters' work it stands to reason that at least a portion of them work in or near Santa Rosa" The Petitioner also refers to Exhibit I as supporting a connection between Fort Bragg and Santa Rosa ("demonstrating how the economies of Mendocino and Sonoma counties are interconnected, especially through the creation of the Sonoma-Mendocino Economic Development District, which engages in regional and economic development planning for the two counties."). *Id.* at n.64.

⁸¹ Comcast Opposition at 12-13.

⁸² *Id.*

⁸³ *Id.*, citing *KQSL 2021 Order* at para. 26.

⁸⁴ *Id.* at 12. Comcast argues that the Petitioner offers only circumstantial evidence relevant to the Santa Rosa Communities regarding distances between shopping locations, including references to distances between Costco locations, shopping centers, and specialty car dealerships, yet provides no support for these assertions. See Petition at Exhibit I. Comcast asserts that neither the Petitioner's analysis of commuting patterns nor the inclusion of the Mendocino Coast County Commerce maps in Fort Bragg speaks to the commuting of residents in the community. Comcast argues that while the Petitioner assumes that a portion of these commuters are traveling from Fort Bragg to Santa Rosa, it is unrealistic to assume that a significant portion of the work force is traveling near five hours on a regular basis to commute between the two communities. *Id.* at 13-14.

⁸⁵ Reply at 13.

in Santa Rosa with information about Santa Rosa.”⁸⁶ In that regard, the Petitioner states that the Station broadcasts six hours of programming per week, including the Santa Rosa News aired Monday through Friday at an early morning hour and a show airing twice weekly called Everything Santa Rosa.⁸⁷ The Petitioner further states that KQSL serves religious communities in Santa Rosa through its weekly broadcast of the service at Promise Center Church in Santa Rosa on Sunday mornings.⁸⁸ In addition, the Petitioner notes local program Everyday Revival also reaches religious communities in Santa Rosa and is recorded and produced at the One Ministries studios in Santa Rosa.⁸⁹ To further support Santa Rosa and surrounding communities, the Petitioner states that KQSL airs programs produced by other local churches and ministries located within the region.⁹⁰ Lastly, the Petitioner states that KQSL airs Total Living Network (TLN) which is produced in the region and airs general interest programming, as well as Mornings on the Dove, which provides weather forecasts and some local and regional news and public interest stories.⁹¹ It also argues that a number of third party comments filed in this proceeding support the connection between KQSL’s programming and Santa Rosa.⁹²

24. Comcast argues that a station does not demonstrate that it is “local” for purposes of must carry rights “solely by airing some occasional programming associated with some of the communities in question.”⁹³ Comcast points out that in the *KQSL 2021 Order*, the Bureau found One Ministries’ evidence of local programming unpersuasive.⁹⁴ It asserts that of the six hours of local programming detailed by the Petitioner, much appears to be general interest programming of religious or multicultural content, and much of the remainder provides little information of local interest.⁹⁵ Comcast asserts that programming tailored to religious interests or specific ethnic groups, without more, is general interest programming deserving of no special credit as local programming with a market nexus.⁹⁶

25. We find that the second statutory factor weighs firmly against KQSL’s Petition. As acknowledged by the Petitioner, the Santa Rosa Communities are not covered by the Station’s NLSC, and relying on translator coverage does not compensate for a lack of over-the-air coverage by the primary

⁸⁶ Petition at 16.

⁸⁷ *Id.* The Petitioner recites a few examples of stories covered on the Santa Rosa News and Everything Santa Rosa in the categories of crime, political issues, election and local business issues, as well as what it terms as issues of community interest. Petition at Exhibit M (News Headlines Regarding Santa Rosa that Recently Aired). In addition, the Petitioner states that KQSL also aired locally produced public service announcements to direct viewers to the Sonoma County wildfire preparedness page and to promote non-profit organizations in Santa Rosa. Petition at Exhibit P (KQSL Santa Rosa Public Service Announcements).

⁸⁸ *Id.* at 17; Exhibit K (KQSL Program Schedule) and Exhibit L (Programs of Interest to Santa Rosa).

⁸⁹ *Id.* at Exhibit K (KQSL Program Schedule).

⁹⁰ *Id.* at 18. The Petitioner notes that these programs include “Nada Es Imposible Para Dios” produced in Redwood City. The Petitioner also names other programming produced by local churches and ministries located in communities geographically proximate to the Santa Rosa Communities. *See* Petition at n.77.

⁹¹ *Id.*

⁹² *Id.* Several dozen supportive Comments were filed in this proceeding. *See* MB Docket No. 23-4 in the Commission’s Electronic Comment Filing System (ECFS). One Ministries draws particular attention to a number, including those from the Santa Rosa Nazarene Church, the Pursuit Church, CBC Events, the Will Call, and River of Life Christian Church.

⁹³ Comcast Opposition at 15, citing *Market Modifications of the New York Area of Dominant Influence*, 12 FCC Rcd 12262, 12270 at para. 16.

⁹⁴ Comcast Opposition at 15, citing the *KQSL 2021 Order* at para. 26.

⁹⁵ Comcast Opposition at 15-19.

⁹⁶ *Id.* at 16. *Cf. Coxcom, LLC, Modification of the Market for WMDE, Dover, Delaware*, Memorandum Opinion and Order, 30 FCC Rcd 10978, 10999 at para. 16 (1999).

signal. With regard to geographic proximity, we agree with Comcast that the Petitioner incorrectly emphasizes the distances between the Santa Rosa Communities and its secondary DTS in Geyserville, rather than the greater distance between Santa Rosa and its primary transmitter or KQSL's Community of License, Fort Bragg. Additionally, One Ministries has failed to demonstrate meaningful economic connections between Fort Bragg and the Santa Rosa Communities. Finally, although Petitioner demonstrates that KQSL airs more locally-produced and locally-focused programming than it did in 2021, we find this amount of programming, standing alone, insufficient to demonstrate that the Station provides "coverage or other local service" to the Santa Rosa Communities. Taking all of these considerations into account, and in particular KQSL's failure to place a good quality signal over the Communities even after the expansion of its distributed transmission system, we conclude that the second statutory factor weighs firmly against modification in this case.

3. Promoting Consumer Access to Local Stations

26. The third statutory factor we consider is "whether modifying the market of the television station would promote consumers' access to television broadcast station signals that originate in their State of residence."⁹⁷ This factor is intended to ensure that MVPD subscribers are "receiving news, politics, sports, emergency information, and other television programing relevant to their home state" and "relevant to their everyday lives."⁹⁸ A petitioner is considered to satisfy this factor if the involved station is licensed to a community within the same state as the new community.⁹⁹ This factor may be given increased weight if the station provides programming specifically related to the subscribers' state of residence, and may be given even more weight if subscribers in the existing market have little or no access to such in-state programming.¹⁰⁰

27. In support of this factor, the Petitioner states that KQSL is licensed to Fort Bragg, California and broadcasts from its original transmitter supplemented by a second DTS all located in California, which is the state in which the Communities are located.¹⁰¹ Comcast argues that KQSL does not merit special credit for its in-state location because this factor was intended to promote access to some in-state broadcasting to subscribers in "border" areas (i.e., "Orphan Counties").¹⁰² Comcast is incorrect. KQSL is a licensed California station that broadcasts from transmitters in California, which is where the Communities at issue are located. We therefore find that this factor weighs in favor of the modification, but do not find sufficient evidence in the record to give this factor increased weight.

4. Carriage of Other Eligible Stations

28. Fourth, we consider "whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community."¹⁰³ In general, this factor is interpreted as enhancing a station's market modification petition if other stations do not sufficiently serve the communities at issue; however,

⁹⁷ 47 U.S.C. § 534(h)(1)(C)(ii)(III).

⁹⁸ *STELAR Market Mod. Order*, 30 FCC Rcd at 10407, para. 1, 10420, para. 18 (citing Report from the Senate Committee on Commerce, Science, and Transportation accompanying S. 2799, 113th Cong., S. Rep. No. 113-322, at 11 (2014)).

⁹⁹ *STELAR Market Mod. Order*, 30 FCC Rcd at 10420, para. 18.

¹⁰⁰ *Id.*

¹⁰¹ Petition at 3-4, 18-19.

¹⁰² Comcast Opposition at 19, citing *STELAR Market Mod. Order*, 30 FCC Rcd 10406, 10408, para. 3, nn.5-6 (2015).

¹⁰³ 47 U.S.C. § 534(h)(1)(C)(ii)(IV).

other stations' service to the communities rarely has counted against a petition.¹⁰⁴

29. The Petitioner states that “[u]pon information and belief, KQSL is the only television broadcast station that provides dedicated daily news coverage of issues of concern to residents in Santa Rosa.”¹⁰⁵ The Petitioner asserts that “[t]he only full power or Class A station licensed to Santa Rosa, KDTV-CD, is a translator whose local coverage is limited to broadcasting Santa Rosa City Council meetings.”¹⁰⁶ The Petitioner does not dispute that Comcast systems serving the Santa Rosa Communities carry other television stations, but contends “that [while they] provide coverage of news, sports, and other issues of interest to San Francisco and the DMA as a whole, none are focused on Santa Rosa.”¹⁰⁷

30. In response, Comcast states that its system serving Santa Rosa carries as many as 21 broadcast stations licensed to communities in and around the San Francisco Bay area with as many as 45 different programming streams including multicast signals, many of which provide extensive coverage of local news and sporting events, as well as “Asian- and Spanish language/targeted programming.”¹⁰⁸ Comcast argues that “[e]ven if KQSL were to provide significant or unique programming specifically targeting Santa Rosa, which it does not, the coverage provided by these other stations would undermine any special benefits associated with KQSL.”¹⁰⁹

31. One Ministries replies that Comcast attempts to minimize its local interest programming as including “general interest” religious programs.¹¹⁰ However, as noted above, the Petitioner points to Santa Rosa News and Everything Santa Rosa as broadcasting news stories of specific interest to residents and adds that even KQSL’s religious programming has a local focus.¹¹¹ The Petitioner argues that “[i]n an attempt to blunt the effect of KQSL’s significant local programming,” Comcast points to the many stations that it carries in the DMA and the amount of overall news coverage these stations provide.”¹¹² The Petitioner states that a review of the “Issues and Programs Report” for the stations Comcast references in its Opposition confirms that “their coverage of Santa Rosa and issues of concern to Santa Rosa residents is sporadic at best.”¹¹³

32. Given the large number of stations that Comcast carries on its system that serve the Santa Rosa Communities that provide coverage of news, sports, and other programming, we cannot agree with Petitioner that absolutely none serve the interests of the residents at issue and KQSL is the only station uniquely qualified to serve the Communities. Accordingly, consistent with our precedent, we assign no

¹⁰⁴ *Petition for Modification of Dayton, OH Designated Mkt. Area with Regard to Television Station WHIO-TV, Dayton, OH*, Memorandum Opinion and Order, 28 FCC Rcd 16011, 16019, para. 22 (MB 2013). *See also Tennessee Broadcasting Partners*, 23 FCC Rcd at 3947, para. 49.

¹⁰⁵ Petition at 19.

¹⁰⁶ *Id.* at 19-20.

¹⁰⁷ *Id.* at 20.

¹⁰⁸ Comcast Opposition at 20 -21 and Exhibit E (Nissenblatt Declaration). For example, Comcast states that “the system carries multiple San Francisco stations that regularly cover news and events from the Community,” including: KPIX (CBS), KNTV (NBC), KGO (ABC), KTVU (FOX), and KRON (IND). Comcast also names several other channels on the system that carry “Asian-and Spanish-language/targeted programming” such as KDTV, licensed to Santa Rosa (Spanish language programming); KTSF (Asian language programming on primary and multicast); KICU (certain Asian language multicast/targeted programming); and KSTS and KSFS (Spanish language/targeted programming and local news). *Id.*

¹⁰⁹ *Id.* at 21.

¹¹⁰ Reply at 16.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.* at 17 and Declaration of Keith Leitch, President of One Ministries, Inc. The Petitioner states that one station, KEMO-TV, was previously licensed to Santa Rosa and rebroadcast municipal meetings. *Id.*

weight to this factor.

5. Viewing Patterns

33. The fifth statutory factor focuses on “evidence of viewing patterns” in cable and noncable households “within the areas served by” the cable system or systems in such community.¹¹⁴ The Bureau has explained that, with respect to a specialty station like KQSL, this factor is generally given less weight.¹¹⁵ The Petitioner states that KQSL does not have a full subscription to Nielsen or a Nielsen encoder.¹¹⁶ However, the Petitioner states that “KQSL obtained relevant information through a trial subscription that Nielsen confirmed can be used for the instant petition.”¹¹⁷

34. The Petitioner provides Nielsen data showing KQSL’s viewership in Sonoma County is higher than that in the rest of the San Francisco market.¹¹⁸ One Ministries argues that “KQSL’s strong ratings in Sonoma County reflect its ‘invest[ment] to improve its over-the-air signal coverage through its implementation of a . . . DTS transmission facility.’”¹¹⁹ As such, the Petitioner asserts that this demonstrates a “‘sincere desire’” to serve Santa Rosa.¹²⁰

35. In opposition, Comcast argues that One Ministries provides extremely limited evidence of meaningful viewing patterns and ultimately does nothing to demonstrate significant viewership specifically in the Santa Rosa Communities, as opposed to Sonoma County more broadly.¹²¹ They argue that even the viewership that is demonstrated (2.6% of households, 2.5% of viewers) is “miniscule,” fails to show significant viewership in the Communities, and should be weighed against One Ministries’ Petition.¹²² In addition, Comcast asserts that because KQSL is not carried on the Comcast system serving the Communities, the continued exclusion of Santa Rosa from KQSL’s television market would neither disrupt established viewing patterns nor deprive the Station of any existing audience.¹²³

36. The Petitioner replies that it has presented the best available viewing patterns in the Communities in the form of viewership data.¹²⁴ One Ministries argues that Comcast fails to account for its status as a specialty station and KQSL’s limited carriage on Comcast systems serving Sonoma County.¹²⁵ In that light, the Petitioner argues that its demonstrated reach in a market with as many stations in San Francisco, including the 21 carried by Comcast, “is impressive and demonstrates the

¹¹⁴ 47 U.S.C. § 534(h)(1)(C)(ii)(V).

¹¹⁵ *KILM 2015 Order*, 30 FCC Rcd at 8137, para. 24.

¹¹⁶ Petition at 20.

¹¹⁷ *Id.* The Petitioner has requested a waiver of the requirement of 47 CFR § 76.59(b)(6) to provide published audience data for the Station. We need not issue a waiver, however, because the Petitioner has provided “other audience indicia” as contemplated by the rule itself. The record also contains some comments indicating local viewership in the Communities. *See e.g.*, Marie Crane Comments (stating that Marie Crane lives in Santa Rosa and watches Everything Santa Rosa on KQSL).

¹¹⁸ Petition at Exhibit C (KQSL Nielson Ratings, showing data for households and for persons two years old and older for Sonoma County, CA and the San Francisco-Oakland-San Jose Designated Market Area).

¹¹⁹ *Id.* *See KILM 2015 Order* at 8137, para. 25.

¹²⁰ *Id.*

¹²¹ Comcast Opposition at 22.

¹²² *Id.* at 22-23.

¹²³ *Id.*

¹²⁴ Reply at 17.

¹²⁵ *Id.* at 18.

significant appeal of KQSL's programming in Sonoma County."¹²⁶

37. With regard to our evidentiary requirements, section 76.59(b)(6) of our rules requires published audience data for the relevant station or other specific audience indicia, such as station advertising and sales data or viewership contribution records.¹²⁷ In this case, while the Petitioner did not provide published audience data for KQSL, it did present limited data obtained through a Nielsen trial subscription. This evidentiary submission is not indicative of significant viewership. While this factor is given less weight with respect to a specialty station like KQSL, we nonetheless find that it weighs against modification of KQSL's market.

6. Conclusion

38. We conclude that the facts do not support the grant of the Petition to modify the market of KQSL, Fort Bragg, California, to include the Santa Rosa Communities served by Comcast. Taken together, the first and third statutory factors weigh only somewhat in favor of the modification. We give no weight to the fourth statutory factor, and the second and fifth statutory factors weigh against the request. Based upon our overall evaluation of the five statutory factors and for the reasons discussed herein, we deny the Petition with regard to the Santa Rosa Communities.

IV. ORDERING CLAUSES

39. Accordingly, **IT IS ORDERED**, pursuant to section 614(h) of the Communications Act of 1934, as amended, 47 U.S.C. § 534, and section 76.59 of the Commission's rules, 47 CFR § 76.59, that the captioned Petition for Special Relief (MB Docket No. 23-4, CSR 9006-A) filed by One Ministries, Inc., LLC **IS DENIED**.

40. This action is taken pursuant to authority delegated by section 0.283 of the Commission's rules.¹²⁸

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Senior Deputy Chief, Policy Division
Media Bureau

¹²⁶ *Id.*

¹²⁷ 47 CFR § 76.59(b)(6).

¹²⁸ 47 CFR § 0.283.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
WorldVu Satellites Limited	)	Call Sign S2963
	)	
Petition for Declaratory Ruling to Modify the U.S.	)	IBFS File Nos. SAT-MPL-20200526-00062
Market Access Grant for the OneWeb Ku-band and	)	and SAT-APL-20210112-00007
Ka-Band NGSO FSS System	)	

ORDER AND DECLARATORY RULING

Adopted: April 28, 2023

Released: April 28, 2023

By the Chief, Space Bureau:

I. INTRODUCTION

1. In this Order and Declaratory Ruling, we grant in part and defer in part the petition for declaratory ruling of WorldVu Satellites Limited (OneWeb) for modification of its grant of U.S. market access for a 720-satellite constellation authorized by the United Kingdom.¹ As modified, the constellation will operate with four fewer satellites, reduced from 720 to 716 satellites. We defer consideration of the remainder of OneWeb's Modification Petition, which requests an expansion of the OneWeb system to 6,372 satellites. This grant in part will enable OneWeb to provide service in the United States using its planned, revised orbital architecture without negatively affecting other operators.

II. BACKGROUND

2. In April 2016, OneWeb sought Commission approval for a non-geostationary satellite orbit (NGSO), fixed-satellite service (FSS) system designed "to provide high-speed, affordable broadband connectivity to anyone, anywhere" in the United States.² OneWeb proposed to operate a constellation of 720 satellites, configured in 18 near-polar orbital planes with 40 satellites per plane, at an approximate altitude of 1200 kilometers.³ OneWeb sought market access in the frequency bands 10.7-12.7 GHz (space-to-Earth), 14-14.5 GHz (Earth-to-space), 17.8-18.6 GHz (space-to-Earth), 18.8-19.3 GHz (space-to-Earth), 27.5-29.1 GHz (Earth-to-space), and 29.5-30 GHz (Earth-to-space).⁴

3. The initial OneWeb petition triggered a processing round.⁵ The processing round notice invited additional applications and petitions for declaratory ruling for NGSO-like satellite operation in the

¹ WorldVu Satellites Limited, Modification to OneWeb U.S. Market Access Grant for the OneWeb Ku- and Ka-Band System, IBFS File No. SAT-MPL-20200526-00062 (filed May 26, 2020), amended by WorldVu Satellites Limited, Amendment to Modification Application for U.S. Market Access Grant for the OneWeb Ku- and Ka-Band System, IBFS File No. SAT-APL-20210112-00007 (filed Jan. 12, 2021) (together, Modification Petition).

² *WorldVu Satellites Limited, Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System*, Order and Declaratory Ruling, 32 FCC Rcd 5366, 5366, paras. 1-2 (2017) (*OneWeb Grant*).

³ *Id.* at 5366-67, para. 2.

⁴ *Id.*

⁵ See 47 CFR § 25.157(c).

frequency bands requested by OneWeb.⁶ The notice announced that applications and petitions filed by the cut-off date of November 15, 2016, would be considered together with the initial OneWeb petition, but that requests filed after that date may not be entitled to shared use of the spectrum with respect to any grant of applications or petitions filed prior to the cut-off date.⁷ Eleven additional applications and petitions were filed in this first processing round.⁸

4. OneWeb's initial market access petition was granted in June 2017.⁹ The grant included a condition requiring OneWeb to share spectrum, on an equal basis, with any NGSO system licensed or granted U.S. market access through the first processing round in accordance with the Commission's rules.¹⁰

5. In March 2020, a second processing round was opened for the frequency bands included in the *OneWeb Grant*.¹¹ The second processing round closed May 26, 2020.¹² OneWeb initially submitted the Modification Petition within this second processing round window, and later amended it on January 12, 2021.¹³

6. The Modification Petition proposes a revised constellation structure for the OneWeb NGSO FSS system, to be deployed in what is described as two phases. Phase 1 would consist of a reduction in the total number of operating satellites, from 720 to 716, and a revised orbital configuration.¹⁴ Rather than operating 40 satellites per plane in 18 orbital planes at an 87.9° inclination, OneWeb would operate 49 satellites per plane in 12 orbital planes at an 87.9° inclination and 16 satellites per plane in 8 orbital planes at a 55° inclination.¹⁵ OneWeb asks that this reduction and reconfiguration of the already-approved OneWeb system be granted without affecting its spectrum sharing rights based on its participation in the first processing round.¹⁶

7. Phase 2 would represent a significant expansion of the OneWeb system. As originally filed, the Phase 2 deployment would increase the total constellation size to 47,844 satellites;¹⁷ however, the amendment reduced the maximum size to 6,372 satellites.¹⁸ OneWeb proposes that operation of these satellites be considered with other NGSO FSS systems filed in the second processing round.¹⁹ In addition

⁶ *OneWeb Petition Accepted for Filing, IBFS File No. SAT-LOI-20160428-00041; Cut-Off Established for Additional NGSO-Like Satellite Applications or Petitions for Operations in the 10.7-12.7 GHz, 14.0-14.5 GHz, 17.8-18.6 GHz, 18.8-19.3 GHz, 27.5-28.35 GHz, 28.35-29.1 GHz, and 29.5-30.0 GHz Bands*, Public Notice, 31 FCC Rcd 7666 (IB-SD 2016).

⁷ *Id.* at 7667.

⁸ *OneWeb Grant* at 5367, para. 3.

⁹ *OneWeb Grant*.

¹⁰ *See id.* at 5377, para. 23k; 47 CFR § 25.261(b)-(d).

¹¹ *Cut-Off Established for Additional NGSO FSS Applications or Petitions for Operations in the 10.7-12.7 GHz, 12.75-13.25 GHz, 13.8-14.5 GHz, 17.7-18.6 GHz, 18.8-20.2 GHz, and 27.5-30 GHz Bands*, Public Notice, DA 20-325 (IB-SD 2020).

¹² *Id.* at 2.

¹³ Modification Petition.

¹⁴ *Id.*, IBFS File No. SAT-APL-20210112-00007, Legal Narrative at 5.

¹⁵ *Id.*

¹⁶ *See id.*, IBFS File No. SAT-MPL-20200526-00062, Legal Narrative at 11-14.

¹⁷ *Id.*, IBFS File No. SAT-MPL-20200526-00062, Legal Narrative at 10.

¹⁸ *Id.*, IBFS File No. SAT-APL-20210112-00007, Legal Narrative at 5.

¹⁹ *See id.*, IBFS File No. SAT-MPL-20200526-00062, Legal Narrative at 14-15; IBFS File No. SAT-APL-20210112-00007, Legal Narrative at 5-7.

to the phased deployments described above, OneWeb states that iterations of satellites may be augmented by optical inter-satellite links.²⁰

8. The Modification Petition was placed on public notice on March 18, 2022.²¹ Comments were submitted by Viasat, Inc. (Viasat), SES Americom, Inc. and O3b Limited (together, SES), and Kuiper Systems LLC (Kuiper).²² The National Telecommunications and Information Administration also filed a letter on behalf of the National Aeronautics and Space Administration (NASA) and the National Science Foundation (NSF).²³ OneWeb responded to the comments and letter.²⁴ ViaSat and Kuiper replied to OneWeb's response.²⁵

9. In July 2022, OneWeb requested an expedited, partial grant of the Modification Petition to allow it to access the U.S. market using up to 49 satellites in two orbital planes to ensure that satellites which had been launched and were being raised into their final orbital configurations could begin testing and providing service in the United States as soon as they were ready.²⁶ On September 16, 2022, the Satellite Division granted OneWeb's request for expedited, partial grant and deferred action on the remaining requests related to its proposed Phase 1 and Phase 2 operations.²⁷

10. *National Security, Law Enforcement, Foreign Policy and Trade Policy Review.* On March 18, 2022, the Modification Petition was referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy.²⁸ On March 25, 2022, the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) notified the Commission that it was reviewing the Modification Petition for any national security and law enforcement concerns that may be raised by foreign participation in the United States telecommunications services sector and requested that the Commission defer action on the Modification Petition.²⁹ On March 31, 2023, the National

²⁰ *Id.*, IBFS File No. SAT-MPL-20200526-00062, Technical Narrative at 8; Letter from Brian Weimer, Counsel to WorldVu Satellites Limited, to Karl A. Kensinger, Chief, Satellite Division, International Bureau, FCC, at 3 (filed Mar. 7, 2022).

²¹ *Space Station Applications Accepted for Filing*, Public Notice, Report No. SAT-01618 (IB-SD 2022) (*Public Notice*).

²² Comments of Viasat, Inc. (filed Apr. 18, 2022); Comments of SES Americom, Inc. and O3b Limited (filed Apr. 18, 2022); Comments of Kuiper Systems LLC (filed Apr. 18, 2022). In addition, Space Exploration Holdings, LLC filed, and later withdrew, comments and a petition to deny in part. Comments and Petition to Deny in Part of Space Exploration Holdings, LLC (filed Apr. 18, 2022); Letter from David Goldman, Director, Satellite Policy, Space Exploration Technologies Corp. and Kimberly Baum, VP, Spectrum Engineering & Strategy, WorldVu Satellites Limited to Marlene H. Dortch, Secretary, FCC (filed July 21, 2022).

²³ Letter from Milton Brown, Chief Counsel (Acting), United States Department of Commerce, National Telecommunications and Information Administration, to Marlene H. Dortch, Secretary, FCC (filed Apr. 22, 2022) (NASA/NSF Letter).

²⁴ Consolidated Response to Comments of OneWeb (filed May 3, 2022); Letter from Blake Wiles, Market Access Manager, North America, OneWeb, to Marlene H. Dortch, Secretary, FCC (filed May 5, 2022).

²⁵ Reply of Viasat, Inc. (filed May 13, 2022); Reply Comments of Kuiper Systems LLC (filed May 13, 2023).

²⁶ Letter from Blake Wiles, Market Access Manager, North America, OneWeb, to Marlene H. Dortch, Secretary, FCC (filed July 28, 2022); *see also* Letter from Douglas Svor, Sheppard, Mullin, Richter & Hampton LLP, counsel to WorldVu Satellites Limited, to Marlene H. Dortch, Secretary, FCC (filed Sept. 14, 2022).

²⁷ *WorldVu Satellites Limited, Petition for Declaratory Ruling to Modify the U.S. Market Access Grant for the OneWeb Ku-band and Ka-Band NGSO FSS System*, Order and Declaratory Ruling, DA 22-970 (IB-SD).

²⁸ *Public Notice*.

²⁹ Letter from Megan Fluckiger, Attorney Advisor, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC (filed Mar. 25, 2022); *see also* Letters from
(continued....)

Telecommunications and Information Administration (NTIA), on behalf of the Committee, submitted a Petition to Adopt Conditions to Licenses (Committee Petition).³⁰ In this filing the Committee advised the Commission that it has no objection to grant of the Modification Petition, provided that the Commission condition its approval on the assurance of OneWeb to abide by the commitments and undertakings set forth in the March 16, 2023, Letter of Agreement setting forth the commitments that OneWeb made to the Department of Justice, including the Federal Bureau of Investigation, the Department of Homeland Security and the Department of Defense (LOA).³¹

III. DISCUSSION

11. After review of the record, we conclude that partial grant of the Modification Petition with respect to the Phase 1 reduction and reconfiguration of OneWeb satellites will serve the public interest.³² Our public interest analysis considers the effect of the proposed modification on competition in the United States, as well as issues of spectrum availability, eligibility requirements and operating requirements, and national security, law enforcement, foreign policy, and trade.³³

12. OneWeb's proposed Phase 1 changes do not raise any competition, spectrum availability, or eligibility concerns. The Commission has already approved OneWeb to provide service in the United States using 720 satellites configured in 18 orbital planes with 40 satellites per plane. Modifying this grant to reduce the operational constellation to 716 satellites, arranged in 49 satellites per plane in 12 orbital planes and 16 satellites per plane in 8 orbital planes, with no changes to their operational altitude or other characteristics, will have no material impact on competition in the United States or spectrum availability, and offers no reason to reconsider OneWeb's eligibility qualifications. Below, we briefly discuss OneWeb's operating requirements in the context of issues raised by commenters.

13. *Processing Round Status.* The International Bureau has approved modifications to NGSO systems, without changing their status in a particular processing round, when the modifications did not present significant interference problems.³⁴ In this proceeding, no commenter argues that OneWeb's Phase 1 changes would present significant interference problems. One commenter explicitly recognizes that they would not.³⁵ We agree that the minor reduction and reconfiguration of OneWeb satellites in Phase 1 will have no significant effect on the interference environment and therefore approve the proposed Phase 1 modification without altering the NGSO FSS spectrum sharing status of the constellation in the first processing round.

Elizabeth K. McIntyre, Attorney Advisor, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC (filed Oct. 31, 2022, Dec. 30, 2022, Jan. 13, 2023, and Feb. 10, 2023) (advising the Commission on timing of Committee review of the Modification Petition). On September 16, 2022, the Satellite Division modified the referral to the relevant Executive Branch agencies to exclude certain space stations involved in the request for expedited, partial grant because they did not raise the concern that was the basis for the referral. *Satellite Policy Branch Information*, Public Notice, DA 22-964 (IB-SD).

³⁰ See Petition to Adopt Conditions to Authorizations and Licenses, Andrew Coley, Attorney Advisor, NTIA (filed Mar. 31, 2023) (Committee Petition).

³¹ See *id.*

³² *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites to Provide Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24106, para. 29 (1997).

³³ *Id.*

³⁴ See *Space Exploration Holdings, LLC, Request for Modification of the Authorization for the SpaceX NGSO Satellite System*, Order and Authorization and Order on Reconsideration, 36 FCC Rcd 7995, para. 18 (2021).

³⁵ Kuiper Comments at 3 ("OneWeb's phased approach separates the segment of the modification that would present significant interference problems, the addition of thousands of satellites ("Phase 2"), from the segment that would not present such problems, the removal of four satellites from and orbital shifting of its already-authorized constellation ("Phase 1").").

14. *Operational Issues and Comments.* Commenters raise broader issues regarding the Modification Petition which, in most instances, we conclude are unnecessary to address in this order to approve the OneWeb Phase 1 modifications.

15. Viasat raises orbital debris and spectrum sharing concerns related specifically to OneWeb's proposed Phase 2 constellation expansion, which we will address when we act upon the Phase 2 request.³⁶

16. NASA's comments regarding the petition primarily raise concerns with respect to the OneWeb proposed Phase 2 expansion as well, particularly that Phase 2 would pose heightened orbital collision risks and may significantly increase astronomical light pollution.³⁷ However, to the extent that NASA's comments may also relate to OneWeb's Phase 1 operations, OneWeb responds that it has and will continue to assess the conjunction warning and collision avoidance capabilities of the OneWeb system and provides additional information regarding its coordination of conjunction maneuvers with the 18th Space Defense Squadron.³⁸ OneWeb states that it has already completed scalability testing on the flight dynamics system for the full Phase 1 constellation size. OneWeb further states that it has completed the analysis of the maximum number of expected Conjunction Data Messages and number of high-risk conjunctions requiring maneuver planning actions per day that NASA had encouraged the company to conduct. OneWeb provides initial results of this analysis and states that plans to complete this activity in the future and will share the results with NASA when they are available. Regarding the potential impact on astronomical light pollution, OneWeb states that field of view obstructions and potential impact on optical astronomy observations are important issues and OneWeb is committed to working with the science community to find workable solutions to reduce light pollution. OneWeb reports that it has partnered with the GAL Hassin Observatory in southern Italy to conduct a series of observations of in-orbit OneWeb satellites and is creating a tool to enable accurate prediction of the brightness of next-generation OneWeb satellites by correlating the model against these real-world observations. OneWeb intends to provide analyses demonstrating that the full constellation will not increase light pollution substantially over currently recommended levels. We find that these measures address the issues to the extent relevant for Phase 1, and expect OneWeb to continue its coordination with NASA and NSF to address orbital debris and concerns regarding impacts to astronomy and science missions, both for the Phase 1 satellites authorized by this grant and the Phase 2 satellites that will be addressed at a later date.

17. Kuiper's comments focus on the differing, and related, regulatory treatments of OneWeb's proposed Phase 1 and Phase 2 satellite operations.³⁹ Kuiper requests that the Commission clarify the processing round statuses of OneWeb's Phase 1 and Phase 2 satellites and whether they will be subject to separate bond and milestone requirements.⁴⁰ Kuiper also raises arguments it has made in a pending proceeding regarding NGSO FSS spectrum sharing, asking that we sunset interference protections for Phase 1 operations and require OneWeb to share certain operational information with other NGSO FSS system operators.⁴¹ As noted above, partial grant of the Modification Petition to allow OneWeb access to the U.S. market with a revised Phase 1 constellation architecture will not present significant interference problems; therefore, it will not affect the sharing status of these operations in the

³⁶ ViaSat Comments; ViaSat Reply.

³⁷ See NASA/NSF Letter. NASA also notes that the additional satellites will likely cause field of view obstruction for certain NASA missions. See *id.* at 4. The National Science Foundation "shares the general concerns of NASA, regulators, and satellite operators with respect to orbital debris and congestion." *Id.* at 9.

³⁸ See Letter from Blake Wiles, Market Access Manager, North America, OneWeb, to Marlene H. Dortch, Secretary, FCC (file May 5, 2022).

³⁹ Kuiper Comments; Kuiper Reply.

⁴⁰ See Kuiper Comments at 4-6, 9-10.

⁴¹ Kuiper Comments at 7-12.

first processing round. We do not address OneWeb's Phase 2 proposal or its related issues, including the relative protection statuses of Phase 1/Phase 2 satellites or any additional bond and milestone requirements. Further, Kuiper's rulemaking-related arguments were recently addressed in the context of a rulemaking proceeding.⁴² OneWeb's market access grant remains subject to the outcome of the *NGSO FSS Sharing Report and Order and FNPRM*, and we expect that operators will not withhold information necessary to effectuate good faith coordination.⁴³

18. *EPFD Compliance.* Section 25.146(c) of the Commission's rules requires that prior to the initiation of service, an NGSO FSS operator with market access in the 10.7-30 GHz frequency range must receive a "favorable" or "qualified favorable" finding by the ITU Radiocommunication Bureau regarding compliance with applicable ITU EPFD limits.⁴⁴ The operator must also communicate the ITU finding to the Commission and submit the input files used for the ITU validation software.⁴⁵ OneWeb explains that it has received a "favorable" finding from the ITU Radiocommunication Bureau regarding its "L5" and "MCSAT LEO" ITU filings, which reviewed networks with characteristics that correspond with the technical parameters of the 588 Phase 1 satellites that would operate in near polar planes (with 87.9° inclination).⁴⁶ OneWeb asks that based on these findings, we conclude that OneWeb has satisfied the requirements in section 25.146(c) regarding the ITU finding EPFD compliance for Ku- and Ka-band operations with respect to its 588 Phase 1 satellites.⁴⁷ For the remaining Phase 1 satellites that would operate at a 55° inclination and which OneWeb refers to as its Phase 1 "inclined satellites," OneWeb states that it will provide the required information to demonstrate compliance with section 25.146(c) prior to commencing operations.⁴⁸

19. OneWeb effectively asks us to make independent determinations with respect to different portions of its Phase 1 regarding compliance with section 25.146(c). We decline to do so. The Commission has recognized that in some cases there may be multiple ITU filings associated with an NGSO FSS system, and most recently in its order partially authorizing the SpaceX second generation system, the Commission required SpaceX to obtain a favorable ITU finding regarding EPFD compliance with that finding explicitly indicating that the ITU has considered the joint effect of SpaceX's multiple ITU filings.⁴⁹ We take the same approach here, and require that with respect to the phase 1 satellites granted market access, the ITU finding regarding OneWeb's EPFD compliance indicate that the ITU has considered the joint effect of OneWeb's multiple ITU filings covering the Phase 1 satellites. However,

⁴² See *Space Exploration Holdings, LLC, Request for Orbital Deployment and Operating Authority for the SpaceX Gen2 NGSO Satellite System*, Order and Authorization, FCC 22-91, para. 66 (2022) (*SpaceX Gen2 Order*); *Revising Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems*, IB Docket No. 21-456, Notice of Proposed Rulemaking, 36 FCC Rcd 17871 (2021); *Revising Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems*, IB Docket No. 21-456, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-29, (April 20, 2021) (*NGSO FSS Sharing Report and Order and FNPRM*).

⁴³ OneWeb has affirmed its willingness to share beam pointing and satellite selection data with any NGSO FSS operator once they have placed operational satellites capable of delivering service in orbit. OneWeb Response at 23-24.

⁴⁴ 47 CFR § 25.146(c).

⁴⁵ 47 CFR § 25.146(c)(1), (2).

⁴⁶ Letter from Kimberly M. Baum, Vice President, Spectrum Engineering and Strategy, WorldVu Satellites Limited, to Karl A. Kensinger, Chief, Satellite Division, FCC (filed Apr. 6, 2023) (OneWeb Apr. 6 Letter); Letter from Kimberly M. Baum, Vice President, Spectrum Engineering and Strategy, WorldVu Satellites Limited to Marlene H. Dortch, Secretary, FCC, at 1 (filed Apr. 14, 2023) (OneWeb Apr. 14 Ex Parte).

⁴⁷ See OneWeb Apr. 14 Ex Parte at 1, 3.

⁴⁸ *Id.* at 3-4. OneWeb also notes that its L7A ITU filing, which encompasses all Phase 1 inclined satellites, has a "qualified favorable" finding, with final EPFD validation from the ITU pending publication. *Id.* at 4.

⁴⁹ *SpaceX Gen2 Order* at para. 34.

based on the information OneWeb has provided, we find good cause to waive the requirement that OneWeb communicate such a finding to the Commission prior to the initiation of service.⁵⁰ In its 2017 grant of market access for OneWeb's system, the Commission recognized that grant would facilitate OneWeb's goal of providing broadband Internet access to communities across the United States.⁵¹ OneWeb has satellites in-orbit and operational that are currently ready to serve the United States market, and we conclude that grant of waiver in this instance to allow OneWeb to begin providing satellite broadband service in the U.S. immediately, rather than waiting for a further finding from the ITU is in the public interest.⁵² As OneWeb notes in its modification application,⁵³ and as the Commission has frequently recognized, there is a growing demand for broadband connectivity solutions, and OneWeb can begin providing these services upon grant of this application.

20. Grant of waiver in this instance to allow OneWeb to begin operating, pending further finding from the ITU with respect to EPFD compliance would also not undermine the purpose of the rule, which is to ensure that systems are in compliance with obligations under Article 22 of the ITU Radio Regulations not to cause unacceptable interference to GSO networks.⁵⁴ First, we are persuaded by OneWeb's analysis with respect to its "L5" and "MCSAT LEO" ITU filings — specifically, the ITU's findings regarding these filings allow us to conclude that a favorable result has been reached regarding the Ku- and Ka-band operations with OneWeb's near-polar (87.9° inclination) satellites. Second, OneWeb has conducted an EPFD analysis using the ITU-approved software for its entire Phase 1 system, inclusive of its 55° inclination satellites, and has offered to make available to any requesting party the input data used in this analysis.⁵⁵ Therefore, in this instance we have both OneWeb's certification regarding its analysis of the full Phase 1 system, as well as findings from the ITU relevant to its near polar satellites, which will be the satellites initially operated as part of its system serving the U.S. market. Regarding OneWeb's analysis, we condition this grant on OneWeb making its input data files available to any interested party. Moreover, OneWeb will remain subject to the condition that it must receive a favorable or qualified favorable finding from the ITU with respect to the applicable EPFD limits, including as it relates to its combined ITU filings. Altogether, we can reasonably find that OneWeb's operations in the United States are not likely to cause interference to GSO networks while a further determination of EPFD compliance by the ITU is pending. However, OneWeb proceeds at its own risk and must adjust its operations if it does not receive a favorable finding from the ITU, and must not cause unacceptable interference to GSO networks.

21. *National Security, Law Enforcement, Foreign Policy and Trade Policy Issues.* When analyzing an application or petition that includes foreign investment, we may also consider public interest

⁵⁰ OneWeb also seeks waiver of section 25.146(c) to the extent necessary. OneWeb Apr. 14 Ex Parte at 4. Generally, the Commission may waive any rule for good cause shown. 47 CFR § 1.3. Waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In making this determination, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166. Waiver is therefore appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

⁵¹ *OneWeb Grant*, para. 1.

⁵² *Space Exploration Holdings, LLC*, 34 FCC Rcd 2526, para. 28 (IB 2019) (acknowledging delay associated with ITU review, and how such delay would substantially delay the start of service).

⁵³ See Legal Narrative at 3.

⁵⁴ See *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Services Systems and Related Matters*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd. 7809, 7822, para. 41 (2017).

⁵⁵ OneWeb Response at 24, Attach. B; OneWeb Apr. 14 Ex Parte at 4.

issues related to national security, law enforcement, foreign policy, or trade policy concerns.⁵⁶ As part of our public interest analysis, the Commission coordinates with the relevant Executive Branch agencies that have expertise in these particular issues.⁵⁷ The Commission accords deference to the expertise of these Executive Branch agencies in identifying issues related to national security, law enforcement, foreign policy, or trade policy concerns raised by the agencies.⁵⁸ The Commission, however, ultimately makes an independent decision on the application based on the record in the proceedings.⁵⁹

22. The Committee has reviewed the Modification Petition and stated it has no objection to the Commission granting the Modification Petition, provided it conditions the grant on compliance with the LOA.⁶⁰ In accordance with the Committee's request, and in the absence of any objection from OneWeb, we grant the Committee Petition, and, accordingly, we condition grant of the Modification Petition on compliance by OneWeb with the commitments and undertakings set out in the LOA.⁶¹ A failure to comply with and/or remain in compliance with any of the provisions of the LOA shall constitute a failure to meet a condition of this grant and the underlying grant of U.S. market access and thus grounds for declaring the underlying approval terminated without further action on the part of the Commission. Failure to meet a condition of this grant and the underlying grant of U.S. market access may also result in monetary sanctions or other enforcement action by the Commission.

IV. CONCLUSION AND ORDERING CLAUSES

23. We conclude that grant in part of the Modification Petition will serve the public interest by enabling OneWeb to provide service in the United States using an updated constellation architecture with an overall reduction in size from 720 to 716 satellites.

24. Accordingly, IT IS ORDERED, that the Petition for Declaratory Ruling, as amended, filed by WorldVu Satellites Limited, d/b/a OneWeb, IS GRANTED IN PART and DEFERRED IN PART as described above, pursuant to section 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 303(r), and sections 0.51, 0.261, 25.137(c), (e), and (f) of the Federal Communication Commission's rules, 47 CFR §§ 0.51, 0.261, 25.137(c), (e), (f).

⁵⁶ See *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Report and Order, 35 FCC Rcd 10927 (2020) (*Executive Branch Review Order*) (setting rules and procedures for referring applications for Executive Branch review consistent with Executive Order No. 13913); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891 (1997) (*Foreign Participation Order*), recon. denied, 15 FCC Rcd 18158 (2000).

⁵⁷ See *Executive Branch Review Order*, 35 FCC Rcd at 10935-36, paras. 17, 24.

⁵⁸ *Id.* at 10930, para. 7 (citing *Foreign Participation Order*, 12 FCC Rcd at 23920-21, paras. 65-66; *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; Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations*, Report and Order, 12 FCC Rcd 24094, 24171-72, paras. 179, 182 (1997)).

⁵⁹ 47 CFR § 1.40001(b) ("The Commission will consider any recommendations from the [E]xecutive [B]ranch on pending application(s) . . . that may affect national security, law enforcement, foreign policy, and/or trade policy as part of its public interest analysis. The Commission will evaluate concerns raised by the [E]xecutive [B]ranch and will make an independent decision concerning the pending matter.").

⁶⁰ See Committee Petition.

⁶¹ See *Applications of T-Mobile US, Inc., and Sprint Corporation, for Consent to Transfer Control of Licenses and Authorizations, et al.*, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10732-33, para. 349 (2019); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997).

25. Grant in part is conditioned on compliance with the terms of the Letter of Agreement from Neil Masterson, Chief Executive Officer, OneWeb and Kevin Steen, Chief Executive Officer, OneWeb Technologies, Inc. to Chief, Foreign Investment Review Section, and Deputy Chief, Compliance and Enforcement (FIRS), and Director, Global Investment and Economic Security Directorate, on behalf of the Assistant Attorney General for National Security, U.S. Department of Justice, dated March 16, 2023.

26. IT IS FURTHER ORDERED that the conditions of OneWeb's grant of U.S. market access ARE MODIFIED to reflect that OneWeb may operate a constellation of up to 716 satellites, arranged as 49 satellites per plane in 12 orbital planes at an 87.9° inclination and 16 satellites per plane in 8 orbital planes at a 55° inclination.

27. IT IS FURTHER ORDERED that waiver of the requirement that under 47 CFR § 25.146(c) that OneWeb must receive a favorable or "qualified favorable" finding in accordance with Resolution 85 (WRC-03) with respect to its compliance with applicable equivalent power flux density (EPFD) limits in Article 22 of the ITU Radio Regulations prior to commencing operations with U.S. earth stations is GRANTED. OneWeb must make available to any requesting party the data used as input to the ITU-approved validation software to demonstrate compliance with applicable EPFD limits.

28. This authorization is subject to modification to bring it into conformance with any rules or policies adopted by the Commission in the future. Accordingly, any investments made toward operations in the bands authorized in this Order by OneWeb in the United States assume the risk that operations may be subject to additional conditions or requirements as a result of any future Commission actions. This includes, but is not limited to IB Docket 22-271 and IB Docket 18-818,⁶² WTB Docket 20-443,⁶³ and IB docket 21-456.⁶⁴

29. IT IS FURTHER ORDERED that, except as provided in the preceding paragraphs, OneWeb must continue to comply with all of the terms and conditions of its original U.S. market access grant, *WorldVu Satellites Limited, Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System*, Order and Declaratory Ruling, 32 FCC Rcd 5366 (2017).

FEDERAL COMMUNICATIONS COMMISSION

Julie M. Kearney
Chief
Space Bureau

⁶² See, e.g., *Mitigation of Orbital Debris in the New Space Age*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 4156 (2020).

⁶³ See generally *Expanding Flexible Use of 12.2-12.7 GHz Band*, Notice of Proposed Rulemaking, 36 FCC Rcd 8147 (2021).

⁶⁴ See generally *Revising Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems*, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-29 (rel. April 21, 2023).



PUBLIC NOTICE

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DA 23-363

Released: May 5, 2023

WIRELINE COMPETITION BUREAU ANNOUNCES DEADLINE FOR ELECTION TO RECEIVE TRANSITIONAL MOBILE SUPPORT FOR THE UNIENDO A PUERTO RICO FUND AND THE CONNECT USVI FUND

WC Docket Nos. 18-143, 10-90

In the *PR-USVI Transitional Support Order*, the Federal Communications Commission (Commission) made available transitional support to current recipients of Stage 2 high-cost mobile support in Puerto Rico and the U.S. Virgin Islands to strengthen and harden 4G LTE and 5G-NR networks.¹ In this Public Notice, the Wireline Competition Bureau (Bureau) announces the deadline for eligible facilities-based mobile providers to elect to receive transitional mobile high-cost support is 6:00 p.m. EDT on **May 22, 2023**.²

The Commission determined that eligible mobile providers will have a one-time opportunity to elect to receive transitional mobile support by the deadline provided above.³ In order to receive transitional mobile support, an eligible carrier must submit a letter signed by an officer of the company confirming that the carrier elects transitional mobile support and commits to satisfy the specific service obligations and requirements of transitional support recipients.⁴ Eligible carriers may submit one letter for both Puerto Rico and the U.S. Virgin Islands, if applicable.⁵

Carriers must file a copy of the letter through the Commission's Electronic Comment Filing System indicating the appropriate docket numbers, as well as email a copy to ConnectAmerica@fcc.gov.⁶

We expect transitional support recipients to have read and familiarized themselves with all of the requirements in the *PR-USVI Transitional Support Order*. We remind all providers that carriers receiving federal universal service support "shall use that support only for the provision, maintenance, and

¹ *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket Nos. 18-143, 10-90, Report and Order and Order on Review, FCC 23-32, at 10, para. 27 (Apr. 19, 2023) (*PR-USVI Transitional Support Order*).

² *Id.* at 13, paras. 35-36. On May 5, 2023, the *PR-USVI Transitional Support Order* was published in the Federal Register. Federal Communications Commission, *The Uniendo a Puerto Rico Fund and the Connect America USVI Fund*, 88 FR 28993 (May 5, 2023). The *Order* provides that eligible mobile providers must submit their election to receive transitional mobile support within 15 days of its publication of in the Federal Register. Fifteen days after Federal Register publication is Saturday, May 20, so elections must be submitted by Monday, May 22.

³ *PR-USVI Transitional Support Order* at 13, paras. 35-36.

⁴ *Id.* at 13, para. 36; 47 CFR § 54.1516(b).

⁵ If a transitional support recipient will receive support in both Puerto Rico and the United States Virgin Islands, its election letter should specifically note the correct entity that will receive transitional support in each location, if applicable.

⁶ *PR-USVI Transitional Support Order* at 13, para. 36; 47 CFR § 54.1516(b).

upgrading of facilities and services for which the support is intended.”⁷ Therefore, providers must use this funding to help harden and strengthen their networks.⁸ As provided in the *PR-USVI Transitional Support Order*, all eligible telecommunications carriers receiving transitional mobile support are subject to ongoing oversight and must comply with annual reporting and certification requirements.⁹ We also remind transitional support recipients that have not already submitted their Disaster Response and Recovery Plans that those Plans must be submitted, in addition to their elections, or transitional support may be withheld.¹⁰

For additional information on this proceeding, contact Dangkhua Nguyen (Dangkhua.Nguyen@fcc.gov) of the Wireline Competition Bureau, Telecommunications Access Policy Division.

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⁷ 47 U.S.C. § 254(e); 47 CFR § 54.7(a).

⁸ See generally *PR-USVI Transitional Support Order*; 47 CFR § 54.1518.

⁹ *PR-USVI Transitional Support Order* at 11-13, paras. 31-34.

¹⁰ *Id.* at 11-12, 17, paras. 32, 49 & n.129; 47 CFR § 54.1524(a) (providing that Disaster Response and Recovery Plans must be submitted to the Bureau for approval by July 1, 2023).



PUBLIC NOTICE

Federal Communications Commission
45 L Street, N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 23-364

Released: May 1, 2023

TELEVISION LICENSE EXPIRATIONS

On February 28, 2023, television stations located in New Jersey and New York were required to file applications for license renewal for terms expiring on June 1, 2023.¹ The following stations failed to file license renewal applications and their licenses will expire as of June 1, 2023, provided no renewal application is received by midnight on the date of expiration:

Call	Community of License	Fac. ID	Licensee
W26DC-D	Roslyn, NY	49882	K LICENSEE, INC.
WYXN-LD	New York, NY	38945	NEW YORK SPECTRUM HOLDING COMPANY, LLC

- FCC -

¹ On January 27, 2023, the Media Bureau issued a public notice extending the deadline for stations located in New Jersey and New York to file their renewal applications from February 1 to February 28 due to technical issues affecting the Licensing Management System. *Media Bureau Announces Further Extension of Time for Quarterly Issues/Programs Lists, Children's Programming Reports and Television License Renewal Applications*, Public Notice, DA 23-78 (MB Jan. 27, 2023).



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-365

Released: May 3, 2023

COMMENT DATES FOR PROPOSED 2023 MANDATORY DATA COLLECTION FOR INCARCERATED PEOPLE'S COMMUNICATIONS SERVICES

WC Docket Nos. 23-62, 12-375

Comments Due: June 2, 2023

Reply Comments Due: June 20, 2023

By this Public Notice, the Wireline Competition Bureau (Bureau) announces the comment and reply comment dates for the Public Notice on the proposed 2023 Mandatory Data Collection for incarcerated people's communications services.

The Bureau released a Public Notice on April 28, 2023 seeking comment on the contours and specific requirements of the proposed 2023 Mandatory Data Collection implementing the Martha Wright-Reed Just and Reasonable Communications Act of 2022.¹ The *Public Notice* requires that comments and reply comments be filed no later than 30 and 45 days after publication in the Federal Register.² On May 3, 2023, the Federal Register published a summary of the *Public Notice* titled "Wireline Competition Bureau and the Office of Economics and Analytics Seek Comment on Proposed 2023 Mandatory Data Collection for Incarcerated People's Communications Services."³ The May 3, 2023 *Federal Register Notice* establishes **June 2, 2023** as the deadline for comments and **June 20, 2023** as the deadline for reply comments.⁴ The *Public Notice* and *Federal Register Notice* contain complete filing instructions.⁵

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

For further information, please contact Ahuva Z. Battams, Pricing Policy Division, Wireline Competition Bureau, at 202-418-1565 or Ahuva.battams@fcc.gov.

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¹ See *Wireline Competition Bureau and Office of Economics and Analytics Seek Comment on Proposed 2023 Mandatory Data Collection for Incarcerated People's Communications Services*, WC Docket Nos. 23-62, 12-375, Public Notice, DA 23-355 (WCB/OEA Apr. 28, 2023) (*Public Notice*).

² *Id.* at 1.

³ See Federal Communications Commission, *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, 88 Fed. Reg. 27850 (May 3, 2023) (*Federal Register Notice*).

⁴ *Federal Register Notice* at 27850.

⁵ See *Public Notice* at 10; *Federal Register Notice* at 27850.



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 23-366

Released: May 4, 2023

WIRELINE COMPETITION BUREAU ANNOUNCES NEW AFFORDABLE CONNECTIVITY PROGRAM APPLICATION LANDING PAGE AT GETINTERNET.GOV

WC Docket No. 21-450

By this Public Notice, the Wireline Competition Bureau (Bureau) announces a new Affordable Connectivity Program application landing page available at [GetInternet.gov](https://getinternet.gov). This consumer-friendly site, now accessible through a simple and memorable URL, explains the benefits of the program, serves as a call to action for eligible consumers to apply, and enables consumers to easily apply for the program.

Working with staff from the Executive Office of the President, the Bureau and the Office of the Managing Director successfully transitioned ownership of [GetInternet.gov](https://getinternet.gov) to the Federal Communications Commission (FCC). The information previously available at [GetInternet.gov](https://getinternet.gov) will continue to be available by accessing whitehouse.gov/getinternet. [AffordableConnectivity.gov](https://affordableconnectivity.gov) and [FCC.gov/ACP](https://fcc.gov/ACP) will continue to serve as resources providing detailed information about the Affordable Connectivity Program for consumers, digital navigators, and participating providers.

The FCC continues its robust efforts to promote the Affordable Connectivity Program by providing grants to community partners, offering additional support for navigators who help eligible consumers enroll, and developing paid and earned media strategies to increase public awareness. As part of this work, the FCC recently made enhancements to its online consumer application system to make it easier for eligible consumers to apply by providing clear instructions and decreasing the number of steps in the application process, while continuing to protect against waste, fraud, and abuse in the program. The transition to [GetInternet.gov](https://getinternet.gov) will build on these efforts to promote the Affordable Connectivity Program and allow stakeholders to easily direct interested consumers to a single location to confirm their eligibility to participate.

The Affordable Connectivity Program is now reaching over 17 million households and has saved eligible consumers hundreds of millions of dollars per month. The program provides a discount of up to \$30 per month toward internet service for eligible households and up to \$75 per month for households on qualifying Tribal lands. These efforts allow the FCC to meet its obligations as directed by Congress and support the FCC's strategic goal to pursue policies that help bring affordable, reliable, high-speed broadband across the country.

Further questions regarding today's announcement can be directed to Jamile Kadre, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, at 202-418-2245 or Jamil.Kadre@fcc.gov.

- FCC -



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-367

Released: May 4, 2023

**BORDER INTERNATIONAL BROADCASTING, INC. SEEKS FOREIGN OWNERSHIP
RULING PURSUANT TO SECTION 310(b)(4) OF THE COMMUNICATIONS ACT OF 1934, AS
AMENDED**

PLEADING CYCLE ESTABLISHED

MB Docket No. 23-153

Comment Date: June 5, 2023

Reply Date: June 20, 2023

A petition for declaratory ruling has been filed on behalf of Border International Broadcasting, Inc. (BIBI)¹ requesting that the Federal Communications Commission (Commission) find, pursuant to section 310(b)(4) of the Communications Act of 1934, as amended, (Act)² and section 1.5000(a)(1) of the Commission's rules,³ that it would serve the public interest to allow BIBI to accept foreign investment in excess of the 25% benchmarks set forth in section 310(b)(4).⁴ Specifically, BIBI seeks a Commission ruling to (1) permit up to 100% aggregate foreign investment (voting and equity) in the company, and (2) specifically approve⁵ certain foreign investors to hold more than 5% equity and/or voting interest in

¹ Petition for Declaratory Ruling of Border International Broadcasting, Inc., Application File No. 0000206397 (filed Jan. 12, 2023) (Petition); Supplement to Petition for Declaratory Ruling, Application File No. 0000206397 (filed Apr. 20, 2023) (First Supplement); Second Supplement to Petition for Declaratory Ruling, Application File No. 0000206397 (filed Apr. 26, 2023) (Second Supplement). Contemporaneously with the filing of the Petition, BIBI filed an application seeking Commission consent to the transfer of control of WLYK(FM), Cape Vincent, New York (Facility ID No. 8567), the sole broadcast license it holds. See Application of Border International Broadcasting, Inc. for Consent to Transfer Control, Application File No. 0000206397 (filed Jan. 5, 2023).

² 47 U.S.C. § 310(b)(4); *Review of Foreign Ownership Policies for Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272 (2016) (*2016 Foreign Ownership R&O*).

³ 47 CFR § 1.5000(a)(1); *2016 Foreign Ownership R&O*, 31 FCC Rcd 11272.

⁴ 47 U.S.C. § 310(b)(4) ("No broadcast station or common carrier or aeronautical en route or aeronautical fixed radio station license shall be granted to or held by . . . any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.").

⁵ Under section 1.5001(i)(1) of the Commission's rules, petitioners for a declaratory ruling are required to identify and seek specific approval for any foreign individual, entity, or group that holds or would hold, directly and/or indirectly, more than 5% of equity and/or voting interests, or a controlling interest, in the petitioner's controlling U.S. parent, subject to certain exemptions, including an exemption that increases the specific approval threshold to 10% for certain institutional investors. 47 CFR § 1.5001(i)(1).

BIBI.⁶ As detailed further below, 1234567 Corporation (123), as the transferee in the related transfer of control application and as the proposed direct 100% interest holder of BIBI, filed the Petition on behalf of itself, the licensee BIBI, and the individuals and entities that will hold a direct or indirect interest in BIBI.⁷

BIBI seeks this declaratory ruling in connection with the proposed transfer of control of the company, which is the licensee of WLYK(FM), Cape Vincent, New York, Facility ID No. 8567. Specifically, the application seeks Commission consent to transfer ownership of BIBI from the three natural persons who currently control the company today to 123, a Delaware corporation of which the sole shareholder is a Canadian corporation named Border Broadcasting Corporation (BBC). In turn, BBC will be owned by Canadian citizens Andrew Dickson and Jon Pole, as well as two family trusts.⁸ The family trusts are organized by each of the two principal individuals, respectively, The Andrew and Karen Dickson (2022) Family Trust (the Dickson Trust), and The Jon and Sasha Pole (2022) Family Trust (the Pole Trust) (each a Trust or, collectively, the Trusts). The Trusts are each organized under the laws of Canada and their primary purpose is estate planning for the respective trustees.⁹ The co-trustees of the Dickson Trust are Andrew Dickson and Karen Dickson, Canadian citizens. The co-trustees of the Pole Trust are Jon Pole and Sasha Pole, also Canadian citizens. In each case, the two co-trustees each have 50% voting interest in their respective Trusts.

Accordingly, as the ownership structure proposed for BIBI post-closing will result in 100% indirect foreign ownership of the licensee, the Petition seeks a Declaratory Ruling to increase BIBI's indirect foreign ownership interests from a combined pre-transfer interest of 0.0% equity and voting, to a post-transfer indirect foreign ownership interest of 100.0%, equity and voting.

Specific Entities and Individuals for which Specific Approval is Sought

As a result of 123's proposed acquisition of 100% of the existing shares of BIBI, Delaware corporation 123 will have a *direct* 100% equity and voting interest in BIBI upon consummation of the transaction (following Commission approval).

Further, as a result of the transaction there will be six *indirect* foreign interest holders in BIBI that require specific approval, as follows. BBC, a Canadian corporation, will hold through 123 an indirect 100% equity and 100% voting interest in BIBI. In turn, Andrew Dickson, a Canadian citizen, will hold through BBC and the Dickson Trust an indirect 21.42% equity and 49.995% voting interest in BIBI; Jon Pole, a Canadian citizen, will hold through BBC and the Pole Trust an indirect 10.71% equity and 49.995% voting interest in BIBI;¹⁰ and Karen Dickson, a Canadian citizen, will hold through the Dickson Trust an indirect 7.14% equity and 4.545% voting interest in BIBI.¹¹ In addition, two Canadian Trusts

⁶ Petition at 1.

⁷ *Id.* at 2, 4-7.

⁸ The petitioners indicate that Jon Pole, President, and Andrew Dickson, Secretary-Treasurer, are the sole directors and officers of BBC and that no other parties control BBC or have the power to appoint directors. Further, they state that the company's by-laws provide that questions at board meetings must be decided by a majority of voting directors, and that no party is entitled to a second or casting vote when the board is deadlocked. Supplement at 2-3.

⁹ Petition at 6.

¹⁰ *Id.* at 5; *see also* Second Supplement at 2-3.

¹¹ Supplement at 3; Second Supplement at 2-3.

will each hold through BBC an indirect 50.0% equity and 4.545% voting interest in BIBI.¹² The Petition requests specific approval for the indirect foreign interests these six entities or individuals will hold upon consummation of the proposed transaction.¹³

BIBI asserts that grant of the Petition will serve the public interest as it would further the Commission's stated goals of encouraging foreign investment in U.S. broadcast stations and the continuation of operations by such stations.¹⁴ BIBI asserts further that the two principals, Andrew Dickson and Jon Pole, have extensive experience operating broadcast radio stations in Canada with an emphasis on localism.¹⁵ In sum, BIBI asserts that the combination of the parties' broadcasting expertise and infusion of capital will allow BIBI to continue operations of WLYK and facilitate its provision of local news programming and music to the listeners in the Cape Vincent, New York market.¹⁶

Pursuant to Commission practice, the Petition will be referred to relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of BIBI.¹⁷

EX PARTE STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,¹⁸ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if the public interest so requires. We announce that this proceeding will be governed by permit-but-disclose *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.¹⁹

Parties making oral *ex parte* presentations are directed to the Commission's *ex parte* rules. Parties are reminded that memoranda summarizing the presentation must contain the presentation's substance and not merely list the subjects discussed.²⁰ More than a one- or two-sentence description of

¹² Andrew Dickson and Karen Dickson are co-trustees of the Dickson Trust, with each co-trustee holding a 50.0% voting interest, and thus negative control, in the trust. Similarly, Jon Pole and Sasha Pole are the co-trustees of the Pole Trust, with each co-trustee holding a 50.0% voting interest, and thus negative control, in the trust. Petition at 4-7; Second Supplement at 3, Exhibit F (Amended).

¹³ None of the other beneficiaries of the Trusts besides Andrew Dickson, Jon Pole, and Karen Dickson will hold an interest that requires specific approval under the Commission's rules, and the Petition does not seek specific approval for any entities or individuals besides the six entities and individuals detailed above. See Supplement at 4. Additionally, the Petition does not seek advance approval pursuant to 1.5001(k) for any foreign individual or entity named in the Petition to increase its direct and/or indirect equity and/or voting interests in the controlling U.S. parent of the broadcast licensee in the future. *Id.*

¹⁴ Petition at 8.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927 (2020). See also *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997) (*Foreign Participation Order*), recon. denied, 15 FCC Rcd 18158 (2000).

¹⁸ 47 CFR § 1.1200(a).

¹⁹ 47 CFR § 1.1206.

²⁰ See 47 CFR § 1.1206(b)(1).

the views and arguments presented is generally required.²¹ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.²²

GENERAL INFORMATION

The petition for declaratory ruling referred to in this Public Notice has been accepted for filing upon initial review. The Commission reserves the right to return any filing if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules or policies. Interested persons must file comments no later than **June 5, 2023**. Replies must be filed no later than **June 20, 2023**.

To allow the Commission to fully consider all substantive issues regarding the Petition in as timely and efficient a manner as possible, commenters should raise all issues in their initial filings. A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously.²³ Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

All filings concerning matters referenced in this Public Notice should refer to MB Docket No. 23-153, as well as the specific file number of any relevant individual application or other matters to which the filings pertain.

Submissions in this matter may be filed electronically (i.e., through ECFS) or by filing paper copies.

- *Electronic Filers:* Documents may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.²⁴ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

One copy of each pleading must be delivered electronically, by e-mail, or if delivered as paper copy, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) Albert Shuldiner, Audio Division, Media Bureau, at albert.shuldiner@fcc.gov; (2) Christopher Clark, Audio Division, Media Bureau, at christopher.clark@fcc.gov; and (3) Brendan Holland, Audio Division, Media Bureau, at

²¹ See *id.*

²² 47 CFR § 1.1206(b).

²³ 47 CFR §§ 1.46(a), 73.3584(e).

²⁴ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, DA 20-304 (rel. Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

brendan.holland@fcc.gov. Any submission that is e-mailed to Albert Shuldiner, Christopher Clark, and Brendan Holland should include in the subject line of the e-mail: (1) MB Docket No. 23-153; (2) the name of the submitting party; and (3) a brief description or title identifying the type of document being submitted (*e.g.*, MB Docket No. 23-153, [name of submitting party], Comments).

Copies of the Petition and any subsequently filed documents in this matter are available electronically through the Commission's Electronic Filing Comment System (ECFS), which may be accessed on the Commission's Internet website.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov; phone: (202) 418-0530.

For further information, contact Albert Shuldiner, Audio Division, Media Bureau, at (202) 418-2726. Press inquiries should be directed to Janice Wise, Media Bureau, (202) 418-8165 or (888) 835-5322.

This action is taken by the Chief, Media Bureau, pursuant to authority delegated by sections 0.61 and 0.283 of the Commission's rules.²⁵

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²⁵ 47 CFR §§ 0.61 and 0.283.

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of	)	
	)	
Hubbard's Advertising Agency, Inc.,	)	Facility ID 17409
Licensee of WLLL(AM), Lynchburg, Virginia	)	FRN: 0006184048

ORDER TO PAY OR TO SHOW CAUSE

Adopted: May 4, 2023**Released: May 4, 2023**

By the Chief, Media Bureau and the Managing Director, Office of Managing Director:

I. INTRODUCTION

1. By this Order to Pay or to Show Cause, we initiate a proceeding to revoke the license held by Hubbard's Advertising Agency, Inc. (Licensee), for WLLL(AM), Lynchburg, Virginia (Station), for failure to pay delinquent regulatory fees and associated interest, administrative costs, and penalties owed to the Federal Communications Commission (Commission). For the reasons set forth below, we direct Licensee to pay the overdue regulatory fees, including any associated interest, penalties, and administrative costs, or show cause why the payment demanded is inapplicable or should otherwise be waived or deferred.

II. DISCUSSION

2. Under section 9 of the Communications Act of 1934, as amended (Act), and section 1.1151 of the Commission's rules (Rules), the Commission is required to "assess and collect regulatory fees" to recover the cost of carrying out the functions of the Commission."¹ When the required payment is received late or is incomplete, the Commission must assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."²

3. For fiscal year (FY) 2014, the deadline for paying regulatory fees was September 23, 2014;³ for FY 2016, it was September 27, 2016;⁴ for FY 2017, it was September 26, 2017;⁵ for FY 2018, it was September 25, 2018;⁶ for FY 2020, it was September 28, 2020;⁷ for FY 2021, it was September 24,

¹ 47 U.S.C. § 159(a)(1); 47 CFR § 1.1151.

² 47 U.S.C. § 159A(c)(1); 47 CFR § 1.1164.

³ *Payment Methods and Procedures for Fiscal Year 2014 Regulatory Fees*, Public Notice, DA 14-1283, 29 FCC Rcd 10500 (OMD Sep. 5, 2014).

⁴ *Payment Methods and Procedures for Fiscal Year 2016 Regulatory Fees*, Public Notice, 2016 WL 4625515 (OMD Sep. 6, 2016).

⁵ *Payment Methods and Procedures for Fiscal Year 2017 Regulatory Fees*, Public Notice, 2017 WL 3953380 (OMD Sep. 6, 2017).

⁶ *Payment Methods and Procedures for Fiscal Year 2018 Regulatory Fees*, Public Notice (OMD Aug. 30, 2018), available at <https://docs.fcc.gov/public/attachments/DOC-353883A1.pdf>.

⁷ *Regulatory Fee Filing Window is Extended to Monday, September 28, 2020*, Public Notice, DA 20-1131, 35 FCC Rcd 10466 (OMD Sep. 24, 2020).

2021;⁸ and for FY 2022, it was September 30, 2022.⁹ When Licensee failed to pay or only partially paid its regulatory fees by these deadlines, the Commission assessed charges that included the statutory late payment penalty required by the Act¹⁰ and section 1.1164 of the Rules,¹¹ and interest, penalties, and administrative costs required by section 3717 of the Debt Collection Improvement Act of 1996 (the DCIA), section 9A(c)(2) of the Act and section 1.1940 of the Rules.¹²

4. The Commission's records show that Licensee currently has unpaid regulatory fee debt of \$3,119.63 for FY 2014; \$989.11 for FY 2016; \$3,359.52 for FY 2017; \$2,736.10 for FY 2018; \$2,907.11 for FY 2020; \$2,912.02 for FY 2021, and \$3,043.75 for FY 2022. Additional charges will continue to accrue on these debts until they are paid in full. The Commission sent Licensee demand letters in accordance with the requirements of the DCIA demanding payment of Licensee's delinquent regulatory fees.¹³ When Licensee did not pay the regulatory fee debts for FYs 2014, 2016, 2017, 2018, 2020, and 2021, the Commission transferred those debts to the United States Department of Treasury for collection.¹⁴ At the Commission's request, the United States Department of Treasury has returned all of the previously transferred regulatory fee debt to the Commission for further collection.

5. The Commission has authority under section 9A(c)(4) of the Act and section 1.1164(f) of the Rules to revoke licenses and authorizations for failure to pay regulatory fees (or related interest and penalties) in a timely fashion. Accordingly, we require Licensee to file with the Media Bureau documented evidence within sixty (60) calendar days of the date of this Order that full payment of all outstanding regulatory fee debt has been made or show cause why the payment is inapplicable or should be waived or deferred.¹⁵ Licensee is hereby notified that failure to provide such evidence of payment or to show cause within the time specified may result in revocation of Licensee's license for the Station.

6. Under section 9A(c)(4)(C) of the Act and section 1.1164(f) of the Rules,¹⁶ an adjudicatory hearing will not be designated unless Licensee presents a substantial and material question of fact. Further, disposition of any adjudicatory hearing will be based upon written evidence only, and

⁸ *Payment Methods and Procedures for Fiscal Year 2021 Regulatory Fees*, Public Notice, DA 21-1112, 36 FCC Rcd 13423 (OMD Sep. 7, 2021).

⁹ *Fiscal Year 2022 Regulatory Fee Filing Deadline is Extended to Friday, September 30, 2022, for All Regulatory Fee Payors*, Public Notice, DA 22-1023, 2022 WL 4597483 (OMD Sep. 28, 2022).

¹⁰ 47 U.S.C. § 159(c)(3) (1993); 47 U.S.C. § 159A(c)(1) (2018). The RAY BAUM'S Act, Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, Pub. L. No. 115-141, 132 Stat. 348, 1095, modified section 9 of the Act and added a new section 9A. Prior to October 1, 2018, when the RAY BAUM'S Act became effective, section 9(c)(1) set forth the penalties for late payment of regulatory fees. As amended by the RAY BAUM's Act, section 9A(c)(1) now sets forth those penalties.

¹¹ 47 CFR § 1.1164.

¹² 31 U.S.C. § 3717; 47 U.S.C. § 159A(c)(2); 47 CFR § 1.1940.

¹³ See 31 U.S.C. § 3711; 31 CFR § 901.2. In addition to the demand letters, the Media Bureau notified Licensee of its failure to pay the Station's regulatory fees for FYs 2014, 2016, 2017, 2018, 2020, and 2021. Email from Alexander Sanjenis, Audio Division, FCC Media Bureau, to Courtney Hubbard (Aug 9, 2022 12:38 PM EDT).

¹⁴ See 31 U.S.C. § 3711(g); 31 CFR §§ 285.12(c), 901.1; 47 CFR § 1.1917. The Commission retained the FY 2022 regulatory fee debt owed by Licensee and did not refer it to Treasury for further collection.

¹⁵ The Commission may waive, reduce, or defer payment of fee debt where good cause is shown and where waiver, reduction or deferral would promote the public interest. The Commission interprets this provision narrowly, granting relief only when a requesting party has shown extraordinary circumstances outweighing the public interest in recovering the cost of the Commission's regulatory services. A party seeking a waiver for financial hardship must conclusively prove financial hardship, providing copies of all such financial documents as are necessary to show that it lacks sufficient funds to pay its regulatory fees and maintain its service to the public. *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, MD Docket 19-105, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8207-08, paras. 49-51 (2019).

¹⁶ 47 U.S.C. § 159A(c)(4)(C)(i); 47 CFR § 1.1164(f)(1).

Licensee will bear the burden to introduce evidence and to provide proof in any such hearing.¹⁷ Unless the Licensee substantially prevails in the hearing, the Commission may assess the Licensee for the costs of such hearing.¹⁸

7. To the extent that Licensee is a respondent in other administrative proceedings, both before this agency and other federal agencies, action in this proceeding is without prejudice to action in those proceedings. Further, the existence of any such proceedings and matters raised therein are not considered in this proceeding.

III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to section 9A(c)(4) of the Act and sections 0.11, 0.61, 0.231, 0.283 and 1.1164(f) of the Rules,¹⁹ Hubbard's Advertising Agency, Inc., is hereby **ORDERED TO PAY TO THE FEDERAL COMMUNICATIONS COMMISSION** within sixty (60) calendar days of the date of this Order the outstanding regulatory fees for FYs 2014, 2016, 2017, 2018, 2020, 2021, and 2022, **OR SHOW CAUSE** to the Commission within sixty (60) calendar days of the date of this Order why these regulatory fees are inapplicable or should otherwise be waived or deferred.

9. **IT IS FURTHER ORDERED** that payment of the delinquent regulatory fee debt must be made by wire transfer and must include the FRN referenced above. Additional wire transfer instructions are as follows:

ABA Routing Number 021030004

Receiving Bank:
TREAS NYC
33 Liberty St.
New York, NY 10045

(BNF) Beneficiary: FCC
Account #: 27000001
OBI Field (skip one space between each information item)

Hubbard's Advertising Agency, Inc., must provide the Payer FRN (if different than the FRN referenced above) and a contact phone number.

Hubbard's Advertising Agency, Inc., must fax a copy of the wire transfer confirmation to the FCC at (202) 418-2843 or send the wire transfer confirmation copy to the FCC via email to RROGWireFaxes@fcc.gov on the same day the wire transfer is initiated.

10. **IT IS FURTHER ORDERED** that Hubbard's Advertising Agency, Inc., must submit a completed FCC Form 159 (Remittance Advice) at the time of payment. The FCC Form 159 must be faxed to the FCC at (202) 418-2843. An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Forms_159/159.pdf. When completing the FCC Form 159, Hubbard's Advertising Agency, Inc., must enter its FRN in block number 23A (call sign/other ID) and enter the following payment codes for the fiscal years involved in block number 24A (payment type code): 1438 (for FY 2014); 1638 (for FY 2016); 1738 (for FY 2017); 1838 (for FY 2018); 2038 (for FY 2020); 2138 (for FY 2021) and 2238 (for FY 2022).

11. Any written response must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to section 1.16 Commission's rules.²⁰ The written response must

¹⁷ 47 U.S.C. § 159A(c)(4)(C)(ii); 47 CFR § 1.1164(f)(2).

¹⁸ 47 U.S.C. § 159A(c)(4)(C)(ii)(iii); 47 CFR § 1.1164(f)(3).

¹⁹ 47 U.S.C. § 159A(c)(4); 47 CFR §§ 0.11, 0.61, 0.231, 0.283 and 1.1164(f).

²⁰ 47 CFR § 1.16.

be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington DC 20554, ATTN: Albert Shuldiner, Chief, Audio Division, Media Bureau. Filings can be sent 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.²¹ A courtesy copy emailed to Alexander.Sanjenis@fcc.gov will assist in processing the response.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

12. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by registered mail, return receipt requested, to Hubbard's Advertising Agency, Inc., c/o Fletcher Hubbard, PO Box 11375, Lynchburg, VA 24506, and to its counsel, David Tillotson, Esq., 4606 Charleston Terrace, NW, Washington, DC 20007.

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer
Chief, Media Bureau

Mark Stephens,
Managing Director, Office of Managing Director

²¹ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (2020).



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L STREET NE
WASHINGTON D.C. 20554

News media information 202-418-0500
Internet: <http://www.fcc.gov> (or <ftp.fcc.gov>)
TTY (202) 418-2555

DA No. 23-369

Friday May 5, 2023

Report No. SAT-01722

Satellite Licensing Division and Satellite Programs and Policy Division Information

Actions Taken

The Commission, by its Space Bureau, took the following actions pursuant to delegated authority. The effective date of these actions is the release date of this Notice, except where an effective date is specified.

SAT-STA-20230412-00083 E S2983/3018 Space Exploration Holdings, LLC

Special Temporary Authority

Grant of Authority

Effective Date: 05/04/2023

On May 4, 2023, the Satellite Programs and Policy Division granted, with conditions, the request of Space Exploration Holdings, LLC for special temporary authority for an additional period of 30 days to permit continued communications between SpaceX first generation satellites and U.S. earth stations at latitudes above 53 degrees. Specifically, SpaceX is authorized to temporarily adjust the minimum elevation angle from 25 degrees to ten degrees at latitudes above 53 degrees for communications in the 10.7-12.7 GHz (space-to-Earth) and 14.0-14.5 GHz (Earth-to-space) frequency bands.

SAT-STA-20230412-00084 E S3069 Space Exploration Holdings, LLC

Special Temporary Authority

Grant of Authority

Effective Date: 05/04/2023

On May 4, 2023, the Satellite Programs and Policy Division granted, with conditions, the request of Space Exploration Holdings, LLC (SpaceX), for special temporary authority for an additional period of up to 60 days to continue to operate a radiofrequency beacon with up to 56 SpaceX second generation non-geostationary-orbit Starlink satellites on each launch, up to a maximum of 300 simultaneously operating satellites, in order to track and maintain satellite positional information during satellite orbit-raising and for emergency operations once at operational orbit.

SAT-STA-20230412-00085 E S3069 Space Exploration Holdings, LLC

Special Temporary Authority

Grant of Authority

Effective Date: 05/04/2023

On May 4, 2023, the Satellite Programs and Policy Division granted, with conditions, the request of Space Exploration Holdings, LLC (SpaceX), for an additional period of up to 60 days to continue to conduct communications between SpaceX's second generation non-geostationary orbit Starlink satellites and gateway Earth stations in the E-band -specifically the 71.0-76.0 GHz (space-to-Earth) and 81.0-86.0 GHz (Earth-to-space) bands.

SAT-STA-20230412-00086 E S3066 Intelsat License LLC

Special Temporary Authority

Grant of Authority

Effective Date: 05/02/2023

On May 2, 2023, the Satellite Programs and Policy Division granted, with conditions, Intelsat License LLC's request for special temporary authority, for a period of 30 days, to conduct in-orbit testing of Intelsat 40e using the 18.8-19.3 GHz (space-to-Earth) and 28.6-29.1 GHz (Earth-to-space) frequency bands at the 91.0° W.L. orbital location.

SAT-STA-20230417-00091 E S2715 Intelsat License LLC
Special Temporary Authority

Effective Date:

On May 1, 2023, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Intelsat License LLC for a period of up to 30 days to (1) conduct telemetry, tracking, and command (TT&C) operations necessary to drift the Galaxy 17 space station from the 91.0° W.L. orbital location to the 85.0° W.L. orbital location and to maintain Galaxy 17 at the new orbital location; and (2) to provide fixed-satellite service using Galaxy 17 from the 91.0° W.L. orbital location. Galaxy 17 will operate in the fixed-satellite service in the 11.7-12.2 GHz (space-to-Earth) and 14.0-14.5 GHz (Earth-to-space) bands at 91.0° W.L., and Intelsat will use the following center frequencies for TT&C: 4197.125 MHz and 4198.875 MHz (space-to-Earth), and 5925.5 MHz and 6424.5 MHz (Earth-to-space).

CORRECTIONS

SAT-MOD-20230324-00063 S2917 Viasat, Inc.

The Actions Taken public notice regarding the above-captioned application, dated April 28, 2023, is corrected to reflect that Viasat-3 will operate at the 88.9° W.L. orbital location using the 17.7-18.3 GHz, 18.3-19.3 GHz, 19.3-19.4 GHz, and 19.6-19.7 GHz (space-to-Earth); and 27.5-28.1, 28.1-29.1 GHz, and 29.25-29.5 GHz (Earth-to-space) frequency bands. See Satellite Licensing Division and Satellite Programs and Policy Division Information, Actions Taken, Public Notice, Report No. SAT-01720, DA 23-359 (Apr. 28, 2023).

INFORMATIVE

SAT-LOA-20210107-00004 S3078 Intelsat License LLC

The Satellite Programs and Policy Division has determined that Intelsat License LLC has met the launch and begin operations milestone associated with its grant of authority to construct, deploy and operate a geostationary orbit space station, Galaxy 32 (Call Sign S3078), and may release the bond associated with this authorization. See 47 CFR §§ 25.164(a) and (f) and 25.165(d).

For more information concerning this Notice, contact the Satellite Licensing Division and Satellite Programs and Policy Division at (202) 418-0719.



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-370

Released: May 5, 2023

COMMENT SOUGHT ON PETITION BY COMMUNICATION SERVICE FOR THE DEAF ON TRS FUND SUPPORT FOR DIRECT VIDEO CALLING

CG Docket Nos. 10-51 and 03-123

Comments Due: June 5, 2023

Reply Comments Due: June 20, 2023

The Consumer and Governmental Affairs Bureau (Bureau) of the Federal Communications Commission (Commission) seeks comment on a petition by Communication Service for the Deaf (CSD) requesting a declaratory ruling that direct video calling service (DVC) is eligible for Telecommunications Relay Services (TRS) Fund support.¹ The petition states that DVC “is a modern broadband technology that enables the most accurate, private, and efficient video communications in real-time between American Sign Language (ASL) users who are deaf, hard of hearing, deafblind or have speech disabilities and customer service representatives in business and government call centers.”²

In addition, CSD recommends that if a further rulemaking on DVC is necessary, the Commission could consider adopting minimum standards for DVC, resolving call transfer issues between DVC and video relay service,³ supporting DVC from both interstate and intrastate revenues of TRS Fund contributors,⁴ and allowing use of DVC without first registering for TRS.⁵

Filing Requirements. Interested parties may file comments on or before the dates indicated above.⁶ All filings must reference CG Docket Nos. 10-51 and 03-123. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).⁷

¹ Communication Service for the Deaf, Petition for Declaratory Ruling Regarding Direct Video Calling Service, CG Docket Nos. 10-51 and 03-123 (filed Mar. 31, 2023) (CSD Petition), <https://www.fcc.gov/ecfs/document/103310754209479/1>.

² CSD Petition at 1; *see also* 47 CFR § 64.601(a)(16) (defining “[d]irect video customer support” as “[a] telephone customer support operation that enables callers with hearing or speech disabilities to engage in real-time direct video communication in [American Sign Language (ASL)] with ASL speakers in a call center operation.”)

³ *Id.* at 37.

⁴ *Id.*

⁵ *Id.* at 37-38.

⁶ *See* 47 CFR §§ 1.1, 1.2(b), 1.45.

⁷ *See* FCC, Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (May 1, 1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.
- Paper Filers:
 - Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent 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.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE Washington, DC 20554.
 - Currently, the Commission does not accept any hand delivered or messenger delivered filings as a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.⁸ In the event that the Commission announces the lifting of COVID-19 restrictions, a filing window will be opened at the Commission's office located at 9050 Junction Drive, Annapolis Junction, MD 20701.

Ex Parte Rules. The proceeding this Public Notice initiates shall be treated as a “permit-but disclose” proceeding in accordance with the Commission’s ex parte rules.⁹ 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 (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) 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 section 1.1206(b). In proceedings governed by section 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.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530.

⁸ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

⁹ See 47 CFR § 1.1200 *et seq.*

Additional Information: For additional information on this proceeding, contact Bill Wallace, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202-418-2716, or William.Wallace@fcc.gov

-FCC-



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 23-371

Released: May 8, 2023

WIRELINE COMPETITION BUREAU ANNOUNCES COMMENT DATES FOR SIXTH CALLER ID AUTHENTICATION FURTHER NOTICE OF PROPOSED RULEMAKING

WC Docket No. 17-97

Comment Date: June 5, 2023

Reply Comment Date: July 5, 2023

By this Public Notice, the Wireline Competition Bureau announces that comments in response to the *Sixth Caller ID Authentication Further Notice*¹ are due no later than June 5, 2023, and reply comments are due no later than July 5, 2023.

In the *Further Notice*, the Commission seeks comment on additional measures that may strengthen and expand the Commission's caller ID authentication regime, including on the use of third-party solutions to authenticate caller ID information and whether any changes should be made to the Commission's rules to permit, prohibit, or limit their use.² The Commission also seeks comment on whether to eliminate the STIR/SHAKEN implementation extension for providers that cannot obtain a Service Provider Code token.³ The *Further Notice* requires that comments and reply comments be filed no later than 30 days and 60 days after publication in the Federal Register.⁴ On May 5, 2023, the Federal Register published a summary of the *Further Notice*, establishing June 5, 2023, as the deadline for comments and July 5, 2023, as the deadline for reply comments.⁵ The *Further Notice* and the *Federal Register Notice* contain complete filing instructions.⁶

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

For further information, please contact Jonathan Lechter, Competition Policy Division, Wireline Competition Bureau, at 202-418-0984 or jonathan.lechter@fcc.gov.

-FCC-

¹ *Call Authentication Trust Anchor*, WC Docket No. 17-97, Further Notice of Proposed Rulemaking, FCC 23-18 (rel. Mar. 17, 2023) (*Sixth Caller ID Authentication Further Notice* or *Further Notice*).

² *Id.* at 47-51, paras. 97-106.

³ *Id.* at 51-52, paras. 107-108.

⁴ *Id.* at 1.

⁵ 88 Fed. Reg. 29035 (May 5, 2023) (*Federal Register Notice*).

⁶ See *Sixth Caller ID Authentication Further Notice* at 54, paras. 118-121; *Federal Register Notice* at 29035-36.



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 23-372
Released: May 5, 2023

**DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL
OF ALL WEST COMMUNICATIONS, INC. TO NOVACAP HOLDINGS, INC.**

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 22-410

Comments Due: May 19, 2023
Reply Comment Due: May 26, 2023

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by All West Communications, Inc. (All West) and Novacap All West Holdings, Inc. (Novacap Holdings) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent for the transfer of control of All West from its current shareholders to Novacap Holdings.²

All West, a Utah corporation, is an incumbent local exchange carrier (LEC) that serves six rural local exchanges over approximately 4,200 access lines in its Utah study area and two rural local exchanges over approximately 200 access lines in its Wyoming study area.³ All West Financial Services d/b/a All West Broadband (AWFS), a Utah corporation and wholly-owned

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² Restated Joint Section 214 Application of All West Communications, Inc. and Novacap All West Holdings, Inc. for Consent to Transfer Control, WC Docket No. 22-410 (filed Apr. 25, 2023) (Application) (updating the initial application filed on Nov. 28, 2022 (Initial Application)). Applicants filed supplements to the Initial Application on December 16, 2022, January 9, 2023, and May 2, 2023. See Letter from John Gasparini, Counsel for Novacap All West Holdings, Inc. to Marlene H. Dortch, Secretary, FCC (filed Dec. 16, 2022); Letter from John Gasparini, Counsel for Novacap All West Holdings, Inc. to Marlene H. Dortch, Secretary, FCC (filed Jan. 9, 2023); Letter from Richard Rubino, Counsel for All West Communications, Inc. and Mathew Weller, President, All West Communications, Inc. to Marlene H. Dortch, Secretary, FCC (filed May 2, 2023) (May 2 Supplement). Applicants also filed applications for the transfer of authorizations associated with international services and wireless services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ Application at 2. Applicants state that All West is designated as an eligible telecommunications carrier (ETC) in Utah and Wyoming that participates in the Lifeline program, Emergency Broadband Benefit program, and the Affordable Connectivity Program and that it will continue to support them through company promotion and state outreach programs. *Id.* at 21-22.

subsidiary of All West, provides broadband Internet access services (BIAS) to customers in the All West incumbent LEC service areas in Utah and Wyoming, and in the All West/Utah, Inc. (All West/Utah) and All West/Wyoming, Inc. (All West/Wyoming) competitive LEC service areas in Utah and Wyoming.⁴ All West/Utah, a Utah corporation and wholly-owned subsidiary of AWFS, provides competitive LEC services and other services in and around five Utah communities (Park City, Heber, Huntsville, Morgan, and Salt Lake).⁵ All West/Wyoming, a Wyoming corporation and wholly-owned subsidiary of AWFS, provides competitive LEC services in and around five Wyoming communities (Kemmerer, Farson, Evanston, Rock Springs, and Green River).⁶ All West/Utah and All West/Wyoming competitive LEC operations, combined, serve approximately 1,100 access lines.⁷ All West/Wyoming is authorized to receive a total of \$46,648 in Rural Digital Opportunity Fund (RDOF) (Auction 904) to serve 218 locations in 22 eligible census blocks.⁸

Novacap Holdings, a Delaware corporation, is a holding company and does not provide any telecommunications services.⁹ Applicants state that Novacap Holdings will ultimately be controlled by Novacap Management Inc. (Novacap), a Canadian private equity fund.¹⁰ Novacap controls Stratus Networks, Inc. (Stratus), Horizon Telecom, Inc. (Horizon), and Horizon's wholly-owned subsidiary, The Chillicothe Telephone Company (CTC).¹¹ CTC provides telecommunications services as an incumbent LEC in Ohio.¹² Stratus offers competitive long distance services and other services in 35 states.¹³ CTC also owns and operates a fiber network of approximately 5,974 route miles that offers telecommunications services and other services to businesses, institutions.¹⁴ It also owns and operates wireless tower sites in Ohio, West Virginia, and Indiana.¹⁵ Novacap is wholly-owned by Novacap Fund Management Inc., a Canadian corporation.¹⁶

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Application at 3. Sweetwater Television Company, a Wyoming corporation and wholly-owned subsidiary of All West/Wyoming, owns cable television plant over which All West/Utah provides digital video services. *Id.* at 4.

⁸ May 2 Supplement at 2; *see also Rural Digital Opportunity Fund Support Authorized For 469 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, DA 21-1287, at Attach. A (Authorized Long-Form Applicants and Winning Bids) (WCB 2021).

⁹ Application at 4.

¹⁰ *Id.* at 5, Exh. B (Post-Closing Ownership Structure Ex. B-3). Applicants state that the following individuals exercise Novacap's authority as general partner and individually hold a 14.3% interest in the "Novacap Vehicles": Pascal Tremblay, a Canadian citizen; Stéphane Tremblay, a Canadian citizen; Thadeus Mocarski, a U.S. citizen; Francois Laflamme, a Canadian citizen; David Lewin, a Canadian citizen; Eric Desrosiers, a Canadian citizen; and Benjamin Desmarais, a Canadian citizen. *Id.* at Exh. B (Post-Closing Ownership Structure Ex. B-3).

¹¹ *Id.* at 19.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 20.

¹⁵ *Id.*

Pursuant to the terms of the proposed transaction, All West and Novacap All West Acquisition Company, Inc. (Novacap Acquisition) entered into an Agreement under which Novacap Acquisition, a wholly-owned subsidiary of Novacap Holdings created for the purposes of the proposed transaction, will acquire all of the issued and outstanding equity interests in All West and its subsidiaries.¹⁷ Applicants state that, as a result of the proposed transaction, Novacap Holdings will assume control of All West and its subsidiaries, including all licenses, physical plant, and operations in Utah and Wyoming.¹⁸

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity and that Novacap's capital investment will enhance the Licensees' ability to meet their service obligations for their RDOF locations under the company's existing management.¹⁹ Applicants state that "the service areas of Stratus, Horizon Telecom Inc. (together with CTC), and All West, do not and will not overlap."²⁰ Because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, we accept the Application for non-streamlined processing in order to sufficiently analyze whether the proposed transaction would serve the public interest.²¹

Referral to Executive Branch Agencies. Through this Public Notice, pursuant to Commission practice, the Application and the associated international application, ITC-T/C-20221128-00141, are being referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Applicants.²²

Domestic Section 214 Application Filed for the Transfer of Control of
All West Communications, Inc. to Novacap Holdings, Inc.,
WC Docket No. 22-410 (filed Nov. 28, 2022).

GENERAL INFORMATION

The application identified herein has been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

Interested parties may file comments **on or before May 19, 2023**, and reply comments **on or before May 26, 2023**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by paper.

¹⁶ *Id.* at Exh. B (Post-Closing Ownership Structure Ex. B-3). The majority of individuals holding a 10% or greater interest in Novacap Fund Management Inc. are Canadian citizens. *Id.*

¹⁷ *See id.* at 5, n.2.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 6-7, 21.

²⁰ *Id.* at 19.

²¹ *See* 47 CFR § 63.03(c)(1)(v).

²² 47 CFR § 1.40001. *See Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927 (2020), Erratum (Appendix B — Final Rules), DA 20-1404 (OMD/IB rel. Nov. 27, 2020); *see also Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997), recon. denied, 15 FCC Rcd 18158 (2000).

- Electronic Filers: Comments may be filed electronically by accessing ECFS at <http://apps.fcc.gov/ecfs/>.
- *Paper Filers*: Parties who choose to file by paper must file an original and one copy 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 commercial overnight courier or by first-class or overnight U.S. Postal Service mail.²³ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
- 3) David Krech, Office of International Affairs, david.krech@fcc.gov;
- 4) Nadja Sodos-Wallace, Wireless Telecommunications Bureau, nadja.sodoswallace@fcc.gov; and
- 5) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

The proceeding in this Notice 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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

²³ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OS 2020).

ex parte presentations and must be filed consistent with rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.²⁴ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Tracey Wilson at (202) 418-1394 or Dennis Johnson, at (202) 418-0809.

-FCC-

²⁴ See 47 CFR § 1.45(c).



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 23-373
Released: May 5, 2023

**DOMESTIC SECTION 214 APPLICATION FILED
FOR THE TRANSFER OF CERTAIN ASSETS OF AL-CALL, INC.
AND ATC BROADBAND, LLC TO LIVEOAK FIBER, LLC**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 23-138

Comments Due: May 19, 2023
Reply Comment Due: May 26, 2023

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Al-Call, Inc. (Al-Call), ATC Broadband, LLC (ATC Broadband) (Al-Call and ATC Broadband, together, ATC), LiveOak Fiber, LLC (LiveOak) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,¹ requesting consent for ATC to transfer certain customers and other assets to LiveOak.²

Al-Call, a Georgia corporation, is a registered competitive local exchange carrier (LEC) in Georgia. ATC Broadband, a Georgia limited liability company, is a cable company with a statewide franchise in Georgia. ATC currently provides services to 138 business customers with 181 customer locations in Camden and Glynn Counties in Georgia.³

LiveOak, a Delaware limited liability company, is certified to provide competitive local exchange service in Georgia and currently operates a broadband network in several counties in

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² Application of Al-CALL, Inc. and ATC Broadband, LLC to LiveOak Fiber, LLC, et al. for Grant of Authority for the Assignment of Certain Assets, WC Docket No. 23-138 (filed Apr. 21, 2023) (Application). Applicants filed supplements to the Application on April 24, 2023, and May 1, 2023. Letter from Bob Silverman, Counsel for LiveOak Fiber, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-138 (filed Apr. 24, 2023) (Apr. 24 Supplement); Letter from Bob Silverman, Counsel for LiveOak Fiber, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-138 (filed May 1, 2023). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ The ATC entities are affiliates of the Alma Telephone Company, an incumbent LEC providing service in Bacon and Pierce counties in Georgia.

Florida and Georgia. LiveOak is ultimately held by Sun Life Financial Inc., a publicly traded Canadian corporation.⁴

Pursuant to the terms of the proposed transaction, Applicants have agreed to the transfer of 119 of ATC's customers and ATC's network assets in Camden and Glynn counties to LiveOak. Upon consummation of the proposed transaction, LiveOak will acquire the network facilities used to serve all of ATC's customers in Glynn and Camden except for 19 that are being retained by ATC. LiveOak will simultaneously lease back to ATC the capacity and connections needed to serve the customers that will not be transferred to LiveOak.

Applicants request streamlined treatment of the proposed transaction under the Commission's rules and assert that a grant of the Application would serve the public interest, convenience, and necessity. We accept the Application for streamlined filing under section 63.03(b)(2)(i) of the Commission's rules.⁵

Domestic Section 214 Application Filed for the Transfer of Certain Assets of
Al-Call, Inc. and ATC Broadband, LLC to LiveOak Fiber, LLC,
WC Docket No. 23-138 (filed Apr. 21, 2023).

GENERAL INFORMATION

The transfer of assets identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 63.03(a) of the Commission's rules, 47 CFR § 63.03(a), interested parties may file comments **on or before May 19, 2023**, and reply comments **on or before May 26, 2023**. Pursuant to section 63.52 of the Commission's rules, 47 CFR § 63.52, commenters must serve a copy of comments on the Applicants no later than the above comment filing date. Unless otherwise notified by the Commission, the Applicants may transfer control on the 31st day after the date of this notice.

Pursuant to section 63.03 of the Commission's rules, 47 CFR § 63.03, parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
- 2) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov; and
- 3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

The proceeding in this Notice 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

⁴ Applicants filed detailed ownership information in the Application. Application at 7-9; Apr. 24 Supplement at Exh. A (LiveOak Fiber Ownership Chart).

⁵ 47 CFR § 63.03(b)(2)(i).

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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.⁶ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

For further information, please contact Tracey Wilson at (202) 418-1394 or Dennis Johnson at (202) 418-0809.

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⁶ See 47 CFR § 1.45(c).



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 23-274

Released: May 8, 2023

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON MODIFYING THE CALCULATION OF BROADBAND BENCHMARKS

WC Docket No. 10-90

Comment Date: June 8, 2023

Reply Comment Date: June 23, 2023

In this Public Notice, the Wireline Competition Bureau (WCB or Bureau), in coordination with the Office of Economics and Analytics, seeks comment on modifying the calculation of our broadband reasonable comparability benchmarks for the Urban Rate Survey (URS or Survey). In particular, the Bureau seeks comment on methods for calculating benchmarks for a wider spectrum of service speeds as well as other proposed improvements.

Background. In the *USF/ICC Transformation Order*, the Commission delegated to the Wireline Competition Bureau and the Wireless Telecommunications Bureau (collectively, Bureaus) “authority to conduct an annual survey of urban broadband rates, if necessary, in order to derive a national range of rates for broadband service...”¹ This national range would be used to ensure that Universal Service Fund (USF) recipients offer voice and broadband services at reasonably comparable rates to those in urban areas.²

¹ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17708, para. 114 (2011) (*USF/ICC Transformation Order*).

² Through its Universal Service policies, the Commission is required to recognize that “[c]onsumers in all regions of the Nation . . . should have access to telecommunications and information services . . . that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.” *USF/ICC Transformation Order*, 26 FCC Rcd at 17708, para. 113. Likewise, recipients of high-cost support that are subject to broadband performance obligations are required to offer broadband service at rates that are at or below the relevant reasonable comparability benchmark. *USF/ICC Transformation Order*, 26 FCC Rcd at 17695, para. 86. Moreover, “support recipients must certify that the pricing of the broadband offering they are relying upon to meet their broadband performance obligation is no more than the applicable benchmark as specified in a public notice annually issued by the Wireline Competition Bureau” *Connect America Fund; ETC Annual Reports and Certifications; Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Obsolete ILEC Regulatory Obligations that Inhibit Deployment of Next-Generation Networks*; WC Docket Nos. 10-90, 14-58, 14-192, Report and Order, 29 FCC Rcd 15645, 15686-87, para. 120 (2014).

The Bureaus released the *2013 URS Order* in April 2013 that adopted the form and content of the URS for fixed voice and fixed broadband residential services.³ With regard to fixed broadband services, the *2013 URS Order* required that providers report all residential, non-discounted monthly rates for all standalone service speeds above 200 kbps offered in specified census tracts.⁴ The *Order* limited the survey to “all fixed terrestrial providers,” which does not include satellite providers.⁵ The URS has collected this information annually since the initial URS was established in 2014, and the Bureau calculates and announces reasonable comparability benchmarks for voice and broadband services annually.⁶

Discussion. We seek comment on whether we should change how we calculate our broadband benchmarks using data collected through the URS. Unlike monthly fixed voice service rates, which are typically one rate for unlimited monthly service, broadband rates vary by broadband service characteristics, including download and upload speeds and usage allowance.⁷ The Bureau adopted the use of a weighted linear regression analysis to estimate the mean rate for a specific set of service characteristics plus the addition of two standard deviations to this mean to determine the benchmark.⁸ We seek comment on whether limiting ourselves to the use of weighted least squares regression may be hindering our ability to optimally set benchmarks. We seek comment on the use of additional non-linear statistical techniques for this analysis and whether other methodologies could provide more useful benchmarks.

When the Bureau adopted the weighted linear regression methodology, it did so for speeds ranging from 4 Mbps to 40 Mbps, and considered linear regression analysis sufficient to set benchmarks for that limited speed range. However, today, we must create benchmarks for a wider spectrum of service speeds ranging from 4 Mbps to gigabit speeds, while using a limited set of surveyed respondents. We seek comment on the range of speeds for which we should set broadband benchmarks. Currently, we set benchmarks for download speeds from 4 Mbps to 1 Gbps, as that is the highest speed currently required

³ *Connect America Fund*, WC Docket No. 10-90, Order, DA 13-598, 28 FCC Rcd 4242, para. 1 (2013) (*2013 URS Order*).

⁴ *2013 URS Order*, 28 FCC Rcd at 4248, para. 20.

⁵ *Id.* at 4244, para. 9.

⁶ The Commission initially limited rural carriers’ universal service support depending on whose rates were below a set minimum rate known as the “rate floor.” *USF/ICC Transformation Order*, 26 FCC Rcd at 17749-56, paras. 234-47. If a carrier charged its customers less than the rate floor amount for voice service, the difference between the amount charged and the rate floor was deducted from the carrier’s USF support. *Id.* at 240-41. However, the Commission eliminated the rate floor in 2019, finding that its purpose was fulfilled, and its need was no longer justified. *Connect America Fund*, WC Docket No. 10-90, *Report and Order*, 33 FCC Rcd at 2621, 2623, para. 9 (2019).

⁷ *Connect America Fund*, WC Docket No. 10-90, *Report and Order*, 29 FCC 13485, para. 1 (2014).

⁸ *Connect America Fund*, WC Docket No. 10-90, *Report and Order*, 29 FCC 13485, 13487, para. 7 (2014). The methodology for adopting benchmarks in this *Report and Order* applies to all states, with the exception of Alaska. *Id.* at para. 12. Because of the higher costs of building infrastructure in Alaska, the Commission directed the Bureau to determine an Alaska-specific reasonable comparability benchmark for service. See *Connect America Fund; Universal Service Reform; Connect America Fund – Alaska Plan*, *Report and Order and Further Notice of Proposed Rulemaking*, 31 FCC Rcd 10139, 10149, para. 28 (2016), and *Connect America Fund*, *Order*, 31 FCC Rcd 12086, 12092, para. 21 (2016). Thus, the Bureau adopted reasonable comparability voice and broadband benchmarks separately for Alaska Plan rate-of-return carriers and Alaska Communications Systems. *Wireline Competition Bureau Announces Voice and Broadband Reasonable Comparability Benchmarks for Alaska Plan Rate-of-Return Carriers and Alaska Communications Systems and Confirms Minimum Usage Allowance Requirements*, 32 FCC Rcd 3003 (2017).

by our high-cost programs. We also seek comment on when we will likely need benchmarks for higher speeds as these products become commercially available.⁹

In addition to an increasing range of speeds, in the last few years the Bureau has also noted that Survey data show that some variables, such as upload speed and capacity allowances, have become less relevant to setting benchmark rates. For example, in some cases, we have found that inclusion of upload speed in rate calculations can result in anomalies where the benchmark rate rises as upload speed falls, likely because download speed is more significant to price levels. In addition, in some instances we have found that capacity allowances have little to no effect on the benchmark rate. We seek comment on whether we should have the flexibility to exclude these variables when their inclusion has only a small or insignificant effect on the benchmarks.

Additional URS Issues. Data for the URS are collected from providers at the census tract level, with some carriers providing data with multiple distinct service areas and varying prices within a census tract. Currently, carriers are only required to report all non-discounted rates within a census tract for voice and broadband monthly services.¹⁰ However, there has been confusion among carriers, leading some to provide all pricing within a census tract, including discounted prices. When carriers report all prices for distinct service areas in a census tract, the information does not enable us to determine the statistical weight to give to each of the reported prices. We thus seek comment on requiring providers to report only the non-discounted rates that have the most subscribers for each standalone service speed in the distinct area within a census tract. This approach would have several benefits, including reducing filer confusion, enhancing the quality of data submitted, and alleviating the existing burden on the carriers when completing the survey.

We also seek comment on a new definition of an urban tract for the purpose of the URS. The term “urban” was defined in 2013 as “all 2010 Census urban areas and urban clusters that sit within an [Metropolitan Statistical Areas] (MSA).”¹¹ First, we propose to update the urban definition to rely on the census tracts associated with the 2020 Census. Second, we seek comment on whether to modify the definition to ensure that tracts deemed urban consist primarily of urban territory. Census defines urban at the census block level, and the existing URS definition of an urban tract has the effect of designating as urban census tracts that are largely or even entirely comprised of rural census blocks. To ensure that urban tracts are as urban as possible, we propose to define urban census tracts as those in which at least 80% of housing units are within a Census Urban Area with a population of 50,000 or more. This is consistent with the definition used for the 2023 URS.¹² The 80% threshold for urban housing units maximizes the number of urban households in urban tracts while minimizing the number of urban

⁹ As noted above, the Bureau began using 500 surveys for carriers to report their non-discounted prices within urban census tracts and has the authority to collect up to 2,000 surveys. Going forward, we will evaluate whether our sample size of up to 2,000 is sufficient to ensure the quality and reliability of our data analysis.

¹⁰ *2013 URS Order*, 28 FCC Rcd at 4248, para. 20.

¹¹ *Connect America Fund*, WC Docket No. 10-90, Order, 28 FCC Rcd 4242, para. 10 (2013). Urbanized Areas and Urban Clusters are the two types. The 2010 Census included two types of urban areas (referred to, together, as a Census Urban Area). Urbanized Areas are those of 50,000 or more people; Urban Clusters of at least 2,500 and less than 50,000 people. Metropolitan Statistical Areas (MSAs) are defined by the U.S. Office of Management and Budget and are associated with at least one Urban Area that has a population of at least 50,000. The MSA comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting.

¹² See *Urban Rate Survey Timeline for 2023*, WC Docket No. 10-90, Public Notice, DA 22-859, at n.2 (OEA/WCB Aug. 15, 2022).

households that are not in an urban tract.¹³ Similarly, the 50,000 population threshold ensures that only truly urban areas are included.

In addition, in URS responses, some large broadband providers report uniform nationwide undiscounted pricing (i.e., offering the same recurring monthly charge for a given speed tier service) nationwide. To optimize the number of diverse URS responses while minimizing the burden on respondents, we propose to identify such providers and reduce the number of surveys assigned to them.¹⁴ We seek comment on how to identify providers with nationwide pricing. Should we identify those that may have nationwide pricing for undiscounted services solely from the previous year's survey? If so, how many surveys should we collect from providers appearing to have nationwide pricing so that we can properly identify such providers for the next survey? When determining the number of samples to give these providers, how should we account for other charges, such as "total of state, local, and municipal taxes" that may vary by state?

Similarly, some voice providers report offering nationwide undiscounted pricing. Even if a provider's monthly recurring charge for undiscounted voice services is the same nationwide, there are likely other associated charges that vary by state, such as the access recovery charges for incumbent local exchange carriers; mandatory extended area service (EAS) charges; and state subscriber line charges. If we sample based on nationwide pricing, how should we account for the associated charges that may vary by state?

Comment Filing Requirements

Interested parties may file **comments on or before June 8, 2023** and **replies on or before June 23, 2023**. All pleadings must reference **WC Docket No. 10-90**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁵

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent 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.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.¹⁶

¹³ Based on 2010 census data. The Census Bureau identifies each 2020 census block as being either urban or not urban. All households in an urban block are considered urban, and all households in a non-urban block are non-urban. The 80% threshold maximized the following: the number of urban households in census tracts minus the number of urban households in nonurban tracts.

¹⁴ Weighting would be used to ensure proper representation in the sample.

¹⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998); 63 FR 24121 (1998).

¹⁶ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

Additional Copies. Parties should send a copy of their filings to Suzanne Yelen, Wireline Competition Bureau, by e-mail to Suzanne.Yelen@fcc.gov.

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

Permit but Disclose Ex Parte Communications. For the purposes of the Commission's *ex parte* rules, each petition submitted pursuant to section 214(e)(6) will be treated as initiating a permit-but-disclose proceeding under the Commission's rules.¹⁷ 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).¹⁸ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation.¹⁹ 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.²⁰ 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 rule 1.1206(b).²¹ In proceedings governed by rule 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).²² Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For additional information on this proceeding, please contact Suzanne Yelen (Suzanne.Yelen@fcc.gov) of the Wireline Competition Bureau at (202) 418-0626 or Craig Stroup (Craig.Stroup@fcc.gov) of the Office of Economics and Analytics at (202) 418-0989.

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¹⁷ See 47 CFR § 1.1206.

¹⁸ *Id.* § 1.2016(b)(2)(iii).

¹⁹ *Id.* § 1.1206(b)(1).

²⁰ *Id.*

²¹ *Id.* § 1.1206(b)(2).

²² *Id.* § 1.1206(b)(2)(i); see also *id.* § 1.49(f).



PUBLIC NOTICE

Federal Communications Commission
45 L Street N.E.
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>

DA 23-375

Released: May 8, 2023

INTERCONNECTED VOIP NUMBERING AUTHORIZATION APPLICATION FILED BY VESTED NETWORKS, LLC PURSUANT TO SECTION 52.15(g)(3) OF THE COMMISSION'S RULES

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 22-358¹

Comments Due: May 23, 2023

Vested Networks, LLC (Vested Networks), an interconnected Voice over Internet Protocol (VoIP) provider, filed a Numbering Authorization Application (Application) pursuant to section 52.15(g)(3) of the Federal Communications Commission's rules, seeking authorization to obtain North American Numbering Plan telephone numbers directly from the Numbering Administrator.² In its Application, Vested Networks indicates that it intends to initially request numbers in Arizona, California, Florida, Louisiana, South Carolina, Missouri, Nevada, New York, Oklahoma and Texas, but plans to add additional states at a later time.³

In its Application, Vested Networks includes the contact information and acknowledgements required by section 52.15(g)(3)(i) of the Commission's rules.⁴ Vested Networks provides evidence that it will be capable of providing service within 60 days of the numbering resources activation date.⁵ Vested Networks also certifies that it complies with the contribution, regulatory fee, and 911 obligations set forth in section 52.15(g)(3)(i)(E).⁶ In addition, Vested Networks certifies that it has the financial, managerial, and technical expertise to provide reliable service.⁷ Vested Networks further certifies that none of its key

¹ We assign WC Docket No. 22-358 for this Application and all related filings by the Applicant and interested parties. See *Wireline Competition Bureau Announces Commencement Date and Process for Interconnected VoIP Providers to File Applications for Authorization to Obtain Telephone Numbers*, Public Notice, 31 FCC Rcd 949, 950 (WCB 2016).

² See Application of Vested Networks for Authorization to Obtain Numbering Resources, WC Docket No. 22-358 (filed Oct. 11, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/101115080257>; Vested Networks Supplement, WC Docket No. 22-358 (filed Oct. 12, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/101168908387> (Supplement); see also 47 CFR § 52.15(g)(3).

³ Supplement at 2; see also *Numbering Policies for Modern Communications et al.*, Report and Order, 30 FCC Rcd 6839, 6850, para. 24 & n.74 (2015) (*VoIP Direct Access to Numbers Order*).

⁴ Application at 1-2, 2; see 47 CFR § 52.15(g)(3)(i)(A)-(C), (F).

⁵ Application at 2; see 47 CFR § 52.15(g)(3)(i)(D).

⁶ Application at 2; see 47 CFR § 52.15(g)(3)(i)(E); see also 47 CFR §§ 1.1154, 52.17, 52.32, 64.604(c)(5)(iii); 47 CFR pts. 9 and 54, subpt. H.

⁷ Application at 2; see 47 CFR § 52.15(g)(3)(i)(F).

management and technical personnel are being or have been investigated by the Commission, or any law enforcement or regulatory agency, for failure to comply with any law, rule, or order.⁸ Finally, Vested Networks certifies that no party to the Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.⁹

GENERAL INFORMATION

The Application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined Application. The Commission reserves the right to return any Application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 52.15(g)(3)(ii) of the Commission's rules, interested parties may file comments in WC Docket No. 22-358 **on or before May 23, 2023**.¹⁰ Commenters must serve a copy of comments on Vested Networks no later than the above comment filing date.

Parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) DAA@fcc.gov;
- 2) Margoux Newman, Competition Policy Division, Wireline Competition Bureau, Margoux.Newman@fcc.gov;
- 3) Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, Michelle.Sclater@fcc.gov.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

The proceeding in this Notice 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 rule 1.1206(b),

⁸ Application at 2; *see* 47 CFR § 52.15(g)(3)(i)(F).

⁹ Application at 3; *see* 47 CFR § 52.15(g)(3)(i)(G); *see also* 21 U.S.C. § 862.

¹⁰ 47 CFR § 52.15(g)(3)(ii).

47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹¹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Please contact DAA@fcc.gov, Margoux Newman at Margoux.Newman@fcc.gov, Michelle Sclater at Michelle.Sclater@fcc.gov for further information.

- FCC -

¹¹ See 47 CFR § 1.45(c).



PUBLIC NOTICE

Federal Communications Commission
45 L Street N.E.
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>

DA 23-376

Released: May 8, 2023

**INTERCONNECTED VOIP NUMBERING AUTHORIZATION APPLICATION
FILED BY BARR TELL USA, INC. PURSUANT TO SECTION 52.15(g)(3)
OF THE COMMISSION'S RULES**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 22-444¹

Comments Due: May 23, 2023

BARR TELL USA, INC. (BARR TELL), an interconnected Voice over Internet Protocol (VoIP) provider, filed a Numbering Authorization Application (Application) pursuant to section 52.15(g)(3) of the Federal Communications Commission's rules, seeking authorization to obtain North American Numbering Plan telephone numbers directly from the Numbering Administrator.² In its Application, BARR TELL indicates that it intends to initially request numbers in Arkansas and Kentucky.³

In its Application, BARR TELL includes the contact information and acknowledgements required by section 52.15(g)(3)(i) of the Commission's rules.⁴ BARR TELL provides evidence that it will be capable of providing service within 60 days of the numbering resources activation date. BARR TELL also certifies that it complies with the contribution, regulatory fee, and 911 obligations set forth in section 52.15(g)(3)(i)(E).⁵ In addition, BARR TELL certifies that it has the financial, managerial, and technical expertise to provide reliable service.⁶ BARR TELL further certifies that none of its key management and technical personnel are being or have been investigated by the Commission, or any law enforcement or regulatory agency, for failure to comply with any law, rule, or order.⁷ Finally, BARR TELL certifies that

¹ We assign WC Docket No. 22-444 for this Application and all related filings by the Applicant and interested parties. See *Wireline Competition Bureau Announces Commencement Date and Process for Interconnected VoIP Providers to File Applications for Authorization to Obtain Telephone Numbers*, Public Notice, 31 FCC Rcd 949, 950 (WCB 2016).

² See Application of BARR TELL for Authorization to Obtain Numbering Resources, WC Docket No. 22-444 (filed Dec. 6, 2022), <https://www.fcc.gov/ecfs/document/1206215888337/1>; Supplement to BARR TELL Application, WC Docket No. 22-444 (filed May 3, 2023), <https://www.fcc.gov/ecfs/document/10508162864303/1> (Supplement); see also 47 CFR § 52.15(g)(3).

³ Supplement at 1. See also *Numbering Policies for Modern Communications et al.*, Report and Order, 30 FCC Rcd 6839, 6850, para. 24 & n.74 (2015) (*VoIP Direct Access to Numbers Order*).

⁴ Application 1-2, 3-4; see 47 CFR § 52.15(g)(3)(i)(A)-(C), (F).

⁵ Application at 2-3; see 47 CFR § 52.15(g)(3)(i)(E); see also 47 CFR §§ 1.1154, 52.17, 52.32, 64.604(c)(5)(iii); 47 CFR pts. 9 and 54, subpt. H.

⁶ Application at 3; see 47 CFR § 52.15(g)(3)(i)(F).

⁷ Application at 3-4; see 47 CFR § 52.15(g)(3)(i)(F).

no party to the Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.⁸

GENERAL INFORMATION

The Application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined Application. The Commission reserves the right to return any Application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 52.15(g)(3)(ii) of the Commission's rules, interested parties may file comments in WC Docket No. 22-444 **on or before May 23, 2023**.⁹ Commenters must serve a copy of comments on BARR TELL no later than the above comment filing date.

Parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) DAA@fcc.gov;
- 2) Margoux Newman, Competition Policy Division, Wireline Competition Bureau, Margoux.Newman@fcc.gov;
- 3) Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, Michelle.Sclater@fcc.gov.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

The proceeding in this Notice 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their

⁸ Application at 4; *see* 47 CFR § 52.15(g)(3)(i)(G); *see also* 21 U.S.C. § 862.

⁹ 47 CFR § 52.15(g)(3)(ii).

initial filings. New issues may not be raised in responses or replies.¹⁰ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Please contact DAA@fcc.gov, Margoux Newman at Margoux.Newman@fcc.gov, Michelle Sclater at Michelle.Sclater@fcc.gov for further information.

- FCC -

¹⁰ See 47 CFR § 1.45(c).



PUBLIC NOTICE

Federal Communications Commission
45 L Street N.E.
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>

DA 23-377

Released: May 8, 2023

**INTERCONNECTED VOIP NUMBERING AUTHORIZATION APPLICATION FILED BY
FIRST COMMUNICATIONS, LLC PURSUANT TO SECTION 52.15(g)(3) OF THE
COMMISSION'S RULES**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 22-445¹

Comments Due: May 23, 2023

First Communications, LLC (First Communications), an interconnected Voice over Internet Protocol (VoIP) provider, filed a Numbering Authorization Application (Application) pursuant to section 52.15(g)(3) of the Federal Communications Commission's rules, seeking authorization to obtain North American Numbering Plan telephone numbers directly from the Numbering Administrator.² In its Application, First Communications indicates that it intends to initially request numbers in Illinois, Michigan, and Ohio.³

In its Application, First Communications includes the contact information and acknowledgements required by section 52.15(g)(3)(i) of the Commission's rules.⁴ First Communications provides evidence that it will be capable of providing service within 60 days of the numbering resources activation date.⁵ First Communications also certifies that it complies with the contribution, regulatory fee, and 911 obligations set forth in section 52.15(g)(3)(i)(E).⁶ In addition, First Communications certifies that it has the financial, managerial, and technical expertise to provide reliable service.⁷ First Communications further certifies that none of its key management and technical personnel are being or have been investigated by the Commission, or any law enforcement or regulatory agency, for failure to comply with

¹ We assign WC Docket No. 22-445 for this Application and all related filings by the Applicant and interested parties. See *Wireline Competition Bureau Announces Commencement Date and Process for Interconnected VoIP Providers to File Applications for Authorization to Obtain Telephone Numbers*, Public Notice, 31 FCC Rcd 949, 950 (WCB 2016).

² See Application of First Communications for Authorization to Obtain Numbering Resources, WC Docket No. 22-445 (filed Dec. 12, 2022), <https://www.fcc.gov/ecfs/document/1212968411961/1>; see also 47 CFR § 52.15(g)(3).

³ Application at 2. See also *Numbering Policies for Modern Communications et al.*, Report and Order, 30 FCC Rcd 6839, 6850, para. 24 & n.74 (2015) (*VoIP Direct Access to Numbers Order*).

⁴ Application at 1-2, 4; see 47 CFR § 52.15(g)(3)(i)(A)-(C), (F).

⁵ Application at 3; see 47 CFR § 52.15(g)(3)(i)(D).

⁶ Application at 3; see 47 CFR § 52.15(g)(3)(i)(E); see also 47 CFR §§ 1.1154, 52.17, 52.32, 64.604(c)(5)(iii); 47 CFR pts. 9 and 54, subpt. H.

⁷ Application at 4; see 47 CFR § 52.15(g)(3)(i)(F).

any law, rule, or order.⁸ Finally, First Communications certifies that no party to the Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.⁹

GENERAL INFORMATION

The Application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined Application. The Commission reserves the right to return any Application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 52.15(g)(3)(ii) of the Commission's rules, interested parties may file comments in WC Docket No. 22-445 **on or before May 23, 2023**.¹⁰ Commenters must serve a copy of comments on First Communications no later than the above comment filing date.

Parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) DAA@fcc.gov;
- 2) Margoux Newman, Competition Policy Division, Wireline Competition Bureau, Margoux.Newman@fcc.gov;
- 3) Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, Michelle.Sclater@fcc.gov.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

The proceeding in this Notice 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

⁸ Application at 4; *see* 47 CFR § 52.15(g)(3)(i)(F).

⁹ Application at 4; *see* 47 CFR § 52.15(g)(3)(i)(G); *see also* 21 U.S.C. § 862.

¹⁰ 47 CFR § 52.15(g)(3)(ii).

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹¹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Please contact DAA@fcc.gov, Margoux Newman at Margoux.Newman@fcc.gov, Michelle Sclater at Michelle.Sclater@fcc.gov for further information.

- FCC -

¹¹ See 47 CFR § 1.45(c).



PUBLIC NOTICE

Federal Communications Commission
45 L Street N.E.
Washington, DC 20554

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Internet: <https://www.fcc.gov>

DA 23-378

Released: May 8, 2023

**INTERCONNECTED VOIP NUMBERING AUTHORIZATION APPLICATION FILED BY
VERSATEL, LLC /DBA/ 46 LABS COMMUNICATIONS PURSUANT TO SECTION 52.15(g)(3)
OF THE COMMISSION'S RULES**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 23-7¹

Comments Due: May 23, 2023

Versatel, LLC /dba/ 46 Labs Communications (46 Labs), an interconnected Voice over Internet Protocol (VoIP) provider, filed a Numbering Authorization Application (Application) pursuant to section 52.15(g)(3) of the Federal Communications Commission's rules, seeking authorization to obtain North American Numbering Plan telephone numbers directly from the Numbering Administrator.² In its Application, 46 Labs indicates that it intends to initially request numbers in the state of California, and eventually throughout the United States.³

In its Application, 46 Labs includes the contact information and acknowledgements required by section 52.15(g)(3)(i) of the Commission's rules.⁴ 46 Labs provides evidence that it will be capable of providing service within 60 days of the numbering resources activation date.⁵ 46 Labs also certifies that it complies with the contribution, regulatory fee, and 911 obligations set forth in section 52.15(g)(3)(i)(E).⁶ In addition, 46 Labs certifies that it has the financial, managerial, and technical expertise to provide reliable service.⁷ 46 Labs further certifies that none of its key management and technical personnel are being or have been investigated by the Commission, or any law enforcement or regulatory agency, for

¹ We assign WC Docket No. 23-7 for this Application and all related filings by the Applicant and interested parties. See *Wireline Competition Bureau Announces Commencement Date and Process for Interconnected VoIP Providers to File Applications for Authorization to Obtain Telephone Numbers*, Public Notice, 31 FCC Rcd 949, 950 (WCB 2016).

² See Application of 46 Labs for Authorization to Obtain Numbering Resources, WC Docket No. 23-7 (filed Dec. 28, 2022), <https://www.fcc.gov/ecfs/search/search-filings/filing/12281099526022>; see also 47 CFR § 52.15(g)(3).

³ Application at 2. See also *Numbering Policies for Modern Communications et al.*, Report and Order, 30 FCC Rcd 6839, 6850, para. 24 & n.74 (2015) (*VoIP Direct Access to Numbers Order*).

⁴ Application at 1-2, 4; see 47 CFR § 52.15(g)(3)(i)(A)-(C), (F).

⁵ Application at 2; see 47 CFR § 52.15(g)(3)(i)(D).

⁶ Application at 3; see 47 CFR § 52.15(g)(3)(i)(E); see also 47 CFR §§ 1.1154, 52.17, 52.32, 64.604(c)(5)(iii); 47 CFR pts. 9 and 54, subpt. H.

⁷ Application at 3; see 47 CFR § 52.15(g)(3)(i)(F).

failure to comply with any law, rule, or order.⁸ Finally, 46 Labs certifies that no party to the Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.⁹

GENERAL INFORMATION

The Application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined Application. The Commission reserves the right to return any Application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 52.15(g)(3)(ii) of the Commission's rules, interested parties may file comments in WC Docket No. 23-7 **on or before May 23, 2023**.¹⁰ Commenters must serve a copy of comments on 46 Labs no later than the above comment filing date.

Parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) DAA@fcc.gov;
- 2) Margoux Newman, Competition Policy Division, Wireline Competition Bureau, Margoux.Newman@fcc.gov;
- 3) Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, Michelle.Sclater@fcc.gov.

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

The proceeding in this Notice 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 rule 1.1206(b), 47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

⁸ Application at 3; *see* 47 CFR § 52.15(g)(3)(i)(F).

⁹ Application at 3; *see* 47 CFR § 52.15(g)(3)(i)(G); *see also* 21 U.S.C. § 862.

¹⁰ 47 CFR § 52.15(g)(3)(ii).

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹¹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Please contact DAA@fcc.gov, Margoux Newman at Margoux.Newman@fcc.gov, Michelle Sclater at Michelle.Sclater@fcc.gov for further information.

- FCC -

¹¹ See 47 CFR § 1.45(c).



PUBLIC NOTICE

Federal Communications Commission
45 L Street N.E.
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>

DA 23-379

Released: May 8, 2023

INTERCONNECTED VOIP NUMBERING AUTHORIZATION APPLICATION FILED BY WADDELL SOLUTIONS GROUP LLC PURSUANT TO SECTION 52.15(g)(3) OF THE COMMISSION'S RULES

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 23-124¹

Comments Due: May 23, 2023

Waddell Solutions Group LLC (Waddell Solutions), an interconnected Voice over Internet Protocol (VoIP) provider, filed a Numbering Authorization Application (Application) pursuant to section 52.15(g)(3) of the Federal Communications Commission's rules, seeking authorization to obtain North American Numbering Plan telephone numbers directly from the Numbering Administrator.² In its Supplement, Waddell Solutions indicates that it intends to initially request numbers in Ohio, Kentucky, and Indiana.³

In its Application, Waddell Solutions includes the contact information and acknowledgements required by section 52.15(g)(3)(i) of the Commission's rules.⁴ Waddell Solutions provides evidence that it will be capable of providing service within 60 days of the numbering resources activation date.⁵ Waddell Solutions also certifies that it complies with the contribution, regulatory fee, and 911 obligations set forth in section 52.15(g)(3)(i)(E).⁶ In addition, Waddell Solutions certifies that it has the financial, managerial, and technical expertise to provide reliable service.⁷ Waddell Solutions further certifies that none of its key management and technical personnel are being or have been investigated by the

¹ We assign WC Docket No. 23-124 for this Application and all related filings by the Applicant and interested parties. See *Wireline Competition Bureau Announces Commencement Date and Process for Interconnected VoIP Providers to File Applications for Authorization to Obtain Telephone Numbers*, Public Notice, 31 FCC Rcd 949, 950 (WCB 2016).

² See Application of Waddell Solutions for Authorization to Obtain Numbering Resources, WC Docket No. 23-124 (filed Jan. 19, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/101190906327196>; Supplement to Waddell Solutions, WC Docket No. 23-124 (filed Apr. 26, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/10426301014143> (Supplement); see also 47 CFR § 52.15(g)(3).

³ Supplement at 1. See also *Numbering Policies for Modern Communications et al.*, Report and Order, 30 FCC Rcd 6839, 6850, para. 24 & n.74 (2015) (*VoIP Direct Access to Numbers Order*).

⁴ Application at 1-2; see 47 CFR § 52.15(g)(3)(i)(A)-(C), (F).

⁵ Application at 2; see 47 CFR § 52.15(g)(3)(i)(D).

⁶ Application at 3; see 47 CFR § 52.15(g)(3)(i)(E); see also 47 CFR §§ 1.1154, 52.17, 52.32, 64.604(c)(5)(iii); 47 CFR pts. 9 and 54, subpt. H.

⁷ Application at 3; see 47 CFR § 52.15(g)(3)(i)(F).

Commission, or any law enforcement or regulatory agency, for failure to comply with any law, rule, or order.⁸ Finally, Waddell Solutions certifies that no party to the Application is subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.⁹

GENERAL INFORMATION

The Application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined Application. The Commission reserves the right to return any Application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Pursuant to section 52.15(g)(3)(ii) of the Commission's rules, interested parties may file comments in WC Docket No. 23-124 **on or before May 23, 2023**.¹⁰ Commenters must serve a copy of comments on Waddell Solutions no later than the above comment filing date.

Parties to this proceeding should file any documents using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

In addition, e-mail one copy of each pleading to each of the following:

- 1) DAA@fcc.gov;
- 2) Margoux Newman, Competition Policy Division, Wireline Competition Bureau, Margoux.Newman@fcc.gov;
- 3) Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, Michelle.Sclater@fcc.gov.

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The proceeding in this Notice 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 rule 1.1206(b),

⁸ Application at 3; *see* 47 CFR § 52.15(g)(3)(i)(F).

⁹ Application at 3; *see* 47 CFR § 52.15(g)(3)(i)(G); *see also* 21 U.S.C. § 862.

¹⁰ 47 CFR § 52.15(g)(3)(ii).

47 CFR § 1.1206(b). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.¹¹ A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

Please contact DAA@fcc.gov, Margoux Newman at Margoux.Newman@fcc.gov, Michelle Sclater at Michelle.Sclater@fcc.gov for further information.

- FCC -

¹¹ See 47 CFR § 1.45(c).

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

GCI Communication Corp.

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File No.: EB-IHD-19-00028792

CD Acct. No.: 202332080026

FRN: 0001568880

ORDER

Adopted: May 10, 2023**Released: May 11, 2023**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission (FCC or Commission) has entered into a Consent Decree to resolve its investigation into whether GCI Communication Corp. (GCI) violated the Commission's Rural Health Care (RHC) Program rules¹ governing competitive bidding, the determination of urban rates, and the determination of rural rates.² To settle this matter, GCI agrees to a total settlement value of \$42,614,595, including (a) a repayment to the Universal Service Fund in the amount of \$26,614,595 and (b) a credit of \$16,000,000 for GCI's withdrawal of its Applications for Review related to Funding Years (FY) 2017-2019,³ currently pending before the Commission. GCI also agrees to implement enhanced compliance measures in connection with its participation in the RHC Program. The FCC's rules governing the RHC Program⁴ are vital to protecting the Program and its resources from waste, fraud, and abuse. This action will help further the Commission's goal of supporting health care providers in delivering telehealth services to their rural communities.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the associated investigation into GCI's compliance with the RHC Program rules.

¹ See 47 CFR §§ 54.600-54.680 (2019). Citations to the CFR refer to the pre-October 1, 2019 version.

² See 47 CFR § 54.607 (2019).

³ GCI filed an Application for Review on November 9, 2018 related to WCB's October 10, 2018 cost study determination of GCI's FY2017 rural rates and an Application for Review on November 19, 2020 related to WCB's October 20, 2020 cost study determinations of GCI's FY2018 and FY2019 rural rates.

⁴ See 47 CFR §§ 54.600-54.680 (2019). The RHC Program includes two subprograms: the Telecommunications Program (Telecom Program) and the Healthcare Connect Fund (HCF). The Telecom Program provides support for the difference between the rural and urban rates for telecommunications services. See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 34 FCC Rcd 7335, 7337, para. 4 (2019) (*2019 Report and Order*); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9111-9112 (1997). The HCF promotes the use of broadband services and the formation of health care consortia by providing a 65% discount on an array of advanced telecommunications and information services such as Internet access, dark fiber, business data, traditional Digital Subscriber lines, and private carriage services. See *2019 Report and Order*, 34 FCC Rcd at 7337, para. 4; see also *Rural Healthcare Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678 (2012) (establishing the Healthcare Connect Fund). While the Consent Decree references the RHC Program generally, the apparent rule violations at issue in the Consent Decree concern the Telecom Program.

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of GCI's basic qualifications to hold or obtain any Commission license or authorization.⁵

4. Accordingly, **IT IS ORDERED** that, pursuant to the authority delegated by sections 0.111 and 0.311 of the Commission's rules,⁶ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and the Consent Decree shall be sent by e-mail to Becky Windt Pearson, Senior Vice President, Law and Corporate Advocacy and General Counsel, GCI Communication Corp., at bwindt-pearson@gci.com, and to John Nakahata, Esq., HWG LLP, counsel for GCI Communication Corp., at JNakahata@hwglaw.com.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

⁵ See 47 CFR § 1.93(b).

⁶ 47 CFR §§ 0.111, 0.311.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

GCI Communication Corp.

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File No.: EB-IHD-19-00028792

CD Acct. No.: 202332080026

FRN: 0001568880

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission (FCC or Commission) and GCI Communication Corp. (GCI), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether GCI Communication Corp. violated the Commission's Rural Health Care (RHC) Program rules¹ in connection with competitive bidding, urban rate setting, and rural rate setting.

2. To resolve this matter, GCI agrees, through this Consent Decree entered on May 10, 2023, to a total settlement value of \$42,614,595 that includes (a) a repayment to the Universal Service Fund in the amount of \$26,614,595 and (b) a credit of \$16,000,000 for GCI's withdrawal of its Applications for Review and various appeals related to Funding Years (FY) 2017-2019,² as listed in Appendix B. GCI also agrees to enhance its compliance measures in connection with its participation in the RHC Program. Separately, GCI is also entering into a settlement agreement with the United States, acting through the U.S. Department of Justice, as to related claims.

I. DEFINITIONS

3. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) "Act" means the Communications Act of 1934, as amended.³
- (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (c) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
- (d) "CD Acct. No." means account number 202332080026, associated with payment obligations described in Paragraph 27 of this Consent Decree.
- (e) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.
- (f) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which GCI is subject by virtue of its business activities, including but not limited to the RHC Program Rules.

¹ See 47 CFR §§ 54.600-54.680 (2019). Citations to the CFR refer to the pre-October 1, 2019 version.

² GCI filed an Application for Review on November 9, 2018 related to WCB's October 10, 2018 cost study determination of GCI's FY2017 rural rates and an Application for Review on November 19, 2020 related to WCB's October 20, 2020 cost study determinations of GCI's FY2018 and FY2019 rural rates.

³ 47 U.S.C. § 151 *et seq.*

- (g) “Compliance Agreement” means the compliance obligations, program, and procedures attached to this Consent Decree as Appendix A.
- (h) “DOJ Settlement” means the agreement entered into on May 10, 2023 by GCI and the United States of America, acting through the U.S. Department of Justice.
- (i) “Effective Date” means the date by which both the Bureau and GCI have signed the Consent Decree and the Bureau has released an Adopting Order.
- (j) “First LOI” means the Letter of Inquiry issued by the Bureau to GCI on March 23, 2018.
- (k) “GCI” or “Company” means GCI Communication Corp. and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (l) “HCP” means health care provider.
- (m) “Investigation” means the investigation commenced by the Bureau in File Nos. EB-IHD-18-00026254 and EB-IHD-19-00028792 regarding whether GCI violated the RHC Program Rules.
- (n) “Parties” means GCI and the Bureau, each of which is a “Party.”
- (o) “RHC Program Rules” means Title 47, Code of Federal Regulations, sections 54.600-54.680, section 254 of the Act, and Commission orders related to the provision of service in the RHC Program.
- (p) “Second LOI” means the Letter of Inquiry issued by the Bureau to GCI on May 28, 2020.
- (q) “USAC” means the Universal Service Administrative Company, which serves as the administrator for the federal Universal Service Fund.⁴

II. BACKGROUND

4. The RHC Program provides financial support to eligible rural health care providers so that all health care facilities—regardless of whether they are located in rural or urban areas—can implement the modern telecommunications systems that are vital to 21st century medical care.⁵ The Telecommunications Program (Telecom Program) is part of the Commission’s RHC Program and is paid for through the Universal Service Fund (USF or Fund).⁶ Through the Telecom Program, eligible rural health care providers can obtain supported services at rates that are no higher than the “urban rate,” defined as the highest tariffed or publicly available commercial rate for a similar service in any city with a population of 50,000 or more people in that state.⁷ The carrier providing the eligible service(s) is entitled to support payments from the Fund to account for the difference between the rural rate (the rate for

⁴ See 47 CFR § 54.701 (2019).

⁵ See *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8796, para. 35 (1997) (*Federal-State Joint Board on Universal Service*); see also 47 CFR § 54.602 (2019).

⁶ The RHC Program also includes the HCF which provides a 65 percent discount on eligible expenses related to broadband connectivity to both health care providers and consortia. See generally *Rural Health Care Support Mechanism*, Report and Order, 27 FCC Rcd 16678 (2012) (*HCF Order*); see also 47 CFR §§ 54.630-54.649 (2019). Beginning in January 2014, rural health care providers receiving support for Internet access received support for these services through the HCF. See *HCF Order*, 27 FCC Rcd at 16818-19, para. 354.

⁷ 47 CFR §§ 54.605, 54.613 (2019). Anchorage is the only city in Alaska with a population of 50,000 or more people.

telecommunications services provided to health care providers in rural areas, which is generally higher) and the urban rate (the rate for commercial customers in nearby urban areas, which is generally lower).⁸

5. *Determining Rural Rates.* The Commission's rules in effect during the relevant period established three methods for a service provider to determine its rural rate. These methods must be considered in sequential order based on the factual circumstances.⁹ The first method (Method 1) must be considered if the service provider itself offers comparable services to commercial customers that provide a basis for comparison.¹⁰ If so, the Commission's rules required that a service provider's rural rate must "be the average of the rates actually being charged to commercial customers, other than health care providers, for identical or similar services provided by the telecommunications carrier providing the service in the rural area in which the health care provider is located."¹¹

6. However, where the telecommunications carrier "is not providing any identical or similar services in the rural area," the second method (Method 2) must be considered.¹² Method 2 provided that "the rural rate shall be the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area over the same distance as the eligible service by other carriers."¹³

7. The last and final method (Method 3) must be considered only if there are no tariffed or publicly available rates for such services in that rural area, or if the carrier reasonably determines that Method 1 or Method 2 for calculating the rural rate is unfair.¹⁴ In such cases, "then the carrier shall submit for the state commission's approval, for intrastate rates, or the Commission's approval, for interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner."¹⁵ Where a carrier sought approval of a state commission for intrastate rates or the Commission for interstate rates, "a justification of the proposed rural rate, including an itemization of the costs of providing the requested service" is required.¹⁶

8. *Competitive Bidding.* The Commission has repeatedly stated that competitive bidding rules are vital to ensuring that the Fund is "used wisely and efficiently" across USF-funded programs, and that health care providers "are aware of cost-effective alternatives" to ensure fiscal responsibility and to

⁸ *Id.* §§ 54.602, 54.609. See generally *Rural Health Care Support Mechanism*, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 24546 (2003) (*2003 Order and Further Notice*).

⁹ See *Updated Frequently Asked Questions on Universal Service for Rural Health Care Providers*, 12 FCC Rcd 13429, 13433 at part IV, Calculating Amount of Support, Question Nos. 19-21 (1997); see also 47 CFR § 54.607 (2019); *The Wireline Competition Bureau Provides Guidance Regarding the Commission's Rules For Determining Rural Rates in the Rural Health Care Telecommunications Program*, Public Notice, WC Docket No. 02-60, DA 19-92, 2019 WL 696572 (WCB Feb. 15, 2019) (*Determining Rural Rates Public Notice*).

¹⁰ 47 CFR § 54.607(a) (2019).

¹¹ *Id.* The rates averaged to calculate the rural rate must not include any rates reduced by universal service support mechanisms, but a service provider may consider its pre-discount prices for services provided to E-rate customers in determining its rural rates. See *id.*

¹² See *Updated Frequently Asked Questions on Universal Service for Rural Health Care Providers*, 12 FCC Rcd 13429, 13433 at part IV, Calculating Amount of Support, Question Nos. 19-21 (1997); see also 47 CFR § 54.607(b) (2019); *Determining Rural Rates Public Notice*.

¹³ 47 CFR § 54.607(b) (2019).

¹⁴ See *Updated Frequently Asked Questions on Universal Service for Rural Health Care Providers*, 12 FCC Rcd 13429, 13433 at part IV, Calculating Amount of Support, Question Nos. 19-21 (1997); see also 47 CFR § 54.607(b) (2019); *Determining Rural Rates Public Notice*.

¹⁵ 47 CFR § 54.607(b) (2019).

¹⁶ *Id.* § 54.607(b)(1).

limit waste, fraud, and abuse of the Fund.¹⁷ Fundamental to this is the Commission's requirement that RHC Program contracts be awarded through a competitive bidding process.¹⁸ The competitive bidding process must be conducted in a manner such that no bidder receives an unfair advantage over another bidder.¹⁹ The Commission has held that the RHC Program rules, "including the competitive bidding rules, apply to all applicants and service providers."²⁰ As service providers have long been aware, the Commission will take action against such service providers that seek to secure an unfair advantage in competing for contracts supported by the USF or otherwise engage in conduct that threatens to damage the integrity of USF programs in violation of the Commission's rules.²¹ The Commission has repeatedly

¹⁷ *Federal-State Joint Board on Universal Service*, 12 FCC Rcd at 9133-34, paras. 686, 688; *see also Schools and Libraries Universal Service Support Mechanism*, Fifth Report and Order, 19 FCC Rcd 15808, 15813, para. 13 (2004) (stating that the Commission is committed to deterring inappropriate uses of universal service monies and to rapidly detect and address potential misconduct including waste, fraud, and abuse); *HCF Order*, 27 FCC Rcd at 16778, paras. 229-30 ("[C]ompetitive bidding furthers the competitive neutrality requirement . . . of the Act by ensuring that universal service support does not disadvantage one provider over another . . . [A]ll entities participating in the [RHC Program] must conduct a fair and open competitive bidding process prior to submitting a request for funding . . ."); and *Schools and Libraries Universal Service Support Mechanism*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 26912, 26940, para. 66 (2003) (*Schools and Libraries Third Report and Order*) (stating that the competitive bidding process is critical to preventing waste, fraud, and abuse of program resources).

¹⁸ 47 CFR § 54.603(a) (2019). *See also Federal-State Joint Board on Universal Service*, 12 FCC Rcd at 9133-34, paras. 686, 688 ("Consistent with the Joint Board's recommendation for eligible schools and libraries, we conclude that eligible health care providers shall be required to seek competitive bids for all services eligible for support pursuant to section 254(h) by submitting their bona fide requests for services to the Administrator [for posting].").

¹⁹ *See, e.g., Request for Review of Decisions of the Universal Service Administrator by MasterMind Internet Services, Inc., Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, 16 FCC Rcd 4028 (2000) (*Mastermind Order*) (finding that the FCC Form 470 contact person influences an applicant's competitive bidding process by controlling the dissemination of information regarding the services requested and, when an applicant delegates that power to an entity that also participates in the bidding process as a prospective service provider, the applicant impairs its ability to hold a fair and open competitive bidding process). *See also Requests for Review of Decisions of the Universal Service Administrator by Hospital Networks Management, Inc., Manchaca, TX, Verizon Business Services, Arlington, VA*, Order, 31 FCC Rcd 5731, 5741, para. 20 (WCB 2016) ("The principles underlying the *Mastermind Order* and other orders addressing fair and open competitive bidding not only apply to the E-rate program . . . , but also to participants in the rural health care program. Indeed, the mechanics of the bidding processes in the rural health care and E-rate programs are effectively the same.") (internal citation omitted); *Request for Review, Franciscan Skemp Waukon Clinic, Waukon, IA*, Order, 29 FCC Rcd 11714, 11717, para. 9 (WCB 2014) (finding that signing a Telecom Program contract before the expiration of the 28-day waiting period impairs the applicant's ability to hold a fair and open competitive bidding process).

²⁰ *HCF Order*, 27 FCC Rcd at 16737, para. 126.

²¹ Service providers have been on notice that funding commitments resulting from contracts awarded in violation of the competitive bidding rules will be rescinded and the disbursed funds recovered. In 2007, the Commission noted that "the danger of waste, fraud, and abuse by service providers is as great as the danger of such conduct by rural health care providers" and advised that "funds disbursed from the . . . rural health care support mechanism[] in violation of a Commission rule that implements the statute or a substantive program goal should be recovered. Sanctions, including enforcement action, are appropriate in cases of waste, fraud, and abuse" *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, Report and Order, 22 FCC Rcd 16372, 16386-88, paras. 26, 30 (2007) (*Comprehensive Report and Order*). *See, e.g., HCF Order*, 27 FCC Rcd at 16737, para. 126 ("To the extent there are violations of the competitive bidding rules, such as sharing of inside information during the competitive bidding process, USAC will adjust funding commitments or recover any disbursed funds through its normal process."). *Mastermind Order*, 16 FCC Rcd 4028; *see also Request for Review of Decisions of the Universal Service Administrator by Joseph M. Hill, Trustee in Bankruptcy for Lakehills Consulting, LP.*, CC Docket No. 02-6, Order, 26 FCC Rcd 16586 (2011).

made clear that compliance with its bidding rules is a prerequisite for receipt of payments from the Fund and that those who violate the competitive bidding rules are not entitled to funding.²²

9. *Determining Urban Rates.* The “urban rate” for a service is a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state.²³ To reduce administrative burdens, at the time of the apparent violations, service providers and health care providers could obtain and use urban rates from a list of acceptable urban rates from USAC’s website.²⁴ If an urban rate other than one posted on USAC’s website was used, a health care provider was required to follow standard processes by submitting documentation of that urban rate to USAC with its Form 466. Section 54.609 of the Commission’s rules provides that the amount of support that is available through the Telecom Program for an eligible service is based on the difference, if any, between the urban rate and the rural rate charged for the service as defined by the Commission’s rules.²⁵

10. *GCI Investigation.* GCI is a company that was incorporated in Alaska on May 23, 1990.²⁶ It is an indirect, wholly owned subsidiary of Liberty Broadband Corporation.²⁷

11. GCI provides telecommunications services to health care providers through the RHC Program. GCI is a long-time participant in the RHC Program and received more USF funding in the Telecom Program in FY2012 through FY2021 than any other service provider.²⁸

12. On March 23, 2018, the Enforcement Bureau sent GCI a Letter of Inquiry (First LOI).²⁹ As part of the First LOI, the Enforcement Bureau sought to understand GCI’s involvement in the RHC Program beginning January 1, 2015. To that end, the First LOI sought responses and documents related to how GCI determined its rural rates, its participation in the competitive bidding process, and its setting of urban rates.³⁰

13. In December 2019, GCI voluntarily disclosed to the Bureau that it had received an allegation from a former employee of a competitive bidding violation involving GCI’s RHC Telecom Program contract with Eastern Aleutians Tribe. GCI produced relevant documents to the Bureau on January 28 and February 28, 2020.

14. In light of this issue, GCI conducted an investigation of the bid documents, offers, and amendments for all contracts active from January 2015 to 2019, including those that were bid prior to 2015 but still active in 2015. GCI presented its findings to EB on February 24, 2020, including by voluntarily disclosing additional competitive bidding violations. GCI produced these contracts and associated documents on April 17, 2020.

²² See, e.g., *HCF Order*, 27 FCC Rcd at 16737, para. 126; *Comprehensive Report and Order*, 22 FCC Rcd at 16388, para. 30.

²³ See 47 CFR § 54.605(a) (2019).

²⁴ See *2003 Order and Further Notice*, 18 FCC Rcd at 24573, para. 53. The website, previously available at www.usac.org/rhc/telecommunications/tools/UrbanRates/search.asp, is no longer available.

²⁵ See 47 CFR §§ 54.605, 54.607, 54.609 (2019).

²⁶ Response to Letter of Inquiry from Stephen Miller, Harris, Wiltshire & Grannis LLP, to Rakesh Patel and David Sobotkin, FCC Enforcement Bureau, at 2 (Apr. 27, 2018).

²⁷ Liberty Broadband Corporation, Annual Report (Form 10-K), at I-2 (Feb. 26, 2021).

²⁸ Information on file in EB-IHD-18-00026254 and EB-IHD-19-00028792.

²⁹ Letter of Inquiry from Rakesh Patel, FCC Enforcement Bureau, to Ronald Duncan, Chief Executive Officer (CEO), GCI, and Jennifer Bagg, Harris, Wiltshire & Grannis LLP (Mar. 23, 2018) (First LOI).

³⁰ First LOI, at 10.

15. In the course of FY2020 bid compliance work, GCI learned that it had accidentally understated the urban rate it charged to certain HCPs because it did not charge for the Anchorage hub port. GCI voluntarily disclosed this issue to the Bureau in the February 24, 2020 meeting discussed above.

16. In December 2019, GCI also discovered and disclosed to the Bureau that the litigation hold placed on certain of its employees' email boxes in connection with receipt of the Letter of Inquiry had been inadvertently released, and that GCI had deleted mailboxes and destroyed laptops of relevant employees when they left the company. GCI reinstated the holds soon after discovering the error. In addition to these document preservation failures, GCI also failed to preserve relevant RHC Program documents, resulting in the loss of an unknown number of documents relevant to the Investigation.

17. Subsequently, on May 28, 2020, the Enforcement Bureau sent GCI a second Letter of Inquiry (Second LOI).³¹ As part of the Second LOI, the Enforcement Bureau sought to understand GCI's RHC Program document retention policies, procedures, and practices for the period of time beginning in January 2015.

18. In connection with the First LOI and Second LOI, GCI made a series of document productions, provided narrative responses and documents responsive to the Bureau's Requests for Information, and fully cooperated in the Bureau's interviews of GCI employees and officers. Based on these and GCI's voluntary disclosures, the Parties agree that these efforts and actions support the following:

- Violations of the RHC Program Rules governing the determination of rural rates in connection with rural rates set during FY2015-FY2016:
 - GCI charged certain rural rates that were not in compliance with the three methods established by Commission rules for setting rural rates. In instances where GCI's rural rates did not accord with Method 1 or 2, GCI did not seek and receive cost-based rate approval from the Commission under Method 3.
- Violations of the RHC Program Rules governing the competitive bidding process in connection with five contracts signed with HCPs in 2015 and 2016:
 - Eastern Aleutian Tribes. GCI made a substantial change to the monthly recurring charge (MRC) in its contract with Eastern Aleutian Tribes in 2015³² after the contract had already been signed by the health care provider. Without any additional Form 465 filing, GCI increased the satellite service price by 33%; the total MRC for service to all Eastern Aleutian Tribes clinics increased from \$297,738 to \$393,038.³³ This cardinal change³⁴ to the initial contract was effectuated without competitive bidding in violation of RHC Program rules and Commission precedent. The contract was for a five-year term at an estimated annual recurring charge of \$4,716,456; the value of the contract over the five-year term is \$23,582,280.³⁵ GCI received \$9,789,574.09 in payments from the USF in connection with this contract.³⁶

³¹ Letter of Inquiry from Rakesh Patel, FCC Enforcement Bureau, to John Nakahata and Jennifer Bagg, Harris, Wiltshire & Grannis LLP (May 28, 2020).

³² While the contract was signed outside of the applicable statute of limitations, GCI requested payment from the Fund in connection with this contract within the tolled statute of limitations.

³³ GCI Medical Services Agreement HC-425 (Draft), GCI-00053944-00053953; GCI Medical Services Agreement HC-426 (Apr. 10, 2015), GCI-00053443-0053452.

³⁴ GCI admits that this is a cardinal change that violates Commission rules. Nov. 19, 2021 GCI Presentation, at 7; Apr. 21, 2021 GCI Presentation, at 12.

³⁵ GCI Medical Services Agreement HC-426 (Apr. 10, 2015), GCI-00053443-0053452.

- Norton Sound Health Corporation (NSHC). GCI apparently contracted with NSHC for a longer term than was identified during the competitive bidding process. In May 2015, GCI and NSHC signed a five-year contract (HC-429) using the rates listed in the proposal for a three-year term for an estimated annual recurring charge of \$1,148,400; the value of the contract over the five-year term is \$5,742,000.³⁷ GCI received \$1,139,856 in payments from the USF in connection with this contract.³⁸
- Southcentral Foundation, St. Paul clinic (SCF-St. Paul). In July 2015, GCI and SCF signed a five-year contract (HC-439) that included the St. Paul clinic. In April 2016, the parties signed an amended contract (HC-439-2) for one of the St. Paul circuits at a price and service level that were in neither the proposal nor the original contract. The value of the contract amendment over the remaining 53 months of the contract term was approximately \$1,557,140. GCI received \$425,713.86 in payments from the USF in connection with this amended contract for the St. Paul clinic.³⁹
- Frontier Community Services (FCS). In November 2016, FCS and GCI entered into a five-year contract (HC-487-01) that included services added after the competitive bidding period had closed and after GCI had been awarded the contract. The total MRC in HC-487-01 is \$6,900.⁴⁰ The value over the life of the five-year contract is \$414,000. GCI received \$189,733.62 in payments from the USF in connection with this contract.⁴¹
- Southcentral Foundation, Wasilla clinic (SCF-Wasilla). In July 2015, GCI and SCF signed a one-year contract (HC-440) for 100 Mbps service at the Wasilla clinic at \$5,200/month.⁴² The proposal did not contain either the one-year term or the related price.⁴³ The estimated value of the one-year contract is \$62,400. GCI received \$38,612.93 in payments from the USF in connection with this contract.⁴⁴
- Violations of the RHC Program Rules governing the determination of urban rates charged to HCPs in FY2015 through FY2019:
 - During the Commission's investigation, GCI disclosed that the urban rate it had charged to certain HCPs was too low.⁴⁵ GCI admits that this resulted in excessive rural rate reimbursement amounts being requested and received by GCI from the USF⁴⁶ in violation

(Continued from previous page) —————

³⁶ Information on file in EB-IHD-18-00026254 and EB-IHD-19-00028792.

³⁷ GCI Medical Services Agreement HC-429 (May 7, 2015), GCI-00053676-00053685.

³⁸ Information on file in EB-IHD-18-00026254 and EB-IHD-19-00028792.

³⁹ *Id.*

⁴⁰ The MRC for the two services added in the November 11, 2016 pricing addendum is \$2,300. GCI Healthcare Service Order HC-487-01 (Nov. 18, 2016), GCI-00001558-1568.

⁴¹ Information on file in EB-IHD-18-00026254 and EB-IHD-19-00028792.

⁴² GCI Medical Services Agreement HC-440 (July 8, 2015), GCI-00053795-00053804.

⁴³ A Proposal for Southcentral Foundation (June 25, 2015), GCI-00053704-00053721.

⁴⁴ Information on file in EB-IHD-18-00026254 and EB-IHD-19-00028792.

⁴⁵ Letter from John Nakahata and Jared Marx, Harris, Wiltshire & Grannis LLP, to Sarah McNally and Carla Conover, FCC Enforcement Bureau, at 4-5 (Oct. 7, 2020) (Oct. 7, 2020 Letter); January 15, 2021 GCI subpoena response.

⁴⁶ Oct. 7, 2020 Letter; July 12, 2021 GCI Presentation, at 6.

of 47 CFR § 54.609.⁴⁷ For FY2015-FY2019, the incorrect rate calculation resulted in excess payments of \$457,852.65.⁴⁸

III. TERMS OF AGREEMENT

19. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Bureau in an Adopting Order.

20. **Jurisdiction.** GCI agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

21. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

22. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and the DOJ Settlement and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation and to resolve all claims for repayment to the Universal Service Fund arising from certain matters through FY2019 that were the subject of the Investigation, as identified in Appendices C, D, and E. In consideration, GCI agrees to the terms, conditions, and procedures contained herein, and to withdraw its Applications for Review and various appeals, as listed in Appendix B. The Bureau also agrees, on behalf of itself and the Wireline Competition Bureau, that the audit of FY2017 funding requests for services provided by GCI that USAC initiated on or about June 23, 2020 will be terminated. The Bureau further agrees on behalf of itself, the Wireline Competition Bureau, and the Office of the Managing Director that, in the absence of new material evidence, none of the Bureau, the Wireline Competition Bureau, or the Office of the Managing Director will use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree or DOJ Settlement, to institute any new proceeding on its own motion against GCI concerning the matters as identified in the Appendices, or to set for hearing the question of GCI's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.⁴⁹

23. **Admission of Liability.** GCI admits solely for the purpose of this Consent Decree and for Commission civil enforcement purposes related to this Consent Decree, and in express reliance on the provisions of Paragraph 22 herein, that its actions in Paragraph 18 violated sections 54.603, 54.605, 54.607, 54.609, and 54.615 of the Commission's rules,⁵⁰ and that it accepts sole responsibility for those actions.

24. **Compliance Agreement.** For purposes of settling the matters set forth herein, GCI agrees that it shall implement the Compliance Agreement attached as Appendix A, designed to ensure future compliance with the RHC Program Rules and with the terms and conditions of this Consent Decree.

25. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to

⁴⁷ Section 54.609(a) states: "The amount of universal service support provided for an eligible service to be funded from the Telecommunications Program shall be the difference, if any, between the urban rate and the rural rate charged for the service, as defined herein." 47 CFR § 54.609(a) (2019).

⁴⁸ Oct. 7, 2020 Letter, at 4-5; January 15, 2021 GCI subpoena response.

⁴⁹ See 47 CFR § 1.93(b) (2019).

⁵⁰ See *id.* §§ 54.603, 54.605, 54.607, 54.609, and 54.615.

section 208 of the Act⁵¹ against GCI or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by GCI with the Communications Laws.

26. **Settlement Amount.** GCI agrees to a global settlement with the FCC's Enforcement Bureau and with the U.S. Department of Justice resulting in a net cash payment of \$40,851,657 as follows:

- (a) GCI agrees to a Settlement Amount of \$42,614,595 (Settlement Amount) to fully resolve the Bureau's Investigation.
 - GCI will repay \$26,614,595 to the Universal Service Fund (Repayment Amount).
 - The Commission will credit GCI \$16,000,000 for withdrawal of its Applications for Review and various appeals related to Funding Years FY2017-FY2019, as listed in Appendix B, upon GCI's withdrawal of those Applications for Review and appeals.⁵²
- (b) Pursuant to the DOJ Settlement, GCI agrees to pay to the United States \$40,242,546 that shall be offset by GCI's payment of \$26,005,484 to the USF pursuant to this Consent Decree. The DOJ Settlement resolves certain civil or administrative monetary claims the United States has against GCI under, among other rules and laws, the False Claims Act, related to the covered conduct as defined in the DOJ Settlement.

27. **Repayment Amount.** GCI agrees to pay \$26,614,595 (Repayment Amount) to the Universal Service Fund and complete the withdrawals specified in Paragraph 26(a) within thirty (30) calendar days of the Effective Date. GCI acknowledges and agrees that upon execution of this Consent Decree, the Settlement Amount shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).⁵³ Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. GCI shall send electronic notification of the Repayment Amount payment to Meghan Ingrisano, Chief, Fraud Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554, or her successor or designee, with a copy submitted electronically to Meghan Ingrisano at [Meghan.Ingrisano@fcc.gov](mailto: Meghan.Ingrisano@fcc.gov), on the date said payment is made. Below are instructions that payors should follow based on the form of payment selected.⁵⁴

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159⁵⁵ or printed Commission Registration System (CORES) form⁵⁶ must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to [RROGWireFaxes@fcc.gov](mailto: RROGWireFaxes@fcc.gov) on the same business day the wire

⁵¹ 47 U.S.C. § 208.

⁵² GCI's Application for Review filed on November 9, 2018 related to WCB's October 10, 2018 cost study determination of GCI's FY2017 rural rates and an Application for Review on November 19, 2020 related to WCB's October 20, 2020 cost study determinations of GCI's FY2018 and FY2019 rural rates.

⁵³ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

⁵⁴ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

⁵⁵ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

⁵⁶ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/core/userLogin.do>.

transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁵⁷ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

28. **Event of Default.** GCI agrees that an Event of Default shall occur upon the failure by GCI to pay the full amount of the Repayment Amount or complete the withdrawals specified in Paragraph 26(a) on or before the due date specified in this Consent Decree.

29. **Interest, Charges for Collection, and Acceleration of Maturity Date.** After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Settlement Amount shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Settlement Amount, together with interest, any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys’ fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by GCI.

30. **Waivers.** As of the Effective Date, GCI waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order. GCI shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither GCI nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and GCI shall waive any statutory right to a trial *de novo*. GCI hereby

⁵⁷ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

agrees to waive any claims it may otherwise have under the Equal Access to Justice Act⁵⁸ relating to the matters addressed in this Consent Decree.

31. **Severability**. The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

32. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

33. **Subsequent Rule or Order**. The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which GCI does not expressly consent) that provision will be superseded by such Rule or order.

34. **Successors and Assigns**. GCI agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

35. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation.

36. **Modifications**. This Consent Decree cannot be modified without the advance written consent of both Parties.

37. **Paragraph Headings**. The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

38. **Authorized Representative**. Each Party represents and warrants to the other that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

⁵⁸ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530 (2019).

39. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Loyaan A. Egal
Chief
Enforcement Bureau

Date

Rebecca Windt Pearson
Senior Vice President, Law and Corporate Advocacy, and General Counsel
GCI Communication Corp.

Date

APPENDIX A

COMPLIANCE AGREEMENT FOR GCI COMMUNICATION CORP.

PREAMBLE: In accordance with the terms set forth in the Settlement Agreement and the Consent Decree (as defined herein), GCI Communication Corp. (GCI) agrees to the undertakings described in this Compliance Agreement, including reasonable steps to ensure that its future participation in the Rural Health Care Program complies fully with all Rural Health Care Program Rules.

1. Definitions.

For the purposes of this Compliance Agreement, the following definitions shall apply:

“Act” means the Communications Act of 1934, as amended.

“Commission” or “FCC” means the Federal Communications Commission and all of its bureaus and offices.

“Compliance Agreement” means this document, titled “Compliance Agreement for GCI Communication Corp.,” which is incorporated as Appendix A to the Consent Decree.

“Compliance Manual” means the Compliance Manual required by Section 5.

“Consent Decree” means the Consent Decree between GCI and EB, executed simultaneously with this agreement, to which this Compliance Agreement is attached and incorporated as Appendix A.

“Covered Personnel” or “Covered Person” means all employees and officers of GCI who perform, supervise, oversee, or otherwise conduct any activities that relate to GCI’s responsibilities under the RHC Program Rules, except for employees that solely perform activities involving network operations or maintenance or technical support. For purposes of Section 5 (Compliance Manual) and Section 6 (Compliance Training Program), Covered Personnel shall also include any personnel used by any Covered Third Party.

“Covered Third Party” or “Covered Third Parties” means any agent or independent contractor of GCI contracted to perform activities that relate to GCI’s responsibilities under the RHC Program Rules, including responses to Requests for Proposals, except for outside legal counsel and agents or independent contractors that solely perform activities involving network operations or maintenance, technical support, or data analytics.

“Days” shall mean calendar days (unless otherwise specified).

“EB” means the Enforcement Bureau of the Commission.

“Effective Date” means the effective date of the Consent Decree, to which this Compliance Agreement is attached and incorporated as Appendix A.

“GCI” or “Company” means GCI Communication Corp. and its successors in interest or assigns.

“GCI Compliance Plan” means the compliance plan required by Section 4.

“GCI Compliance Hotline” or “Compliance Hotline” shall mean the toll-free telephone number described in Section 4(b).

“OIG” means the Office of the Inspector General of the Commission.

“OGC” means the Office of General Counsel of the Commission.

“Operating Procedures” means the standard internal operating procedures and compliance policies established by GCI to implement the Compliance Agreement.

“Parties” means GCI and the FCC, each of which is a “Party.”

“RHC Program Rules” means Title 47, Code of Federal Regulations, sections 54.600-54.680, section 254 of the Act, as amended, and Commission orders related to the provision of service in the RHC Program.

“Settlement Agreement” means the Settlement Agreement entered into by the United States, acting through the U.S. Department of Justice, and GCI on May 10, 2023.

“USAC” means the Universal Service Administrative Company, which serves as the administrator for the federal Universal Service Fund.

“WCB” means the Wireline Competition Bureau of the Commission.

2. Term of Compliance Agreement.

- (a) The obligations set forth herein shall apply for a period of three years from the Effective Date or for such longer period as may be provided under this section. If GCI does not materially comply with this Compliance Agreement and all RHC Program Rules, as reasonably determined by the FCC, during any twelve (12) month period, the obligations set forth herein may be extended, in the discretion of the FCC, by an additional year. Further, such obligations shall continue (including during any extension period) until GCI has materially complied with this Compliance Agreement and all RHC Program Rules for one (1) consecutive twelve (12) month period, subject to the limitation set forth in subsection (b) of this section. A determination that GCI has complied with the obligations in this Compliance Agreement is not intended to and shall not constitute a determination that GCI has complied with any or all RHC Program Rules for any other purpose.
- (b) The obligations of this Compliance Agreement shall not remain in effect beyond the seventh anniversary from the Effective Date, except as otherwise provided under this subsection. If by such date, GCI has not materially complied with this Compliance Agreement and with all Rural Health Care Program Rules, as determined by the FCC, then GCI shall remain subject to the remedies provided for in Section 12, at the discretion of the FCC, and the parties may also renegotiate an extension of this Compliance Agreement to address any noncompliance by GCI, to the extent they deem such an extension to be appropriate or desirable.

3. Compliance Officer.

- (a) Within thirty (30) days after the Effective Date, GCI shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer to discharge the duties set forth in this Compliance Agreement. The Compliance Officer must have knowledge of and experience with the RHC Program Rules prior to assuming his/her duties. The Compliance Officer shall report directly to the President, CEO, General Counsel, or Vice President of Ethics and Compliance of GCI, and shall not be, or be directly or indirectly subordinate to, the Chief Financial Officer or Vice President of Operations, or have any responsibilities for legal counsel functions for GCI.

- (b) The Compliance Officer shall be responsible for, without limitation, implementing and administering this Compliance Agreement and ensuring that GCI complies with its terms and conditions (including taking corrective action as necessary). GCI shall ensure that Covered Third Parties will be subject to the Compliance Officer's oversight.
 - (c) GCI shall provide the Compliance Officer with adequate staffing to support the Compliance Officer in fulfilling the Compliance Officer's responsibilities.
 - (d) GCI shall provide written notice to the FCC of the identity of the initial Compliance Officer within ten (10) days of that appointment. Thereafter, GCI shall provide written notice to the FCC within ten (10) days of any changes in the identity of the Compliance Officer, or any actions that could adversely affect the Compliance Officer's ability to perform the Officer's duties under this Compliance Agreement.
4. GCI Compliance Plan and Compliance Hotline.
- (a) GCI agrees that it shall, within ninety (90) days after the Effective Date, develop and implement a compliance plan (GCI Compliance Plan) designed to ensure future compliance with the RHC Program Rules and containing the terms and conditions set forth herein. GCI shall provide copies of the GCI Compliance Plan and submit any revisions to the FCC in a monthly report. The GCI Compliance Plan shall expressly incorporate the requirements of this Compliance Agreement, including, without limitation, the operating procedures described in Section 5, the training required in Section 6, and the audits required by Section 10.
 - (b) GCI Compliance Hotline: GCI shall maintain a compliance hotline (or establish one within thirty (30) days after the Effective Date if such a hotline does not exist on the Effective Date) to receive complaints and tips from the public, as well as from Covered Personnel, about potential fraudulent or other irregular activity associated with GCI's Rural Health Care Program participation. GCI shall publish the Compliance Hotline conspicuously on the first page of its website in a prominent location, and also affirmatively make enrolled customers aware of the Compliance Hotline and its purpose through other reasonably effective means. GCI shall also publish this Compliance Hotline in a prominent location in the Compliance Manual. The Compliance Hotline shall allow anonymous reporting. Complaints and tips received shall be promptly forwarded to the Compliance Officer and investigated.
5. Compliance Manual. Within ninety (90) days after the Effective Date, the Compliance Officer shall develop and, to the extent consistent with applicable law, distribute electronically or in hard copy a Compliance Manual to all Covered Personnel and Covered Third Parties. The Compliance Manual shall explain the RHC Program Rules, set forth the Operating Procedures that Covered Personnel and Covered Third Parties shall follow to help ensure GCI's compliance with the RHC Program Rules, and include the information described in subsection (b) of this section. The requirements of subsections (b)(i) and (b)(ii) of this section shall be applicable to all Covered Personnel, whether employed by Covered Third Parties or by GCI. The phone numbers for the GCI Compliance Hotline, the Commission's whistleblower hotline, and the USAC whistleblower hotline shall be displayed in a prominent location in the Compliance Manual. GCI shall periodically review and revise the Compliance Manual as necessary to ensure that its contents remain current and accurate. To the extent consistent with applicable law, GCI shall distribute electronically any revisions to the Compliance Manual promptly to all Covered Personnel and Covered Third Parties.

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- (a) Any agreements between GCI and Covered Third Parties shall contain provisions to ensure that the terms of this Compliance Agreement are satisfied. Any agreements between GCI and Covered Third Parties that are in effect on the Effective Date shall be modified to comply with this section.
- (b) To the extent consistent with applicable law, GCI shall require that Covered Third Parties be subject to the following additional requirements, as to which GCI will exercise reasonable oversight, each of which shall be set forth in its agreements with those parties. All agreements between GCI and Covered Third Parties shall include the following terms:
- (i) Covered Third Parties or their Covered Personnel who are suspected (based on credible evidence) of violating RHC Program Rules, failing to comply with the terms of the Company's Compliance Manual, or otherwise violating provisions of their agreements with GCI required by this Compliance Agreement shall be subject to immediate suspension or termination by GCI or by the Covered Third Party, as the case may be, pending investigation.
 - (ii) Covered Third Parties or their Covered Personnel who become aware of any known or suspected fraud or noncompliance with RHC Program Rules or other violations of their agreements with GCI required by this Compliance Agreement are required to promptly report such suspicions to the GCI Compliance Officer, GCI Compliance Hotline, the Commission's whistleblower hotline or to the USAC whistleblower hotline.
 - (iii) Each Covered Third Party shall ensure that any of their Covered Personnel, as well as any other sales personnel or their direct supervisors (whether acting as employees or agents or independent contractors of the Covered Third Party) that perform any activities relating to GCI's participation in the RHC Program, receive the training described in Section 6 and provide certifications verifying that training to the Compliance Officer within thirty (30) days after receipt of the training materials.
 - (iv) Each Covered Third Party shall make available to GCI, the Commission and USAC upon request access to all documents and records relating to its work for GCI as it pertains to the Rural Health Care Program, without requirement for GCI consent. Each Covered Third Party shall also cooperate with audit requests (formal or informal) by GCI, the Commission or USAC to verify compliance with its agreements with GCI pertaining to the Rural Health Care Program and with the RHC Program Rules.
6. Compliance Training Program. GCI shall establish and implement an electronic Compliance Training Program for Covered Personnel consistent with this section, which may be tailored to a Covered Personnel's role and responsibilities with respect to the RHC Program. Covered Personnel shall complete their Compliance Training within thirty (30) days after GCI adopts the Compliance Manual, but in no event more than one hundred twenty (120) days after the Effective Date. Any training completed within the 6 months prior to the date on which GCI adopts the Compliance Manual satisfies this requirement, provided that it meets the requirements below. Any employee who becomes a Covered Person after the initial Compliance Training Program is completed shall be trained within thirty (30) days. For those Covered Personnel who are employees or officers of Covered Third Parties (or their contractors, third party agents, or other individuals or entities working on their behalf), the training shall be substantially similar to that provided to GCI employees. Each Covered Person who has completed training shall complete a standardized certification attesting to completion of the training. Covered Third Parties will relay such certifications to the Compliance Officer monthly.

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- (a) The Compliance Training Program shall instruct all Covered Personnel about the RHC Program Rules, the Compliance Manual, and any additional requirements for Covered Personnel set forth under this Compliance Agreement. As part of the Compliance Training Program, Covered Personnel shall be advised of GCI's obligation to report under Section 8 of this Agreement any suspected, alleged, or known fraud or noncompliance with the RHC Program Rules or this Compliance Agreement. In addition, Covered Personnel and any others receiving the training shall be instructed on how to disclose such noncompliance to the GCI Compliance Officer. Training on the reporting procedures shall include the email and telephone number of the Compliance Officer, as well as numbers for providing that information anonymously to the GCI Compliance Hotline, the Commission's whistleblower hotline, and the USAC whistleblower hotline. The training package shall also emphasize the potential ramifications of failing to comply with RHC Program Rules. The training package shall explain that no person who submits reports or concerns about known, alleged, or suspected fraud or noncompliance shall be subject to any retaliation by GCI or Covered Third Parties, except that GCI may take any lawful personnel action in cases involving information that the person knew was inaccurate or false. GCI shall include a provision in every contract with any Covered Third Party barring any such retaliation.
- (b) GCI shall maintain a list of Covered Personnel, including the dates on which they began or ended service as Covered Personnel and the dates of any training. GCI shall provide to the FCC such information upon request. GCI and its Covered Third Parties shall repeat compliance training on an annual basis and provide the Commission with annual certifications from each Covered Person (or any other person for whom training is required by this agreement) certifying that each has received annual training pursuant to the Compliance Training Program. GCI shall periodically review and revise the Compliance Training Program for Covered Personnel as necessary to ensure that it remains current and complete and to enhance its effectiveness.
7. Fraud and Noncompliance Detection and Monitoring.
- (a) Within ninety (90) days after the appointment of the Compliance Officer, but in no event later than one hundred twenty (120) days after the Effective Date, GCI's Compliance Officer shall create procedures to investigate potential Rural Health Care Program fraud and noncompliance with the RHC Program Rules, and this Compliance Agreement. Among other activities, the Compliance Officer shall:
- (i) Establish a program of periodic "spot checks" to ensure that Covered Third Parties are complying with all their obligations.
 - (ii) Investigate promptly potential fraud or other irregularities based upon customer complaints, complaints by Covered Third Parties, information obtained through the "spot checks," or any other credible information, including complaints to the GCI Compliance Hotline.
- (b) During the term of this Compliance Agreement, GCI will include in the annual compliance reports under Section 11(a) a section containing the following metrics:
- (i) The number of investigations opened and the number of investigations closed during the annual reporting period;
 - (ii) A list of Covered Personnel terminated by GCI (or by Covered Third Parties) during the annual reporting period for known, alleged, or suspected fraud or noncompliance, the

nature of such fraud or noncompliance, and the amount or estimated amounts of Rural Health Care Program disbursements to GCI attributable to such fraud or noncompliance; and

- (iii) The amount of Rural Health Care Program disbursements (and dates of such disbursements) returned to the Universal Service Fund by GCI attributable to known fraud or noncompliance with RHC Program Rules by Covered Personnel.

8. Reporting Suspected Fraud or Noncompliance. GCI shall provide prompt notification to the FCC (as specified in Section 16) of any known, alleged or suspected fraud or noncompliance with the RHC Program Rules or this Compliance Agreement, including, without limitation, any relating to competitive bidding, within thirty (30) days after their discovery. In complex cases that require additional investigation, GCI may seek up to an additional thirty (30) days, which shall not be unreasonably denied, to make such a report. Such notification shall set forth any actions taken by GCI in response to the known, alleged or suspected fraud or noncompliance, including any investigations or inquiries made and any personnel actions taken. Such reports shall further include a detailed explanation of: (i) each instance of known, alleged or suspected fraud or noncompliance and the steps that GCI has or will take to investigate or verify any suspicions or allegations of fraud or noncompliance; (ii) the steps that GCI has taken or will take to remedy any such noncompliance after it has been verified; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that GCI has taken or will take to prevent the recurrence of any such noncompliance.
9. FCC or USAC Compliance Audits. GCI acknowledges that the FCC or USAC, acting directly or through agents, may review or audit GCI's compliance with this Compliance Agreement, with the GCI Compliance Plan, and with RHC Program Rules. GCI shall cooperate with such review or audit by promptly complying with reasonable requests for information or documents (without the requirement of subpoenas except when necessary to protect or comply with requirements regarding third party proprietary or personally identifiable information), permitting reasonable inspection of physical premises and equipment, and making requested and relevant personnel available. GCI shall maintain records in accordance with the requirements herein in a manner that permits any auditor to evaluate compliance with this Compliance Agreement, the GCI Compliance Plan, and RHC Program Rules. Audit findings under this section are not subject to the reporting requirements under Section 8, unless or until such findings are final and non-appealable.
10. GCI Independent Audit Reports.
 - (a) For each year that this Compliance Agreement is in effect, GCI shall obtain an independent audit that evaluates its performance under this Compliance Agreement and with the Rural Health Care Program Rules. Except for the last year that this Compliance Agreement is in effect, these audits shall cover the preceding 12-month period, beginning with the 12 months following the Effective Date, and shall be completed no later than three (3) months after the end of the 12-month period being assessed. An Independent Audit Report shall be submitted to the FCC, together with the Annual Compliance Report required by Section 11 below, no later than four (4) months after the end of the 12-month period being assessed. During the last year, GCI shall obtain an independent close-out audit that covers the first nine (9) months of that year and shall be completed and submitted to the FCC, together with the Annual Compliance Report required by Section 11 below, no later than thirty (30) days before the end of the that year (unless some other date is mutually agreed upon by the Parties).

- (b) The auditing program established by GCI to fulfill its obligations under this Compliance Agreement shall be consistent with generally accepted government auditing standards (“GAGAS”), including the requirement that such audits be performed by an independent auditor. The audits should be designed to ensure that GCI is complying with the terms of this Compliance Agreement, the GCI Compliance Plan, and RHC Program Rules.

11. Annual Compliance Reports.

- (a) GCI shall prepare and file annual compliance reports (each an “Annual Compliance Report”) with the FCC. Each Annual Compliance Report shall be submitted with the Independent Audit Report, as discussed above, and shall cover the same time period as the Independent Audit Report. Beginning with the third year this Compliance Agreement is in effect, the Annual Compliance Report shall be submitted thirty (30) days before the anniversary of the Effective Date and shall cover as much of the 12-month period prior to the anniversary of the Effective Date as is reasonably possible.
- (b) Each Annual Compliance Report shall include a reasonably detailed description of GCI’s efforts during the relevant period to comply with the terms and conditions of this Agreement. In addition, each Annual Compliance Report shall include a certification by the Compliance Officer, on behalf of GCI, stating that the Compliance Officer has personal knowledge that GCI: (1) has established and implemented the GCI Compliance Plan; and (2) is not aware of any instances of any suspected, alleged, or known fraud or noncompliance with the RHC Program Rules or this Compliance Agreement, including, without limitation, any relating to competitive bidding, except for those reported pursuant to the requirements under Section 8.
- (c) Each Annual Compliance Report shall include a detailed description of any items identified in Section 7; any overpayments made to GCI during the previous year from the RHC Program; customer complaints; and any ongoing Rural Health Care Program related investigations, legal proceedings and inquiries by state or regulatory agencies. The Report shall also contain a section that includes the metrics required by Section 7(b).
- (d) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of GCI, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (1) each instance of such unreported noncompliance as described in subsection (b)(2) of this section; (2) the steps that GCI has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (3) the steps that GCI has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (e) Each Annual Compliance Report shall include a headcount of Covered Personnel.
- (f) In each Annual Compliance Report, the signatories shall certify that before submitting the Report, they reviewed and took into consideration the Independent Audit Report that covers the same time period.
- (g) Each Annual Compliance Report shall include certifications by the Compliance Officer that all required oversight, training, education, reporting and other compliance activities were undertaken in accordance with the requirements of this Compliance Agreement and the GCI Compliance Plan. In the alternative, the Report shall identify any provision of this Compliance Agreement and of the GCI Compliance Plan with which GCI did not comply

during the applicable time period and describe any such noncompliance. The Report shall also explain the steps taken, and/or those that will be taken (with a timeline specifying when GCI will take them), to correct any noncompliance, to cure any violation, and to ensure future compliance.

- (h) The Commission, USAC, and the OIG may each provide comments to GCI's Compliance Officer and its counsel. To the extent feasible, such comments will be provided within sixty (60) days of each submitted Annual Compliance Report. Each entity may request GCI's counsel to arrange a conference with the Compliance Officer to discuss the details of each annual report.

12. Remedies for Noncompliance.

- (a) General Provision: The FCC reserves its right to pursue violations of the terms of this Compliance Agreement and of the RHC Program Rules consistent with its authority under the Act. GCI acknowledges and agrees that if GCI fails to materially comply with any provision of this Compliance Agreement, the FCC may treat such noncompliance in the same manner as the failure to comply with a rule promulgated by the Commission, as well as avail itself of such other remedies as may be set forth in this section. Any action taken under this section is without prejudice to the FCC's application of administrative remedies pursuant to the Act, as reserved by this subsection.
- (b) Suspension of Funding: To ensure the continued integrity of the Universal Service Fund, GCI acknowledges and agrees that if it fails to materially comply with any provision of this Compliance Agreement, USAC may exercise its authority to suspend action on processing RHC Program funding requests and withhold payment until GCI demonstrates to the satisfaction of the FCC and USAC that it has remedied such noncompliance. USAC may act under this subsection only upon the direction of the FCC. USAC shall provide thirty (30) days' notice to GCI, with a period to cure of no less than thirty (30) days, of any actions taken under this subsection and the grounds therefor. Suspension of funding shall not result in a default by GCI on its payment obligations under the Consent Decree, but shall extend the payment period by a corresponding amount of time. Any action taken under this subsection is without prejudice to the FCC's application of administrative remedies pursuant to the Act.
- (i) If the FCC determines that GCI has failed to materially comply with any provision of this Compliance Agreement (other than a violation of Rural Health Care Program Rules), the FCC will inform GCI of such determination and may, in its sole discretion, direct USAC to suspend processing of GCI's funding requests and withhold payments as provided in this subsection (b). Alternatively, the FCC may, in its sole discretion, postpone such suspension of the processing of GCI's funding requests and the withholding of payments for a period of time and under such terms as the FCC may specify, except in those cases involving deadlines imposed by this Compliance Agreement, which instead shall be subject to the provisions of paragraph (ii) of this subsection. If the FCC postpones the suspension of the processing of GCI's funding requests and the withholding of payments of funding as permitted under the preceding sentence, and if GCI does not meet the terms of such postponement to the satisfaction of the FCC, the FCC may, in its sole discretion, direct USAC to immediately suspend processing of GCI's funding requests and withhold payments of funding commitments as provided in this subsection.
- (ii) GCI may seek extensions of any deadline imposed by this Compliance Agreement by notification in writing to the FCC, to be received by the FCC at least five (5) business days before the deadline date (including an explanation of the reason for the requested

extension). Such an extension request may be granted or not in the sole discretion of the FCC. If the FCC denies the extension request, or if GCI fails to meet any extended deadline, then the FCC may, in its sole discretion, upon the failure of GCI to meet its deadline, direct USAC to suspend processing of GCI's funding requests and withhold payments of funding commitments as provided in this subsection (b).

- (iii) If a suspension of funding occurs due to material noncompliance with the terms of this Compliance Agreement (other than a violation of Rural Health Care Program Rules), GCI may appeal such suspension by filing an appeal with WCB within thirty (30) days. For purposes of this subsection, the computation of time shall be as set forth in 47 CFR § 1.4 and the procedures in 47 CFR §§ 54.721 and 54.722 shall be applicable to such appeals. The decision of the WCB may thereafter be appealed to the full Commission. If the Commission affirms any suspension of funding, GCI agrees that any such determination and the resulting denial of any payments in connection with such suspension shall not be subject to further administrative appeal at USAC or the FCC.
- (iv) If the Commission affirms any suspension of funding under paragraph (iii) of this subsection, or if a suspension of funding is imposed under this subsection (b) that is not appealed, GCI agrees to withdraw, relinquish, cancel, or restate any funding requests, as the case may be, consistent with any final orders of the FCC (or WCB, if no appeal is made to the full Commission) to the extent permissible under applicable RHC Program Rules, or, if cancellation is not viable, due to previous payments made under the transactions involved, to reduce any existing USAC funding commitments or repay any disbursements to the extent ordered by the FCC or USAC.

13. Violation of RHC Program Rules. If there is noncompliance with RHC Program Rules, USAC shall take action pursuant to its normal processing procedures, in accordance with FCC rules and orders and USAC procedures. Any such actions taken by USAC may be appealed as provided by applicable Universal Service Program rules, including those set forth in 47 CFR §§ 54.719 through 54.722.
14. Document and Record Retention. GCI shall maintain for inspection all documents and records necessary to support reimbursement claims from the Rural Health Care Program and to demonstrate compliance with this Compliance Agreement, in accordance with the Commission's record retention policy and RHC Program Rules.
15. Amendments. This Compliance Agreement may be amended only by written agreement duly executed by all the parties to this Compliance Agreement.
16. Notifications and Submissions of Reports and Compliance Documents. All notices, reports, disclosures or other communications required by this Compliance Agreement shall be in writing and sent via E-mail. Such notices, reports, disclosures or other communications shall be deemed to have been duly given on the day of transmission of the E-mail. Notifications required to be made to the FCC shall be made to the OIG, OGC, and EB. In addition to E-mail notifications, GCI shall provide hard copies of each Annual Compliance Report (as described in Section 11) to each of the individuals listed below. Notifications shall be made as follows:

If to OGC:
General Counsel (or designee)
Federal Communications Commission
45 L Street, NE

Washington, DC 20554

Email address of designee: Paula.Silberthau@fcc.gov; and
Jim.Bird@fcc.gov

If to EB:

Enforcement Bureau Chief (or designee)
Federal Communications Commission

45 L Street, NE

Washington, DC 20554

Email address of designee: Rakesh.Patel@fcc.gov; and
Meghan.Ingrisano@fcc.gov

If to OIG:

Inspector General (or designee)

Office of Inspector General

Federal Communications Commission

45 L Street, NE

Washington, DC 20554

Email address of designee: Eric.Phelps@fcc.gov; and
Sharon.Diskin@fcc.gov

17. This agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Loyaan A. Egal
Chief, Enforcement Bureau
Federal Communications Commission

Date

Rebecca Windt Pearson
Senior Vice President, Law and Corporate Advocacy, and General Counsel
GCI Communication Corp.

Date

APPENDIX B
Appeals to Be Withdrawn by GCI

October 20, 2017 Appeal to USAC of Denial Notice

November 19, 2018 Application for Review of WCB Decision Prescribing FY2017 Rates
(supplemented January 29, 2019 and September 7, 2021)

March 18, 2019 Petition for Reconsideration of 2019 Public Notice re *Determining Rural Rates in the RHC Program* (WCB, WC Docket Nos. 02-60 & 17-130)

July 12, 2019 Request for Review of Decision of USAC and Petition for Waiver

October 21, 2019 Petition for Review for 2019 Report & Order re *Promoting Telehealth in Rural America*
(D.C. Circuit, Case No. 19-1217)

November 15, 2019 Request for Review of Decision of USAC and Petition for Waiver

April 20, 2020 Request for Review of Decision of USAC and Petition for Waiver

November 19, 2020 Application for Review of WCB Decision Prescribing FY2018 and FY2019 Rates

December 7, 2020 Request for Review of USAC Decision Approving FY2017 Rates from WCB Decision

May 17, 2021 Request for Review of Decision of USAC

November 23, 2021 Request for Review of Decision of USAC and Petition for Waiver

APPENDIX C
FRNs Released for Disclosed Urban Rate Issues

1556729	1569946	1573814	1574826	1578896	1681575
1557163	1570069	1573815	1574827	1578898	1681576
1558190	1570519	1573816	1574829	1578966	1681577
1560012	1570522	1573817	1574831	1578974	1681578
1561472	1571079	1573818	1574833	1578976	1681579
1561734	1571125	1573819	1574834	1578977	1681582
1561793	1571132	1573820	1575384	1578979	1681583
1562502	1571140	1573821	1575385	1578985	1681584
1562512	1571294	1573823	1575386	1578988	1681799
1562807	1571300	1573824	1575388	1578990	1681800
1562808	1571309	1573843	1575389	1578992	1682018
1562809	1571360	1573844	1575390	1578994	1682138
1562810	1571362	1573845	1575392	1578998	1682220
1562811	1571415	1573846	1575394	1579277	1682227
1562856	1571418	1573847	1575395	1579459	1683874
1564026	1571420	1573852	1575396	1579474	1684117
1564133	1571422	1573853	1575398	1579822	1686864
1564375	1571426	1573854	1575399	1579934	1686865
1564379	1571430	1573863	1575400	1580565	1687108
1564382	1571432	1573864	1576484	1580569	1687131
1564383	1571649	1573865	1576497	1580574	1687132
1564386	1571650	1573866	1576507	1580581	1687144
1564387	1571651	1573867	1576511	1580583	1687145
1564388	1572029	1573868	1577150	1580764	1687157
1564389	1572711	1573869	1577156	1580962	1687158
1564393	1572750	1573870	1577161	1581191	1687159
1564394	1572754	1573871	1577164	1581192	1687160
1564395	1572967	1573872	1577165	1581485	1687162
1564397	1572974	1573873	1577166	1581487	1687163
1564398	1573173	1573874	1577167	1581488	1687164
1564399	1573201	1573878	1577168	1581489	1687233
1564400	1573202	1574758	1577170	1582078	1687238
1564738	1573431	1574760	1577171	1582416	1687243
1566716	1573473	1574761	1577173	1582419	1687255
1567974	1573479	1574763	1577174	1582511	1687256
1567976	1573480	1574764	1577478	1582529	1687281
1568063	1573575	1574765	1577648	1582532	1687486
1568064	1573781	1574767	1578617	1582535	1687487
1568065	1573784	1574768	1578619	1582723	1687490
1568066	1573788	1574769	1578843	1583028	1687517
1569199	1573798	1574795	1578883	1583075	1687519
1569200	1573805	1574815	1578888	1583258	1687521
1569201	1573810	1574818	1578889	1584060	1687547
1569202	1573811	1574821	1578890	1677354	1687548
1569676	1573812	1574822	1578892	1678123	1687761
1569880	1573813	1574823	1578894	1680535	1687762

1687764	1689593	1696854	1835583
1687768	1689594	1696856	1838190
1687769	1689595	1710505	1838192
1687770	1689596	1710533	1838219
1687771	1689597	1710617	1840386
1687772	1689599	1710628	1840399
1687773	1689637	1710634	1840418
1687774	1689643	1710952	1840424
1687775	1689645	1710958	1841740
1687776	1689647	1712653	1841821
1687777	1689651	1713132	1842045
1687778	1689654	1713548	1842648
1687779	1689664	1714016	1844082
1687780	1689668	1714698	1844779
1687781	1689896	1715228	1845016
1687898	1689900	1715441	1845175
1687914	1689903	1720847	1845251
1687949	1690056	1723407	1845795
1687950	1690058	1723414	1846210
1687951	1690062	1723418	1846944
1688019	1690064	1723428	1948722
1688022	1690065	1723434	1950226
1688440	1690071	1723587	1950551
1688494	1690086	1723892	1950823
1688496	1690091	1723898	1950929
1688497	1690144	1724327	1950930
1688498	1690373	1724340	1950937
1688499	1690379	1724342	1950940
1688500	1690387	1724346	1950942
1688501	1690392	1725132	1950945
1688502	1690417	1726002	1950946
1688503	1690542	1726723	1950953
1688505	1690543	1728201	1950954
1688613	1690544	1829473	1951117
1688620	1690548	1829479	1951264
1688624	1691246	1829528	1954460
1688730	1691442	1830891	1955249
1688732	1691443	1830985	1955253
1689337	1692603	1831009	1955257
1689340	1693413	1831012	1955261
1689574	1694657	1831197	1956793
1689577	1694661	1831235	
1689579	1694663	1832901	
1689581	1694664	1833490	
1689583	1694665	1835068	
1689589	1694668	1835072	
1689590	1694670	1835100	
1689591	1694673	1835182	
1689592	1696789	1835294	

APPENDIX D
FRNs Released for Rural Rate Issues

All Funding Year 2015 through Funding Year 2019 FRNs

APPENDIX E
FRNs Released for Competitive Bidding Issues

51021	51070	61428	61968	63686	1210951
51022	51627	61429	61969	63687	1212336
51023	51738	61430	61970	63688	1212452
51024	51739	61431	62191	63689	1212486
51025	51740	61432	62192	63690	1212674
51026	51741	61433	62193	63691	1212699
51027	51742	61434	62194	63692	1212729
51028	51743	61435	62195	63693	1212733
51029	51744	61436	62196	63694	1212740
51030	51745	61437	62197	63695	1212749
51031	51746	61438	62198	63696	1212754
51032	51747	61439	62199	63697	1212755
51033	51748	61440	62200	63698	1212756
51034	51941	61441	62201	63874	1212767
51035	52272	61442	62202	63875	1212768
51036	55642	61443	62203	63876	1212769
51037	55643	61444	62204	63877	1212827
51038	55644	61445	62205	63878	1212828
51039	55646	61446	62206	63879	1212829
51040	55647	61447	62207	63880	1212837
51041	55811	61448	62208	63881	1212841
51042	56025	61644	62209	63882	1212844
51043	56026	61645	62210	63883	1212847
51044	58411	61646	62211	63884	1212848
51045	59636	61647	62212	63885	1212994
51046	59637	61648	62213	63886	1212995
51047	59638	61649	62214	64086	1212996
51048	59639	61650	62215	64087	1213016
51049	59640	61651	62216	64088	1213023
51050	59641	61652	62217	64089	1213031
51051	59642	61653	62218	64090	1213037
51052	59643	61654	62219	64091	1213039
51053	59644	61655	62220	64092	1213041
51054	59645	61656	62221	64286	1213044
51055	59646	61657	62222	64549	1213482
51056	59647	61880	62468	68882	1213721
51057	59664	61881	62469	1210536	1213722
51058	59671	61882	62631	1210697	1213724
51059	61417	61957	62824	1210819	1213725
51060	61418	61958	62951	1210825	1213726
51061	61419	61959	63162	1210826	1213727
51062	61420	61960	63678	1210834	1213728
51063	61421	61961	63679	1210836	1213729
51064	61422	61962	63680	1210838	1213733
51065	61423	61963	63681	1210839	1213734
51066	61424	61964	63682	1210840	1213735
51067	61425	61965	63683	1210841	1213746
51068	61426	61966	63684	1210843	1213752
51069	61427	61967	63685	1210845	1213755

** denotes FRNs that are not released as to the disclosed potential conflict issue*

1213775	1223382	1335127	1336822	1338896	1445660
1213785	1223415	1335128	1336826	1338931	1445661
1213786	1223422	1335131	1336827	1339009	1445670
1213787	1223428	1335332	1336990	1339012	1445678
1213788	1224905	1335879	1336991	1339018	1445682
1213789	1224907	1336087	1337492	1339020	1445685
1213790	1225265	1336088	1337531	1339022	1445691
1213791	1226101	1336089	1337532	1340836	1445692
1216798	1226235	1336090	1337533	1340838	1445696
1217574	1226254	1336092	1337534	1340847	1445698
1219647	1226292	1336093	1337535	1341679	1445700
1219807	1226318	1336095	1337536	1342535	1445706
1219823	1226624	1336096	1337624	1343478	1445708
1219837	1227281	1336097	1337667	1343726	1445709
1219844	1227283	1336098	1337719	1353096	1445710
1219848	1227284	1336099	1337721	1354248	1445712
1219857	1227285	1336100	1337722	1440314	1445714
1219875	1227286	1336101	1337723	1440317	1445716
1219911	1227287	1336102	1337726	1441069	1445717
1219925	1227288	1336118	1337727	1441132	1445718
1219936	1227289	1336119	1337728	1441134	1445719
1220078	1227364	1336120	1337729	1442239	1450548
1220080	1227369	1336121	1338413	1442536	1450784
1220086	1227380	1336122	1338414	1443170	1451313
1220192	1227388	1336125	1338415	1443472	1452503
1220194	1227834	1336127	1338416	1443727	1452643
1220197	1234083	1336130	1338417	1445097	1452797
1220717	1236718	1336133	1338418	1445103	1452861
1220731	1236819	1336134	1338419	1445119	1452862
1220936	1236823	1336136	1338455	1445245	1452886
1220979	1236828	1336138	1338458	1445544	1452888
1220983	1329202	1336140	1338459	1445548	1452891
1220984	1331488	1336141	1338461	1445552	1452892
1221390	1332356	1336143	1338463	1445553	1453011
1221393	1332363	1336145	1338465	1445562	1453012
1223240	1332366	1336151	1338469	1445563	1453014
1223249	1332367	1336154	1338471	1445565	1453015
1223255	1332412	1336156	1338473	1445567	1453016
1223258	1332914	1336157	1338474	1445580	1453482
1223263	1333114	1336160	1338475	1445581	1453969
1223264	1333257	1336161	1338476	1445583	1453972
1223265	1333959	1336162	1338478	1445593	1454166
1223266	1334082	1336165	1338479	1445594	1454407
1223267	1334517	1336167	1338480	1445595	1454495
1223268	1334935	1336170	1338481	1445596	1454496
1223269	1335105	1336173	1338482	1445597	1454497
1223270	1335106	1336599	1338484	1445598	1454498
1223271	1335112	1336603	1338486	1445650	1454499
1223272	1335115	1336604	1338488	1445651	1454933
1223273	1335119	1336605	1338489	1445655	1455050
1223274	1335120	1336717	1338490	1445656	1455090
1223275	1335123	1336818	1338716	1445657	1455093
1223276	1335124	1336821	1338717	1445659	1455289

1455411	1458502	1561704	1569199	1572781	1577161
1455451	1458503	1561706	1569200	1572782	1577164
1455543	1458507	1561707	1569201	1572856	1577165
1455961	1458508	1561708	1569202	1572967	1577166
1455964	1458510	1561716	1569676	1572974	1577167
1456344	1458511	1561720	1569880	1573172	1577168
1456345	1458515	1561721	1569946	1573173	1577170
1456348	1458519	1561734	1570069	1573202*	1577171
1456349	1460243	1562062	1570517	1573416	1577173
1456350	1460253	1562502	1570519	1573431*	1577174
1456351	1461882	1562571	1570522	1573473	1577457
1456353	1462566	1562800	1571125*	1573479	1577478
1456354	1462567	1562801	1571132*	1573480	1578393
1456356	1462570	1562803	1571294	1573481	1578617*
1456360	1463974	1562804	1571300	1573574	1578619*
1456414	1463980	1562805	1571309	1573575	1578843
1456712	1464581	1562806	1571340	1573784*	1578848
1456713	1464583	1562807	1571344	1573810*	1578850
1456763	1464585	1562808	1571345	1573813*	1578883*
1456765	1464588	1562809	1571346	1573816*	1578888*
1457353	1464590	1562810	1571347	1573818*	1578889*
1458027	1464592	1562811	1571348	1573821*	1578890*
1458029	1464593	1564025	1571364	1573823*	1578892*
1458030	1464594	1564026	1571365	1573844*	1578894*
1458032	1464595	1564027	1571366	1573847*	1578896*
1458033	1558190	1564028	1571367	1573854*	1578898*
1458042	1560012	1564029	1571368	1573865*	1578966
1458043	1560047	1564030	1571369	1573868*	1578974
1458227	1560056	1564031	1571370	1573869*	1578976
1458250	1560058	1564083	1571371	1573872*	1578977
1458252	1560356	1564375	1571372	1573873*	1578979
1458255	1560359	1564379	1571462	1573874*	1578982
1458258	1560360	1564382	1571464	1573877	1578985
1458259	1560362	1564383	1571465	1573878	1578987
1458261	1560363	1564386	1571466	1574758	1578988
1458263	1560365	1564387	1571649	1574760	1578989
1458287	1560732	1564388	1571650	1574761	1578990
1458289	1560733	1564389	1571651	1574763	1578991
1458290	1560734	1564393	1571656	1574764	1578992
1458293	1560795	1564394	1571657	1574765	1578993
1458294	1560796	1564395	1571769	1574767	1578994
1458297	1560797	1564397	1572029	1574769	1578996
1458300	1560833	1564398	1572361	1576484	1578997
1458303	1560834	1564399	1572362	1576497	1578998
1458491	1560835	1564400	1572363	1576507	1578999
1458492	1560836	1564738	1572364	1576510	1579156
1458493	1560837	1566716	1572365	1576511	1579157
1458496	1560838	1567974	1572366	1576513	1579159
1458497	1560839	1567976	1572367	1577150	1579263
1458498	1561472	1568063	1572711	1577156	1579268
1458499	1561544	1568064	1572750	1577157	1579271
1458500	1561596	1568065	1572754	1577158	1579273
1458501	1561701	1568066	1572780	1577159	1579277

1579279	1681582	1686906	1687780	1688660	1690300
1579281	1681583	1686907	1687781	1688730	1690302
1579283	1681584	1686908	1687898	1688732	1690304
1579285	1681799	1686909	1687914	1689284	1690308
1579286	1681800	1686910	1687949	1689337	1690309
1579287	1682018	1686911	1687950	1689340	1690310
1579288	1682138	1687108	1687951	1689574	1690311
1579292	1682220	1687131	1688019	1689577	1690315
1579293	1682227	1687132	1688021	1689579	1690317
1579294	1683874	1687144	1688022	1689581	1690318
1579459	1684117	1687145	1688153	1689583	1690373
1579474	1686857	1687157	1688440	1689589	1690379
1579822	1686859	1687158	1688494	1689590	1690387
1579934*	1686860	1687159	1688496	1689591	1690392
1580565*	1686861	1687160	1688497	1689592	1690396
1580569*	1686862	1687162	1688498	1689593	1690417
1580574*	1686863	1687163	1688499	1689594	1690542
1580581*	1686864	1687164	1688500	1689595	1690543
1580583*	1686865	1687233	1688501	1689596	1690544
1580764*	1686866	1687238	1688502	1689597	1690545
1580962	1686867	1687243	1688503	1689599	1690546
1581191	1686869	1687255	1688504	1689637	1690547
1581192	1686871	1687256	1688505	1689643	1690548
1581485	1686872	1687280	1688506	1689645	1691171
1581487	1686873	1687281	1688566	1689647	1691178
1581488	1686874	1687485	1688571	1689651	1691179
1581586	1686875	1687486	1688572	1689654	1691180
1582078	1686876	1687487	1688574	1689664	1691181
1582406	1686877	1687488	1688576	1689668	1691182
1582416	1686878	1687489	1688577	1689896	1691246
1582419	1686879	1687490	1688580	1689900	1691379
1582491	1686880	1687517	1688581	1689903	1691381
1582511	1686881	1687518	1688582	1690056	1691396
1582524	1686882	1687519	1688583	1690058	1691398
1582529	1686883	1687520	1688585	1690062	1691399
1582530	1686884	1687521	1688591	1690064	1691405
1582532	1686885	1687547	1688594	1690065	1691408
1582534	1686887	1687548	1688603	1690071	1691411
1582535	1686890	1687762	1688606	1690086	1691413
1582723	1686891	1687764	1688613	1690091	1691414
1583028	1686893	1687766	1688620	1690144	1691415
1583075	1686894	1687768	1688624	1690198	1691416
1583258	1686895	1687769	1688638	1690201	1691417
1584060	1686896	1687770	1688641	1690269	1691418
1584799	1686897	1687771	1688645	1690270	1691419
1677354	1686898	1687772	1688649	1690274	1691420
1678123	1686899	1687773	1688653	1690279	1691421
1680535	1686900	1687774	1688654	1690282	1691422
1681575	1686901	1687775	1688655	1690284	1691423
1681576	1686902	1687776	1688656	1690286	1691424
1681577	1686903	1687777	1688657	1690287	1691425
1681578	1686904	1687778	1688658	1690290	1691426
1681579	1686905	1687779	1688659	1690293	1691427

1691428	1696529	1712974	1720414	1724179	1726997
1691429	1696533	1712977	1720415	1724181	1727002*
1691430	1696541	1712978	1720416	1724182	1727007
1691431	1696545	1712979	1720417	1724183	1727011*
1691432	1696559	1712980	1720422	1724184	1727039*
1691433	1696570	1712981	1720849*	1725049	1727062
1691434	1696571	1712982	1720854*	1725125	1727064
1691435	1696572	1712983	1720855*	1725132	1727066
1691436	1696771	1713479	1720857*	1725326	1727067
1691438	1696775	1713548	1720860*	1725334	1727069
1691439	1696779	1714694	1720861*	1725344	1727072
1691442	1696780	1714698	1720862*	1725678	1727074
1691443	1696782	1714708	1720870*	1725680	1727075
1691501	1696786	1714711	1721012	1725683	1727076
1692603	1696789	1714716	1721024	1725704	1727216
1693413	1696790	1714717	1722929	1725705	1727285
1694657	1696791	1714719	1722935	1725706	1727299
1694661	1696793	1714720	1722937	1725707	1727325
1694663	1696795	1714721	1722939	1725708	1727441
1694664	1696796	1714722	1722941	1725709	1727453*
1694665	1696854	1714724	1722942	1725710	1727507
1694666	1696856	1714726	1722950	1725711	1727809
1694668	1710505*	1714957*	1723082	1725712	1728056
1694669	1710510*	1714995*	1723083	1725713	1818480
1694670	1710529*	1714996*	1723407*	1725714	1818485
1694672	1710533	1714997*	1723414*	1725715	1818486
1694673	1710539	1715126*	1723418*	1725754	1829473
1694674	1710544*	1715129*	1723428*	1726002	1829479
1695555	1710559*	1715228	1723434*	1726408	1829528
1695564	1710574	1715390	1723587	1726693	1830022*
1695566	1710575*	1715394	1723892*	1726695	1830885*
1695569	1710590	1715441	1723898*	1726697	1830891*
1695571	1710601	1715819	1724149	1726700	1830972*
1695573	1710604	1715841	1724150	1726702	1830985*
1695581	1710607	1716134	1724151	1726707	1831008*
1695587	1710613	1716984	1724153	1726710	1831009*
1695589	1710614*	1716989	1724155	1726712	1831010*
1695590	1710616	1716993	1724156	1726714	1831011*
1695592	1710617*	1716996	1724157	1726716	1831012*
1695792	1710619*	1717867	1724158	1726719	1831013*
1695795	1710620	1717881	1724161	1726720	1831014*
1695797	1710622	1718765	1724162	1726721	1831197*
1695800	1710623*	1718768	1724163	1726723	1831218*
1695801	1710624	1719885	1724166	1726882	1831226*
1695803	1710626*	1720353	1724167	1726888	1831235*
1695841	1710627	1720370	1724169	1726892	1832901
1695843	1710628	1720382	1724170	1726894	1832927
1695844	1710634	1720390	1724171	1726901	1833272
1695845	1710952	1720396	1724172	1726911	1833490
1695847	1710958	1720400	1724173	1726918	1833501
1695848	1712529	1720407	1724175	1726922	1834955
1695850	1712631	1720411	1724176	1726924	1834969
1696517	1712653	1720413	1724178	1726929	1835066

1835068	1837627	1840952	1845251	1951105	1959108
1835080*	1837729	1840954	1845255	1951117	1959109
1835081	1837730	1840956	1845777	1951121	1959974
1835090*	1837731	1840957	1845795	1951131	1960003
1835093	1837733	1840963	1845816	1951134	1960292
1835096	1837736	1840966	1845825	1951139	1960311
1835098	1838190*	1840967	1846215	1951144	1960316
1835100	1838192*	1840968	1888854	1951160	1960322
1835101*	1838219*	1840970	1948722	1951161	1960324
1835105*	1839574*	1840984	1950226	1951162	1960325
1835108	1839576*	1840985	1950227	1951163	1960326
1835110	1839597	1840986	1950517	1951164	1960327
1835111*	1839963	1840987	1950523	1951255*	1960330
1835112	1839969	1840988	1950551	1951266*	1960331
1835113*	1840407	1840989	1950554	1951267*	1960333
1835115	1840421	1840990	1950559	1951269*	1960334
1835118*	1840436	1840991	1950561	1951273*	1960336
1835119	1840459	1840992	1950563	1951278*	1960338
1835124	1840461	1840993	1950564	1951283*	1960383
1835128	1840467	1840994	1950565	1951286*	1960384
1835136	1840468	1840995	1950568	1951290*	1960397
1835139	1840546	1840996	1950569	1951296*	1960430
1835143	1840547	1841654	1950823	1952142	1960464
1835145	1840548	1841671	1950828	1952145	1960475
1835148	1840549	1841675	1950920*	1952146	1960491
1835152	1840696	1841681	1950929*	1954453	1960503
1835156	1840701	1841682	1950930*	1954460	1960529
1835158	1840707	1841683	1950934*	1956253	1960541
1835159	1840736	1841686	1950936*	1956260	1960544
1835160	1840753	1841687	1950937*	1956265	1960638
1835294	1840838	1841688	1950938*	1956288	1961128
1835298	1840839	1841689	1950940*	1956289	1961171
1835344*	1840909	1841712	1950941*	1956300	1961184
1835346*	1840910	1841716	1950942*	1956301	1961195
1835583	1840911	1841718	1950945*	1956302	1961204
1835910	1840913	1841719	1950946*	1956303	1961513
1835914	1840915	1841724	1950948*	1956304	1961527
1835916	1840918	1841726	1950949*	1956708*	1961528
1835917	1840919	1841732	1950952*	1956712*	1961582
1835918	1840921	1841737	1950953*	1958398	1961584
1837491	1840923	1841738	1950954*	1958777	1961587
1837493	1840924	1841816	1950955*	1958787	1961589
1837494	1840927	1841820	1951021	1958789	1961590
1837586	1840928	1841821	1951055	1958794	1961592
1837587	1840932	1842000	1951068	1958804	1961594
1837588	1840935	1842045	1951073	1959083	1961596
1837589	1840936	1842569	1951080	1959087	1961605
1837590	1840938	1842648	1951087	1959091	1961607
1837591	1840939	1844082	1951092	1959093	1961610
1837592	1840941	1844200	1951094	1959099	1961611
1837594	1840942	1844207	1951095	1959100	1961612
1837595	1840948	1844779	1951097	1959101	1961613
1837597	1840950	1845175	1951101	1959103	1961615

1961617	1965792
1961620	1965796
1961622	1965797
1961625	1965798
1961628	1965803
1961630	1965806
1961631	1965807
1961635	1965808
1961666	1965810
1961670	1965811
1961672	1965812
1961686	1965813
1961704	1965814
1961859	1965815
1961862	1965816
1961917	1965817
1961932	1965819
1961945	1965820
1961952	1965821
1961958	1965822
1961963	1965823
1961972	1965824
1961984	1965825
1962010	1965826
1962031	1965827
1962036	1965828
1962041	1965829
1962044	1965830
1962048	1965831
1962054	1965833
1962056	1965834
1962058	1965835
1962063	1965836
1962084	1965838
1962096	1965849
1962098	1965871
1962099	1966043
1962101	1966056
1962102	1966118
1962372	1966289
1962400	1966398
1964897	1966458
1965467	1966510
1965483	1966520
1965522	1966532
1965564	1966554
1965634	1966580
1965641	1966598
1965642	1966648
1965657	1966662
1965696	1966673
1965787	1966677
1965791	1966685



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
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TTY: 888-835-5322

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BROADCAST EQUAL EMPLOYMENT OPPORTUNITY MID-TERM REVIEW CYCLE COMMENCES JUNE 1, 2023

New Feature Debuts in Online Public Inspection File to Designate Radio Station Staff Size

In accordance with section 334(b) of the Communications Act of 1934,¹ as amended, and section 73.2080(f)(2) of the Federal Communications Commission's (Commission's) rules,² each television station that is part of an employment unit of five or more full-time employees and each radio station that is part of an employment unit of 11 or more full-time employees is subject to a review of its Equal Employment Opportunity (EEO) practices four years following the most recent renewal of the station's license.³ Accordingly, the next EEO mid-term review cycle commences June 1, 2023, the four-year anniversary of the June 1, 2019 deadline for the license renewal application of radio stations in Washington, DC; Maryland; Virginia; and West Virginia.

On a rolling basis through April 1, 2027, stations in all other states will undergo the EEO mid-term review by Enforcement Bureau staff on the fourth anniversary of the deadline for the most recent license renewal application belonging to each station in the employment unit.⁴ Deadlines for the most recent license renewal applications can be found for radio at <https://www.fcc.gov/media/radio/broadcast-radio-license-renewal-dates-by-state> and TV at <https://www.fcc.gov/media/television/broadcast-television-license-renewal-dates-by-state>.⁵

The EEO mid-term review will cover the two-year period preceding the mid-term review deadline. Enforcement Bureau staff will evaluate performance as reflected in the annual EEO Public File Report due at mid-term and the one prior,⁶ and can request additional information from the licensee that it

¹ 47 U.S.C. § 334(b).

² 47 CFR § 73.2080(f)(2).

³ Satellite Digital Audio Radio Services (SDARS) are also subject to EEO mid-term review. 47 CFR § 25.601.

⁴ Radio and television station license renewal dates are based on the location (state, territory, etc.) of the station's community of license. States are placed into geographical groups and all of the radio or television station licenses in a particular geographical grouping of states file renewal applications on the same date. See 47 CFR § 73.1020.

⁵ All license renewal applications are due on the first day of the month as specified in 47 CFR § 73.1020. If the deadline falls on a weekend or officially recognized federal legal holiday, it is moved to the next business day. 47 CFR § 1.4.

⁶ For example, the EEO Public File Reports subject to mid-term review for the Washington, DC; Maryland; Virginia; and West Virginia radio station renewal group cover the June 1, 2021-May 31, 2022 and June 1, 2022-May 31, 2023 reporting periods.

deems necessary.⁷ Staff will inform licensees of any necessary improvements in recruitment practices to ensure that they are in compliance with the Commission's EEO rules, and take other enforcement action as appropriate.

New Feature to Designate Radio Station Employment Unit Staff Size. To conduct the EEO mid-term review, the Commission previously relied on certain staff size information supplied via the FCC Form 397 (Broadcast Mid-Term Report), which was eliminated in 2019.⁸ Now, when radio stations and SDARS licensees belonging to an employment unit with five or more full-time employees upload their annual EEO Public File Report to the Commission's Online Public Inspection File (OPIF) on or before the mid-term review deadline, they must also indicate whether their unit has 11 or more full-time employees, which is the staff size that triggers the mid-term review for radio licensees.

More specifically, in the Settings section of OPIF, a new "Mid-Term Review" tab will present radio stations with a "yes/no" question to disclose whether their employment unit has 11 or more full-time employees. Respondents answering "yes" are subject to the review. Answers will be stored in a new Mid-Term Review folder in OPIF at EEO Records>>Additional Documents>>EEO Public File Reports>>Mid-Term Review. Radio stations that have uploaded an EEO Public File Report at mid-term but that fail to answer the question will be contacted by Enforcement Bureau staff.

Television Stations Not Required to Designate Staff Size to Implement Mid-Term Review. All television station employment units uploading an EEO Public File Report to the OPIF are necessarily subject to a mid-term review because the requisite staff size for both obligations is five or more full-time employees. Thus, the very act of posting the report to the OPIF will be sufficient to identify television stations subject to a mid-term review.⁹ OPIF will not present the aforementioned "yes/no" question to television stations, nor will a Mid-Term Review folder appear in their public inspection files.

For questions regarding the EEO mid-term review, please contact EEO staff at EB-EEO@fcc.gov or (202) 418-1450. For technical assistance with the Online Public Inspection File, please contact 1-877-480-3201 or <https://esupport.fcc.gov/request.htm>.

- FCC -

⁷ *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, MM Docket No. 98-204, Second Report and Order and Third Notice of Proposed Rulemaking, 17 FCC Rcd 24018, 24064, para. 146 (2002), *recon. pending*.

⁸ *Elimination of Obligation to File Broadcast Mid-Term Report (Form 397) Under Section 73.2080(f)(2), Modernization of Media Regulation Initiative*, MB Docket Nos. 18-23 and 17-105, Report and Order, 34 FCC Rcd 668 (2019).

⁹ *Id.*

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Plymouth Gathering, Inc.	)	File No.: EB-IHD-16-00022970
	)	NAL/Account No.: 202032080021
Licensee of Low Power FM Station	)	FRN: 0009678228
	)	
KELS-LP, Greeley, Colorado	)	

FORFEITURE ORDER

Adopted: May 10, 2023

Released: May 10, 2023

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. We impose a penalty of \$15,000 against Plymouth Gathering, Inc.¹ (Plymouth), licensee of low power FM (LPFM) station KELS-LP (Station), Greeley, Colorado, for broadcasting promotional announcements on behalf of for-profit entities in exchange for consideration, in violation of the Federal Communications Commission's (FCC or Commission) Underwriting Laws.² We previously issued a Notice of Apparent Liability, in which we found that Plymouth broadcast on the Station over 1,600 commercial advertisements over a three-month period in 2018, in apparent violation of the Underwriting Laws. In response, Plymouth does not contest our findings, but seeks an unspecified reduction or elimination of the proposed forfeiture. After reviewing Plymouth's response, we find no reason to cancel, withdraw or reduce the proposed penalty, and we therefore assess the \$15,000 forfeiture we proposed.

II. BACKGROUND

2. LPFM radio broadcasters are licensed to provide noncommercial, locally oriented programming for their communities. LPFM licensees benefit from being exempt from regulatory fees and from having fewer regulatory requirements than those imposed on commercial entities, in recognition of their noncommercial and non-profit nature.³ The Underwriting Laws have long prohibited noncommercial educational (NCE) stations, which include all LPFM stations, from airing commercial advertisements.⁴ Although NCE stations can identify contributors who provide financial support, they

¹ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

² See 47 U.S.C. § 399b; 47 CFR §§ 73.503(d), 73.801 (applying underwriting requirements to LPFM stations as NCE stations) (collectively the Underwriting Laws).

³ See *In the Matter of Plymouth Gathering, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6260, para. 1 (EB 2020) (NAL); see, e.g., *In the Matter of Maricopa Community College District, Request for Experimental Authority to Relax Standards for Public Radio Underwriting Announcements of KJZZ(FM) and KBAQ(FM), Phoenix, Arizona*, Memorandum Opinion and Order, 29 FCC Rcd 15042, 15034, para. 2 (2014) ("These limits [on NCEs] are intended to remove NCE stations from the market pressures under which commercial broadcasters operate, and to retain their essential character, free from extraneous influence and control."); see also *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Second Report and Order, 86 FCC 2d 141, 142 (1981) (subsequent history omitted).

⁴ See 47 U.S.C. § 399b; 47 CFR §§ 73.503(d), 73.801 (applying the Underwriting Laws to LPFM stations as NCE stations); see also NAL, 35 FCC Rcd 6260 at para 2; *In the Matter of National Farmworkers Service Center, Inc.*,

(continued...)

cannot go further and promote a contributor's products, services, or businesses.⁵ These restrictions preserve the unique nature of LPFM stations by keeping them commercial-free.⁶ They also provide a level playing field for noncommercial broadcasters who obey the rules, and for commercial broadcasters that assume higher levels of regulatory and financial burdens in exchange for being permitted to sell commercial advertising on their stations.⁷

3. Plymouth is a Colorado nonprofit corporation and is the licensee of LPFM station KELS-LP, which is licensed to, and serves, the community of Greeley, Colorado. Since 2015, the Commission has received multiple complaints alleging that Plymouth has been airing advertisements on the Station, essentially operating the noncommercial Station as a commercial station.⁸ Following a review of the complaints, we investigated and monitored the Station.⁹ We inquired about the complained-of matters on December 12, 2018,¹⁰ to which Plymouth responded on February 8, 2019.¹¹ Through our investigation, we concluded that over a period of three months in 2018, Plymouth aired a total of more than 1,600 commercial announcements, promoting the products, services or business of at least 14 financial contributors.¹²

4. On July 2, 2020, we issued the *NAL* proposing a \$15,000 forfeiture against Plymouth for its apparent willful and repeated violation of section 399B of the Act and sections 73.503(d) and 73.801 of the Commission's rules.¹³

(Continued from previous page)

Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7486, 7488, para. 5 (EB 2010) ("The pertinent statute specifically provides that noncommercial educational stations may not broadcast advertisements.").

⁵ See *NAL*, 35 FCC Rcd 6260 at para 2; *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice (1986), republished, 7 FCC Rcd 827 (1992).

⁶ See *NAL*, 35 FCC Rcd 6260 at para 2; *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Second Report and Order, 86 FCC 2d 141, 142, para. 3 (1981) ("The Commission's interest in creating a 'noncommercial' service has been to remove the programming decisions of public broadcasters from the normal kinds of commercial market pressures under which broadcasters in the unreserved spectrum usually operate.") (subsequent history omitted).

⁷ See 47 U.S.C. § 159(e)(1); 47 CFR § 1.1162(e); *NAL*, 35 FCC Rcd 6260, para 2; see also *Syner Foundation, Inc.*, Order and Consent Decree, 30 FCC Rcd 1780, 1780, para. 1 (EB 2015); *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, Second Report and Order, 86 FCC 2d 141, 142, para. 3 (1981).

⁸ See Complaint No. 318601 (June 2, 2015) (on file in EB-IHD-16-00022970); Complaint No. 601072 (Oct. 20, 2015) (on file in EB-IHD-16-00022970); Complaint No. 1406233 (Jan. 19, 2017) (on file in EB-IHD-16-00022970); Complaint No. 1440853 (Feb. 7, 2017) (on file in EB-IHD-16-00022970); Complaint No. 1751200 (July 2, 2017) (on file in EB-IHD-16-00022970); Complaint No. 2011917 (Oct. 27, 2017) (on file in EB-IHD-16-00022970); Complaint No. 2056653 (Nov. 18, 2017) (on file EB-IHD-16-00022970).

⁹ See *NAL*, 35 FCC Rcd at 6261-6262, para. 6.

¹⁰ See Letter of Inquiry from Christopher J. Sova, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Mr. Brett Reese, Plymouth Gathering, Inc. (Dec. 12, 2018) (on file in EB-IHD-16-00022970).

¹¹ See Response to Letter of Inquiry from Michael W. Richards, Esq., Attorney for Plymouth Gathering, Inc., to Christopher J. Sova, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau (Feb. 8, 2019) (on file in EB-IHD-16-00022970) (LOI Response).

¹² See *NAL*, 35 FCC Rcd at 6265, para. 11.

¹³ See *id.* at para. 13; see also Underwriting Laws, *supra* n.2.

5. On July 31, 2020, Plymouth filed a response to the *NAL*.¹⁴ Plymouth does not contest our findings, but seeks an unspecified reduction or elimination of the proposed forfeiture based on its inability to pay the proposed forfeiture.¹⁵ Plymouth makes a number of arguments as to why the *NAL* should be eliminated or reduced due to Plymouth's "limited financial abilities."¹⁶ Plymouth submitted financial information in connection with its inability to pay claim, including IRS Forms 990 filed for tax years 2017 and 2018.¹⁷ Plymouth also submitted a financial statement for tax year 2019, as well as a copy of its filed IRS request for an extension of time to file the 2019 IRS Form 990.¹⁸ In addition, Plymouth included a financial statement for the first half of 2020, reflecting approximately six months of gross revenues,¹⁹ noting that it has seen fundraising hindered by the "economic dislocations associated with the current COVID-19 pandemic-induced health emergency."²⁰ Plymouth initially claimed to have run a deficit in the first half of 2020 and subsequently submitted its updated 2020 tax return, which reflects total gross revenues of \$205,803.²¹ Plymouth also asserted that its "compliant regulatory record as a licensee" is a significant factor to be considered with respect to a reduction of a proposed forfeiture.²² In 2023, Plymouth submitted Updated Financial Information, e.g., IRS Forms 990 for 2019 and 2020.²³

III. DISCUSSION

6. We proposed a forfeiture in this case in accordance with section 503(b) of the Communications Act of 1934, as amended (Act),²⁴ section 1.80 of the Commission's rules,²⁵ and the Commission's *1997 Forfeiture Policy Statement*.²⁶ When we assess forfeitures, section 503(b)(2)(E) requires that we take into account the "nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."²⁷ We have fully considered the arguments and accompanying financial information set forth in Plymouth's *NAL Response*, as well as the Updated Financial Information but we find none of them persuasive. We therefore affirm the \$15,000 forfeiture proposed in the *NAL*.

¹⁴ See *Plymouth Gathering, Inc.*, Response to Notice of Apparent Liability for Forfeiture and Request for Forfeiture Reduction (Jul. 31, 2020) (on file in EB-IHD-16-00022970) (*NAL Response*).

¹⁵ See *NAL Response* at 1-3, paras. 2, 4-5, 7.

¹⁶ See *id.* at 1, para. 2.

¹⁷ See *id.* at Attach. A, Declaration of Brett Reese (Reese Declaration) & Exh. 1.

¹⁸ See *id.* at 1, para. 3 & Exh. 1. Plymouth provided financial statements in lieu of the IRS Form 990 for tax year 2019 because it had not filed the IRS Form 990 form for 2019 at the time it submitted its *NAL Response*.

¹⁹ See Reese Declaration.

²⁰ See *NAL Response* at 2, paras. 3-4 & Reese Declaration.

²¹ See *id.* at 2, para. 4; see also Letter from Aaron P. Shainis, Counsel for Plymouth Gathering, Inc. to Jennifer Lewis, Frederick Giroux and Pamela Gallant, Federal Communications Commission (Feb. 3, 2023) (on file in EB-IHD-16-00022970) (providing Plymouth's 2018, 2019 and 2020 income tax returns) (Updated Financial Information).

²² See *NAL Response* at 2, paras. 5-6.

²³ See Updated Financial Information.

²⁴ 47 U.S.C. § 503(b).

²⁵ 47 CFR § 1.80.

²⁶ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*1997 Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

²⁷ 47 U.S.C. § 503(b)(2)(E) (Section 503 Factors).

A. Plymouth Broadcast Prohibited Commercial Announcements Promoting For-Profit Entities in Exchange for Consideration.

7. In its *NAL Response*, Plymouth does not dispute or contest the *NAL*'s findings that Plymouth apparently violated the Underwriting Laws by repeatedly airing noncompliant promotional announcements on behalf of for-profit entities in exchange for consideration. Therefore, we adopt and affirm the *NAL*'s conclusion that during a three-month period in 2018, Plymouth broadcast a total of more than 1,600 announcements on behalf of 14 for-profit entities that violated section 399B of the Act and sections 73.503(d) and 73.801 of the Commission's rules.²⁸

B. The Proposed \$15,000 Forfeiture Is Appropriate

8. After considering the relevant statutory factors and the Commission's 1997 *Forfeiture Policy Statement*, we find that Plymouth is liable for a forfeiture of \$15,000. As set forth in the *NAL*, this total results from applying the base forfeiture of \$2,000 for violations of the enhanced underwriting requirements and then considering and weighing the nature, circumstances, extent, and gravity of the violations, as well as Plymouth's culpability, history of violations, and ability to pay. We upwardly adjusted the forfeiture based upon the protracted period of time over which the prohibited announcements were aired, the number of announcements at issue, as well as forfeiture actions in other underwriting cases.²⁹

9. We reject Plymouth's request for an elimination or reduction of the proposed forfeiture due to its alleged inability to pay and its purported history of compliance with the Act and the Commission's rules.³⁰ These arguments do not have merit, and we find no basis to reduce or cancel the forfeiture.

1. Plymouth Has Not Demonstrated an Inability to Pay

10. The Commission will not consider reducing or cancelling a forfeiture in response to a claimed inability to pay unless the licensee submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects a company's current financial status.³¹ To assess a claim of inability to pay, the Commission reviews a licensee's gross revenues to determine if it is able to pay the assessed forfeiture.³² The Commission has found that "[i]n general, gross revenues are the best indicator of [a company's] ability to pay a forfeiture."³³ Moreover, the Commission has concluded that if "gross revenues are sufficiently great ... the mere fact that a business is operating at a loss does not itself mean that it cannot afford to pay a forfeiture."³⁴

11. We have reviewed the financial information submitted by Plymouth and find that it does not provide a basis for cancellation or reduction of the proposed forfeiture. Plymouth's tax returns from 2018-2020 indicate total average gross revenues of \$228,796. A \$15,000 forfeiture represents 6.6% of Plymouth's average gross revenues; therefore, Plymouth's gross revenues are sufficient to sustain the

²⁸ See *NAL*, 35 FCC Rcd at 6265, paras. 11-12; 47 U.S.C. § 399b; 47 CFR §§ 73.503(d), 73.801.

²⁹ See *NAL*, 35 FCC Rcd at 6265, para. 11.

³⁰ See *NAL Response*.

³¹ See *In the Matter of Advanced Tel, Inc.*, Forfeiture Order, 32 FCC Rcd 5151, 5153, para. 7 (2017); *In the Matter of PIT Phone Cards, Inc.* Forfeiture Order, 30 FCC Rcd 14701, 14706, para. 16 (2015).

³² See, e.g., 1997 *Forfeiture Policy Statement*, 12 FCC Rcd at 17106, para.43.

³³ *Unipoint Techs., Inc.*, Forfeiture Order, 29 FCC Rcd 1633, 1643, para. 29 (2014) (citing *PJB Communc'ns of Virginia, Inc.*, 7 FCC Rcd at 2088, para. 8).

³⁴ *PJB Communc'ns. of Virg., Inc.*, 7 FCC Rcd at 2089, para. 8; see also *Sunstar Travel & Tours, Inc.*, Forfeiture Order, 25 FCC Rcd 13804, 13808, para. 14 (2010).

\$15,000 forfeiture and, do not warrant reduction.³⁵ Even factoring in Plymouth's Updated Financial Information, Plymouth's gross revenues do not support its financial hardship claim.³⁶ Although Plymouth speculated that it would "[run] a deficit through the first half of 2020,"³⁷ it subsequently submitted its updated 2020 tax return, which reflects total gross revenues of \$205,803. The total gross revenues of this magnitude alone are sufficient to sustain a \$15,000 forfeiture.³⁸

12. In its *NAL Response*, Plymouth cites several consent decrees as precedent for its inability to pay; however, Plymouth overlooks that these are negotiated settlements of a particular dispute and have no precedential effect on third parties.³⁹ In this regard, Plymouth cites a recent consent decree involving an unlicensed radio station operator in which the Commission agreed to settle a NAL proceeding based upon the violator's documented inability to pay the \$453,015 proposed forfeiture as well as discontinuation of the unlicensed station operation.⁴⁰ In addition, in that settlement, the violator agreed to pay a suspended/additional penalty of \$225,000 in the event of default or future noncompliance.⁴¹ Thus, the cited consent decree is based upon distinguishable facts not at issue here, and contrary to Plymouth's argument, does not support a reduction in the *NAL*'s proposed forfeiture penalty.

13. The Media Bureau consent decrees Plymouth cites are likewise distinguishable and do not support a forfeiture reduction here.⁴² In each of the cited consent decrees, the Media Bureau and the licensee negotiated an agreement, whereby the Media Bureau exercised its prosecutorial discretion to forbear from including a civil penalty in "unique circumstances" due in large part to the "voluntary

³⁵ See, e.g., *Coleman Enterprises, Inc., D/B/A Local Long Distance, Inc.*, Order of Forfeiture, 15 FCC Rcd 24385, 24389, para. 11 (2000) (*Local Long Distance, Inc.*) (forfeiture not deemed excessive where it represented approximately 7.9% of the violator's gross revenues), *recons. denied*, Order, 16 FCC Rcd 10023 (2001) (*Local Long Distance Reconsideration Order*).

³⁶ Plymouth did not file tax returns in 2021, so we were unable to consider 2021 gross revenues. See, e.g., *Fun Media Group, Inc.*, Memorandum Opinion and Order, 20 FCC Rcd 16149, 16152, para. 12 (EB 2005) ("Indeed, the Commission stated that if companies' gross revenues are sufficiently large, the fact that net losses are reported, alone, does not necessarily establish inability to pay"), *review denied*, 22 FCC Rcd 9839 (2007); see also *Alpha Ambulance, Inc.*, Order, 19 FCC Rcd 2547 (2004) (rejecting a target's inability to pay argument due to sufficient gross revenues and noting that net losses, alone, do not substantiate an inability to pay when gross revenues are sufficiently large); *Local Long Distance Reconsideration Order*, 16 FCC Rcd at 10025, para. 6 (2001); *Independent Communications, Inc.*, Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 9605, 9610, paras. 13-14 (1999), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 16060 (2000) (same).

³⁷ *NAL Response* at 2, para. 4.

³⁸ A \$15,000 forfeiture represents 7.2% of Plymouth's 2020 total gross revenues, and is not deemed excessive. See *Local Long Distance, Inc.*, 15 FCC Rcd at 24389, para. 11.

³⁹ See *NAL Response* at 2, para. 3. See, e.g., *Purple Communications, Inc./JCS DVRs, LLC*, Order and Consent Decree, 32 FCC Rcd 1608, 1608, para. 3 (2017) ("We make clear that, as the resolution of a particular dispute with the consent of both parties, this consent decree has no precedential effect on third parties.").

⁴⁰ See *NAL Response* at 2, para. 3 & n.4 citing *Gerlens Cesar*, Order and Consent Decree, 35 FCC Rcd 6887 (2020) (*Gerlens Cesar*).

⁴¹ See *Gerlens Cesar*, 35 FCC Rcd at 6887, 6890, 6892-93, paras. 1, 4, 14-15.

⁴² See *NAL Response* at 2, para. 3 & n.5 citing *Cumulus Media New Holdings Inc.*, Order and Consent Decree, 35 FCC Rcd 7313 (MB 2020) (*Cumulus Media*); *Beasley Group Media Licenses, LLC*, Order and Consent Decree, 35 FCC Rcd 7285 (MB 2020) (*Beasley Group*); *iHeartMedia, Inc.*, Order and Consent Decree, 35 FCC Rcd 7264 (MB 2020) (*iHeartMedia*); *Salem Media Group, Inc.*, Order and Consent Decree, 35 FCC Rcd 7240 (MB 2020) (*Salem Media*).

disclosure [of licensee-reported violations of political file recordkeeping requirements] and cooperation.”⁴³ Such circumstances are not applicable here.

2. Plymouth’s Record Does Not Justify Reduction of the Forfeiture

14. Plymouth further asserts in the *NAL Response* that the forfeiture should be reduced or eliminated due to its record of compliance.⁴⁴ Although Commission records confirm that Plymouth has not previously been the subject of an enforcement action, the *NAL* considered and weighed all the factors set forth in section 503 of the Act, including Plymouth’s history of compliance.⁴⁵ A claimed history of compliance is one of several factors that the Commission must consider when determining an appropriate forfeiture under section 503 of the Act. We also must consider “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, ... and such other matters as justice may require.”⁴⁶ In this case, the Commission has received multiple underwriting complaints dating back to 2015 alleging that Plymouth aired advertisements on the Station, essentially operating the noncommercial Station as a commercial station.⁴⁷ Moreover, Plymouth has not denied that it broadcast commercials more than 1,600 times in violation of the Underwriting Laws.⁴⁸ Accordingly, we decline to adjust the monetary forfeiture downward based on Plymouth’s claimed record of compliance.⁴⁹

3. The Forfeiture is Consistent with Precedent, the Section 503 Statutory Factors and the 1997 Forfeiture Policy Statement Guidelines

15. After considering the relevant statutory factors, the Commission’s rules, and the Commission’s *Forfeiture Policy Statement*, we find that Plymouth is liable for a total forfeiture of \$15,000. As explained in the *NAL*, this total results from Plymouth’s willful and repeated broadcast of 14 separate advertisements more than 1,600 times in total, in violation of section 399B of the Act and sections 73.503(d) and 73.801 of the Commission’s rules.⁵⁰ Weighing the relevant statutory factors and our own forfeiture guidelines, we conclude, based upon the evidence before us, that the proposed forfeiture of \$15,000 properly reflects the seriousness, duration, and scope of Plymouth’s violations. We therefore reject Plymouth’s unsupported argument that a downward adjustment of the proposed forfeiture

⁴³ See *Cumulus Media*, 35 FCC Rcd at 7318, para. 5; *Beasley Group*, 35 FCC Rcd at 7289, para. 5; *iHeartMedia*, 35 FCC Rcd at 7269, para. 5; *Salem Media*, 35 FCC Rcd at 72443, para. 5.

⁴⁴ See *NAL Response* at 2, para. 5.

⁴⁵ 47 U.S.C. § 503(b)(2)(E); *NAL*, 35 FCC Rcd at 6264, para. 10.

⁴⁶ 47 U.S.C. § 503(b)(2)(E); *NAL*, 35 FCC Rcd at 6264, para. 10.

⁴⁷ See Complaint No. 318601 (June 2, 2015) (on file in EB-IHD-16-00022970); Complaint No. 601072 (Oct. 20, 2015) (on file in EB-IHD-16-00022970); Complaint No. 1406233 (Jan. 19, 2017) (on file in EB-IHD-16-00022970); Complaint No. 1440853 (Feb. 7, 2017) (on file in EB-IHD-16-00022970); Complaint No. 1751200 (July 2, 2017) (on file in EB-IHD-16-00022970); Complaint No. 2011917 (Oct. 27, 2017) (on file in EB-IHD-16-00022970); Complaint No. 2056653 (Nov. 18, 2017) (on file in EB-IHD-16-00022970).

⁴⁸ See LOI Response at 2, Response to Question III. 13; Exh. IV-15.

⁴⁹ See, e.g., *TV Max, Inc. and Broadband Ventures Six, LLC D/B/A Wavedivision et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8660, para. 24 (2014) (totality of circumstances and the egregious, intentional, and repeated nature of the violations, along with licensee’s culpability, outweigh its claimed history of no previous offenses); *Local Long Distance, Inc.*, 15 FCC Rcd at 24388-89, para. 10 (overall record of compliance does not justify a downward forfeiture adjustment when weighed against other Section 503 Factors presented in the case at issue).

⁵⁰ See 47 U.S.C. § 399b; 47 CFR §§ 73.503(d), 73.801.

penalty “comport[s] with the regulatory policy that the Commission must treat similarly situated parties similarly.”⁵¹

IV. CONCLUSION

16. Based on the record before us and in light of the applicable statutory factors, we conclude that Plymouth willfully and repeatedly violated section 399B of the Act,⁵² and sections 73.503(d) and 73.801 of the Commission’s rules by airing commercials.⁵³ We decline to cancel or reduce the \$15,000 forfeiture proposed in the *NAL* for the reasons stated herein.

V. ORDERING CLAUSES

17. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.311 and 1.80 of the Commission’s rules, Plymouth Gathering, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of fifteen thousand dollars (\$15,000) for willfully and repeatedly violating section 399B of the Act⁵⁴ and sections 73.503(d) and 73.801 of the Commission’s rules.⁵⁵

18. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission’s rules within thirty (30) calendar days after the release of this Forfeiture Order.⁵⁶ Plymouth Gathering, Inc. shall send electronic notification of payment to Pamela Gallant at Pamela.Gallant@fcc.gov, Frederick W. Giroux at Frederick.Giroux@fcc.gov, and Jennifer A. Lewis at Jennifer.Lewis@fcc.gov on the date said payment is made. If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to section 504(a) of the Act.⁵⁷

19. In order for Plymouth Gathering, Inc. to pay the proposed forfeiture, Plymouth Gathering, Inc. shall notify Pamela Gallant at Pamela.Gallant@fcc.gov, Frederick W. Giroux at Frederick.Giroux@fcc.gov, and Jennifer A. Lewis at Jennifer.Lewis@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁵⁸

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters “FORF”. In addition, a completed Form 159⁵⁹ or printed CORES form⁶⁰

⁵¹ *NAL Response* at 3, para. 6, citing *Melody Music v. FCC*, 345 F.2d 730 (D.C. Cir. 1965). See, e.g., *Greater Boston Radio, Inc.*, Forfeiture Order, 28 FCC Rcd 1951, 1956-57, para. 12 (EB-IHD 2013) (The Commission has broad discretion to determine a forfeiture amount; *Melody Music* does not limit the Commission to previously assessed sanctions where there are factual distinctions that warrant different treatment, and the Commission has adequately explained such distinctions) (citations omitted).

⁵² 47 U.S.C. § 399b.

⁵³ 47 CFR §§ 73.503(d), 73.801.

⁵⁴ 47 U.S.C. § 399b.

⁵⁵ 47 CFR §§ 73.503(d), 73.801.

⁵⁶ *Id.* § 1.80.

⁵⁷ 47 U.S.C. § 504(a).

⁵⁸ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters “FORF” in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁶¹ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/core/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/core/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

20. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 45 L Street NE, Washington, DC 20554.⁶² Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

(Continued from previous page)

⁵⁹ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

⁶⁰ Information completed using the Commission’s Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/core/userLogin.do>.

⁶¹ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁶² See 47 CFR § 1.1914.

21. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Mr. Brett Reese, Plymouth Gathering, Inc., 21491 WCR 64, Greeley, Colorado 80631 and Aaron P. Shainis, Esq., Counsel to Plymouth Gathering, Inc., Shainis & Peltzman, Chartered, 1850 M Street, N.W., Suite 240, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Lingo Telecom, LLC	)	Complaint No. 6124736
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

ORDER

Adopted: May 9, 2023

Released: May 9, 2023

By the Acting Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau:

1. In this Order, we consider a complaint alleging that Lingo Telecom, LLC (Lingo) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.¹ We conclude that Lingo has responded to Complainant's complaint and has taken action to resolve the complaint.

2. Section 258 of the Communications Act of 1934, as amended (the Act), prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.² The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.³ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that satisfies our rules; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the order.⁴ The Commission has also adopted rules to limit the liability of subscribers when an unauthorized carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.⁵

3. We received Complainant's complaint alleging that Lingo changed Complainant's telecommunications service provider without Complainant's authorization.⁶ Complainant states that

¹ See Informal Complaint No. 6124736 (filed Mar. 27, 2023); *see also* 47 CFR §§ 64.1100 – 64.1190.

² 47 U.S.C. § 258(a).

³ See 47 CFR § 64.1120.

⁴ See *id.* § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

⁵ These rules require the unauthorized carrier to absolve the subscriber where the subscriber has not paid his or her bill. If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. See *id.* §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.* Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. See *id.* §§ 64.1140, 64.1170.

⁶ See Informal Complaint No. 6124736.

when Lingo changed their business's carrier from Verizon to Lingo, the telephone and internet services for the business were "completely cut off." Complainant further states that Lingo put a "lock on the numbers," preventing the business from porting its service to a different provider "until the hold [was] removed."⁷

4. Pursuant to our rules, we notified Lingo of the complaint.⁸ Lingo responded and provided an electronic authorization form, which it said was signed by Complainant for a three-year contract term with Lingo.⁹ Complainant reviewed the document and told the Division that the business owner did not sign the document Lingo submitted as proof of authorization.¹⁰ Specifically, the owner of the business stated that he does not sign his name in the way it appeared on Lingo's document.¹¹ In addition, after receiving the complaint filed with the Commission, Lingo cancelled Complainant's account and issued a credit bringing Complainant's account balance to zero.¹²

5. Based on the information provided by Lingo and Complainant, it appears that Lingo has fully absolved Complainant of all charges assessed by Lingo in a manner consistent with the Commission's liability rules.¹³ We therefore find that the complaint referenced herein has been resolved.¹⁴ Given the allegation that the signed contract was fabricated, we will also forward a copy of the record of this proceeding to our Enforcement Bureau to determine what additional actions may be necessary.

6. Accordingly, IT IS ORDERED that, pursuant to section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and sections 0.141, 0.361, and 1.719 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.719, the complaint filed against Lingo Telecom, LLC IS RESOLVED.

7. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kristi Thornton
Acting Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

⁷ *Id.*

⁸ 47 CFR § 1.719 (Commission procedure for informal complaints filed pursuant to section 258 of the Act); *id.* § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

⁹ See Lingo Response to Informal Complaint No. 6124736 (filed Apr. 28, 2023) (*Lingo Response*).

¹⁰ See E-mail from Complainant to Consumer Policy Division, Consumer and Governmental Affairs Bureau (May 5, 2023).

¹¹ *Id.*

¹² *Lingo Response* at 2.

¹³ See *id.*; see also 47 CFR § 64.1160.

¹⁴ If Complainant is unsatisfied with the resolution of its complaint, Complainant may file a formal complaint with the Commission pursuant to section 1.721 of the Commission's rules, 47 CFR § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See *id.* § 1.719.



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-384

Released: May 10, 2023

VIDEO RELAY SERVICE PROVIDERS' COST AND DEMAND DATA PLACED IN THE RECORD

CG Docket Nos. 03-123 and 10-51

By this Public Notice, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (Commission) announces that certain cost and demand data filed in 2023 by each video relay services (VRS) provider with the Interstate Telecommunications Relay Services (TRS) Fund administrator has been placed in the record of the Commission's rulemaking proceeding on VRS compensation (Record), subject to a "Highly Confidential" designation.¹ This material may be accessed pursuant to the *Third Protective Order* in these dockets.²

At this time, the documents we have placed in the Record are limited to certain worksheets from each VRS provider's completed TRS Fund Annual Provider Form for 2023, i.e., the worksheets of historical and projected expenses and demand for the provision of VRS for the years 2021 through 2024. In response to the Public Notice issued on April 26, 2023,³ no party opposed the inclusion in the Record of each VRS provider's completed TRS Fund Annual Provider Form.

The Public Notice indicated that the material placed in the record also would include the Appendix to each VRS provider's TRS Fund Annual Provider Form.⁴ No party opposed the inclusion of the Appendices in the Record. At this time, however, we do not believe it is necessary to include the entire Appendices filed by the providers. To the extent that certain material from the Appendices is deemed relevant, it will be placed in the Record and may be accessed by eligible Reviewing Parties pursuant to the same procedure described below.

We also announce a change in the process for eligible Reviewing Parties to access these data.⁵ For this material and any other Highly Confidential data filed by the Bureau, the Bureau shall be the Submitting Party for purposes of the *Third Protective Order*. Reviewing Parties shall request access from

¹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Notice of Proposed Rulemaking and Order, 36 FCC Rcd 8802 (2021) (*Notice*); *Video Relay Service Providers' Cost and Demand Data to be Placed in the Record*, CG Docket Nos. 03-123 and 10-51, Public Notice, DA 23-354 (CGB Apr. 26, 2023) (*April 2023 Cost and Demand Data Notice*).

² *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket Nos. 03-123, 10-51, and 13-24, Order and Third Protective Order, 33 FCC Rcd 6802 (CGB 2018) (*Third Protective Order*).

³ *April 2023 Cost and Demand Data Notice* at 1.

⁴ *Id.*

⁵ Access to data designated as Highly Confidential is limited to Outside Counsel of Record, Outside Consultants, their employees and employees of their Outside Firms, and Support Personnel, as these terms are defined in the *Third Protective Order*. *Third Protective Order*, 33 FCC Rcd at 6806-07, 6809, paras. 1, 6.

the Bureau via email to Michael Scott, Attorney Advisor, Disability Rights Office, Consumer and Governmental Affairs Bureau at Michael.Scott@fcc.gov. Reviewing parties shall include with their email requests to the Bureau a copy of the executed Acknowledgment agreeing to be bound by the terms and conditions of this Protective Order.⁶ A Reviewing Party also shall deliver a copy of the Acknowledgment to each of the relevant Third-Party Interest Holders through its Counsel of Record so that it is received at least five business days prior to such Reviewing Party reviewing or having access to the Highly Confidential Information.⁷ A Third-Party Interest Holder must file, and serve on counsel for the Reviewing Party, any objection to a Reviewing Party's access within three business days after receiving a copy of the Acknowledgment.⁸ Reviewing Parties shall not have access to Confidential Information or Highly Confidential Information before the period for filing objections has passed, unless both the Bureau and the Third-Party Interest Holders waive this requirement.⁹ The Bureau will make the data available in an electronic format and will transmit the data electronically.¹⁰

Accessible Materials. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530.

For further information, contact Michael Scott, Disability Rights Office, Consumer and Governmental Affairs Bureau, at michael.scott@fcc.gov or (202) 418-1264.

-FCC-

⁶ See *id.* at 6809, Appx. A, para. 6; *id.* at 6815, Appx. C.

⁷ See *id.* at 6809, Appx. A, para. 6.

⁸ See *id.* at 6809, Appx. A, para. 7.

⁹ See *id.*

¹⁰ See *id.* at 6810, Appx. A, para. 9.



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-385

Released: May 10, 2023

WIRELESS TELECOMMUNICATIONS BUREAU AND OFFICE OF ENGINEERING AND TECHNOLOGY ANNOUNCE THE APPROVAL AND REGISTRATION OF ADDITIONAL ENVIRONMENTAL SENSING CAPABILITY SENSORS FOR THE 3.5 GHZ BAND

GN Docket No. 15-319

With this *Public Notice*, the Wireless Telecommunications Bureau (WTB) and the Office of Engineering and Technology (OET) (collectively, WTB/OET) of the Federal Communications Commission (Commission or FCC) approve new Environmental Sensing Capability (ESC) sensor deployment and coverage plans (ESC Sensor Registrations) for Federated Wireless, Inc. (Federated Wireless).¹ WTB/OET, in close consultation with the National Telecommunications and Information Administration (NTIA) and the Department of Defense (DoD), have reviewed and approved the updated ESC Sensor Registrations, which sufficiently describe the proposed coverage for the dynamic protection areas (DPAs)² listed below.

Federated Wireless is authorized to operate its ESC sensors consistent with the information—including sensor locations, configuration, and DPA coverage—submitted to, and approved by,

¹ Federated Wireless is an approved ESC operator. *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce the Approval of Environmental Sensing Capabilities for the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 34 FCC Rcd 2792 (WTB/OET 2019) (*2019 ESC Operator Approval Public Notice*). WTB/OET have established procedures for submitting ESC Sensor Registrations for approval. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Establish Procedure for Registering Environmental Sensing Capability Sensors*, GN Docket No. 15-319, Public Notice, 33 FCC Rcd 10016 (WTB/OET 2018) (*ESC Sensor Registration Public Notice*); *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce the Approval and Registration of Additional Environmental Sensing Capability Sensors of ESC Operators for the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 34 FCC Rcd 11048, 11050 (WTB/OET 2019) (*November 2019 ESC Sensor Registration Public Notice*). Federated Wireless submitted ESC Sensor Registrations to WTB/OET consistent with the process described in the *ESC Sensor Registration Public Notice*, as updated in the *November 2019 ESC Sensor Registration Public Notice*. Federated Wireless requested confidentiality when it submitted its ESC Sensor Registration and filed a list of dynamic protection areas covered by its ESC sensors consistent with the filing instructions in the *ESC Sensor Registration Public Notice*. Federated Wireless also requested a waiver. *See* Letter from Jennifer M. McCarthy, Vice President, Legal Advocacy, Federated Wireless, Inc. to Marlene H. Dortch, Secretary, FCC, GN Docket No. 15-319 (filed April 3, 2023) (Federated Wireless April 3, 2023 ESC Sensor Registration).

² DPAs are pre-defined protection areas that extend beyond the coastline or that enclose a protected terrestrial radar facility, which may be activated or deactivated as necessary to protect DoD radar systems. *Promoting Investment in the 3550-3700 MHz Band*, GN Docket No. 17-258, Order, 33 FCC Rcd 4987 (WTB/OET 2018). NTIA depicts the DPAs in Attachment A of a letter sent by Paige R. Atkins, NTIA, to Julius P. Knapp and Donald K. Stockdale Jr. of the FCC on May 17, 2018. This letter and the specific coordinates for the DPAs are available at <https://www.ntia.doc.gov/fcc-filing/2015/ntia-letter-fcc-commercial-operations-3550-3650-mhz-band>.

WTB/OET.³ In addition, Federated Wireless must operate in conjunction with at least one Spectrum Access System (SAS) that has been approved for commercial deployment by the Commission.⁴ Before providing commercial service for any given DPA, Federated Wireless must file a notification in GN Docket No. 15-319, which must affirm that the approved sensors covering the DPA are constructed and operational and must list the approved SASs with which the ESC is communicating.

ESC Operator Federated Wireless has satisfied the sensor coverage requirements for the following DPAs:

- Alaska 8 and 9.⁵

Federated Wireless is permitted to update its ESC Sensor Registrations at any time in accordance with the process established in the *ESC Sensor Registration Public Notice*, and it must provide updates on an ongoing basis if any changes are made to the parameters of its approved ESC sensor deployments. WTB/OET will continue to approve ESC Sensor Registrations on a rolling basis as described in the *ESC Sensor Registration Public Notice*.⁶ We remind ESC operators that, going forward, they must file ESC Sensor Registrations and any supplements with the Commission using the Commission's Electronic Comment Filing System.⁷ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). ESC operators may request confidential treatment of information contained in their filings consistent with Section 0.459 of the Commission's rules.⁸ All such filings should refer to **GN Docket 15-319**. These modified procedural requirements supersede those set forth in the *ESC Sensor Registration Public Notice*.⁹

By the Chief, Wireless Telecommunications Bureau, and the Chief, Office of Engineering and Technology.

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³ 2019 *ESC Operator Approval Public Notice*, 34 FCC Rcd at 2794, para. 5 (citing *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10016); see also *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, GN Docket No. 12-354, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959 at 4070-71, para. 386 (2015 *Report and Order* and 2015 *FNPRM*, respectively).

⁴ 2019 *ESC Operator Approval Public Notice*, 34 FCC Rcd at 2794, para. 5 (citing *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10016).

⁵ This approval applies only to the ESC Sensor configurations included in Federated Wireless's April 3, 2023 filing. See Federated Wireless April 3, 2023 ESC Sensor Registration.

⁶ *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10017.

⁷ November 2019 *ESC Sensor Registration Public Notice*, 34 FCC Rcd at 11050; *Key Bridge ESC Operator Approval Public Notice*, 35 FCC Rcd at 7004, para. 5.

⁸ See 47 CFR § 0.459.

⁹ *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10018.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
July 1, 2023	)	WC Docket No. 23-9
Annual Access Tariff Filings	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Pricing Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) sets forth the Tariff Review Plans (TRPs) to be used by incumbent local exchange carriers (LECs or carriers) to substantiate their interstate access service tariff revisions that will become effective in July 2023.¹ We also waive sections 69.3(a), 51.907(k), and 51.909(o) of the Commission's rules to the extent necessary to implement reforms associated with various Commission orders.²

2. The 2023 TRPs implement the transitional rate changes and recovery rules adopted in the *USF/ICC Transformation Order* and the *8YY Access Charge Reform Order*.³ The 2023 TRPs for rate-of-return incumbent LECs also implement the universal service reforms and related tariffing requirements adopted in the *Rate-of-Return Reform Order* and the *Rate-of-Return Business Data Services Order*.⁴ Completed versions of the 2023 TRPs appended to this document will provide the supporting documentation to fulfill, in part, the requirements contained in sections 51.700 through 51.715, 51.901 through 51.919, 61.38, 61.39, 61.41 through 61.50, and 69.3 of the Commission's rules.⁵ The 2023 TRPs display support data in a consistent manner, thereby facilitating review of the incumbent LECs' rate

¹ TRP formats for the annual filings are developed for the specific circumstances of the tariff year in which the revised rates will become effective. The filing dates and comment periods for this year's annual access charge filings were released earlier in a separate order. In that order, we established an effective date of July 3, 2023 for filings made on 7-days' notice and an effective date of July 1, 2023 for filings made on 15-days' notice. *July 1, 2023 Annual Access Charge Tariff Filings*, WC Docket No. 23-9, Order, DA 23-282 (WCB Apr. 3, 2023) (*Procedures Order*). We refer to the TRPs developed for this year's annual filings as the 2023 TRPs.

² 47 CFR §§ 69.3(a), 51.907(k), 51.909(o).

³ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17934-35, para. 801 (2011) (*USF/ICC Transformation Order*), *pets. for review denied sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (stating that although many of the switched access rate elements are subject to the transition adopted, other rates were not being specifically reduced at that time); *8YY Access Charge Reform*, WC Docket No. 18-156, Report and Order, 35 FCC Rcd 11594, FCC 20-143, at 10, para. 25 (Oct. 9, 2020) (*8YY Access Charge Reform Order*); 85 Fed. Reg. 75894 (Nov. 27, 2020).

⁴ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3089 (2016) (*Rate-of-Return Reform Order*); *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers et al.*, WC Docket No. 17-144 et al., Report and Order, Further Notice of Proposed Rulemaking, and Second Further Notice of Proposed Rulemaking, 33 FCC Rcd 10403 (2018) (*Rate-of-Return Business Data Services Order*).

⁵ 47 CFR §§ 51.700-51.715, 51.901-51.919, 61.38-61.39, 61.41-61.50, 69.3.

revisions by the Commission and interested parties. Carriers may, but are not required to, use the 2023 TRPs the Bureau developed for the July 2023 annual tariff filings. In the alternative, carriers may submit TRP worksheets developed by the carrier consistent with the Commission's rules.

II. BACKGROUND

3. In the *USF/ICC Transformation Order*, the Commission required incumbent LECs to reduce, over a period of years, many of their switched access charges until those rates eventually reached zero, as part of the Commission's transition to a bill-and-keep regime.⁶ At the same time, the Commission also adopted a recovery mechanism to mitigate the impact of reduced intercarrier compensation revenues on carriers and to facilitate continued investment in broadband infrastructure.⁷ As part of the recovery mechanism, the Commission defined as "Eligible Recovery" the amount of intercarrier compensation revenue reductions that incumbent LECs would be eligible to recover through a combination of an end-user charge, the Access Recovery Charge (ARC),⁸ and, where eligible and if an incumbent LEC elects to receive it, Connect America Fund Intercarrier Compensation (CAF ICC) support.⁹ An incumbent LEC's Eligible Recovery is based on a decreasing percentage of the cumulative reduction in revenue each year resulting from the intercarrier compensation reform transition.¹⁰

4. In the *Rate-of-Return Reform Order*, the Commission modified the rules governing the provision of high-cost universal service support for rate-of-return incumbent LECs.¹¹ The Commission allowed rate-of-return incumbent LECs the option of electing model-based support for a term of 10 years in exchange for meeting defined build-out obligations.¹² For rate-of-return incumbent LECs not electing model-based support, the Commission modernized the existing Interstate Common Line Support (ICLS) rules to provide support in situations where the customer no longer subscribes to traditional regulated local exchange voice service, i.e., where the customer purchases only stand-alone broadband.¹³ This revised form of support is known as Connect America Fund Broadband Loop Support (CAF BLS).¹⁴ As part of its implementation of the *Rate-of-Return Reform Order*, the Commission revised certain cost allocation and tariffing rules for rate-of-return incumbent LECs to introduce supported Consumer Broadband-only Loop (CBOL) services.¹⁵

5. The Commission required rate-of-return incumbent LECs offering supported stand-alone broadband loops to move costs for these loops from the special access service category to a new CBOL

⁶ *USF/ICC Transformation Order*, 26 FCC Rcd at 17934-35, para. 801. The last of those rates went to zero in 2020. See *USF/ICC Transformation Order*, 26 FCC Rcd at 17934-96, para. 801, fig. 9; 47 CFR §§ 51.907, 51.909.

⁷ *USF/ICC Transformation Order*, 26 FCC Rcd at 17677, para. 36.

⁸ 47 CFR §§ 51.915(e), 51.917(e); *USF/ICC Transformation Order*, 26 FCC Rcd at 17958, para. 852.

⁹ 47 CFR §§ 51.915(f), 51.917(f); *USF/ICC Transformation Order*, 26 FCC Rcd at 17957, para. 850. Beginning July 1, 2019, price cap incumbent LECs are no longer eligible to receive CAF ICC support. 47 CFR § 51.915(f)(5).

¹⁰ *USF/ICC Transformation Order*, 26 FCC Rcd at 17957-58, paras. 850-51.

¹¹ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3089, para. 1.

¹² *Id.* at 3094-117, paras. 17-79.

¹³ *Id.* at 3117-57, paras. 80-187.

¹⁴ 47 CFR § 54.901.

¹⁵ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3157-62, paras. 188-204.

service category.¹⁶ The amount to be moved is to be determined consistent with the part 36 and part 69 cost allocation rules.¹⁷

6. The Commission also adopted rules governing the tariffing of CBOL rates, including a \$42 per-loop, per-month rate cap for rate-of-return incumbent LECs electing model-based or Alaska Plan support and a rate methodology for rate-of-return incumbent LECs receiving CAF BLS.¹⁸ For rate-of-return incumbent LECs electing model-based support, the Commission determined that such carriers would not be eligible to participate in the National Exchange Carrier Association, Inc. (NECA) common line pooling mechanism but could elect to have NECA tariff their common line rates.¹⁹ The Commission further required rate-of-return incumbent LECs to impute an amount equal to the ARC they assess on voice/broadband lines to their supported CBOL service.²⁰ Beginning with the 2018 annual access tariff filing, the ARC imputation rule was revised for a five-year period to require rate-of-return incumbent LECs to limit the imputed amount so that total ARC revenues and imputation for the current tariff period do not exceed a pre-*Rate-of-Return Reform Order* baseline as a result of CBOL imputation.²¹ Effective July 1, 2023, this limit no longer applies. Rate-of-return incumbent LECs' filings must also true-up the imputation made two years prior to the most recent annual filing.²²

7. In the *Rate-of-Return Business Data Services Order*, the Commission adopted rules allowing rate-of-return incumbent LECs receiving model-based universal service support or other forms of fixed high-cost universal service support to elect incentive regulation for their lower-capacity (DS3 or lower) time division multiplexing (TDM)-based transport and end-user channel termination business data services (BDS) offerings, effective either July 1, 2019 or July 1, 2020.²³

8. In the *8YY Access Charge Reform Order*, the Commission adopted rules requiring all incumbent LECs to transition their interstate and intrastate toll free (or 8YY) originating end office access service rates to bill-and-keep over a three-year period ending in 2023.²⁴ As an initial step, rate-of-return incumbent LECs capped all toll free intrastate originating access service rates, including toll free database query charges, as of December 28, 2020.²⁵ Beginning in July 2021, all incumbent LECs were required to tariff separate rate elements for toll free and non-toll free interstate and intrastate originating end office access service then reduce these toll free intrastate rates to interstate-levels.²⁶ Additionally, all incumbent LECs were required to detariff rate elements for toll free interstate and intrastate originating switched

¹⁶ *Id.* at 3158-59, paras. 190-91.

¹⁷ See *Connect America Fund et al.*, WC Docket No. 10-90 et al, Second Order on Reconsideration and Clarification, 33 FCC Rcd 2399, 2402-03, paras. 10-13 (2018) (*Rate-of-Return Reform Reconsideration Order*); 47 CFR §§ 69.311(b), 69.416.

¹⁸ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3459-60, paras. 194, 197-98; 47 CFR §§ 69.132(c)-(d).

¹⁹ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3160, paras. 195-96.

²⁰ *Id.* at 3161-62, para. 203.

²¹ *Rate-of-Return Reform Reconsideration Order*, 33 FCC Rcd at 2404, paras. 16-17.

²² *Id.*; see 47 CFR § 51.917(f).

²³ *Rate-of-Return Business Data Services Order*, 33 FCC Rcd at 10454-57, para. 3; see *Business Data Services in an Internet Protocol Environment et al.*, WC Docket No. 16-143, et al., Report and Order, 32 FCC Rcd 3459 (2017) (*Price Cap Business Data Services Order*), remanded in part sub nom. *Citizens Telecomms. Co. of Minn., LLC v. FCC*, 901 F.3d 991 (8th Cir. 2018).

²⁴ 47 CFR §§ 51.907(i)-(k), 51.909(l)-(o); *8YY Access Charge Reform Order* at *10, para. 25. The bill-and-keep methodology is defined in 47 CFR § 51.713.

²⁵ 47 CFR § 51.909(l). Price cap incumbent LEC's interstate and intrastate originating access service were capped beginning in 2011. *USF/ICC Transformation Order*, 26 FCC Rcd at 17942, para. 818.

²⁶ 47 CFR §§ 51.907(i)(1), 51.909(m)(1).

transport service between an end office and tandem switch, consistent with bill-and-keep.²⁷ Further, all incumbent LECs were required to tariff a single rate element of no more than \$0.001 per minute for toll free joint tandem switched transport access service²⁸ and reduce their interstate and intrastate rates for toll free database query charges to no more than \$0.004248 per query.²⁹ In July 2022, all incumbent LECs were required to file tariffs reducing interstate and intrastate rates for all toll free originating end office access service rate elements³⁰ and reducing toll free database query charges.³¹ As the final step in the transition, in July 2023 all incumbent LECs are required to refile their interstate and intrastate tariffs to remove any intercarrier charges for toll free originating end office access services³² and reduce toll free database query charges to no more than \$0.0002 per query.³³

III. IMPLEMENTATION OF THE COMMISSION'S ORDERS

A. Annual Tariff Filing Rate-Level Limitation

9. Section 69.3(a) of the Commission's rules requires incumbent LECs to file an access charge tariff with the Commission for a two-year period with a scheduled effective date of July 1 and limits such tariff filings to rate-level changes.³⁴ We find good cause to waive this limitation in order to facilitate implementation of non-rate-level reforms associated with the *USF/ICC Transformation Order*, *Rate-of-Return Reform Order*, *Rate-of-Return Business Data Services Order*, and *8YY Access Charge Reform Order*. This waiver is consistent with actions we have taken in prior annual access tariff filing periods.³⁵ We note that the Bureau granted a limited waiver of sections 69.3(a) and 69.3(f) of the Commission's rules, to the extent that those rules would otherwise require rates to be effective July 1, 2023, to establish an effective date of July 3, 2023 for 7-days' notice tariff filings.³⁶

B. Toll Free 8YY Revenue Calculation Requirements

10. This year, as the final step in the 8YY transition, incumbent LECs are required to refile their interstate switched access tariff and any state tariff to remove any intercarrier charges for intrastate or interstate toll free originating end office access services.³⁷ Incumbent LECs are also required to reduce intrastate and interstate toll free database query charges to a transitional rate of no more than \$0.0002 per query.³⁸ Carriers are ordinarily required to implement these rate transitions beginning July 1, 2023. As

²⁷ 47 CFR §§ 51.907(i)(3), 51.909(m)(3); *see id.* § 51.713 (defining bill-and-keep arrangements).

²⁸ 47 CFR §§ 51.907(i)(5), 51.909(m)(5).

²⁹ *Id.* §§ 51.907(i)(6), 51.909(m)(6). Incumbent LECs charging database query charges lower than \$0.004248 per query, however, were not allowed to increase their rates. *Id.*; *Material to be Filed in Support of 2021 Annual Access Tariff Filings*, WC Docket No. 21-148, Order, 36 FCC Rcd 8452, DA 21-568, at *4, para. 9 (WCB May 14, 2021).

³⁰ 47 CFR §§ 51.907(j)(1), 51.909(n)(1).

³¹ *Id.* §§ 51.907(j)(2), 51.909(n)(2).

³² *Id.* §§ 51.907(k)(1), 51.909(o)(1).

³³ *Id.* §§ 51.907(k)(2), 51.909(o)(2).

³⁴ *Id.* § 69.3(a).

³⁵ *See, e.g., Material to be Filed in Support of 2020 Annual Access Tariff Filings*, WC Docket No. 20-55, Order, 35 FCC Rcd 4802, 4807, para. 16 (WCB 2020) (*2020 TRP Order*); *see also* 47 CFR § 1.3 ("Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown."); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1969) (*Northeast Cellular*) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (*WAIT Radio*)) (explaining that waivers must show special circumstances warranting a deviation from the general rule, and show such a deviation will serve the public interest).

³⁶ *Procedures Order* at *2-3, para. 5.

³⁷ 47 CFR §§ 51.907(k)(1), 51.909(o)(1).

³⁸ 47 CFR §§ 51.907(k)(2), 51.909(o)(2).

explained in an order released April 3, 2023, however, we waived sections 51.907 and 51.909 of the Commission's rules to the extent necessary to establish an effective date of July 3, 2023 for filings made on 7-days' notice and maintained the July 1, 2023 effective date for filings made on 15-days' notice.³⁹ Accordingly, we waive sections 51.907 and 51.909 of the Commission's rules to the extent necessary to allow carriers submitting tariff filings implementing the required rate reductions on 7-days' notice to be effective July 3, 2023.⁴⁰

C. Exogenous Costs

11. In the 2022 *Tariff Review Plan Order*, the Bureau clarified the extent to which rate-of-return carriers receiving model-based universal service support may recover increases in telecommunications relay service (TRS) fees, regulatory fees, and North American Numbering Plan Administration (NANPA) fees (collectively, "exogenous costs") attributable to common line through tariffed end-user charges and CAF ICC support.⁴¹ The Bureau explained that model-based rate-of-return carriers must first look to recover exogenous cost increases attributable to common line through their subscriber line charges (SLCs), special access surcharges, and line port charges up to the maximum rate caps permitted for these carriers by the Commission's rules.⁴² To the extent that model-based rate-of-return carriers are charging maximum SLCs, special access surcharges, and/or line port charges, they may recover otherwise unrecoverable exogenous cost increases attributable to common line through Eligible Recovery (ARCs, then, where eligible and if they so elect, CAF ICC support).⁴³ Model-based rate-of-return carriers that are charging less than the maximum SLCs, special access surcharges, and/or line port charges permitted for these carriers⁴⁴ may not recover any portion of exogenous cost increases attributable to common line through Eligible Recovery.⁴⁵

12. Model-based rate-of-return carriers that voluntarily reduce their SLCs, special access surcharges, and/or line port charges below the maximums allowed under the Commission's rules and seek to recover exogenous cost increases attributable to switched access (other than common line) through Eligible Recovery, should continue to maintain and make available upon request to Commission staff a worksheet reporting the portions of these increases attributable to common line, switched access (other than common line), and special access. This will ensure model-based rate-of-return carriers that voluntarily reduce common-line rates do not add exogenous cost increases attributable to common line to Eligible Recovery for recovery through ARCs or CAF ICC support.⁴⁶ We ask that this worksheet be prepared twice, once for the original filing, and again as support for the two year true-up.⁴⁷

³⁹ *Procedures Order* at *3-4, para. 9.

⁴⁰ 47 CFR §§ 51.907, 51.909. Generally, the Commission's rules may be waived for "good cause shown." 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁴¹ *July 1, 2022 Annual Access Charge Tariff Filings*, WC Docket No. 22-108, Order, DA 22-494, 2022 WL 1528248, at *4-6, paras. 10-15 (PPD May 9, 2022) (2022 *TRP Order*).

⁴² See 47 CFR §§ 69.104(s), 69.115(f), 69.130(b).

⁴³ 2012 *TRP Order*, 32 FCC Rcd at 3962-63, paras. 6-7.

⁴⁴ See 47 CFR §§ 69.104(s), 69.115(f), 69.130(b).

⁴⁵ See 47 CFR § 51.917(e), (f).

⁴⁶ See 47 CFR § 51.917(d)(vii) (requiring rate-of-return carriers to reduce Eligible Recovery to the extent it receives duplicative recovery for any costs or revenues from Eligible Recovery and another source).

⁴⁷ 2022 *TRP Order* at *6, para. 15.

13. Ordinarily, price cap LECs and rate-of-return LECs that elected incentive regulation are required to file exogenous cost adjustments in tariffed rates to be effective October 1 of each year.⁴⁸ This year, however, we establish October 3, 2023 as the effective date for tariff revisions implementing exogenous cost adjustments. October 1, 2023 falls on a Sunday. As a result, tariffs filed on 7- and 15-days' notice would be due on a Saturday or Sunday, holidays in which the Commission is technically closed, and would be counted as filed on the next business day,⁴⁹ which would be less than the notice periods required to satisfy the streamlined filing procedures under section 204(a)(3) of the Communications Act of 1934, as amended.⁵⁰ Accordingly, we extend the mid-September exogenous cost adjustment tariff filing effective date to October 3, 2023 to allow incumbent LECs to avail themselves of the 7- and 15-days' notice streamlined tariff filing procedures.⁵¹ Under this limited waiver, incumbent LECs filing their exogenous cost adjustments on 7-days' notice must submit their tariff filings on September 26, 2023 with an effective date of October 3, 2023, and incumbent LECs filing on 15-days' notice must submit their tariff filings on September 18, 2023 with an effective date of October 3, 2023.

D. Tariff Review Plan Content for Rate-of-Return Incumbent LECs

14. Pursuant to the *USF/ICC Transformation Order*, all rate-of-return incumbent LECs must file a TRP this year to comply with the requirements of sections 51.917(d)(1)(iv), and 51.917(e) of the Commission's rules.⁵² Pursuant to the *8YY Access Charge Reform Order*, rate-of-return incumbent LECs must also file a TRP this year to comply with the requirements of section 51.909(o) of the Commission's rules.⁵³

15. Rate-of-return incumbent LECs that provide CBOL service and receive CAF BLS are required to revise their CBOL rates to reflect the level of CAF BLS they expect to receive this coming tariff year.⁵⁴ Rate-of-return incumbent LECs subject to section 61.39 of the Commission's rules must base rate-of-return regulated rates for the coming tariff year on new cost studies.⁵⁵ Rate-of-return incumbent LECs subject to section 61.38 of the Commission's rules may base rates for services subject to rate-of-return regulation on last year's cost studies, or may elect to conduct new cost studies.⁵⁶

16. We remind rate-of-return incumbent LECs that offer CBOL service that they are responsible for ensuring that all relevant carrier data is reflected in TRPs filed with the Commission, whether CBOLs are provided on a tariffed or detariffed basis. Thus, for a carrier receiving CAF BLS that is tariffing a CBOL rate, the filing entity—whether the carrier, NECA, or cost consultant—must include

⁴⁸ See *Wireline Competition Bureau Announces Posting of 2022 Tariff Review Plan For Exogenous Cost Filings By Rate-of-Return Carriers That Elected Incentive Regulation for Business Data Services*, WC Docket No. 22-108, Public Notice, DA 22-893, 2022 WL 3715302 (WCB Aug. 26, 2022) (*Exogenous Cost Public Notice*).

⁴⁹ See 47 CFR § 1.4(e)(1), (j), (k)(1).

⁵⁰ 47 U.S.C. § 204(a)(3) ("A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis...[which]...shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action...before the end of that 7-day or 15-day period, as is appropriate."); 47 CFR § 61.58(a)(2)(i) (pursuant to section 204(a)(3) of the Act, local exchange carriers may file streamlined tariffs on 7-days' notice if it proposes only rate decreases, and on 15-days' notice for any other streamlined tariff including those that propose rate increases).

⁵¹ 47 U.S.C. § 204(a)(3); 47 CFR § 61.58(a)(2)(i).

⁵² 47 CFR § 51.917(d)(1)(iv), (e).

⁵³ 47 CFR § 51.909(o).

⁵⁴ *Rate-of-Return Reform Reconsideration Order*, 33 FCC Rcd at 2403, para. 13.

⁵⁵ *Id.* at 2402-03, paras. 9-13.

⁵⁶ *Id.*

in the 2023 TRP the data necessary to determine the maximum permitted CBOL rate.⁵⁷ Similarly, the entity filing special access rates for a rate-of-return incumbent LEC must include in the 2023 TRP the special access costs reallocated to the CBOL category and the special access costs, net of that reallocation, i.e., the revenue requirement on which special access rates are based. A carrier that has detariffed its CBOL rates shall provide the required information related to those rates in the relevant portion of the TRP.

17. In the *Rate-of-Return Reform Order*, the Commission required rate-of-return incumbent LECs to impute to their supported CBOL lines an amount equal to the ARC they assess on voice/broadband lines.⁵⁸ This ARC imputation applies to all supported lines, and is calculated separately for each type of broadband-only customer group (i.e., residential, single-line business, or multi-line business).⁵⁹ Rate-of-return incumbent LECs' calculation of CAF ICC support must reflect imputed ARC revenues from CBOL lines and their calculation of eligible recovery must reflect the true-up of the imputation made two years ago.⁶⁰

IV. PRICE CAP TARIFF REVIEW PLAN

18. Price cap incumbent LECs are required to file tariffs each year.⁶¹ Section 69.3(h) of the Commission's rules requires those tariff filings to meet the notice requirements of section 61.58 of the Commission's rules, ordinarily with a scheduled effective date of July 1.⁶² As explained above, the Bureau granted a limited waiver establishing an effective date of July 3, 2023 for 2023 annual tariff filings submitted on 7-days' notice and maintaining the July 1, 2023 effective date for annual tariff filings submitted on 15-days' notice.⁶³ We likewise grant price cap incumbent LECs a limited waiver of section 69.3(h) of the Commission's rules to allow price cap carriers filing on 7-days' notice to be effective July 3, 2023.⁶⁴ We otherwise maintain the July 1, 2023 effective date for annual tariff filings submitted on 15-days' notice. Price cap annual tariff filings are limited to changes in the Price Cap Indexes, rate level changes (with corresponding adjustments to the affected Actual Price Indexes and Service Band Indexes), and the incorporation of new services into the affected indexes as required by section 61.49 of the Commission's rules.⁶⁵ All price cap incumbent LECs should file 2023 price cap annual access TRPs, as outlined below.

A. Price Cap TRP Spreadsheets and Workpapers

19. We adopt several changes for the 2023 price cap annual access TRP, as noted below.⁶⁶

⁵⁷ 47 CFR § 69.132(c) (“[T]he single-line rate or charge shall be computed by dividing one-twelfth of the projected annual revenue requirement for the Consumer Broadband-Only Loop category (net of the projected annual Connect America Fund Broadband Loop Support attributable to consumer broadband-only loops) by the projected average number of consumer broadband-only service lines in use during such annual period.”).

⁵⁸ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3161-62, para. 203.

⁵⁹ 47 CFR § 51.917(f)(4); see *Rate-of-Return Reform Order*, 31 FCC Rcd at 3161-62, para. 203.

⁶⁰ *Rate-of-Return Reform Reconsideration Order*, 33 FCC Rcd at 2404, paras. 16-17; see 47 CFR § 51.917(f).

⁶¹ 47 CFR § 69.3(h).

⁶² *Id.*

⁶³ *Procedures Order* at *2-3, para. 5 (waiver of the annual tariff filing July 1 effective date was “necessary to allow incumbent LECs reducing their rates to avail themselves of the 7-days’ notice streamlined tariff filing procedures established pursuant to section 204(a)(3) of the Act.”).

⁶⁴ *Id.*; 47 CFR § 1.3.

⁶⁵ 47 CFR § 69.3(h).

⁶⁶ The spreadsheets and workpapers discussed below are contained in the Appendix.

1. ARC Spreadsheets

20. The ARC spreadsheets consist of three individual spreadsheets that demonstrate the calculations necessary to determine an ARC rate. These spreadsheets were created to comply with sections 51.915(e) and (f) of the Commission's rules, and include the 2023 Rate Ceiling, 2023 Tariff Rate Comparison, and 2023 True Up spreadsheets.⁶⁷

2. Eligible Recovery Spreadsheet

21. The 2023 Eligible Recovery spreadsheet calculates the amount of Eligible Recovery a price cap incumbent LEC is entitled to receive pursuant to section 51.915(d) of the Commission's rules.⁶⁸ This year, the Eligible Recovery spreadsheet has been modified to change formulas in compliance with section 51.915(d)(viii) of the Commission's rules.⁶⁹

3. ICC Summary Spreadsheet

22. The 2023 Price Cap Summary spreadsheet provides a summary of data contained in the ARC spreadsheets (2023 Rate Ceiling, 2023 Tariff Rate Comparison, and 2023 True Up spreadsheets) and 2023 Eligible Recovery spreadsheet.

4. IND1 Spreadsheet

23. The IND1 spreadsheet displays price cap indices (PCIs), actual price indices (APIs), service band indices (SBIs), and upper SBI limits. There are no changes to this spreadsheet. For the special access basket, to assist in verifying the historical indices reported in IND1, price cap incumbent LECs must continue to file workpapers that identify transmittals in which the current index levels became effective.

5. CAP Spreadsheets

24. Price cap incumbent LECs develop the End User Common Line (EUCL) Charge, the Presubscribed Interexchange Carrier Charge (PICC) and Carrier Common Line (CCL) rates, which are the rates that recover common line, marketing and transport interconnection (CMT) revenue, on CAP-1, CAP-2, CAP-3, CAP-4, and CAP-5.

25. Price cap incumbent LECs that price certain common line rate elements separately by jurisdiction within a study area are required to develop such individual rates, instead of a roll up or average rate, on the CAP-1J form.

6. PCI1 Spreadsheet

26. The PCI1 spreadsheet displays the calculation of the proposed PCIs for the price cap baskets and includes the following data: (1) the Gross Domestic Product Price Index (GDP-PI) measuring inflation; (2) the productivity offset (X-Factor);⁷⁰ (3) the exogenous cost change (Z); (4) the base-year (calendar-year 2022) revenue (R) for each basket; (5) the weighting factor (w) used in computing the PCIs; and (6) the immediately preceding PCIs. There are no revisions to this spreadsheet.

7. SUM1 Spreadsheet

27. This is a summary spreadsheet displaying the revenues in baskets and categories. It displays the base-year demand multiplied by: (1) rates at last PCI update; (2) current rates; and (3) proposed rates. SUM1 calculates the difference in revenues using base-year demand, under current

⁶⁷ 47 CFR § 51.915(e)-(f).

⁶⁸ *Id.* § 51.915(d).

⁶⁹ *Id.* § 51.915(d)(viii).

⁷⁰ The X-Factor is set pursuant to section 61.45 of the Commission's rules. 47 CFR § 61.45.

and proposed rates. It also displays “R,” the revenue variable in the PCI formula that equals base period demand multiplied by rates at last PCI update. There are no revisions to the SUM1 spreadsheet.

8. EXG Spreadsheets

28. The EXG1 spreadsheet displays the exogenous cost changes to the PCIs attributable to any: (1) sale of exchanges; (2) FCC regulatory fees; (3) excess deferred taxes; (4) amortization of investment tax credits; (5) low end adjustment calculations; (6) fees associated with TRS; (7) changes in the allocation of costs between regulated and unregulated activities; (8) NANPA expenses; (9) removal of thousand block number pooling; or (10) other exogenous cost changes the price cap incumbent LECs may file. There are no revisions to the EXG1 spreadsheet. The EXG2 spreadsheet displays the net exogenous shifts related to bands and zones. There are no revisions to the EXG2 spreadsheet.

29. Price cap incumbent LECs shall reflect an exogenous cost adjustment for TRS in a mid-September filing to incorporate the final contribution factor for tariff year 2022-23 in rates to become effective October 3, 2023 as this factor was not available by May 1, 2023. That exogenous cost adjustment for TRS shall be “grossed up” to spread the entire adjustment over the remaining months in the tariff year. The exogenous cost adjustments for regulatory and NANPA fees also shall be reflected in rates that take effect October 3, 2023, as these fees are obligations covering a fiscal year that begins October 1, 2023. The exogenous cost adjustment for TRS for tariff year 2022-23 has to be grossed up and reflected in rates effective October 3, 2023, because the final contribution factor was not available by May 1, 2023. Price cap incumbent LECs therefore must make an exogenous cost adjustment in this year’s annual filing to remove the effect of that gross up from existing rates. Otherwise, price cap incumbent LECs will over- or under-recover their TRS exogenous costs beginning July 2023. Carriers that made an exogenous cost adjustment for TRS to the special access basket PCI and SBI upper limits or to the CMT-revenue-per-line constraint in their mid-September 2022 TRPs must remove the effect of the gross-up from these parameters, regardless of whether they changed their rates on October 3, 2023 or subsequently.⁷¹ Finally, price cap incumbent LECs have the option of not making an October 3, 2023 exogenous cost filing and rate adjustment if the total amount of such adjustments would either increase rates or meet a *de minimis* threshold of \$1,040, which is the current standard tariff filing fee, applied on the same basis as the tariff filing for which the filing fee is paid.⁷²

9. RTE1 Spreadsheets

30. These spreadsheets display information used to compute the APIs, SBIs, and upper SBI. They display base year 2022 demand, rates based on the last PCI update, current rates, proposed rates, and three different revenue figures computed by multiplying the 2022 demand by rates based on the last PCI update, current rates, and proposed rates, respectively. The RTE1 spreadsheets enable the Commission to verify the accuracy of “R,” the revenue variable in the PCI formula that equals base period demand multiplied by rates based on the last PCI update. Demand and price data are reported in the aggregate under the primary rate elements of each category. The level of aggregation in the RTE1 spreadsheets allows rapid, consistent verification of index calculations across all companies. There are no revisions to these spreadsheets.

10. Rate Detail Spreadsheet

31. Price cap incumbent LEC are required to provide a spreadsheet that displays complete rate element detail, i.e., demand, rates based on the last PCI update, existing rates, and proposed rates for each rate element subject to price caps, and revenues at each of these rates. For each rate element, price cap incumbent LECs are required to display the rate element name, jurisdiction, base-period demand, rates based on the last PCI update, current rates, and proposed rates, and revenues based on each of these rates multiplied by base period demand. Price cap incumbent LECs also may include a rate-identifying

⁷¹ See *Exogenous Cost Public Notice; 2022 TRP Order* at *12, para. 40.

⁷² See 47 CFR § 1.1105.

code. The revenue amounts for baskets and categories are totaled to support the revenue amounts in RTE1. Each row of this spreadsheet corresponds to only one rate element. The rows reflect the basket and service category sequence used in RTE1. There are no revisions to this spreadsheet.

11. Services Excluded from Price Caps

32. For the 2023 filing, we require price cap incumbent LECs to provide a list of services that are tariffed but excluded from price caps. The list should identify the tariff section containing each service. Rate element details must be provided for the following categories: Special Construction/Individual Case Basis; End User Charges (e.g., USF charges, LNP); Government Services (e.g., FTS); Miscellaneous/Other (e.g., engineering services); and services that were in price caps but have been removed (e.g., interexchange services). Price cap incumbent LECs do not have to include in this list services not subject to price cap regulation pursuant to the *USF/ICC Transformation Order* or *Price Cap Business Data Services Order*.⁷³ For the remaining services included in the list, price cap incumbent LECs must identify the service, indicate whether the rate is recurring or non-recurring, and the authority relied on to remove the service, where applicable. Price cap incumbent LECs must also clearly state in their cover letter where this information can be found in their TRP.

B. Miscellaneous

33. In addition to the above specifications, price cap incumbent LECs must include with their support materials a list of all currently applicable part 69 waivers. The list should include the following information: (1) a citation to the Commission or Bureau order granting the waiver; (2) a brief description of the waiver, including whether any new rate elements were authorized; and (3) the basket and, if applicable, service category of each rate element affected by the waiver.

V. RATE-OF-RETURN TARIFF REVIEW PLAN

A. Modifications to the Rate-of-Return TRP

34. In the 2023 rate-of-return TRP, we adopt certain modifications to the 2022 rate-of-return TRP to continue to implement the *USF/ICC Transformation Order*, the *Rate-of-Return Reform Order*, *Rate-of-Return Business Data Services Order*, and the *8YY Access Charge Reform Order*. These modifications are reflected in the workbooks referenced below. In addition, we attach a TRP for rate-of-return incumbent LECs subject to incentive regulation for certain BDS offerings. These TRPs are contained in the Appendix.

35. For special access, common line, and CBOL services for section 61.38 carriers that elect to complete new cost studies, there are two versions of the workbooks related to rate-of-return regulation.⁷⁴ The “2023 Annual Filing RoR CAF-BLS” and “2023 Annual Filing RoR ACAM” workbooks apply to section 61.38 carriers that receive CAF-BLS and Alternative Connect America Cost Model (ACAM)- or Alaska Plan-based support, respectively.⁷⁵

36. Section 61.38 carriers that receive CAF-BLS support and do not elect to complete new cost studies for services subject to rate-of-return regulation are required to submit the “2023 61.38 CAF-

⁷³ See *USF/ICC Transformation Order*, 26 FCC Rcd 17663; *Price Cap Business Data Services Order*, 32 FCC Rcd 3459.

⁷⁴ See 47 CFR § 61.38.

⁷⁵ See generally *Rate-of-Return Reform Order*, 31 FCC Rcd at 3094-3117, paras. 17-79 (adopting a voluntary path for rate-of-return incumbent LECs to elect model-based support for a term of 10 years in exchange for meeting defined build-out obligations); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139 (2016) (providing a one-time opportunity for Alaskan rate-of-return incumbent LECs to elect to receive support frozen at adjusted 2011 levels for a 10-year term in exchange for meeting individualized performance obligations).

BLS ILEC CBOL Rate Calculation” workbook. This workbook calculates the maximum permitted CBOL rate for section 61.38 carriers that receive CAF-BLS and do not elect to complete new cost studies.

37. For special access and CBOL services, section 61.39 carriers that receive CBOL support are required to submit the “2023 61.39 ILEC Special Access Reallocation” workbook.⁷⁶ This workbook shows the special access costs reallocated to the CBOL category and the special access costs, net of that reallocation, for section 61.39 carriers that receive CBOL support, and calculates the maximum permitted CBOL rate for 61.39 carriers that receive CAF BLS.

38. For switched access services, rate-of-return incumbent LECs regulated pursuant to sections 61.38 and 61.39 of the Commission’s rules should complete the ARC-related workbooks:⁷⁷ (i) the “2023 Rate Ceiling CAF RoR ILEC” or the “2023 Rate Ceiling No CAF RoR ILEC,” and (ii) the “2023 Tariff Rate Comp CAF RoR ILEC” or the “2023 Tariff Rate Comp No CAF RoR ILEC” workbooks. These carriers also should complete the “2023 True Up RoR ILEC” and “2023 RoR ILEC ICC Data” workbooks.⁷⁸ The “2023 RoR ILEC ICC Data” workbook contains worksheets for carriers to determine their intrastate, interstate, and reciprocal compensation rates and Eligible Recovery, pursuant to sections 51.909(b)-(i), 51.705(c)(4) and 51.917(d) of the Commission’s rules.⁷⁹ These workbooks are modified to the extent necessary to implement the requirements of the *USF/ICC Transformation Order* for tariff year 2023-2024.⁸⁰ The 2023 TRPs are also updated to eliminate the limit on imputed ARC revenue from projected CBOLs. These workbooks are also modified to implement the toll free rate adjustment rules adopted in the *8YY Access Charge Reform Order*.⁸¹ Carriers must also summarize the data from these workbooks in the “2023 RoR ILEC Summary” workbook.

39. NECA prepared TRPs for rate-of-return incumbent LECs that elected incentive regulation for BDS services pursuant to the *Rate-of-Return Business Data Services Order*. These TRPs are for rate-of-return incumbent LECs for which NECA files special access rates, and it or its equivalent should be used by carriers that file their own special access rates. The “TY 2023-24 Individual Study Area BDS Annual TRP” and “TY 2023-24 Holding Company BDS Annual TRP” workbooks are for carriers that establish PCIs, APIs, SBIs, and upper SBI limits at the study area and holding company levels, respectively, and have elected BDS incentive regulation. These workbooks calculate the price cap indices and exogenous cost adjustments pursuant to section 61.50, display the relevant rates and revenues, including the proposed rates for DS3 or lower TDM-based transport and end-user channel termination BDS services, other than end-user channel termination services in study areas deemed competitive, and demonstrate compliance of the proposed rates with section 61.50.⁸²

40. In the *2022 TRP Order*, the Bureau instructed rate-of-return incumbent LECs that elected BDS incentive regulation to reflect exogenous cost adjustments for TRS, NANPA, and regulatory fees in a mid-September filing in rates to become effective October 1, 2022. Any exogenous cost adjustment for TRS reflected in rates in effect October 1, 2022 had to be “grossed up” to spread the entire adjustment over the remaining months in the tariff year.⁸³ Absent an exogenous cost adjustment in this year’s annual filing to remove the effect of the gross-up reflected in the exogenous cost adjustment for TRS, these

⁷⁶ See 47 CFR § 61.39.

⁷⁷ Carriers that calculate a weighted average business ARC rate rather than using separate single line business and multiline business ARC rates as part of the imputed ARC calculation must explain this methodology in detail and submit the data and the calculations used to determine this weighted average rate.

⁷⁸ See 47 CFR §§ 61.38, 61.39.

⁷⁹ See 47 CFR §§ 51.909(b)-(i), 51.705(c)(4), 51.917(d).

⁸⁰ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17934-35, para. 801.

⁸¹ See 47 CFR § 51.909(m).

⁸² 47 CFR § 61.50.

⁸³ *2022 TRP Order* at *11-12, paras. 41-42.

carriers will over- or under-recover their TRS costs beginning July 1, 2023. Accordingly, any gross-up amount reflected in existing rates through the exogenous cost adjustment on October 1, 2022 must be removed in this year's annual filing via an exogenous cost adjustment.⁸⁴ Carriers that made an exogenous cost adjustment for TRS to the special access basket PCI and SBI upper limits in their mid-September 2022 TRPs must remove the effect of the gross-up from these indices, regardless of whether they changed their rates on October 1, 2022 or subsequently. The exogenous cost adjustment to remove the effect of the gross-up is reflected in the TRPs contained in the Appendix.

41. Rate-of-return incumbent LECs electing incentive regulation for BDS shall reflect exogenous cost adjustments for TRS, NANPA, and regulatory fees in a mid-September 2023 filing in rates to become effective October 3, 2023. Any exogenous cost adjustment for TRS reflected in rates in effect October 3, 2023 shall be "grossed up" to spread the entire adjustment over the remaining months in the tariff year. Rate-of-return incumbent LECs electing BDS incentive regulation have the option of not making an October 3, 2023 exogenous cost filing and rate adjustment if the total amount of such adjustments would either increase rates or meet a *de minimis* threshold of \$1,040.00, which is the current standard tariff filing fee, applied on the same basis as the tariff filing for which the filing fee is paid.⁸⁵

B. General Guidelines Applicable to NECA

42. We have not adopted a TRP for NECA for services other than BDS, although NECA should refer to the 2023 rate-of-return TRPs for guidance on the level of support materials to provide in its annual filing.

VI. GENERAL INSTRUCTIONS

43. The following general instructions apply to all incumbent LECs. These instructions pertain to the TRP and other documentation filed in support of access charges. Carriers should submit their data and formulas in Excel rather than PDF files.

A. Revised TRPs

44. If an incumbent LEC files an amended transmittal revising its TRP after June 16, 2023, the TRP should be refiled in its entirety, rather than just the parts of the TRP that are changed. The latest TRP filed becomes the TRP of record. Other parts of the original filing, e.g., portions of the explanations, Description and Justification, and workpapers, may be omitted if unchanged by the revision.

B. Certification

45. The filing of inaccurate or incomplete data may seriously detract from the ability of the Commission and interested parties to evaluate the revised rates. All incumbent LECs must certify that their historical and forecast data are accurate by including a signed statement that the support data are true, correct, and complete to the best of the carrier's knowledge. This certification will apply to all data submitted in support of revised rates, including the data that are filed in the TRP. Moreover, incumbent LECs are required to make several additional certifications pursuant to the *USF/ICC Transformation Order*.⁸⁶ These certifications should be displayed as the last pages in each company's filing containing its TRP. Incumbent LECs are also under a continuing legal obligation to correct any inaccurate or incomplete data subsequently discovered in the TRP or other support data.

⁸⁴ See *id.*

⁸⁵ 47 CFR § 1.1105.

⁸⁶ *USF/ICC Transformation Order*, 26 FCC Rcd at 17987, para. 905 ("Carriers recovering eligible recovery will be required to certify annually that they are entitled to receive the recovery they are claiming and that they are complying with all rules pertaining to such recovery."); see also *id.* at 17964-65, para. 862 & n.1664 (explaining that incumbent LECs receiving Eligible Recovery must certify as part of their tariff filings, to both the Commission and any state commission exercising jurisdiction over the incumbent LEC's intrastate costs, that they are not seeking duplicative recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism).

C. Compliance with the Paperwork Reduction Act

46. As is the case with each year's TRPs, the 2023 TRPs contained in this Order contain modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA).⁸⁷ The TRP collections were approved by the Office of Management and Budget (OMB) under the PRA.⁸⁸ In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002,⁸⁹ we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

47. In this Order, we have assessed the effects on incumbent LECs of filing the TRP and have minimized the burden to the extent possible. We minimize the regulatory burden on the incumbent LECs by deleting obsolete sections of the TRP that have not proven to be useful and by not requiring carriers to file historical data that was filed in previous years.

VII. ORDERING CLAUSES

48. Accordingly, IT IS ORDERED that, pursuant to sections 1, 4(i) and (j), 5, and 201-209 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-(j), 155, 201-209, and sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, this Order IS ADOPTED.

49. IT IS FURTHER ORDERED that, pursuant to sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, sections 69.3(a), 69.3(h), 51.907(k), and 51.909(o) of the Commission's rules, 47 CFR § 69.3(a), 51.907(k), and 51.909(o), ARE WAIVED to the extent specified herein.

50. IT IS FURTHER ORDERED, pursuant to section 1.102(b) of the Commission's rules, 47 CFR § 1.102(b), that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Gil M. Strobel
Chief, Pricing Policy Division
Wireline Competition Bureau

⁸⁷ Pub. L. No. 104-13; *see* 44 U.S.C. § 3507.

⁸⁸ *See* OMB, Notice of OMB Action, OMB Control No. 3060-0400 (dated July 28, 2020), https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202005-3060-013. In the submission to OMB, the Commission noted that it "updates the price cap and rate-of-return TRP every year to eliminate respondents' requirements to file cost and demand data that may be more than two years old and to bring the TRP data into conformance with current Commission policies." FCC, OMB Control No. 3060-0400, Supporting Statement at 3 (dated June 2020), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202005-3060-013; 44 U.S.C. § 3507.

⁸⁹ Pub. L. No. 107-198; *see* 44 U.S.C. § 3506(c)(4).

APPENDIX

Tariff Review Plans

<https://www.fcc.gov/2023-tariff-review-plans>

2023 Tariff Review Plans

Price Cap ILEC TRPs

2023 Eligible Recovery Draft Final [xlsx](#)

2023 Price Cap Summary Draft Final [xlsx](#)

2023 Rate Detail Draft Final [xlsm](#)

2023 Rate Ceiling Draft Final [xlsm](#)

2023 ROR TRP Single Juris Annual Draft Final [xlsm](#)

2023 Tariff Rate Comp Draft Final [xlsm](#)

2023 Template for Exog Cost Calculations Draft Final [xlsx](#)

2023 Trpzan Multi Juris Comp Annual Draft Final [xlsm](#)

2023 Trpzan Multi Juris Non Comp Annual Draft Final [xlsm](#)

2023 Trpzan Single Juris Comp Annual Draft Final [xlsm](#)

2023 Trpzsn Single Juris Non Comp Annual Draft Final [xlsm](#)

2023 True Up Draft Final [xlsm](#)

Rate of Return ILEC TRPS

2023 61.38 CAF-BLS ILEC CBOL Rate Calculation [xlsx](#)

2023 61.39 ILEC Special Access Reallocation [xlsx](#)

2023 Annual Filing RoR ACAM 3.2.23 [xls](#)

2023 Annual Filing RoR CAF-BLS 3.2.23 [xls](#)

2023 RateCeiling CAF RoR ILEC [xls](#)

2023 RateCeiling No CAF RoR ILEC [xls](#)

2023 RoR ILEC ICC Data [xlsx](#)

2023 ROR ILEC Summary [xlsx](#)

2023 Tariff Rate Comp CAF RoR ILEC [xls](#)

2023 Tariff Rate Comp No CAF RoR ILEC [xls](#)

2023 True Up ROR ILEC [xls](#)

Incentive Regulation ILEC TRPs

TY 2023-2024 Holding Company BDS Annual TRP [xlsx](#)

TY 2023-2024 Individual Study Area BDS Annual TRP [xlsx](#)

Updated:
Friday, May 5, 2023



PUBLIC NOTICE

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DA No. 23-387

Report No. SCL-00414

Thursday May 11, 2023

Actions Taken Under Cable Landing License Act

Section 1.767(a) Cable Landing Licenses, Modifications, and Assignments or Transfers of Control of Interests in Cable Landing Licenses (47 CFR § 1.767(a))

By the Chief, Telecommunications and Analysis Division, Office of International Affairs:

Pursuant to an Act relating to the landing and operation of submarine cables in the United States, 47 U.S.C. §§ 34-39 (Cable Landing License Act), Executive Order No. 10530, Exec. Ord. No. 10530 reprinted as amended in 3 U.S.C. § 301, and section 1.767 of the Commission's rules, 47 CFR § 1.767, the following applications ARE GRANTED. These grants of authority are taken under section 0.261 of the Commission's rules. 47 CFR § 0.261. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules may be filed within thirty (30) days of the date of this public notice. 47 CFR §§ 1.106, 1.115.

These applications have been coordinated with the Department of State and other Executive Branch agencies pursuant to section 1.767(b) of the Commission's rules and consistent with procedures established with the Department of State. 47 CFR § 1.767(b); see Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Report and Order, 16 FCC Rcd 22167, 22192-93, paras. 51-52 (2001) (Submarine Cable Landing License Report and Order); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, DA 22-435 (rel. Apr. 19, 2022).

This public notice serves as each cable landing licensee's Cable Landing License, or modification thereto, pursuant to the Cable Landing License Act and sections 1.767 and 1.768 of the Commission's rules. 47 CFR §§ 1.767, 1.768. Cable landing licensees should review the terms and conditions of their licenses. Failure to comply with these terms and conditions or relevant Commission rules and policies could result in fines or forfeitures.

INFORMATIVE

SCL-STA-20230404-00007

The Bahamas Telecommunications Company Limited

On May 10, 2023, we granted the request for special temporary authority (STA) filed by The Bahamas Telecommunications Company Limited (BTC) to continue operation of the BAHAMAS II Cable System while the Commission considers an application for another 25-year term for the cable landing license (SCL-LIC-20220422-00016). BTC acknowledges that grant of the STA will not prejudice action by the Commission on the underlying application and the STA is subject to cancellation or modification upon notice without a hearing.

The STA expires on November 6, 2023.

SCL-STA-20230417-00011

HUB Advanced Networks, LLC

On May 10, 2023, we granted the request for special temporary authority (STA) filed by HUB Advanced Networks, LLC (HUB), on behalf of the licensees of record of the Antillas-1 Submarine Cable system (Antillas-1 Cable): AT&T Corp.; MCI International, Inc.; Primus Telecommunications, Inc.; Sprint Communications Company, L.P.; PREPA Networks, LLC; and Telefonica Larga Distancia De Puerto Rico, to continue operation of the Antillas-1 Cable (SCL-LIC-19950818-00001; SCL-LIC-19951013-00002) while the Commission considers a forthcoming application for an additional 10-year term for the cable landing license. HUB acknowledges that the grant of such STA will not prejudice action by the Commission on the underlying forthcoming application and the STA is subject to cancellation or modification upon notice without a hearing.

The STA expires on November 6, 2023.



PUBLIC NOTICE

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DA No. 23-388

Report No. TEL-02272

Thursday May 11, 2023

International Authorizations Granted

Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)

By the Chief, Telecommunications and Analysis Division, Office of International Affairs:

The following applications have been granted pursuant to the Commission's processing procedures set forth in sections 63.12 and 63.20 of the Commission's rules. 47 CFR §§ 63.12, 63.20.

Unless otherwise noted, these grants authorize the applicants to: (1) become a facilities-based international common carrier subject to 47 CFR §§ 63.21, 63.22 and/or a resale-based international common carrier subject to 47 CFR §§ 63.21, 63.23; (2) assign or transfer control of international section 214 authority in accordance with 47 CFR § 63.24; or (3) exceed the foreign ownership benchmarks applicable to common carrier radio licensees under 47 U.S.C. § 310(b); see Subpart T of Part 1 of the Commission's rules, 47 CFR §§ 1.5000-5004.

THIS PUBLIC NOTICE SERVES AS EACH NEWLY AUTHORIZED CARRIER'S SECTION 214 CERTIFICATE. It contains general and specific conditions, which are set forth below. Newly authorized carriers should carefully review the terms and conditions of their authorizations. Failure to comply with general or specific conditions of an authorization, or with other relevant Commission rules and policies, could result in fines and forfeitures.

Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, in regard to the grant of any of these applications may be filed within 30 (thirty) days of this public notice. See 47 CFR § 1.4(b)(2).

INFORMATIVE

ITC-STA-20230425-00051

Advanced Network Communications, LLC

On May 10, 2023, we granted the request for special temporary authority (STA) filed by Advanced Network Communications, LLC (ANC), an Iowa limited liability company, to continue to provide international telecommunications service to its customers while the Commission considers its application for international section 214 authority (ITC-214-20220325-00043) and the application for the unauthorized sale of 50% of the ownership of ANC from Schaller Telephone Company to Long Lines, LLC (ITC-T/C-20220427-00057). ANC acknowledges that grant of such STA will not prejudice action by the Commission on the underlying application and the STA is subject to cancellation or modification upon notice without a hearing.

The STA expires on November 6, 2023.

SURRENDER

ITC-214-19980713-00476

DataPath, Inc.

By letter filed on May 4, 2023, DataPath, Inc. notified the Commission that it surrendered its international section 214 authorization effective May 4, 2023.

CONDITIONS APPLICABLE TO INTERNATIONAL SECTION 214 AUTHORIZATIONS

(1) These authorizations are subject to the Exclusion List for International Section 214 Authorizations, which identifies restrictions on providing service to particular countries or using particular facilities. The most recent Exclusion List is at the end of this Public Notice. The list applies to all U.S. international carriers, including those that have previously received global or limited global section 214 authority, whether by Public Notice or specific written order. Carriers are advised that the attached Exclusion List is subject to amendment at any time pursuant to the procedures set forth in Streamlining the International Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95-118, 11 FCC Rcd 12884 (1996), para. 18. A copy of the current Exclusion List is maintained in the FCC Reference Information Center and is available at <https://www.fcc.gov/exclusion-list-international-section-214-authorizations>. It is also attached to each Public Notice that grants international Section 214 authority.

(2) The export of telecommunications services and related payments to countries that are subject to economic sanctions may be restricted. For information concerning current restrictions, call the Office of Foreign Assets Control, U.S. Department of the Treasury, (202) 622-2520.

(3) Carriers shall comply with the requirements of Section 63.11 of the Commission's rules, which requires notification by, and in certain circumstances prior notification by, U.S. carriers acquiring an affiliation with foreign carriers. A carrier that acquires an affiliation with a foreign carrier will be subject to possible reclassification as a dominant carrier on an affiliated route pursuant to the provisions of section 63.10 of the rules.

(4) A carrier may provide switched services over its authorized resold private lines in the circumstances specified in section 63.23(d) of the rules, 47 CFR § 63.23(d).

(5) Carriers shall comply with the "No Special Concessions" rule, section 63.14, 47 CFR § 63.14.

(6) Carriers regulated as dominant for the provision of a particular communications service on a particular route for any reason other than a foreign carrier affiliation under section 63.10 of the rules shall file tariffs pursuant to Section 203 of the Communications Act, as amended, 47 U.S.C. § 203, and Part 61 of the Commission's Rules, 47 CFR Part 61. Carriers shall not otherwise file tariffs except as permitted by section 61.19 of the rules, 47 C.F.R. § 61.19. Except as specified in section 20.15 with respect to commercial mobile radio service providers, carriers regulated as non-dominant, as defined in section 61.3, and providing detariffed international services pursuant to section 61.19, must comply with all applicable public disclosure and maintenance of information requirements in sections 42.10 and 42.11.

(7) International facilities-based service providers must file and maintain a list of U.S.-international routes on which they have direct termination arrangements with a foreign carrier. 47 CFR § 63.22(h). A new international facilities-based service provider or one without existing direct termination arrangements must file its list within thirty (30) days of entering into a direct termination arrangement(s) with a foreign carrier(s). Thereafter, international facilities-based service providers must update their lists within thirty (30) days after adding a termination arrangement for a new foreign destination or discontinuing an arrangement with a previously listed destination. See Process For The Filing Of Routes On Which International Service Providers Have Direct Termination Arrangements With A Foreign Carrier, ITC-MS-20181015-00182, Public Notice, 33 FCC Rcd 10008 (IB 2018).

(8) Any U.S. Carrier that owned or leased bare capacity on a submarine cable between the United States and any foreign point must file a Circuit Capacity Report to provide information about the submarine cable capacity it holds. 47 CFR § 43.82(a)(2). See <https://www.fcc.gov/circuit-capacity-data-us-international-submarine-cables>.

(9) Carriers should consult section 63.19 of the rules when contemplating a discontinuance, reduction or impairment of service.

(10) If any carrier is reselling service obtained pursuant to a contract with another carrier, the services obtained by contract shall be made generally available by the underlying carrier to similarly situated customers at the same terms, conditions and rates. 47 U.S.C. § 203.

(11) To the extent the applicant is, or is affiliated with, an incumbent independent local exchange carrier, as those terms are defined in section 64.1902 of the rules, it shall provide the authorized services in compliance with the requirements of section 64.1903.

(12) Except as otherwise ordered by the Commission, a carrier authorized here to provide facilities-based service that (i) is classified as dominant under section 63.10 of the rules for the provision of such service on a particular route and (ii) is

affiliated with a carrier that collects settlement payments for terminating U.S. international switched traffic at the foreign end of that route may not provide facilities-based switched service on that route unless the current rates the affiliate charges U.S. international carriers to terminate traffic are at or below the Commission's relevant benchmark adopted in International Settlement Rates, IB Docket No. 96-261, Report and Order, 12 FCC Rcd 19806 (1997). See also Report and Order on Reconsideration and Order Lifting Stay in IB Docket No. 96-261, FCC 99-124 (rel. June 11, 1999). For the purposes of this rule, "affiliated" and "foreign carrier" are defined in section 63.09.

(13) Carriers shall comply with the Communications Assistance for Law Enforcement Act (CALEA), see 47 CFR §§ 1.20000 et seq.

(14) Every carrier must designate an agent for service in the District of Columbia. see 47 U.S.C. § 413, 47 CFR §§ 1.47(h), 64.1195.

Exclusion List for International Section 214 Authorizations

The following is a list of countries and facilities not covered by grant of global section 214 authority under section 63.18(e)(1) of the Commission's Rules, 47 CFR § 63.18(e)(1). Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate section 214 application pursuant to section 63.18(e)(3) of the Commission's Rules. See 47 CFR § 63.22(c).

Countries:

None.

Facilities:

Any non-U.S.-licensed space station that has not received Commission approval to operate in the U.S. market pursuant to the procedures adopted in the Commission's DISCO II Order, IB Docket No. 96-111, Report and Order, FCC 97-399, 12 FCC Rcd 24094, 24107-72 paragraphs 30-182 (1997) (DISCO II Order). Information regarding non-U.S.-licensed space stations approved to operate in the U.S. market pursuant to the Commission's DISCO II procedures is maintained at <https://www.fcc.gov/approved-space-station-list>.

This list is subject to change by the Commission when the public interest requires. The most current version of the list is maintained at <https://www.fcc.gov/exclusion-list-international-section-214-authorizations>.

For additional information, contact the Office of International Affairs, Telecommunications and Analysis Division at (202) 418-1480.

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of	)	
	)	
One Eye LLC	)	EB-TCD-20-00031678
	)	EB Docket No. 22-174
	)	

FINAL DETERMINATION ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Final Determination Order, the Enforcement Bureau (Bureau) determines that One Eye LLC (One Eye or Company) consistently failed to comply with the Federal Communications Commission's (Commission or FCC) call blocking rules for gateway providers and failed to respond to the Bureau's Notification of Suspected Illegal Traffic and Initial Determination Order.¹ Thus, we require any voice service provider immediately downstream from One Eye to block and cease accepting traffic from One Eye no later than 30 days after release of this Final Determination Order.²

II. BACKGROUND

A. Legal Framework for Gateway Provider Mandatory Blocking Rules

2. Protecting consumers in the United States from the dangers and risks of unwanted and illegal robocalls is the Commission's top consumer protection priority.³ Many of these calls originate overseas. Gateway providers are U.S.-based intermediate providers that receive calls directly from a foreign originating provider or foreign intermediate provider at its U.S.-based facilities before transmitting the call downstream to another U.S.-based provider.⁴ Such providers serve as critical choke points for reducing the number of illegal calls reaching consumers in the United States.⁵ In recognition of this fact, the Commission adopted the *Gateway Provider Order* on May 19, 2022, increasing the

¹ *One Eye LLC*, Initial Determination Order, DA-23-279, (EB Apr. 3, 2023) (*Initial Determination Order*).

² 47 CFR § 64.1200(n)(6).

³ "Unwanted calls – including illegal and spoofed robocalls - are the FCC's top consumer complaint and our top consumer protection priority." FCC, *Consumer Guide: Stop Unwanted Robocalls and Texts*, <https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts> (last visited Apr. 7, 2023).

⁴ 47 CFR § 64.1200(f)(19).

⁵ *Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order in CG Docket No. 17-59, Fifth Report and Order in WC Docket No. 17-97, Order on Reconsideration in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, FCC 22-37, paras. 24-25 (2022) (*Gateway Provider Order*).

obligations of gateway providers to police their own networks and imposing consequences on gateway providers that fail to do so.⁶

3. The *Gateway Provider Order* built upon the Commission's call blocking rules to require gateway providers to block illegal traffic when notified of such traffic by the Commission.⁷ Once a gateway provider receives a Notification of Suspected Illegal Traffic from the Bureau, the provider has a minimum of 14 days to comply with the notice by investigating and reporting the results of the investigation to the Bureau.⁸ The provider must also block the traffic if its investigation determines that it served as the gateway provider for the illegal traffic.⁹ If the gateway provider determines the identified traffic was not illegal, it must provide an explanation to support its conclusion.¹⁰

4. The Bureau may initiate a process to direct any provider immediately downstream from the gateway provider to block the notified gateway provider's traffic if the gateway provider fails to respond to the notification of suspected illegal traffic, we determine that the response is insufficient, we determine that the gateway provider continues to transmit substantially similar traffic onto the U.S. network, or we determine based on the evidence that the traffic is illegal despite the gateway provider's assertions.¹¹ The Bureau will issue an Initial Determination Order with its findings and provide the gateway provider with an opportunity to respond.¹² If the Bureau determines that the gateway provider's response to the Initial Determination Order is inadequate, or if it continues to transmit substantially similar traffic, the Bureau will release a Final Determination Order.¹³ All immediate downstream voice service providers must block and cease accepting all traffic that they receive from the gateway provider no later than 30 days from release of the Final Determination Order.¹⁴

B. One Eye's Transmission of Suspected Illegal Robocalls as a Gateway Provider

5. On February 15, 2023, the Bureau issued a Notification of Suspected Illegal Traffic (Notice) to One Eye for transmitting apparently illegal traffic as a gateway provider.¹⁵ The identified calls pertained to bank impersonation and claims of "preauthorized orders" placed "on your name."¹⁶

⁶ *Id.* at paras. 1-4.

⁷ *Id.* at para. 72; 47 CFR § 64.1200(n)(5).

⁸ 47 CFR § 64.1200(n)(5)(i)(A); *see also* Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Kaushal Bhavsar, CEO, One Eye LLC (Feb. 15, 2023) (Notice) (requiring gateway provider to respond within 14 days).

⁹ 47 CFR § 64.1200(n)(5)(i)(A). If the provider served as the gateway for the traffic, its report to the Bureau must include a certification that it is blocking the identified traffic and will continue to do so, as well as a description of the plan to identify and block substantially similar traffic on an ongoing basis. *Id.* § 64.1200(n)(5)(i)(A)(1)-(A)(2).

¹⁰ *Id.* § 64.1200(n)(5)(i)(B). If the gateway provider concludes that it did not serve as the gateway for the traffic, then it must identify the upstream provider(s) from which it received the identified traffic and take steps to mitigate the traffic. *Id.*

¹¹ *Id.* § 64.1200(n)(5)(ii).

¹² *Id.*

¹³ *Id.* § 64.1200(n)(5)(iii).

¹⁴ *Id.* § 64.1200(n)(6). A Final Determination Order may be adopted up to one year after release of the Initial Determination Order. *See id.* § 64.1200(n)(5)(iii).

¹⁵ *See* Notice, *supra* note 8. The Bureau issued the Notice to One Eye's business address listed in the Robocall Mitigation Database. The Commission published the Notice on its website and also sent the letter via certified mail. *See id.* The Notice is part of the Bureau's cease-and-desist letter initiative, which places obligations on notified providers to investigate and mitigate identified traffic. The Notice and past cease-and-desist letters are available on the Commission's website at <https://www.fcc.gov/robocall-facilitators-must-cease-and-desist>.

Between September 14, 2022, and November 1, 2022, USTelecom's Industry Traceback Group (ITG)¹⁷ investigated prerecorded voice message calls that Bank of America and Verizon had flagged as illegal spoofed robocalls or calls made without consent.¹⁸ The ITG conducted tracebacks and determined that the calls originated overseas and that One Eye acted as the gateway provider for the calls.¹⁹ The ITG previously notified One Eye about these calls and provided access to supporting data identifying each call.²⁰ One Eye did not respond to these tracebacks.²¹

6. Following One Eye's failure to respond, the Bureau sent a Notice that required One Eye to investigate and block the traffic and report the results of the investigation to the Bureau by March 2, 2023.²² The Notice warned One Eye that a failure to comply with those obligations would result in the Bureau requiring all immediate downstream providers to block its traffic pursuant to section 64.1200(n)(5) and (6).²³ The Notice also determined that One Eye was associated with a previous recipient of a Bureau cease-and-desist letter, PZ/Illum Telecommunications.²⁴ The CEO of PZ/Illum Telecommunications, an individual named Prince Anand, apparently created One Eye following the Bureau's enforcement efforts directed at PZ/Illum Telecommunications for transmitting suspected illegal calls.²⁵ One Eye did not respond to the Notice or file a report.²⁶

7. On April 3, 2023, the Bureau issued an Initial Determination Order to One Eye.²⁷ The Initial Determination Order again presented evidence that One Eye was acting as a gateway provider for suspected illegal traffic and reiterated One Eye's obligation to investigate and block the identified illegal traffic under the Commission's rules.²⁸ The Initial Determination Order directed One Eye to file a final response within 14 days explaining why the Bureau should not issue a Final Determination Order directing downstream providers to block all of One Eye's traffic.²⁹ One Eye failed to respond to the Initial Determination Order.

(Continued from previous page) _____

¹⁶ ITG Subpoena Response on file at EB-TCD-20-00030805 (Nov. 22, 2022) (ITG Subpoena Response). The call script did not state what the order was for nor how the order was placed. *See id.*

¹⁷ The ITG is the registered industry consortium selected pursuant to the TRACED Act to conduct tracebacks. *See Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 22-870, para. 40 (EB 2022); *see also* Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, 133 Stat. 3274, Sec. 13(d) (2019) (TRACED Act).

¹⁸ *See* ITG Subpoena Response.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *See id.*

²² Notice, *supra* note 8, at 3.

²³ *Id.* at 3-4.

²⁴ *Id.* at 2; *see also* Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Prince Anand, CEO, PZ/Illum Telecommunication (Oct. 21, 2022).

²⁵ *See* Notice, *supra* note 8, at 2.

²⁶ The Notice also directed One Eye to investigate and mitigate the identified traffic within 48 hours. *Id.* at 4; *see also* 47 CFR § 64.1200(k)(4). One Eye did not meet that deadline either.

²⁷ *See Initial Determination Order*, *supra* note 1; *see also* receipt of certified mailing to Kaushal Bhavsar, CEO, One Eye LLC (Apr. 3, 2023).

²⁸ *Initial Determination Order*, *supra* note 1, at paras. 5-8.

²⁹ *Id.* at para. 9; *see also* 47 CFR § 64.1200(n)(5)(ii).

III. DISCUSSION

8. The Bureau may issue a Final Determination Order if a gateway provider does not provide an adequate response to the Initial Determination Order or continues to allow substantially similar traffic onto the U.S. network. We issued an Initial Determination Order to One Eye after it failed to respond to the Notice.³⁰ The Initial Determination Order required One Eye to file a response within 14 days of the date of issuance.³¹ One Eye failed to file a response. Because One Eye did not file any response, we find that it failed to provide an adequate response to the Initial Determination Order.³² Therefore, we issue this Final Determination Order as a result of One Eye's failure to respond to the Initial Determination Order.³³

9. We direct all voice service providers immediately downstream from One Eye to initiate blocking all traffic from One Eye no later than 30 days from the release of this Final Determination Order.³⁴ Providers that choose to initiate blocking sooner than 30 days may do so.³⁵ This Final Determination Order will be published in EB Docket No. 22-174.³⁶

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 227(b), 251(e), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 227(b), 251(e), 403, and sections 0.111, 0.311, 1.1, 1.102(b)(1), and 64.1200 of the Commission's rules, 47 CFR §§ 0.111, 0.311, 1.1, 1.102(b)(1), 64.1200, and the *Gateway Provider Order*,³⁷ all immediate downstream providers **MUST BLOCK AND CEASE TO ACCEPT ALL TRAFFIC** directly from One Eye **beginning no later than 30 calendar days** from the release date of this Final Determination Order.³⁸

³⁰ See *Initial Determination Order*, *supra* note 1, at paras. 8-9; see also receipt of certified mailing to Kaushal Bhavsar, CEO, One Eye LLC (Apr. 3, 2023).

³¹ See *id.* at para. 9; see also 47 CFR § 64.1200(n)(5)(ii).

³² See 47 CFR § 64.1200(n)(5)(iii).

³³ *Id.*

³⁴ *Id.* § 64.1200(n)(6).

³⁵ *Id.*; see also *id.* § 64.1200(k)(4).

³⁶ *Id.* § 64.1200(n)(6).

³⁷ *Gateway Provider Order*, *supra* note 5, at para. 72.

³⁸ 47 CFR § 64.1200(n)(6).

11. **IT IS FURTHER ORDERED** that copies of this Initial Determination Order shall be filed in EB Docket No. 22-174 and sent by email and registered mail, return receipt requested, to: Kaushal Bhavsar, CEO, One Eye LLC, 500 Delaware Ave., Suite #1-1960, Wilmington, DE 19899.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau



PUBLIC NOTICE

Federal Communications Commission
45 L Street, NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 23-391
May 11, 2023

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES
REGION 54 (SOUTHERN LAKE MICHIGAN) 700 MHZ AND 800 MHZ REGIONAL
PLANNING COMMITTEES TO HOLD MEETINGS**

General Docket No. 89-363 and WT Docket 02-378

The Region 54 (Southern Lake Michigan)¹ 700 MHz and 800 MHz Regional Planning Committees (RPCs) will hold two virtual planning meetings via Zoom or Microsoft Teams on Thursday, June 8, 2023 at 9:00 a.m. (Central Time). The deadline for new applications to be filed for the spring meeting is May 31, 2023. Applications can be submitted any time prior to that date at www.cparadap.org.

The agenda for the 800 MHz RPC meeting includes:

- Old Business
 - Applications
 - Plan modification
 - For the good of the order
- New Business
 - Applications (none currently)
 - For the good of the order

The 700 MHz RPC meeting will convene immediately following the 800 MHz RPC meeting.

The agenda for the 700 MHz meeting includes:

- Old Business
 - Applications
 - Milwaukee, City of applications
 - Washington, County of applications
 - NRPC Update
 - CAPRAD
 - FCC Update(s) and required plan modifications due to FCC actions.
 - For the good of the order
- New Business
 - Applications
 - For the good of the order

¹ The Region 54 (Southern Lake Michigan) 700 MHz RPC encompasses counties in three states bordering Lake Michigan: Winnebago, McHenry, Cook, Kane, Kendall, Grundy, Boone, Lake, DuPage, DeKalb, Will, and Kankakee Counties, Illinois; Lake, LaPorte, Jasper, Starke, St. Joseph, Porter, Newton, Pulaski, Marshall, and Elkhart Counties, Indiana; and Kenosha, Milwaukee, Washington, Dodge, Walworth, Jefferson, Racine, Rock, Walworth, Washington, and Waukesha Counties, Wisconsin. The Region 54 (Southern Lake Michigan) 800 MHz NPSPAC RPC includes the Michigan counties of Kent, Van Buren, Kalamazoo, Barry, Muskegon, Allegan, Berrien, Cass, and St. Joseph, in addition to all of the above-mentioned Illinois, Indiana and Wisconsin counties.

The Region 54 Regional Planning Committee meetings are open to the public. All eligible public safety providers whose sole or principal purpose is to protect the safety of life, health, or property in the Southern Lake Michigan area may utilize these frequencies. It is essential that not only public safety, but all government, Native American Tribal, and non-governmental organizations eligible under Section 90.523 of the Commission's Rules be represented to ensure that each agency's future spectrum needs are considered in the allocation process. Administrators who are not conversant with telecommunications technology should ensure that their respective agencies are represented by suitably conversant staff.

All interested parties wishing to participate in the planning for the use of public safety spectrum in the 700 MHz and 800 MHz bands within Region 54 are encouraged to attend. For further information and Teams invitation, please contact Ned W. Jacklin via email at nedr54@sbcglobal.net.

Carl Guse
Chairperson
Phone: 920-210-4455
Email: crguse@gmail.com

Ned W. Jacklin, Secretary
Region 54
815-252-2564
nedr54@sbcglobal.net

- FCC -

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Communications Assistance	)	PS Docket No. 22-217
for Law Enforcement Act	)	
Electronic Filing System (CEFS)	)	

ORDER

Adopted: May 15, 2023

Released: May 15, 2023

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. In this Order, we amend the Commission's rules to require electronic filing of new and updated System Security and Integrity Policies and Procedures (SSI Plans) by covered entities under the Communications Assistance for Law Enforcement Act (CALEA).¹ The new rule, 47 CFR § 1.20005(c), will require electronic filing of SSI Plans in the new CALEA Electronic Filing System (CEFS)² and become effective 30 days after it is published in the Federal Register. After publication in the Federal Register, we will issue a Public Notice to announce the specific date for mandatory electronic filing of SSI Plans. Filers can continue to choose to voluntarily file their SSI Plan electronically in CEFS or by paper until the new rule becomes effective, after which paper filings will no longer be accepted.

II. BACKGROUND

2. Section 105 of the Communications Assistance for Law Enforcement Act, 47 U.S.C. § 1004, and section 229(b) of the Communications Act, 47 U.S.C. § 229(b), require all covered entities to file SSI Plans with the Federal Communications Commission (Commission).³ The Commission first specified the requirements for telecommunications carriers' SSI Plans in 1999.⁴ Pursuant to section 1.20005 of the Commission's rules,⁵ all providers subject to CALEA must file their SSI Plans prior to commencing service and must re-file a complete updated SSI Plan within 90 days following any changes to

¹ CALEA's requirements apply to common carriers, facilities-based broadband Internet access service providers and interconnected Voice over Internet Protocol (VoIP) service providers. *See Communications Assistance for Law Enforcement Act and Broadband Access and Services*, First Report and Order and Further Notice of Proposed Rulemaking, 20 FCC Rcd 14989 (2005) (concluding that CALEA applies to facilities-based broadband Internet access providers and providers of interconnected VoIP service); Second Report and Order and Memorandum Opinion and Order, 21 FCC Rcd 5360, 5394-95, paras. 75-76 (2006) (requiring facilities-based broadband Internet access providers and interconnected Voice over Internet Protocol (VoIP) service providers to also file SSI Plans).

² CEFS is available at: <https://www.fcc.gov/cefs>.

³ The rules governing SSI Plans are set out at 47 CFR Part 1, Subpart Z.

⁴ *Communications Assistance for Law Enforcement Act*, Report and Order, 14 FCC Rcd 4151, 4159-77, paras. 19-56 (1999).

⁵ 47 CFR § 1.20005.

information contained in a previously-filed SSI Plan.⁶ All SSI Plans must contain all information listed under sections 1.20003 and 1.20004 of the Commission's rules.⁷

3. On June 1, 2022, the Public Safety and Homeland Security Bureau (Bureau) announced the launch of CEFS, which allows covered entities to file SSI Plans confidentially and securely online, eliminating the need for paper filing.⁸ The system allows users to file SSI Plans electronically and, once they have electronically filed a plan in CEFS, to log back in to CEFS and retrieve and view that filing. CEFS encourages timely filings of new SSI Plans and updated SSI Plans and reduces the risk of filing errors that require re-submission. In the *CEFS Announcement Public Notice*, the Bureau stated that electronic filing of SSI Plans in CEFS would initially be voluntary and proposed to make electronic filing mandatory six months after activation.⁹ On December 12, 2022, the Bureau announced the availability of CEFS for voluntary filing of SSI Plans.¹⁰

4. In response to the *CEFS Announcement Public Notice*, we received no comments regarding the proposal to mandate electronic filing of SSI Plans or the timing of the proposed requirement. We received one comment from Subsentio, LLC (Subsentio), which serves as a Trusted Third Party (TTP) for entities subject to CALEA, requesting that CEFS implementation include the ability for TTPs to continue to file SSI Plans on behalf of multiple clients.¹¹

III. DISCUSSION

5. **Mandatory Electronic Filing.** As proposed, we add a new provision to the Commission's rules to require electronic filing of SSI Plans in CEFS, which will become effective 30 days after we publish notice in the Federal Register. Thus, all covered entities that update their SSI Plans or file new SSI Plans after that time will be required to do so electronically.¹² By providing a transition period, as proposed, since voluntary filing commenced on December 12, 2022, we give covered entities sufficient time to familiarize themselves with CEFS and the Commission Registration System (CORES), if necessary, and obtain FCC Usernames and FCC User Registration Numbers (FRN) needed to file in CEFS.¹³ Further, the transition period provides us the opportunity to continue implementing necessary enhancements to CEFS for optimal functioning before its use becomes mandatory.

6. **Trusted Third Parties.** We agree with Subsentio that CEFS implementation should include the ability for TTPs to continue to file SSI Plans on behalf of multiple clients. As explained in the CEFS User Manual, TTPs may continue to file SSI Plans for multiple clients in CEFS using the features of CEFS and CORES, which allows regulated entities to grant permission to authorized users to conduct

⁶ 47 CFR § 1.20005(a).

⁷ 47 CFR §§ 1.20003, 1.20004, 1.20005(b).

⁸ *Public Safety Homeland Security Bureau Provides Information on Implementation of Voluntary Electronic Filing of CALEA System Security and Integrity Plans and Seeks Comment on Mandatory Electronic Filing*, Public Notice, DA 22-592 (PSHSB rel. June 1, 2022) (*CEFS Announcement Public Notice*).

⁹ See *CEFS Announcement Public Notice* at p. 1.

¹⁰ *Public Safety Homeland Security Bureau Announces Availability Of CALEA Electronic Filing System (CEFS) For Voluntary Filing Of System Security And Integrity Plan*, Public Notice, DA 22-1299 (PSHSB rel. Dec. 12, 2022) (*CEFS Implementation Public Notice*).

¹¹ See Subsentio, LLC comment, Letter from Stephen Pfeiffer, July 21, 2022.

¹² Filers are required to file SSI Plans directly in CEFS, which is a secure, confidential electronic filing system, and should not file plans through the Electronic Comment Filing System (ECFS), which is a repository for docketed proceedings that is publicly available. The Commission has recognized that SSI plans are sensitive in nature. See *Communications Assistance for Law Enforcement Act*, Report and Order, 14 FCC Rcd 4151, 4177, para. 57 (1999).

¹³ The FCC Registration Number (FRN) is a 10-digit unique identifying number that is assigned to entities doing business with the Commission. 47 CFR § 1.8001.

Commission business on their behalf.¹⁴ The transition period also enables TTPs without an associated or existing FCC Username to create an account and, with the carrier's approval, associate that FCC Username with the carrier's FRN.

7. **Paper Filings.** Although we encourage voluntary electronic filing of SSI Plans until mandatory electronic filing takes effect, we will continue to accept paper filings until the requirement becomes effective. Parties submitting paper filings after mandatory filing takes effect will receive a notification to submit the SSI Plan electronically through CEFS. Covered entities that have already filed their SSI Plans by paper are not required to re-file them in CEFS, unless and until the covered entity's SSI Plan needs to be updated.

IV. PROCEDURAL MATTERS

8. **Paperwork Reduction Act.** This document does not adopt or propose new or substantively modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). This document may contain non-substantive modifications to an approved information collection.¹⁵ Any such modifications will be submitted to the Office of Management and Budget for review pursuant to OMB's non-substantive modification process.

9. **Final Regulatory Flexibility Certification.** The Regulatory Flexibility Act of 1980, as amended (RFA),¹⁶ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that the proposed or final rule(s) "will not, if promulgated, have a significant economic impact on a substantial number of small entities."¹⁷ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹⁸ In addition, the term "small business" has the same meaning as the term "small business concerns" under the Small Business Act.¹⁹ A "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).²⁰ If an agency files a certification with a rulemaking, the certification must contain a statement

¹⁴ The CEFS Manual can be found here: <https://www.fcc.gov/cefs/user-manual>. Additional information can also be found at: <https://www.fcc.gov/calea>.

¹⁵ *See* OMB Approvals for Non-Substantive Changes to Currently Approved Information Collections (OMB Control Nos. 3060-0809, 3060-0917, 3060-0918, 3060-0862), May 6, 2022; *see also* OMB Approvals for Extension without Change of a currently approved collection for Control No. 3060-0809 (approved through Oct. 31, 2025), Oct. 18, 2022.

¹⁶ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

¹⁷ *Id.* § 605(b).

¹⁸ *Id.* § 601(6).

¹⁹ *Id.* § 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."

²⁰ 15 U.S.C. § 632.

that provides a factual basis for its conclusion that there will not be significant economic impact on a substantial number of small entities.²¹

10. In the *CEFS Announcement Public Notice*, the Commission included an Initial Regulatory Flexibility Certification (IRFC) certifying that the rules and policy changes proposed would not have a significant economic impact on a substantial number of small entities.²² No comments were filed addressing the Initial Regulatory Flexibility Certification. For the reasons discussed below, the Commission has determined that the changes adopted in this *CALEA Implementation Public Notice* will not have a significant economic impact on a substantial number of small entities and has prepared this Final Regulatory Flexibility Certification (FRFC).

11. Telecommunications carriers must file and maintain up-to-date System Security and Integrity (SSI) plans with the Commission, as those plans are described in 47 CFR § 1.20005. This information includes a description of how the service provider complies with CALEA, and carrier contact information. The FCC does not divulge SSI Plans to the public but may share the covered entity's responsible personnel and contact information from the SSI Plan with law enforcement agencies when appropriate.²³ The Commission has recognized that SSI plans are sensitive in nature.²⁴ This information collection has been approved by the Office of Management and Budget, control number 3060-0809.²⁵

12. In the *CEFS Announcement Public Notice*, we proposed to modernize the Commission's procedures governing the filing of CALEA SSI plans that telecommunications carriers must follow to submit their plans for Commission review. We proposed to require telecommunications carriers to submit CALEA SSI plans electronically in the CALEA Electronic Filing System (CEFS) rather than by paper. We also proposed that mandatory filing begin six months after the Bureau announces the availability of CEFS for voluntary filing. We believe the new filing system will streamline the process for filing CALEA SSI plans for telecommunications carriers. The entities subject to the new electronic filing requirement are new telecommunications carriers and telecommunications carriers that must update their SSI plans. Consequently, the streamlined filing process is specific to those entities and their obligations under CALEA.

13. The electronic filing process does not impose increased reporting burdens on small entities or other telecommunications carriers, nor do we expect the electronic filing process to result in increased costs for impacted carriers. In fact, the new electronic database will reduce paperwork and the time burden on small entities. For example, we approximate that the estimated paper filing burden of 7.5 hours will be reduced to 5 hours with electronic filing. Further, the CEFS presents a public-facing web form containing data entry fields for collection of key portions of the required data that will help ensure filers supply necessary information in their SSI Plans. The use of the web form and electronic filing will not only reduce the time burden imposed on small entities for filing SSI Plans but also reduce the time

²¹ 5 U.S.C. § 605(b). Although not required in this particular situation, we are optionally including a Final Regulatory Flexibility Certification here since an Initial Regulatory Flexibility Certification was included in the *CEFS Announcement PN*. See 5 U.S.C. §§ 603, 604 (initial and final regulatory flexibility analyses are required only when the APA requires the agency to follow APA notice-and-comment procedures).

²² *CEFS Announcement Public Notice* at 7-8; see also Public Safety And Homeland Security Bureau Announces Comment And Reply Comment Dates For The Implementation Of Electronic Filing Of CALEA System Security And Integrity Plans, Public Notice, DA 22-681 (PSHSB rel. June 28, 2022).

²³ Communications Assistance for Law Enforcement Act, *Second Order on Reconsideration*, FCC 01-126, 16 FCC Rcd 8959, 8968, paras. 26, 30 (2001).

²⁴ See Communications Assistance for Law Enforcement Act, CC Docket No. 97-213, *Report and Order*, 14 FCC Rcd 4151, 4177, para. 57 (1999).

²⁵ See OMB Approvals for Non-Substantive Changes to Currently Approved Information Collections (OMB Control Nos. 3060-0809, 3060-0917, 3060-0918, 3060-0862), May 6, 2022; see also OMB Approvals for Extension without Change of a currently approved collection for Control No. 3060-0809 (approved through Oct. 31, 2025), Oct. 18, 2022.

burden for when a SSI plans requires additional information to sufficiently meet CALEA compliance requirements.

14. In addition, the automated CEFS for SSI Plan submission replaces a cumbersome and space-consuming paper process, streamlines the review process using a web-based checklist system, and enhances recordkeeping and retrieval capabilities for small entities. Consequently, consistent with our IRFC, we conclude that mandating electronic filing will not cause a significant economic impact on a substantial number of small entities. Therefore, we certify that the changes adopted here will not have a significant economic impact on a substantial number of small entities.

15. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

16. **Further Information:** For further information regarding this *Order*, please contact Rosemary Cabral, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-0662 or Rosemary.Cabral@fcc.gov; or Christopher Fedeli, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418-1514 or Christopher.Fedeli@fcc.gov.

V. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 229(b)(3) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 229(b)(3), and Section 1.49(f)(3) of the Commission's rules, 47 CFR § 1.49(f)(3), that Part 1 of the Commission's rules IS AMENDED, as set forth in Appendix A, and that this Order, including the amended rule, SHALL BE EFFECTIVE 30 days after publication in the Federal Register, which will not occur until after the Office of Management and Budget has completed review of any non-substantive change to an information collection under the Paperwork Reduction Act.

18. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration

19. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Evaluation and Records Management, SHALL SEND a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

20. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Debra Jordan
Chief, Public Safety and Homeland Security Bureau

APPENDIX A**Final Rules**

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

PART 1 – PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

Subpart Z - Communications Assistance for Law Enforcement Act

2. Amend § 1.20005 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 1.20005 Submission of policies and procedures and Commission review.

(a) Each telecommunications carrier shall file with the Commission the policies and procedures it uses to comply with the requirements of this subpart. These policies and procedures shall be filed before commencing service and, thereafter, within 90 days of a carrier's merger or divestiture or a carrier's amendment of its existing policies and procedures.

* * * * *

c) As of **[INSERT DATE THIRTY DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, any filings required by paragraph (a) of this section shall be submitted electronically through the Commission's CALEA Electronic Filing System (CEFS).

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Town of Bedford Police Department,	)	File No. 0009935320
Massachusetts	)	
	)	
Requests for Waiver of Sections 22.621, 90.307(d),	)	
and 90.311 of the Commission's Rules	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. On March 2, 2022, the Town of Bedford Police Department, Massachusetts (Bedford, or the Department) filed an application to add two, part 22 paging control channels in the 470-512 MHz band (T-Band) to its public safety radio system, accompanied by two waiver requests.¹ The Department seeks waivers of sections 22.621, 90.307(d), and 90.311 of the Commission's rules.² For the reasons below, we grant the requested waivers as conditioned herein.

II. BACKGROUND

2. Bedford currently operates a T-Band public safety radio system under call sign WIJ355 on frequencies in the TV Channel 16 band (482-488 MHz). Bedford seeks to add non-public safety frequencies 482.1125 and 485.1125 MHz to the system for public safety radio operations.³

3. On February 1, 2023, the Public Safety and Homeland Security Bureau (Bureau) issued a public notice⁴ seeking comment on the applications and waiver requests. We received no comments or replies.

III. DISCUSSION

4. To obtain a waiver, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a

¹ See File No. 0009935320 (filed Mar. 2, 2022, amended June 27, 2022 and Jan. 5, 2023) attached Letter from John C. Fisher, Chief of Police, Town of Bedford Police Department, to Federal Communications Commission (dated Dec. 29, 2022) (Part 22 Waiver Request); and attached letter from Carol DiCaro, AFC Processor, APCO International, to FCC (dated Feb. 4, 2022) (TV Spacing Waiver Request).

² See 47 CFR §§ 22.621 (designating certain frequencies for point-to-multipoint transmitters that support transmitters that provide public mobile service), 90.307(d) (requiring a Private Land Mobile Radio Service (PLMR) base station which has associated mobile units to be spaced at least 145 kilometers (90 miles) from a protected adjacent channel TV station), and 90.311 (designating certain frequency ranges for land mobile radio assignment); see also Part 22 Waiver Request at 1.

³ Part 22 Waiver Request at 1.

⁴ See *Public Safety And Homeland Security Bureau Seeks Comment on Requests for Waiver Filed by the Department of Bedford Police Department, Massachusetts to Operate a Public Safety Paging System on Part 22 Spectrum*, Public Notice, DA 23-95 (PSHSB Feb. 1, 2023).

grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁵ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.⁶

5. Bedford states that “due to extreme demand for radio frequencies in the Boston area, all frequencies have been exhausted in order to satisfy its growing need for radio capacity.”⁷ The Department indicates that it “has no other choice but to look to commercial radio bands for additional channels.”⁸ Bedford’s frequency coordinator submitted a letter stating that it conducted a search of the 453-470 MHz and 470-512 MHz bands and certified that “there are no public safety channels to be assigned that meet public safety coordination protocols or frequency limitations and will work at all sites for this system.”⁹

6. Bedford seeks a waiver of section 22.621 to provide public safety PLMR service on frequencies 482.1125 and 485.1125 MHz, which are “allocated for assignment to transmitters utilized within point-to-multipoint systems that support transmitters that provide public mobile service,” (part 22 use).¹⁰ The Department also seeks a waiver of section 90.311, which provides the specific frequency ranges available for PLMR use under section 90.303. In particular, section 90.311 excludes Channel 16 band frequencies below 482.30625 MHz for base and mobile, and frequencies below 485.30625 MHz for mobile, in the Boston urbanized area from PLMR assignment,¹¹ since section 22.621 allocates such frequencies for part 22 use.¹²

7. Finally, the Department seeks a waiver of section 90.307(d) to modify a station located 119.8 kilometers (74.4 miles) from broadcast television (TV) station WPXQ-TV, TV Channel 17, Newport, Rhode Island.¹³ The modification would increase the antenna height with appurtenances from 18 meters to 21 meters above ground level.¹⁴ Bedford provided an engineering analysis purporting to demonstrate that its 64 dBu contour does not overlap Station WPXQ-TV’s 64 dBu Grade B contour.¹⁵

⁵ 47 CFR § 1.925(b)(3)(i-ii).

⁶ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

⁷ Part 22 Waiver Request at 1.

⁸ *Id.*

⁹ File No. 0009935320, attached letter from Carol DiCaro, AFC Processor, APCO International, to FCC (with Frequency Search Results) (dated June 10, 2022).

¹⁰ 47 CFR § 22.621. Bedford indicates that its transmitters would provide PLMR service rather than public mobile service. See File No. 0009935320 (indicating Radio Service Code PW, one of the part 90 Private Land Mobile Radio service codes).

¹¹ 47 CFR § 90.311.

¹² 47 CFR § 22.621.

¹³ TV Spacing Waiver Request at 1. See also 47 CFR § 90.307(d). The smallest separation distance to the proposed sites is 76.3 km. See TV Spacing Waiver Request at 3.

¹⁴ File No. 0009935320; license for Station WIJ335.

¹⁵ File No. 0009935320, attached Grade B Contours. The generally accepted protection criterion for a contour analysis between a PLMR station and an adjacent channel TV station is zero dB at the TV station’s Grade B contour. See Private Land Mobile Operations in the 470-512 MHz Band, *Public Notice* No. 20291 (rel. Oct. 22, 1991) at 1.

8. Regarding the requested part 22 waiver, we find that the Department satisfies the first prong of the waiver standard, in that they have shown that the underlying purposes of sections 22.621 and 90.311 would not be frustrated by grant of a waiver in the present case. In particular, we find that no part 22 common carrier operations are licensed on the requested frequencies. While the Commission would typically assign a point-to-multipoint channel listed under section 22.621 to a part 22 applicant if that channel was previously unoccupied in that urban area,¹⁶ we find that continuing to let the requested frequencies remain fallow is not in the public interest.

9. We also find that Bedford's proposal for the unused frequencies entails substantial public safety benefits for preserving the life and property of Bedford's population that outweigh reserving the frequencies for part 22 use.¹⁷ The Department has shown that a waiver is in the public interest by improving the Department's radio coverage for first responders, allowing continued use of a spectrally-efficient shared radio system, and maintaining interoperability with other T-Band public safety agencies in the greater Boston metropolitan area.

10. Additionally, we find that the Department's proposed use will not create interference to adjacent channel licensees. Specifically, Bedford's proposed narrow 11.25 kHz bandwidth operations on 482.1125 and 485.1125 MHz will not spectrally overlap Town of Watertown, Massachusetts' public safety radio system operating on frequency pair 482/485.1250 MHz in narrowband mode.¹⁸ Furthermore, no licensee operates on adjacent frequency 482.1000 MHz. Accordingly, we grant the Department's Part 22 Waiver Request.

11. Regarding the TV spacing waiver request under section 90.307(d), we have independently reviewed the Department's engineering analysis and agree with its conclusions. The generally accepted protection criterion for a contour analysis between a PLMR station and an adjacent channel TV station is zero dB at the TV station's Grade B contour.¹⁹ Based on the non-overlap of the Department's 64 dBu interfering contour with Station WPXQ-TV's 64 dBu Grade B service contour, we agree that the Department would provide the requisite zero dB protection to the TV station.²⁰ Moreover, the Department's existing base stations have operated short-spaced to Station WPXQ-TV with no reported interference issues. We conditionally grant the TV-Spacing Waiver Request with a requirement that the Department must accept any interference caused by full-power and other primary television stations, and must eliminate any interference caused by its facilities to Station WPXQ-TV's viewers.

IV. CONCLUSION

12. Based on the information before us, we conclude that the Department has satisfied the criteria set forth under section 1.925, and that grant of the requests for waiver of Commission rules to enable it to operate its public safety radio system on part 22 channels as proposed is warranted. We therefore grant the requests for waiver, subject to the following condition:

¹⁶ See *Town of Morris, New Jersey*, Order, 24 FCC Rcd 12492, 12496-97 para. 13 n.51 (PSHSB PD 2009).

¹⁷ See *Gateway Telecom LLC*, Order, 22 FCC Rcd 15789, 15795 para. 13 (2007) (finding that "no current licensee that would be negatively impacted by granting a waiver" and that "if a waiver is denied, . . . frequencies will lay fallow until the Commission makes the spectrum available through auctions or other means."); see also *Town of Marin, California*, Order, 26 FCC Rcd 6677, 6683 para.16 (PSHSB PLD 2011). Cf. *Fresno City and Town Housing Authorities*, Order on Reconsideration, 15 FCC Rcd 10998, 11001 para. 9 (WTB PSPWD 2000) (weighing the competing public interests and finding that waiver proponent did not demonstrate that the public interest in not allowing a channel temporarily to lie fallow outweighed the public interest in fairness of application process).

¹⁸ See call sign WIK259.

¹⁹ See *Private Land Mobile Operations in the 470-512 MHz Band*, *Public Notice* No. 20291 (rel. Oct. 22, 1991) at 1.

²⁰ File No. 0009935320, attached Grade B Contours.

The licensee must accept any interference caused by full-power and other primary television stations, and must eliminate any interference caused by its facilities to viewers located within Station WPXQ-TV's noise-limited service contour (NLSC), 41 dBu F(50,90).

V. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 303(r), and section 1.925 of the Commission's rules, 47 CFR § 1.925, the Feb. 4, 2022 and Dec. 29, 2022 Waiver Requests, filed by the Town of Bedford Police Department, ARE GRANTED as conditioned herein.

14. **IT IS FURTHER ORDERED**, that the applications, File No. 0009935320, SHALL BE PROCESSED in accordance with this Order and the Commission's rules.

15. This action is taken under delegated authority pursuant to Sections 0.191(f) and 0.392 of the Commission's rules, 47 CFR §§ 0.191(f) and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Town of Acushnet, Massachusetts	)	File No. 0009464539
Town of Fairhaven, Massachusetts	)	File No. 0009464605
Town of Mattapoisett, Massachusetts	)	File No. 0009464724
	)	
Requests for Waiver of Sections 90.305(a) and	)	
90.307(d) of the Commission's Rules	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. On September 20, 2019, the Towns of Acushnet, Fairhaven, and Mattapoisett, Massachusetts (collectively, the Towns) filed modification applications for stations KZM468, WBN818, and WBN819, which operate in the 470-512 MHz band (T-Band), accompanied by two waiver requests.¹ The Towns seek waivers of sections 90.305(a) and 90.307(d) of the Commission's rules.² For the reasons below, we grant the requested waivers as conditioned herein.

II. BACKGROUND

2. The Towns share a radio system³ that operates on T-Band frequency pair 482/485.8125 MHz. The Towns seek to replace its single base station with a two-site, simulcast system. The Towns seek a waiver for one of the two fixed sites to be located 0.8 kilometers (0.5 miles) outside the 80-kilometer (50-mile) radius area around Boston, Massachusetts in which fixed stations are normally authorized under the rules.⁴ The Towns also seek a waiver of section 90.307(d) to locate the sites 76.3 and 77.9 kilometers, respectively, from broadcast television (TV) station WPXQ-TV, TV Channel 17, Newport, Rhode Island. Section 90.307(d) requires a Private Land Mobile Radio Service (PLMRS) base station which has associated mobile units to be spaced at least 145 kilometers from a protected adjacent

¹ See File Nos. 0009464539, 0009464605, and 0009464724 (filed Mar. 22, 2021, amended Apr. 29, 2021), attached Waiver - Expedited Action Requested Involving Licensing in the 470-512 MHz Band (filed Mar. 22, 2021) (Siting Waiver Request); Waiver - Expedited Action Requested Involving TV Protection in the 470-512 MHz Band (filed Apr. 29, 2021) (TV Spacing Waiver Request).

² 47 CFR §§ 90.305(a), 90.307(d) (respectively stating that the transmitter site(s) for base stations shall be located not more than 80 kilometers (50 miles) of the geographic centers of the urbanized areas listed in 47 CFR § 90.303; and the minimum distance between a land mobile base station which has associated mobile units and a protected adjacent channel television station is 145 kilometers (90 miles)).

³ See 47 CFR § 90.185 (setting forth the rules for multiple eligible licensees to share a single radio system).

⁴ Siting Waiver Request at 1. See also 47 CFR §§ 90.305(a), 90.307(d).

channel TV station.⁵ The Towns have special temporary authority (STA) to operate at the two proposed sites.⁶

3. On December 15, 2022, the Public Safety and Homeland Security Bureau (Bureau) issued a public notice⁷ seeking comment on the applications and Waiver Request. The Enterprise Wireless Alliance filed comments in support of the Towns' requests.⁸

III. DISCUSSION

4. To obtain a waiver, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁹ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁰

5. The Towns note that their use of a single radio channel pair to support public safety communications for three towns is spectrally efficient and promotes the conservation of valuable and finite spectrum.¹¹ However, because of increased urban density and the greater reliance on hand-held subscriber units, the Towns contend that the current single-site system does not provide adequate coverage for first responder personnel in all areas of the three towns.¹² The Towns therefore propose to modify their radio system by removing the currently licensed site and establishing two new simulcast transmitter sites located 43.4 and 50.5 miles from the center of Boston.¹³ The proposed sites meet separation requirements from other existing stations, and the Towns contend that they are the most appropriate locations to effectively serve all three towns.¹⁴ The Towns also state that the proposed modification is the only reasonable alternative available because they lack the resources to completely replace the radio system with a new system in an alternate frequency band.¹⁵ The Towns also submit that

⁵ 47 CFR § 90.307(d). The smallest separation distance to the proposed sites is 76.3 km. *See* TV Spacing Waiver Request at 3.

⁶ *See* STA call sign WRHT244 (expires Oct. 15, 2023).

⁷ *See Public Safety And Homeland Security Bureau Seeks Comment on Requests for Waiver Filed by the Towns of Acushnet, Fairhaven, and Mattapoisett, Massachusetts to Operate Two T-Band Base Stations*, Public Notice, DA 22-1328 (PSHSB Dec. 15, 2022).

⁸ File Nos. 0009464539, 0009464605, and 0009464724, Comments of the Enterprise Wireless Alliance, (filed Jan. 17, 2023) (stating that the Towns' requests are consistent with the Commission's conclusion in granting waiver relief for Goosetown Enterprises, Inc. [*see infra* para. 7]; the Towns' extension beyond 80 kilometers is *de minimis*; and the Towns have demonstrated that they do not overlap contours with TV Station WPXQ-TV). *Id.* at 2-5.

⁹ 47 CFR § 1.925(b)(3)(i-ii).

¹⁰ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (*citing Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

¹¹ Siting Waiver Request at 2.

¹² *Id.*

¹³ *Id.* at 3.

¹⁴ *Id.*

¹⁵ *Id.* at 2.

moving out of the T-Band would impair their ability to interoperate with neighboring public safety systems that use the T-Band.¹⁶

6. The Towns acknowledge that one of the sites would be 0.5 miles beyond the 50-mile radius where fixed transmitters are allowed in the Boston area.¹⁷ However, the Towns contend that these modifications will not materially change the current landscape of the T-Band allocations.¹⁸ The Towns further contend that locating one of the two sites 0.5 miles beyond the 50-mile radius is a *de minimis* change.¹⁹ The requested site would share a tower with FM Station WJFD, New Bedford, Massachusetts.²⁰

7. Regarding the Siting Waiver Request, we find that the Towns satisfy the first prong of the waiver standard, in that they have shown that the underlying purpose of section 90.305(a) would not be frustrated by grant of a waiver in the present case. In the 2001 *Goosetown* decision, the Commission stated that it would be “more inclined to consider favorably requests for waiver of Section 90.305(a) when the applicant proposes to contain its area of operation within 80 miles of the geographic center of the urban area in question.”²¹ Such operation, the Commission stated, “would not adversely impact television stations because television stations are already required to protect land mobile stations operating within that area.”²² Because the Towns’ proposed base station and mobile area of operation are located within 80 miles of Boston, we are inclined to consider favorably the Towns’ Siting Waiver Request. Specifically, the proposed site location 0.5 miles beyond the 50-mile limit is *de minimis* and unlikely to interfere with television reception. Moreover, we have waived section 90.305(a) previously under similar circumstances.²³

8. Finally, the Towns have shown that a waiver is in the public interest by improving the Towns’ radio coverage for first responders, allowing continued use of a spectrally-efficient shared radio system, and maintaining interoperability with other T-Band public safety agencies in the greater Boston metropolitan area. Accordingly, we grant the Towns’ Siting Waiver Request.

9. Regarding the TV Spacing Waiver Request, we have independently reviewed the Towns’ engineering analysis and agree with its conclusions. The generally accepted protection criterion for a contour analysis between a PLMR station and an adjacent channel TV station is zero dB at the TV station’s Grade B contour.²⁴ Based on the non-overlap of the Towns’ 64 dBu interfering contour with Station WPXQ-TV’s 64 dBu Grade B service contour, we agree that the Towns would provide the requisite zero dB protection to the TV station.²⁵ Moreover, the Towns’ existing base station has operated short-spaced to Station WPXQ-TV with no reported interference issues. We conditionally grant the TV-

¹⁶ *Id.*

¹⁷ *Id.* at 3.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Goosetown Enterprises, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 12792, 12797 para. 13 (2001) (*Goosetown*).

²² *Id.*; see 47 CFR §§ 73.623(e), 74.709.

²³ See, e.g., *New Brunswick Parking Authority of New Brunswick, New Jersey*, Order, 23 FCC Rcd 6865 (PSHSB 2008) (granting a waiver of section 90.305(a) for a base station located three miles beyond the 50-mile limit from Philadelphia, Pennsylvania); *County of Monmouth, New Jersey*, Order, 25 FCC Rcd 7176, 7182-83 para. 17 (PSHSB PD 2010) (granting a waiver of section 90.305(a) because all operations would be contained within 80 miles of Philadelphia, Pennsylvania, consistent with the *Goosetown MO&O*).

²⁴ See Private Land Mobile Operations in the 470-512 MHz Band, *Public Notice* No. 20291 (rel. Oct. 22, 1991) at 1.

²⁵ TV Spacing Waiver Request at 3-4.

Spacing Waiver Request with a requirement that the Towns must accept any interference caused by full-power and other primary television stations, and must eliminate any interference caused by its facilities to Station WPXQ-TV's viewers.

IV. CONCLUSION

10. Based on the information before us, we conclude that the Towns have demonstrated the criteria set forth under section 1.925, and that grant of their requests for waiver of Commission rules to enable them to modify their shared public safety radio system as proposed is warranted. We therefore grant the requests for waiver, subject to the following condition:

The licensees must accept any interference caused by full-power and other primary television stations, and must eliminate any interference caused by its facilities to viewers located within Station WPXQ-TV's noise-limited service contour (NLSC), 41 dBu F(50,90).

V. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 303(r), and section 1.925 of the Commission's rules, 47 CFR § 1.925, the March 22, 2021 Siting Waiver Request and the April 29, 2021 TV Spacing Waiver Request, filed by the Town of Acushnet, Massachusetts, the Town of Fairhaven, Massachusetts, and the Town of Mattapoisett, Massachusetts, ARE GRANTED as conditioned herein.

12. **IT IS FURTHER ORDERED**, that the applications, File Nos. 0009464539, 0009464605, and 0009464724, SHALL BE PROCESSED in accordance with this Order and the Commission's rules.

13. This action is taken under delegated authority pursuant to Sections 0.191(f) and 0.392 of the Commission's rules, 47 CFR §§ 0.191(f) and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
County of Los Angeles, California	)	File Nos. 0009466946 and 0009464743
	)	
Request for Waiver of Sections 90.305(a) and	)	
90.307(d) of the Commission's Rules	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. On March 22 and 23, 2021, the County of Los Angeles, California (the County) filed the above-captioned applications to operate a station at Tejon Peak, California on frequencies in the 470-512 MHz band (T-Band), accompanied by two waiver requests.¹ The County seeks waivers of sections 90.305(a) and 90.307(d) of the Commission's rules.² For the reasons below, we grant the requested waivers.

II. BACKGROUND

2. The County operates the Los Angeles Regional Interoperable Communications System (LA-RICS) on T-Band spectrum.³ The County seeks to add a base station located at Tejon Peak, California to be the primary public safety radio site serving a growing community in the northwest part of Los Angeles County.⁴ The County seeks a waiver for a fixed station located 18.4 kilometers (11.1 miles) outside the 80-kilometer (50-mile) radius area around Los Angeles, California in which fixed stations are normally authorized under the rules.⁵ The County also seeks a waiver of section 90.307(d) to locate its station short-spaced to adjacent channel Class A television (TV) Stations KTLN-CD, TV Channel 15, Bakersfield, California and KSBB-CD, TV Channel 17, Santa Barbara, California.⁶ Section 90.307(d)

¹ See File Nos. 0009464743 (filed Mar. 22, 2021, amended June 14, 2021) (requesting frequencies in the 482-488 MHz (TV Channel 16) band) and 0009466946 (filed Mar. 23, 2021, amended June 4, 2021) (requesting frequencies in the 470-476 MHz (TV Channel 14) band), attached Waiver Request (filed Mar. 22, 2021) (Siting Waiver Request); Waiver Request (filed June 4, 2021) (TV Spacing Waiver Request).

² 47 CFR §§ 90.305(a), 90.307(d) (respectively stating that the transmitter site(s) for base stations shall be located not more than 80 kilometers (50 miles) of the geographic centers of the urbanized areas listed in 47 CFR § 90.303; and the minimum distance between a land mobile base station which has associated mobile units and a protected adjacent channel television station is 145 kilometers (90 miles)).

³ Siting Waiver Request at 3-4.

⁴ *Id.* at 6-7.

⁵ *Id.* at 1. The site is located 98.4 kilometers (61.1 miles) from Los Angeles city center coordinates. See also 47 CFR §§ 90.305(a), 90.307(d).

⁶ TV Spacing Waiver Request at 2. The proposed station is located 70.8 kilometers from Station KTLN-CD and 92.7 kilometers from Station KSBB-CD.

requires a Private Land Mobile Radio Service (PLMRS) base station which has associated mobile units to be spaced at least 145 kilometers (90 miles) from a protected adjacent channel TV station.⁷

3. The County states that the Tejon Peak site “provides critical coverage in the northwest part of the County. The County’s receive-only site at this location provides ‘talk-in’ coverage, but growth in the County necessitates the ability to reach heretofore unreachable portions of this mountainous region. Some of that growth is a large project called the ‘Centennial at Tejon Peak’ which has been approved in the area. The project will have almost 20,000 new residential units and over 10.1 million square feet of commercial space. The construction of this project is estimated to create 25,000 jobs in the area. The project was approved in 2019, and the Tejon Peak site will be the primary public safety radio site serving this community.”⁸

4. The County states that “[w]hile the County has operated a receive-only site at Tejon Peak for many years, ... the new system is designed to improve coverage to this rapidly expanding part of the County.”⁹ The County notes that in 1986, the Commission granted a waivers of sections 90.305(a) and 90.307(d) to the County to operate Station WIK406 at the Bald Mountain site located more than 50 miles from Los Angeles on Channel 16 band frequencies.¹⁰

5. On December 15, 2022, the Public Safety and Homeland Security Bureau (Bureau) issued a public notice¹¹ seeking comment on the applications and waiver requests. The Enterprise Wireless Alliance filed comments in support of the County’s requests.¹²

III. DISCUSSION

6. To obtain a waiver, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.¹³ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁴

7. Regarding the Siting Waiver Request, we find that the County satisfies the first prong of the waiver standard, in that they have shown that the underlying purpose of section 90.305 would not be

⁷ 47 CFR § 90.307(d). Here, the proposed sites would be spaced 76.3 km from a protected adjacent channel TV station. *See* TV Spacing Waiver Request at 3.

⁸ Siting Waiver Request at 7.

⁹ *Id.* at 6.

¹⁰ *Id.* at 6-7 *citing* Private Land Mobile Radio Services (Channel 16 Public Safety Allocation), Report and Order, Gen. Docket No. 84-902, 59 R.R.2d 910 (1986) at footnote 3; and call sign WIK406, Special Conditions.

¹¹ *See* Public Safety And Homeland Security Bureau Seeks Comment on Requests For Waiver Filed by the County of Los Angeles, California to Operate a Base Station at Tejon Peak on Television Channels 14 and 16 Band Frequencies, *Public Notice*, DA 22-1329 (PSHSB rel. Dec. 15, 2022).

¹² File Nos. 0009464743 and 0009466946, Comments of the Enterprise Wireless Alliance (filed Jan. 17, 2023) (stating that waiver relief is appropriate because the County has demonstrated that the public interest requires public safety communications coverage outside the 50-mile boundary; no other interests are adversely affected; and the County does not overlap contours with TV Stations KTLN-CD and KSBB-CD). *Id.* at 2-3.

¹³ 47 CFR § 1.925(b)(3)(i-ii).

¹⁴ *WALT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (*citing* *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

frustrated by grant of a waiver in the present case, and that a grant is in the public interest. In 2001, the Commission stated that sections 90.305(a) and (b)¹⁵ “create[e] a circular area with a radius of 80 miles (80-mile area) within which PLMR stations may operate without interference from television stations.”¹⁶ The Commission stated that waiver requests that do not involve extension of the 80-mile limit are more likely to receive favorable treatment than requests involving extension of the limit, and that such operation would not adversely impact television stations because television stations are already required to protect land mobile stations operating within that area.¹⁷ Here, because the County’s proposed base station would operate 61.1 miles—within an 80-mile radius—from the center of the Los Angeles urbanized area and, therefore, would likely not interfere with TV stations entitled to protection, we find that the underlying purpose of section 90.305(a) would not be served by application of the rule in this instance. Moreover, we have waived section 90.305(a) previously under similar circumstances.¹⁸

8. The County has shown that a waiver is in the public interest by improving the County’s radio coverage for first responders in a growing part of Los Angeles County, allowing continued use of the LA-RICS radio system, and maintaining interoperability with other T-Band public safety agencies in the greater Los Angeles metropolitan area.¹⁹ Accordingly, we grant the County’s Siting Waiver Request.

9. Regarding the TV Spacing Waiver Request, we have independently reviewed the County’s engineering analysis²⁰ and agree with its conclusions. The generally accepted protection criterion for a contour analysis between a PLMR station and an adjacent channel TV station is zero dB at the TV station’s Grade B contour.²¹ Based on the non-overlap of the County’s 64 dBu interfering contour with Station KTLD-CD and KSBB-CD’s 64 dBu Grade B service contours, we agree that the County would provide the requisite zero dB protection to the TV station.²² Moreover, the County’s existing base stations have operated short-spaced from these Class A TV stations with no reported interference issues. We conditionally grant the TV-Spacing Waiver Request with a requirement that the County must accept any interference caused by full-power and other primary television stations, and must eliminate any interference caused by its facilities to Station KTLD-CD and KSBB-CD’s viewers.

IV. CONCLUSION

10. Based on the information before us, we conclude that the County has satisfied the criteria set forth under the waiver standard, and that grant of their requests for waiver of Commission rules to

¹⁵ 47 CFR § 90.305(b) (“Mobile units shall be operated within 48 km. (30 mi.) of their associated base station or stations.”).

¹⁶ See *Goosetown Enterprises, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 12792, 12795 para. 9 (2001) (*Goosetown MO&O*) citing 47 CFR §§ 90.305(a), 90.305(b).

¹⁷ *Goosetown MO&O* at 16 FCC Rcd 12797 para. 13; see also 47 CFR §§ 73.623(e) (requiring digital television stations to be located at least 250 kilometers (155 miles) from the geographic center of a co-channel land mobile allocation and 176 kilometers (110 miles) from the geographic center of an adjacent land mobile allocation), 74.709 (requiring low power television (LPTV) stations to protect co-channel or first adjacent channel land mobile operations located within a contour radiating 130 kilometers (80 miles) from the geographic center in question).

¹⁸ See, e.g., *County of Monmouth, New Jersey*, Order, 25 FCC Rcd 7176, 7182-83 para. 17 (PSHSB PD 2010) (granting a waiver of section 90.305(a) because all operations would be contained within 80 miles of Philadelphia, Pennsylvania, consistent with the *Goosetown MO&O*).

¹⁹ See Siting Waiver Request at 3-4.

²⁰ See File Nos. 0009464743 and 0009466946, attached letter from Adam Quintana, Systems Engineer, EZ-Spectrum, LLC, to Federal Communications Commission (dated May 26, 2021) (Engineering Analysis).

²¹ See Private Land Mobile Operations in the 470-512 MHz Band, *Public Notice* No. 20291 (rel. Oct. 22, 1991) at 1.

²² TV Spacing Waiver Request at 3-4. See also Engineering Analysis.

enable them to modify their shared public safety radio system as proposed is warranted. We therefore grant the requests for waiver, subject to the following condition:

The licensee must accept any interference caused by full-power and other primary television stations, and must eliminate any interference caused by its facilities to viewers located within Station KTLD-CD and KSBB-CD's noise-limited service contours (NLSC), 41 dBu F(50,90).

The licensee must accept any interference from Stations KHSC-LD, TV Channel 16, Fresno California; Station KJEO-LD, TV Channel 14, Fresno, California; and Station KXBF-LD, TV Channel 15, Bakersfield, California.

V. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 303(r), and section 1.925 of the Commission's rules, 47 CFR § 1.925, the March 22, 2021 Siting Waiver Request and the June 4, 2021 TV Spacing Waiver Request, filed by the County of Los Angeles, California, ARE GRANTED as conditioned herein.

12. **IT IS FURTHER ORDERED**, that the applications, File Nos. 0009464743 and 0009466946, SHALL BE PROCESSED in accordance with this Order and the Commission's rules.

13. This action is taken under delegated authority pursuant to Sections 0.191(f) and 0.392 of the Commission's rules, 47 CFR §§ 0.191(f) and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
City of New Bedford, Massachusetts	)	File Nos. 0009981234 and 0010197335
	)	
Request for Waiver of Section 90.305(a) of the	)	
Commission's Rules	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. On April 1 and September 9, 2022, the City of New Bedford, Massachusetts (New Bedford, or the City) filed modification applications for stations WRPE962 and WRTX821, respectively, which operate in the 470-512 MHz band (T-Band), each accompanied by a request for waiver¹ of section 90.305(a) of the Commission's rules.² For the reasons below, we grant the requested waiver as conditioned herein.

II. BACKGROUND

2. New Bedford operates a three-site radio system under call sign WRPE962 using three T-Band frequency pairs in the TV Channel 14 band (470-476 MHz),³ and a four-site radio system under call sign WRTX821 using spectrum in the TV Channel 16 band (482-488 MHz).⁴ New Bedford seeks a waiver of section 90.305(a) to add two new base stations to Station WRPE962 at the New Bedford Hotel and the Regency Hotel, located 0.715 and 0.675 kilometers, respectively outside the 80-kilometer (i.e., 0.154 and 0.129 miles, respectively outside the 50-mile) radius area around Boston, Massachusetts in which fixed stations are normally authorized under the rules.⁵ The City also seeks a waiver under section 90.305(a) to add one base station to Station WRTX821 at the same New Bedford Hotel site, which would operate on the same three base frequencies in the TV Channel 14 band as Station WRPE962.⁶

¹ See File No. 0009981234 (filed Apr. 1, 2022, amended Sept. 20, 2022), attached Waiver (filed Apr. 1, 2022) (WRPE962 Waiver Request); File No. 0010197335 (filed Sept. 8, 2022, amended Sept. 9, 2022, Oct. 14, 2022, Oct. 17, 2022), attached Waiver (filed Sep. 8, 2022) (WRTX821 Waiver Request).

² 47 CFR § 90.305(a) (stating that the transmitter site(s) for base stations shall be located not more than 80 kilometers (50 miles) of the geographic centers of the urbanized areas listed in 47 CFR § 90.303).

³ File No. 0009981234; call sign WRPE962.

⁴ File No. 0010197335; call sign WRTX821.

⁵ File No. 0009981234; WRPE962 Waiver Request at 1. See also 47 CFR § 90.305(a).

⁶ See *supra* n.5; File No. 0010197335; WRTX821 Waiver Request at 1. The three frequency pairs are 470/473.5125 MHz, 471/474.0375 MHz, and 471/474.1500 MHz.

3. On December 15, 2022, the Public Safety and Homeland Security Bureau (Bureau) issued a public notice⁷ seeking comment on the applications and waiver request. The Enterprise Wireless Alliance filed comments in support of the City's requests.⁸

III. DISCUSSION

4. To obtain a waiver, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁹ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁰

5. The City states that it “is in dire need of improved coverage and building penetration in its historical downtown business district.”¹¹ The City contends that “in order to accomplish the required service dependability, it is necessary to construct two sites in that area.”¹² The City states that “the prime sites that can provide that coverage are all located greater than 50 miles of the geographic center of Boston.”¹³ The City states that a waiver grant is in the public interest and would “provide enhanced public safety radio services to the citizens and visitors in the greater downtown New Bedford.”¹⁴

6. The City acknowledges that the sites exceed the 50-mile radius specified in the rules for locating fixed transmitters in the Boston area.¹⁵ However, the City contends that locating the two stations up to 0.154 miles beyond the 50-mile radius is a *de minimis* change.¹⁶

7. We find that the City satisfies the first prong of the waiver standard, in that they have shown that the underlying purpose of section 90.305(a) would not be frustrated by grant of a waiver in the present case. In 2001, the Commission stated that sections 90.305(a) and (b)¹⁷ “create[e] a circular area with a radius of 80 miles (80-mile area) within which PLMR stations may operate without interference

⁷ See *Public Safety And Homeland Security Bureau Seeks Comment on Requests for Waiver Filed by the City of New Bedford, Massachusetts To Add Two T-Band Base Stations*, Public Notice, DA 22-1328 (PSHSB rel. Dec. 15, 2022).

⁸ File Nos. 0009981234 and 0010197335, Comments of the Enterprise Wireless Alliance (filed Jan. 17, 2023) (stating the City's requests are consistent with the Commission's conclusion in granting waiver relief for Goosetown Enterprises, Inc. [*see infra* para. **Error! Reference source not found.**]; the City's extensions beyond 80 kilometers are *de minimis*; and no waiver of TV protection rules is required). *Id.* at 2-3.

⁹ 47 CFR § 1.925(b)(3)(i-ii).

¹⁰ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

¹¹ WRPE962 Waiver Request at 1; WRTX821 Waiver Request at 1.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ 47 CFR 90.305(b) (“Mobile units shall be operated within 48 km. (30 mi.) of their associated base station or stations.”).

from television stations.”¹⁸ The Commission stated that waiver requests that do not involve extension of the 80-mile limit are more likely to receive favorable treatment than requests involving extension of the limit, and that such operation would not adversely impact television stations because television stations are already required to protect land mobile stations operating within that area.¹⁹ Here, the proposed station locations extensions 0.129 and 0.154 miles beyond the 50-mile limit are *de minimis*. Because the City’s proposed base stations and mobile areas of operation are located within 80 miles of Boston, and, therefore, would likely not interfere with TV stations entitled to protection, we find that the underlying purpose of section 90.305(a) would not be served by application of the rule in this instance. Moreover, we have waived section 90.305(a) previously under similar circumstances.²⁰

8. Finally, the City has shown that a waiver is in the public interest by improving the City’s radio coverage for first responders, allowing continued use of a spectrally-efficient shared radio system, and maintaining interoperability with other T-Band public safety agencies in the greater Boston metropolitan area. Accordingly, we grant the City’s Waiver Requests.

IV. CONCLUSION

9. Based on the information before us, we conclude that the City has demonstrated the criteria set forth under the waiver standard, and that grant of its requests for waiver of Commission rules to enable them to modify their shared public safety radio system as proposed is warranted. We therefore grant the requests for waiver.

V. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 303(r), and section 1.925 of the Commission’s rules, 47 CFR § 1.925, the April 1, 2022, Waiver Request and September 8, 2022 Waiver Request, filed by the City of New Bedford, Massachusetts, ARE GRANTED.

11. **IT IS FURTHER ORDERED**, that the applications, File Nos. 0009981234 and 0010197335, SHALL BE PROCESSED in accordance with this Order and the Commission’s rules.

¹⁸ See *Goosetown Enterprises, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 12792, 12795 para. 9 (2001) (*Goosetown MO&O*) citing 47 CFR §§ 90.305(a), 90.305(b).

¹⁹ *Goosetown MO&O* at 16 FCC Rcd 12797 para. 13; see also 47 CFR §§ 73.623(e) (requiring digital television stations to be located at least 250 kilometers (155 miles) from the geographic center of a co-channel land mobile allocation and 176 kilometers (110 miles) from the geographic center of an adjacent land mobile allocation), 74.709 (requiring low power television (LPTV) stations to protect co-channel or first adjacent channel land mobile operations located within a contour radiating 130 kilometers (80 miles) from the geographic center in question).

²⁰ See, e.g., *New Brunswick Parking Authority of New Brunswick, New Jersey*, Order, 23 FCC Rcd 6865 (PSHSB 2008) (granting a waiver of section 90.305(a) for a base station located three miles beyond the 50-mile limit from Philadelphia, Pennsylvania); *County of Monmouth, New Jersey*, Order, 25 FCC Rcd 7176, 7182-83 para. 17 (PSHSB PD 2010) (granting a waiver of section 90.305(a) because all operations would be contained within 80 miles of Philadelphia, Pennsylvania, consistent with the *Goosetown MO&O*).

12. This action is taken under delegated authority pursuant to Sections 0.191(f) and 0.392 of the Commission's rules, 47 CFR §§ 0.191(f) and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
County of Westchester, New York	)	File Nos. 0009586826, 0009647521,
	)	0009649008, 0009650843
Requests for Waiver of Sections 22.621, 90.303,	)	
and 90.311 of the Commission's Rules	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. On June 15, 2021 and subsequent dates, the County of Westchester, New York (Westchester, or the County) filed four applications to operate a public safety paging system on part 22 paging control channels in the 470-512 MHz band (T-Band), accompanied by two waiver requests.¹ The County seeks waivers of sections 22.621, 90.303, and 90.311 of the Commission's rules.² For the reasons below, we grant the requested waivers as conditioned herein.

II. BACKGROUND

2. The County currently operates a public safety radio system on several T-Band channel pairs from part 22 spectrum as authorized by several prior waiver orders.³ Westchester seeks to use non-public safety frequencies 470.2000 and 470.2125 MHz for public safety paging operations.⁴

¹ See File Nos. 0009586826 (filed June 15, 2021, amended Dec. 28, 2021, Sept. 16, 2022, and Oct. 25, 2022) (requesting frequency 470.2125 MHz), attached Waiver Request (filed June 15, 2021) (Waiver Request – 470.2125 MHz); 0009647521 (filed Aug. 4, 2021, amended Aug. 6, 2021, Dec. 28, 2021, Sept. 16, 2022, and Oct. 25, 2022) (requesting frequency 470.2125 MHz), attached Waiver Request – 470.2125 MHz; 0009649008 (filed Aug. 5, 2021, amended Aug. 30, 2021, Dec. 28, 2021, Sept. 16, 2022, and Oct. 25, 2022) (requesting frequency 470.2000 MHz), attached Waiver Request (filed Aug. 30, 2021) (Waiver Request – 470.2000 MHz); and 0009650843 (filed Aug. 6, 2021, amended Aug. 30, 2021, Dec. 28, 2021, Sept. 16, 2022, and Oct. 25, 2022) (requesting frequency 470.2000 MHz), attached Waiver Request – 470.2000 MHz. All four applications contain a Supplemental Statement In Support of Higher Effective Radiated Power on 470.2000 MHz and 470.2125 MHz For Paging Operations (filed Oct. 25, 2022) (Supplement).

² See 47 CFR §§ 22.621 (designating certain frequencies for point-to-multipoint transmitters that support transmitters that provide public mobile service), 90.303 (allocating certain TV channels for land mobile use in thirteen urbanized areas), and 90.311 (designating certain frequency ranges for land mobile radio assignment); see also Waiver Request – 470.2000 MHz; Waiver Request – 470.2125 MHz.

³ See *County of Westchester*, Order, 19 FCC Rcd 23189 (WTB PSCID 2004); *County of Westchester*, Order, 20 FCC Rcd 18852 (WTB PSCID 2005); *County of Westchester, New York*, Order, 22 FCC Rcd 19872 (PSHSB PD 2007).

⁴ Waiver Request – 470.2000 MHz at 2; Waiver Request – 470.2125 MHz at 2.

3. On February 1, 2023, the Public Safety and Homeland Security Bureau (Bureau) issued a *Public Notice*⁵ seeking comment on the applications and waiver requests. In particular, the *Public Notice* noted that the County is currently authorized to operate on one of the two frequencies, 470.2000 MHz,⁶ but is requesting higher effective radiated power (ERP) levels than currently authorized.⁷ For frequency 470.2125 MHz, the County seeks authorization to operate, and at the same increased ERP levels as proposed on frequency 470.2000 MHz.⁸ We received no comments or replies.

III. DISCUSSION

4. To obtain a waiver, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.⁹ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁰

5. The County states that “[t]he waiver requests that resulted in the above referenced Orders documented the severe frequency congestion in the New York and New Jersey areas.”¹¹ Westchester contends that “[t]he frequency congestion situation has not improved since the ... Orders were granted.”¹² Westchester’s frequency coordinator submitted a letter certifying that “there are no UHF or T-band public safety frequencies that can be assigned.”¹³

6. Westchester states that “[t]he requested channel[s] will improve radio service to first responders in Westchester County without causing unacceptable interference to other incumbent land mobile or DTV licensees.”¹⁴ The County states that it “is experiencing poor to no coverage in a number of locations, particularly in larger office buildings and shopping malls.”¹⁵ The County explored alternative solutions such as bi-directional amplifiers (BDAs) and distributed antenna systems (DASs), but states that they “are difficult to install in older buildings and they are very costly.”¹⁶ The County

⁵ See *Public Safety And Homeland Security Bureau Seeks Comment on Requests for Waiver Filed by the County of Westchester, New York to Operate a Public Safety Paging System on Part 22 Spectrum*, Public Notice, DA 23-96 (PSHSB Feb. 1, 2023) (*Public Notice*).

⁶ *Id.* at 2; see call signs WQHV394, WREA946, and WREA950.

⁷ File Nos. 0009649008, 0009650843; see *Public Notice* at 2 for a table of current and proposed power levels by location.

⁸ File Nos. 0009586826, 0009647521.

⁹ 47 CFR § 1.925(b)(3)(i-ii).

¹⁰ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

¹¹ Waiver Request – 470.2000 MHz at 2; Waiver Request – 470.2125 MHz at 2.

¹² *Id.*

¹³ File Nos. 0009586826, 0009647521, 0009649008, 0009650843, attached letter from Judy Stone, Association of Public-Safety Communications Officials (APCO) AFC Team Leader, APCO International, to FCC (dated Sept. 16, 2022).

¹⁴ Waiver Request – 470.2000 MHz at 4; Waiver Request – 470.2125 MHz at 4.

¹⁵ Supplement at 1.

¹⁶ *Id.*

estimates that it has in excess of 1,500 large office, apartment, and condo buildings.¹⁷ The County states that “[i]nitial installation costs would be extremely high and recurring maintenance would be required in each building.”¹⁸ Westchester highlights additional burdens associated with BDAs and DASs including individual written agreements with building owners, liability insurance, obtaining power sources, and “many years” needed to complete installations.¹⁹ Therefore, the County seeks an authorization to operate on frequency 470.2125 MHz, and higher power levels at each site for immediate improved coverage.²⁰

7. Westchester seeks a waiver of section 22.621 to provide public safety Private Land Mobile Radio Service (PLMR) on frequency 470.2125 MHz, which is “allocated for assignment to transmitters utilized within point-to-multipoint systems that support transmitters that provide public mobile service,” (part 22 use).²¹ The County also seeks a waiver of section 90.303, which allocates certain TV channels for land mobile use in thirteen urbanized areas of the United States.²² Finally, the County seeks a waiver of section 90.311, which provides the specific frequency ranges available for PLMR use under section 90.303. In particular, section 90.311 excludes Channel 14 band frequencies below 470.30625 MHz in the New York/New Jersey urbanized area from PLMR assignment,²³ since section 22.621 allocates such frequencies for part 22 use.²⁴

8. We find that the County satisfies the first prong of the waiver standard, in that they have shown that the underlying purposes of sections 22.621, 90.303, and 90.311 would not be frustrated by grant of a waiver in the present case. In particular, we find that no part 22 common carrier operations are licensed on the requested frequencies. While the Commission would typically assign a point-to-multipoint channel listed under section 22.621 to a part 22 applicant if that channel was previously unoccupied in that urban area,²⁵ we find that continuing to let the requested frequencies remain fallow (notwithstanding Westchester’s own existing use of frequency 470.2000 MHz) is not in the public interest.

9. We also find that Westchester’s proposal for the unused frequencies entails substantial public safety benefits for preserving the life and property of the County’s population that outweigh reserving the frequencies for part 22 use.²⁶ The County has shown that a waiver is in the public interest

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ 47 CFR § 22.621. Westchester provides that they would use the frequencies for public safety paging operations, rather than for public mobile service. Waiver Request – 470.2000 MHz at 2; Waiver Request – 470.2125 MHz at 2. Additionally, frequency 470.2000 MHz is offset by 12.5 kHz from allocated public mobile service channels 470.1875 and 470.2125 MHz.

²² 47 CFR § 90.303. Frequencies in the TV channel 14 and 15 bands, including the subject frequencies, are available for land mobile and paging assignment in the New York urbanized area.

²³ 47 CFR § 90.311.

²⁴ 47 CFR § 22.621.

²⁵ See *County of Morris, New Jersey*, Order, 24 FCC Rcd 12492, 12496-97 para. 13 n.51 (PSHSB PD 2009).

²⁶ See *Gateway Telecom LLC*, Order, 22 FCC Rcd 15789, 15795 para. 13 (2007) (finding that “no current licensee that would be negatively impacted by granting a waiver” and that “if a waiver is denied, . . . frequencies will lay fallow until the Commission makes the spectrum available through auctions or other means.”); see also *County of Marin, California*, Order, 26 FCC Rcd 6677, 6683 para.16 (PSHSB PLD 2011). Cf. *Fresno City and County Housing Authorities*, Order on Reconsideration, 15 FCC Rcd 10998, 11001 para. 9 (WTB PSPWD 2000) (weighing the competing public interests and finding that waiver proponent did not demonstrate that the public interest in not allowing a channel temporarily to lie fallow outweighed the public interest in fairness of application process).

by improving the County's radio coverage for first responders, allowing continued use of a spectrally-efficient shared radio system, and maintaining interoperability with other T-Band public safety agencies in the greater New York metropolitan area.

10. Additionally, we find that Westchester's proposed use will not create interference to adjacent channel licensees. Specifically, Westchester's proposed narrow 11.25 kHz bandwidth operations on 470.2000 MHz would not spectrally overlap Borough of Fort Lee, New Jersey's public safety radio system operating on frequency 470.1875 MHz in narrowband mode.²⁷ Furthermore, no licensee operates on adjacent frequency 470.2250 MHz. Accordingly, we grant the County's Waiver Requests.

IV. CONCLUSION

11. Based on the information before us, we conclude that the County has satisfied the criteria set forth under section 1.925, and that grant of the requests for waiver of Commission rules to enable it to operate its public safety paging system as proposed is warranted. We therefore grant the requests for waiver.

V. ORDERING CLAUSES

12. Accordingly, **IT IS ORDERED** that, pursuant to Sections 1, 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), and 303(r), and section 1.925 of the Commission's rules, 47 CFR § 1.925, the June 15, 2021 and Aug. 30, 2021 Waiver Requests, as supplemented, filed by the County of Westchester, ARE GRANTED.

13. **IT IS FURTHER ORDERED**, that the applications, File Nos. 0009586826, 0009647521, 0009649008, and 0009650843, SHALL BE PROCESSED in accordance with this Order and the Commission's rules.

14. This action is taken under delegated authority pursuant to Sections 0.191(f) and 0.392 of the Commission's rules, 47 CFR §§ 0.191(f) and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

²⁷ See call sign WQBL382.



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

DA 23-398
Released: May 11, 2023

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON A
REQUEST FOR WAIVER FILED BY THE HERRIMAN POLICE DEPARTMENT SEEKING
TO LICENSE A SPECIALIZED MOBILE RADIO POOL CHANNEL**

ULS File Number 0010184781

Comments Due: June 12, 2023

Reply Comments Due: June 27, 2023

The Public Safety and Homeland Security Bureau (Bureau) seeks comment on the above-captioned application and waiver request filed on August 29, 2022, by the Herriman Police Department (Herriman PD).¹ Herriman PD is a Public Safety Pool licensee seeking to license a one-channel conventional base station repeater in Herriman City, Utah on an 800 MHz Specialized Mobile Radio (SMR) Pool channel (859.6750 MHz).² It also seeks to license associated mobile units on the mobile transmit side of the SMR channel pair (814.6750 MHz).³

In a waiver request attached to its application, Herriman PD requests to operate a one-channel conventional 800 MHz base station repeater with associated mobile units as the “primary means of communications for Emergency Management” and as a standalone backup option for Herriman PD which uses Utah’s trunked radio system for its primary communications.⁴ Herriman PD indicates that given the lack of public safety spectrum, it has been unable to identify an 800 MHz channel for the conventional base station, that is allocated for public safety.⁵ Herriman PD claims that no public safety channels are available for licensing in and around Herriman City, Utah due to the presence of the “statewide trunked radio system.”⁶

Consequently, Herriman PD seeks a waiver of Section 90.617(d) of the Commission rules so it can license SMR Pool frequency 859.6750 MHz for use at its one-channel conventional base station repeater and SMR Pool frequency 814.6750 MHz for associated mobile units operating within 25 kilometers of the base station repeater.⁷ Section 90.617(d) states that frequencies in the SMR Pool are available for licensing “only to eligibles in the SMR category” including SMR stations and eligible end

¹ Herriman Police Department Application, ULS File no. 0010184781 (dated Aug. 29, 2022) (Herriman PD Application). *See also* Attachment to Herriman PD Application labeled “SMR Waiver” at 1 (attached Aug. 29, 2022) (Waiver Request).

² *See* Herriman PD Application.

³ *Id.*

⁴ Waiver Request at 1.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* *See also* Herriman PD Application.

users.⁸ Therefore, Herriman PD, a public safety entity, would not be eligible to license the requested SMR channel pair absent a waiver.

In support of its waiver request, Herriman PD includes with its application a letter from its frequency coordinator, APCO International (APCO), stating that it searched all “public safety and vacated spectrum and Industrial/Business 800 MHz Frequencies” but could identify none available for licensing at the location of Herriman PD’s proposed new base station repeater.⁹ APCO says that all the frequencies it searched have “co or adjacent incumbents less than 88 km” from Herriman PD’s proposed site.¹⁰

Furthermore, Herriman PD says that, if its waiver request is granted, the SMR Pool channel will be used at its proposed conventional base station repeater to provide “public safety standard communications to Public Safety personnel in-buildings throughout the City and surrounding area.”¹¹ Herriman PD notes that in the event of an outage to the state’s trunked radio system, its repeater will continue addressing safety-of-life “issues for our employees, citizens and visitors.”¹² Herriman PD notes that the risks to its community include “winter weather, earthquakes, and wildland fires.”¹³

We seek comment on whether the Bureau should grant Herriman PD a waiver of the eligibility requirements in section 90.617(d) so it can license SMR Pool frequency 859.6750 MHz at its one-channel conventional base station repeater and SMR Pool frequency 814.6750 MHz for associated mobile units and use the SMR channel pair for public safety communications.

Interested parties may file comments on or before **June 12, 2023**. Parties may file replies on or before **June 27, 2023**.

Instructions for Filing Comments

All comments and reply comments should reference the subject Herriman Police Department Waiver Request and the DA number indicated on this *Public Notice*. Comments may be filed: (1) electronically by accessing the applicant’s file number(s) in the Commission’s Universal Licensing System (ULS),¹⁴ or (2) by filing paper copies.

Electronic Filers: Pleadings may be submitted electronically as follows:

- Begin the process by using the following link to the ULS website <https://wireless2.fcc.gov/UlsEntry/pleadings/pleadingsType.jsp>. The link will take you to the “Pleading Information” screen for “Non-docketed Pleadings” where you select “Reply” in the drop-down window for the type of pleading and then enter the pleadings filer information.

⁸ 47 CFR § 90.617(d).

⁹ Letter from Amanada Bredstrup, Senior Processor, APCO International to Federal Communications Commission at 1 (October 17, 2019) (attached to Herriman PD Application on Aug. 29, 2022) (APCO Coordination Statement).

¹⁰ *Id.*

¹¹ Waiver Request at 1.

¹² *Id.*

¹³ *Id.*

¹⁴ *Wireless Telecommunications Bureau Enhances the Commission’s Universal Licensing System to Implement Electronic Filing for Pleadings*, Public Notice, 21 FCC Rcd 424 (WTB 2006). See http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-06-125A1.pdf.

Completion of the contact information is optional. Upon completion of this screen, please note the instructions for the filing: “*Pleadings must be dated and must include a signature, in this instance an electronic signature, and the address and phone number of the signing party.*”¹⁵ Click on “CONTINUE.”

- The second step is to complete the *File Numbers/Call Signs* screen. Click if the pleading pertains to a File Number or Call Sign and enter the File Number or Call Sign. Please note that you must enter a File Number or Call Sign to continue. If the pleading pertains to multiple applications or licenses, you must enter each File Number or Call Sign as appropriate. After clicking the “SUBMIT” button, the screen will update to show all the File Numbers/Call Signs associated with the pleading. At this time, you may delete selected File Numbers/Call Signs from the page before continuing.
- The third step is to complete the *Attach File* screen to attach the pleading document. Use the drop down box to select Pleading or Confidential Pleading. The “BROWSE” button opens a file upload window where you will locate and select your pleading file. The Description field allows you to enter a brief description for the pleading. Click the “ADD ATTACHMENT” button to upload your pleading. You may submit up to thirty files for each pleading but each file must be smaller than 10 MB in size. You also can delete any selected file from the pleading.
- Finally, to complete your electronic pleading submission, click on the “SUBMIT PLEADING” button and the *Confirmation* screen will be displayed. The *Confirmation* screen will display your Confirmation Number as well as your entered pleadings information. You may print this page for your records by selecting the Print Page link at the top of the page and have the option of submitting another pleading or returning to the ULS website by selecting a link at the bottom of the page.

The ULS Application Search results will display pleadings under the ADMIN tab when a comment or reply comment has been filed. Users can view the pleading by clicking on the link for the specific comment or reply comment in the Description field. The general public will not be able to view confidential pleadings.

For additional information or assistance on how to file a comment or reply comment or other relevant pleading, you may visit the Web at <https://www.fcc.gov/available-support-services>. You may also call the FCC ULS Customer Support Center at (877) 480-3201 and select option 2. For TTY, please call (717) 338-2824. Assistance from the FCC ULS Customer Support Center is available between the hours of 8 a.m. to 6:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls to the FCC ULS Customer Support Center are recorded.

Paper Filers: Parties who choose to file by paper must submit an original and one copy of each filing.

¹⁵ See 47 CFR Part 1.

- Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.¹⁶
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L St, NE, 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 e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice).

For further information regarding this matter, contact Brian Marengo, Electronics Engineer, Policy and Licensing Division, Public Safety and Homeland Security Bureau at (202) 418-0838 or Brian.Marengo@fcc.gov.

- FCC -

¹⁶ In response to the COVID-19 pandemic, the FCC has closed its current hand-delivery filing location at FCC Headquarters. We encourage outside parties to take full advantage of the Commission's electronic filing system. Any party that is unable to meet the filing deadline due to the building closure may request a waiver of the comment or reply comment deadline, to the extent permitted by law. *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (OMD2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>

DA 23-399

Released: May 11, 2023

**PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON
REQUEST FILED BY THE GOVERNMENT OF THE VIRGIN ISLANDS TO WAIVE
TECHNICAL LIMITATIONS IN SECTION 90.20 OF THE COMMISSION'S RULES**

FCC File Number 0009948269

Comment Date: June 12, 2023

Reply Comment Date: June 26, 2023

The Public Safety and Homeland Security Bureau (Bureau) seeks comment on the above-captioned application and waiver request filed on July 29, 2022, by the Government of the Virgin Islands (GVI).¹ GVI seeks a waiver of certain technical limitations in the rules so that it can strengthen and expand its public safety communications system. We seek comment on the requested waiver, and in particular, from any party who would be affected by GVI's proposed use of paging frequency 157.4500 MHz.

Technical Limitations. GVI seeks a waiver of limitations (13) and (45) under Section 90.20(d) of the Federal Communications Commission's (Commission) rules.² GVI seeks a waiver of these limitations to permit the use of frequency 157.4500 MHz as a mobile inbound to a Mobile Relay fixed station using an effective radiated power (ERP) of 50 watts.³

GVI submits that its contractor analyzed the available spectrum and determined that there is no other frequency immediately available that can satisfy the requested public safety use.⁴ GVI states that it requires spectrum in the 150–160 MHz band that is compatible with existing infrastructure and to remain interoperable between the various operations of the Virgin Islands Government.⁵ GVI states that frequencies in other bands would not satisfy the immediate public safety use and contends that the implementation of a fixed base frequency as “mobile only” is technically feasible without causing

¹ Government of Virgin Islands Application, File no. 0009948269 (dated Jul. 29, 2022) (Application). GVI originally filed the application on March 10, 2022 and attached a waiver request (Waiver Request) and a contour study (Contour Study). The Bureau returned it on July 8, 2022. *See* Return Letter, Reference Number 7053667 (dated Jul. 8, 2022) (Return Letter) (stating, among other issues, that the Application was returned for a statement from the frequency coordinator that there are no other VHF public safety channels available to be used for the proposed mobile operation and a list of other public safety channels considered by the frequency coordinator). GVI amended the application and resubmitted it on July 29, 2022 with a responsive attachment, “Response to Return.”

² 47 CFR §§ 90.20 (d)(13) (limiting the use of an affected frequency to one-way paging communications to mobile receivers and prohibiting transmissions on the frequency for the purpose of activating or controlling remote objects); 47 CFR § 90.20 (d)(45) (limiting the use of an affected frequency to 30 watts transmitter output power).

³ Waiver Request at 2-3 *citing* 47 CFR § 90.20 (d)(13) and (45).

⁴ Waiver Request at 4.

⁵ *Id.*

interference.⁶ Finally, GVI claims that its analysis has shown that there are no current license holders on this frequency within the Virgin Islands.⁷

Interested parties may file comments on or before **June 12, 2023**. Parties may file replies on or before **June 26, 2023**.

Pursuant to Sections 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 *Public Notice*. All comments and reply comments should reference the subject file number, waiver requests, and the DA number indicated on this *Public Notice*.

Pleadings may be filed electronically through ULS, or by paper pursuant to the following instructions. Parties are strongly encouraged to file electronically using ULS.

- **Electronic Filers:** Pleadings may be filed electronically using the Internet by accessing ULS: <https://www.fcc.gov/wireless/systems-utilities/universal-licensing-system>. Each screen indicates the information to be provided or the action(s) to be performed to complete that screen. From the ULS website, to begin the process of filing a pleading click on "SUBMIT A PLEADING." The link takes the user to the *Pleadings Information* screen. Upon completing the *Pleadings Information* screen, click "CONTINUE" to go to the *File Numbers/Call Signs* screen. Upon providing the information required on that screen, complete steps three and four at the *Attach File* and *Confirmation* screens, respectively. For more information, detailed instructions can be found in the *Public Notice* announcing the implementation of electronic filing for pleadings.⁸
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial courier or by the U.S. Postal Service. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service First-Class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- As of March 19, 2020, the FCC is no longer accepting hand-delivered or messenger delivered paper filings at FCC Headquarters due to the COVID-19 pandemic.⁹ Furthermore, after COVID-19 restrictions are lifted the new filing location for paper documents will be 9050 Junction Drive, Annapolis Junction, MD 20701.¹⁰
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

⁶ *Id.*

⁷ *Id.*

⁸ *Wireless Telecommunications Bureau Enhances the Commission's Universal Licensing System to Implement Electronic Filing for Pleadings*, Public Notice, 21 FCC Rcd 424 (WTB 2006).

⁹ *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (OMD 2020).

¹⁰ *FCC Announces Closure of Filing Window at FCC Headquarters and Permanent Change in the Location and Hours for Receiving Hand-Carried Filings*, Public Notice (OMD July 7, 2020).

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

The application, waiver requests, and comments and reply comments can be accessed electronically via the Commission's Universal Licensing System, <https://www.fcc.gov/wireless/universal-licensing-system>.

For technical assistance in using ULS for viewing the application or filing an amendment to the application, contact the ULS Licensing Support Hotline at (877) 480-3201. The ULS Licensing Support Hotline is available Monday through Friday, from 8:00 A.M. to 6:00 P.M. Eastern Time. All calls to the ULS Licensing Support Hotline are recorded.

For additional information, contact Roberto Mussenden, Roberto.Mussenden@fcc.gov, of the Public Safety and Homeland Security Bureau, Policy and Licensing Division, (202) 418-1428.

Copies of materials can be obtained from the FCC's Reference Information Center at (202) 418-0270.

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

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau.

-FCC-

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
County of Los Angeles, California	)	File Nos. 0010328664 et al.
	)	
Request for Extension	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. This Order addresses the above-captioned request filed by the County of Los Angeles, California (County), seeking waiver of section 90.629 of the Commission's rules¹ to extend the construction completion date for 67 licenses in the 470-512 MHz band (T-Band) that are to be integrated into the Los Angeles Regional Interoperable Communications System (LA-RICS).² These requests are extensions of the relief granted to the County by the Public Safety and Homeland Security Bureau in 2021.³ For the reasons discussed below, we grant the County's extension request until December 31, 2023.

II. BACKGROUND

2. The LA County T-Band system consists of three subsystems: (1) the LA County Sheriff's Department System consisting of 55 contiguous wideband (25 kilohertz) channels in the TV Channel 16 band (482-488 MHz) for the voice system and 10 non-contiguous channels in the TV Channel 14 band (470-476 MHz) for the data system; (2) an interoperable voice radio system in the TV Channel 15 band (476-482 MHz) to be used by all public safety agencies in the County; and (3) a narrowband system in the

¹ 47 CFR § 90.629.

² See File Nos. 0010328664 *et al.* (filed Dec. 28 and 29, 2022) and Request for Extension of Los Angeles, California attached to the applications (Extension Request). The County seeks an extension for the following Call Signs: WPLU218, WPLU220, WPLU221, WPLU224, WPLU230, WPLU231, WPLU232, WPLU234, WPMK204, WPMK277, WPMK278, WPMK279, WPMK280, WPMK281, WPMK282, WPMK805, WPMK807, WPMW796, WPNP716, WPNP718, WQJX500, WQJX503, WQJX505, WQJX506, WQJX507, WQJX509, WQJX510, WQJX512, WQJX514, WQJX517, WQJX518, WQJX519, WQJX520, WQJX521, WQJX522, WQJX523, WQJX524, WQJX525, WQJX529, WQJX530, WQJX531, WQJX532, WQJX533, WQJX534, WQJX535, WQJX536, WQJX537, WQJX538, WQJX539, WQJX540, WQJX541, WQJX542, WQJX543, WQJX544, WQJX545, WQJX546, WQJX547, WQJX548, WQJX549, WQJX550, WQJX551, WQJX552, WQJX553, WQJX554, WQJX556, WQJX557 and WQXE728. We list the call signs and file numbers in Appendix A.

³ *County of Los Angeles, California*, Order, 36 FCC Rcd 12457 (PSHSB 2021) (2021 Order) (extending the construction completion date until Dec. 31, 2022) (<https://www.fcc.gov/document/pshsb-grants-los-angeles-county-extension-request>).

TV Channel 14/15 bands.⁴ As detailed in the 2021 Order, the Bureau has granted the County a series of construction completion extensions, the most recent one concluding on December 31, 2022.⁵

3. The County states that it has made significant progress towards construction of the system, but requires additional time to complete the construction due to ongoing interference from a television station in Tijuana, Mexico.⁶ The County claims that this interference has forced the County to redesign its entire system to attempt to minimize (to the greatest extent possible) the substantial interference being experienced, significantly delaying construction across several portions of the County's system.⁷ The County states that due to these delays, it has not completed construction of the remaining stations and requests an extension, until December 31, 2023, to complete this construction.⁸

4. The County submits that it "has demonstrated all of the 'good faith' factors cited by the Commission in prior extension cases."⁹ The County notes that the extension period it seeks is a reasonable amount of time to complete the project given the totality of the circumstances.¹⁰ The County also asserts that the fact that one of the systems has been operational since the 1980s, and that the second is partially constructed, demonstrates that it is not warehousing spectrum.¹¹

III. DISCUSSION

5. To obtain a waiver of the Commission's rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the requested waiver would be in the public interest;¹² or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.¹³ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁴

6. We find that the County has demonstrated reasonable diligence in attempting to construct its system in a timely fashion. The interference it is encountering represents an unusual factual circumstance satisfying the second prong of the Commission's waiver standard, and we agree with the County that "this system represents an enormously complex and substantial undertaking" that warrants more time for completion.¹⁵ In light of these facts, we find that strict enforcement of the prior construction deadlines would be both inequitable and contrary to the public interest in that it would result in a waste of tax and federal grant dollars, strand investment in facilities already under construction, and, most importantly, deprive the citizens and first responders in the greater Los Angeles area of a critically

⁴ *Id.* at 12458 para. 3.

⁵ *Id.* at 12458-59 paras. 4-6.

⁶ Extension Request at 7.

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Id.* at 9.

¹⁰ *Id.*

¹¹ *Id.*

¹² 47 CFR § 1.925(b)(3)(i).

¹³ 47 CFR § 1.925(b)(3)(ii).

¹⁴ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir.1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

¹⁵ Extension Request at 9.

needed, interoperable public safety communications system.¹⁶ Accordingly, we grant the County's extension requests and extend the construction deadline to December 31, 2023, for the 67 licenses and associated applications.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and sections 1.925, 1.946(e), and 90.629 of the Commission's rules, 47 CFR §§ 1.925, 1.946(e), 90.629, that the requests for waiver filed by the County of Los Angeles, California on December 28, 2022, and December 29, 2020 in connection with applications File Nos. 0010328664, *et al.*, listed in Appendix A, ARE GRANTED, and the applications SHALL BE PROCESSED consistent with this Order and the Commission's rules.

8. IT IS FURTHER ORDERED pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and sections 1.925, 1.946(e), and 90.629 of the Commission's rules, 47 CFR §§ 1.925, 1.946(e), 90.629, that the construction deadline for the facilities represented by the call signs listed in Appendix A is, hereby, extended to **December 31, 2023**.

9. This action is taken under delegated authority pursuant to sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

¹⁶ 2021 Order, 36 FCC Rcd at 12460 para. 13.

APPENDIX A
Extension Request Applications

	Legal Entity Name	File Number	Call Sign	Receipt Date
1	LOS ANGELES, COUNTY OF	0010328664	WPLU218	12/28/2022
2	LOS ANGELES, COUNTY OF	0010328692	WPLU220	12/28/2022
3	LOS ANGELES, COUNTY OF	0010328718	WPLU221	12/28/2022
4	LOS ANGELES, COUNTY OF	0010328741	WPLU224	12/28/2022
5	LOS ANGELES, COUNTY OF	0010328763	WPLU230	12/28/2022
6	LOS ANGELES, COUNTY OF	0010328784	WPLU231	12/28/2022
7	LOS ANGELES, COUNTY OF	0010328808	WPLU232	12/28/2022
8	LOS ANGELES, COUNTY OF	0010328820	WPLU234	12/28/2022
9	LOS ANGELES, COUNTY OF	0010328931	WPMK204	12/28/2022
10	LOS ANGELES, COUNTY OF	0010328938	WPMK277	12/28/2022
11	LOS ANGELES, COUNTY OF	0010328944	WPMK278	12/28/2022
12	LOS ANGELES, COUNTY OF	0010328968	WPMK279	12/28/2022
13	LOS ANGELES, COUNTY OF	0010329005	WPMK280	12/28/2022
14	LOS ANGELES, COUNTY OF	0010329008	WPMK281	12/28/2022
15	LOS ANGELES, COUNTY OF	0010329018	WPMK282	12/28/2022
16	LOS ANGELES, COUNTY OF	0010329025	WPMM805	12/28/2022
17	LOS ANGELES, COUNTY OF	0010329026	WPMM807	12/28/2022
18	LOS ANGELES, COUNTY OF	0010329032	WPMW796	12/28/2022
19	LOS ANGELES, COUNTY OF	0010329036	WPNP716	12/28/2022
20	LOS ANGELES, COUNTY OF	0010329039	WPNP718	12/28/2022
21	LOS ANGELES, COUNTY OF	0010329040	WQJX500	12/28/2022
22	LOS ANGELES, COUNTY OF	0010329044	WQJX503	12/28/2022
23	LOS ANGELES, COUNTY OF	0010329047	WQJX505	12/28/2022
24	LOS ANGELES, COUNTY OF	0010329051	WQJX506	12/28/2022
25	LOS ANGELES, COUNTY OF	0010329058	WQJX507	12/28/2022
26	LOS ANGELES, COUNTY OF	0010329059	WQJX509	12/28/2022
27	LOS ANGELES, COUNTY OF	0010329060	WQJX510	12/28/2022
28	LOS ANGELES, COUNTY OF	0010329062	WQJX512	12/28/2022
29	LOS ANGELES, COUNTY OF	0010329063	WQJX514	12/28/2022
30	LOS ANGELES, COUNTY OF	0010329064	WQJX517	12/28/2022
31	LOS ANGELES, COUNTY OF	0010329067	WQJX518	12/28/2022
32	LOS ANGELES, COUNTY OF	0010329071	WQJX519	12/28/2022

33	LOS ANGELES, COUNTY OF	0010329090	WQJX520	12/28/2022
34	LOS ANGELES, COUNTY OF	0010329092	WQJX521	12/28/2022
35	LOS ANGELES, COUNTY OF	0010329096	WQJX522	12/28/2022
36	LOS ANGELES, COUNTY OF	0010329099	WQJX523	12/28/2022
37	LOS ANGELES, COUNTY OF	0010329105	WQJX524	12/28/2022
38	LOS ANGELES, COUNTY OF	0010329112	WQJX525	12/28/2022
39	LOS ANGELES, COUNTY OF	0010329234	WQJX529	12/29/2022
40	LOS ANGELES, COUNTY OF	0010329235	WQJX530	12/29/2022
41	LOS ANGELES, COUNTY OF	0010329237	WQJX531	12/29/2022
42	LOS ANGELES, COUNTY OF	0010329238	WQJX532	12/29/2022
43	LOS ANGELES, COUNTY OF	0010329239	WQJX533	12/29/2022
44	LOS ANGELES, COUNTY OF	0010329240	WQJX534	12/29/2022
45	LOS ANGELES, COUNTY OF	0010329241	WQJX535	12/29/2022
46	LOS ANGELES, COUNTY OF	0010329242	WQJX536	12/29/2022
47	LOS ANGELES, COUNTY OF	0010329244	WQJX537	12/29/2022
48	LOS ANGELES, COUNTY OF	0010329245	WQJX538	12/29/2022
49	LOS ANGELES, COUNTY OF	0010329247	WQJX539	12/29/2022
50	LOS ANGELES, COUNTY OF	0010329248	WQJX540	12/29/2022
51	LOS ANGELES, COUNTY OF	0010329249	WQJX541	12/29/2022
52	LOS ANGELES, COUNTY OF	0010329250	WQJX542	12/29/2022
53	LOS ANGELES, COUNTY OF	0010329251	WQJX543	12/29/2022
54	LOS ANGELES, COUNTY OF	0010329252	WQJX544	12/29/2022
55	LOS ANGELES, COUNTY OF	0010329253	WQJX545	12/29/2022
56	LOS ANGELES, COUNTY OF	0010329255	WQJX546	12/29/2022
57	LOS ANGELES, COUNTY OF	0010329257	WQJX547	12/29/2022
58	LOS ANGELES, COUNTY OF	0010329260	WQJX548	12/29/2022
59	LOS ANGELES, COUNTY OF	0010329262	WQJX549	12/29/2022
60	LOS ANGELES, COUNTY OF	0010329263	WQJX550	12/29/2022
61	LOS ANGELES, COUNTY OF	0010329266	WQJX551	12/29/2022
62	LOS ANGELES, COUNTY OF	0010329269	WQJX552	12/29/2022
63	LOS ANGELES, COUNTY OF	0010329271	WQJX553	12/29/2022
64	LOS ANGELES, COUNTY OF	0010329272	WQJX554	12/29/2022
65	LOS ANGELES, COUNTY OF	0010329276	WQJX556	12/29/2022
66	LOS ANGELES, COUNTY OF	0010329278	WQJX557	12/29/2022
67	LOS ANGELES, COUNTY OF	0010329284	WQXE728	12/29/2022

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Marin County	)	File Nos. 0010392148, 0010392149, and
	)	0010392145
Request for Extension for Call Signs WRAR811,	)	
WRAR827 and WRAS546	)	

ORDER

Adopted: May 11, 2023

Released: May 11, 2023

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. This Order addresses a request by Marin County Department of Public Works (Marin or the County) for a waiver of section 90.551 of the Commission's rules to extend the construction completion date for three licenses in the 700 MHz band for an additional year.¹ For the reasons discussed below, we grant the County's extension request until February 29, 2024.

II. BACKGROUND

2. The three licenses in question currently have an extended implementation buildout deadline of February 15, 2023, which the County initially stated it was on track to meet as of January 2022.² The County provides that it met its 2019 and 2020 construction deadlines and began the construction of new sites in 2021.³ The County now asserts that it is unable to meet its intended construction schedule based on multiple issues beyond its control.⁴ In support of its waiver request, on April 17, 2023, Marin attached Supporting Documentation to its applications and waiver request.⁵

3. First, the County provided several state and local governmental orders related to the COVID-19 pandemic, that restricted Marin's ability to work on-site until June 15, 2021. In particular, the County indicates that due to the pandemic, its local government issued "shelter-at-home public health orders" which "greatly affected the final design work of the system."⁶ The County states that while they

¹ See File Nos. 0010392148, 001032149, and 0010392145 (filed Jan. 25, 2023 and amended Apr. 17, 2023) and Waiver Request Letter attached to the applications (Waiver Request). See also 47 C.F.R. § 90.551.

² See County of Marin, CA Extended Implementation Fourth Annual Construction Notification, filed January 14, 2022. <https://appsint.fcc.gov/UlsApp/ApplicationSearch/applAdmin.jsp?applID=13193780#>

³ Waiver Request at 2.

⁴ *Id.*

⁵ Supporting Documentation Sets 1-4 filed Apr. 17, 2023.

⁶ Waiver Request at 2 and Supporting Documentation Set #1. The set consists of: Marin County, Public Health Order, dated 29 April 2020; Marin County, Public Health Order, dated 15 May 2020; Marin County, Public Health Order, dated 20 May 2020; Marin County, Public Health Order, dated 28 April 2021; California Department of Public Health, Blueprint for a Safer Economy, dated December 2020 and the California Department of Public Health, Beyond the Blueprint for a Safer Economy, 6 April 2021.

were eventually able to move to “a work-at-home configuration for its engineers, . . . the transition, combined with the COVID-19 illnesses of key design personnel, led to substantial delays in work.”⁷

4. The County also provided a series of correspondence between the County and various vendors to demonstrate the extent of supply chain issues during the pandemic, citing various factors, including shifts in demand, labor shortages and structural matters.⁸ The County states that the Russia-Ukraine conflict and the more recent COVID-19 lockdown in China have exacerbated the supply chain issues, further delaying their project.⁹ In particular, “towers, equipment shelters, and generators, which are required at several sites, have had 30 to 35-week lead times, which are much greater than originally anticipated. The delivery times of even commonplace items, such as electrical panels, have been delayed and have slowed construction.”¹⁰

5. Next, the County presented support for its claim that the environmental sensitivity of its proposed locations required an environmental review that took 28 months as opposed to the original 18 month estimate.¹¹ The County also provided details regarding a change in its project construction management which required a transfer of knowledge of the entire system design, as well as changes in business procedures, resulting in overall construction delays.¹² Finally, the County detailed a change in its design firm which resulted in weeks of delay.¹³

III. DISCUSSION

6. To obtain a waiver of the Commission’s rules, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case, and that a grant of the requested waiver would be in the public interest;¹⁴ or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable

⁷ *Id.*

⁸ Waiver Request at 2 and Supporting Documentation Set #2. This set consists of 6 sets of correspondence between the County and its vendors documenting missed delivery dates, and slippage of both estimated and actual delivery dates.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Waiver Request at 2 and Supporting Documentation Set #3. This set consists of Marin County, Professional Services Contract with WRA Environmental Consultants, 19 September 2017; WRA Environmental Consultants, Exhibit A – Scope of Work, Phase 1a; WRA Environmental Consultants, Exhibit A – Scope of Work Phase 2 with Schedule; MERA Governing Board, Excerpt from Minutes of 24 October 2018, Regular Meeting; MERA Governing Board, Excerpt from Minutes of 27 February 2019 Regular Meeting; MERA Governing Board, Excerpt from Minutes of 8 May 2019 Regular Meeting; and MERA Governing Board, Excerpt from Minutes of 11 December 2019 Regular Meeting.

¹² Waiver Request at 2 and Supporting Documentation Set #4. This set consists of: Marin County, Notice of Termination of Implementation Agreement, 11 March 2020; MERA Governing Board, Excerpt from Minutes of 10 June 2020 Special Meeting; and MERA Governing Board, Excerpt from Minutes of 24 June 2020 Regular Meeting.

¹³ Waiver Request at 2 and Supporting Documentation Set #5. This set consists of: MERA Governing Board, Excerpt from 12 May 2021 Staff Report; and MERA Governing Board, Excerpt from 23 June 2021 Staff Report; MERA Governing Board, Excerpt from 28 July 2021 Staff Report; MERA Governing Board, Excerpt from 22 September 2021 Staff Report; and MERA Governing Board, Excerpt from 27 October 2021 Staff Report.

¹⁴ 47 CFR § 1.925(b)(3)(i).

alternative.¹⁵ An applicant seeking a waiver faces a high hurdle and must plead with particularity the facts and circumstances that warrant a waiver.¹⁶

7. We find that the County has demonstrated an unusual set of factual circumstances satisfying the second prong of the Commission's waiver standard. In light of these facts, we find that strict enforcement of the prior construction deadlines would be both inequitable and contrary to the public interest in that it would result in a waste of monies, strand investment in facilities already under construction, and, most importantly, deprive the citizens of Marin County of a critical public safety communications system.¹⁷ The County has shown substantial progress in implementing its system and demonstrated that the delays it has encountered were due to forces outside of its control. In addition, we are further assured by the fact that the County will continue to be subject to annual reporting requirements.¹⁸ Accordingly, we grant the County's extension requests and extend the construction deadline to February 29, 2024 for the three licenses and associated applications.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and sections 1.925, 90.155, and 90.551 of the Commission's rules, 47 CFR §§ 1.925, 90.55, 90.551, that the requests for waiver filed by Marin County filed January 25, 2023 and amended April 17, 2023 in connection with applications File Nos. 0010392148, 0010392149, and 0010392145 ARE GRANTED, and the applications SHALL BE PROCESSED consistent with this Order and the Commission's rules.

9. IT IS FURTHER ORDERED pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and sections 1.925, 90.155, and 90.551 of the Commission's rules, 47 CFR §§ 1.925, 90.155, 90.551, that the construction deadline for the facilities represented by the call signs WRAR811, WRAR827 and WRAS546 ARE HEREBY EXTENDED to February 29, 2024.

10. This action is taken under delegated authority pursuant to sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

John A. Evanoff
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

¹⁵ 47 CFR § 1.925(b)(3)(ii).

¹⁶ *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969) (*WAIT Radio*), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir.1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

¹⁷ See *Metropolitan Transportation Authority Police Department*, Order, 18 FCC Rcd 1164 (PSHSB 2018).

¹⁸ See 47 CFR § 90.629(c).

TENTH SEMI-ANNUAL REPORT OF THE FEDERAL
COMMUNICATIONS COMMISSION TO CONGRESS
ON UNITED STATES-BASED FOREIGN MEDIA
OUTLETS

FOR THE PERIOD OCTOBER 13, 2022 TO
APRIL 12, 2023

Submitted Pursuant to
Public Law No. 115-232

The Federal Communications Commission (Commission) hereby submits this Tenth Semi-Annual Report to Congress on United States-Based Foreign Media Outlets pursuant to the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (NDAA).¹ The NDAA requires certain media outlets to file reports with the Commission and, in turn, for the Commission to provide a report to Congress summarizing those filings. Consistent with the statute, the previous report, covering the period April 13, 2022, to October 12, 2022, was transmitted to Congress prior to November 9, 2022.² This tenth report, covering October 13, 2022, to April 12, 2023, is hereby transmitted to Congress within six months of the previous report, or by May 9, 2023.³

Background. In 2018, Congress passed the NDAA, which added a new section 722 to the Communications Act of 1934 (Communications Act) requiring that all “United States-based foreign media outlet[s]” submit to the Commission a report containing: 1) the name of such outlet; and 2) a description of the relationship of such outlet to the foreign principal of such outlet, including a description of the legal structure of such relationship and any funding that such outlet receives from such principal.⁴ The NDAA provides that the term “United States-based foreign media outlet” means an entity that (a) produces or distributes video programming (as defined in section 602 of the Communications Act) that is transmitted, or intended for transmission, by a multichannel video programming distributor (as defined in such section) to consumers in the United States;⁵ and (b) would be an agent of a foreign principal for purposes of the Foreign Agents Registration Act of 1938 (FARA) but for section 1(d) of FARA.⁶ The Department of Justice has adopted regulations implementing FARA, including definitions of statutory terms.⁷

Section 611(b)(1) of FARA provides that “a government of a foreign country and a foreign political party” are included in the definition of a “foreign principal.”⁸ Section 611(d) of FARA in turn

¹ John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, §1085(a) (2018) (NDAA).

² *Ninth Semi-Annual Report to Congress on United States-Based Foreign Media Outlets*, Report, DA 22-1184 (MB Nov. 10, 2022). The first report was transmitted to Congress within 90 days of enactment of the NDAA, or by November 11, 2018. *First Semi-Annual Report to Congress on United States-Based Foreign Media Outlets*, Report, 33 FCC Rcd 11160 (MB 2018).

³ NDAA §1085(b) (codified at 47 U.S.C. § 624(b)).

⁴ 47 U.S.C. § 624(a).

⁵ 47 U.S.C. § 624(d)(2). The Communications Act defines the term “video programming” as “programming provided by, or generally considered comparable to programming provided by, a television broadcast station.” 47 U.S.C. § 522(20). The term “multichannel video programming distributor” means “a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.” 47 U.S.C. § 522(13).

⁶ 22 U.S.C. §§ 611(b)(1) & (d).

⁷ See 5 CFR §§ 5.1, *et seq.*; *id.* § 5.100.

⁸ 47 U.S.C. § 624(d)(1); 22 U.S.C. § 611(b)(1). Section 611(c) of FARA provides that, except “as provided in subsection (d) of this section, the term ‘agent of a foreign principal’ means--(1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal, and who directly or through any other person--(i) engages within the United States in political activities for or in the interests of such

states that the “term ‘agent of a foreign principal’ does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the United States Postal Service information in compliance with section 3611 of Title 39, published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in subsection (b) of this section, or by any agent of a foreign principal required to register” under FARA.⁹

The NDAA also requires that “[n]ot later than 90 days after the date of the enactment of this section, and not less frequently than every 6 months thereafter, the Commission shall transmit to Congress a report that summarizes the contents of the reports submitted by United States-based foreign media outlets under subsection (a) during the preceding 6-month period.”¹⁰ On March 10, 2023, the Commission released a Public Notice reiterating its ongoing obligations under the NDAA and directing United States-based foreign media outlets subject to the NDAA reporting requirements to submit reports to the Commission’s established e-mail inbox by April 12, 2023.¹¹ The Commission set this deadline to enable it to comply with the NDAA’s requirement that it submit a Report to Congress “not less frequently than every 6 months.”¹² The Commission also stated that, in compliance with the NDAA, it would make publicly available on its website each submission by a United States-based foreign media outlet no later than the earlier of (1) 30 days after the outlet submits its report to the Commission or (2) the date on which the Commission transmits its report to Congress.¹³

Submissions. The Commission did not receive any registrations in the six-month period between October 13, 2022, and April 12, 2023, including in response to its March Public Notice.

foreign principal; (ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal; (iii) within the United States solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or (iv) within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States; and (2) any person who agrees, consents, assumes or purports to act as, or who is or holds himself out to be, whether or not pursuant to contractual relationship, an agent of a foreign principal as defined in clause (1) of this subsection.” 22 U.S.C. § 611(c).

⁹ 22 U.S.C. § 611(d).

¹⁰ 47 U.S.C. § 624(b).

¹¹ *Media Bureau Reminds United States-based Foreign Media Outlets of Next Semi-Annual Disclosure Deadline*, Public Notice, DA 23-197 (MB Mar. 10, 2023). The Public Notice reminded respondents that the contents of their reports were subject to general requirements of accuracy of representations made to the Commission contained in the United States Code, 18 U.S.C. § 1001.

¹² *Id.* at 3. As discussed above, the statute requires covered entities to file reports with the Commission on an ongoing basis, not less frequently than every six months. It similarly requires the Commission to report to Congress the results of those submissions not less frequently than every six months thereafter. *Id.*

¹³ *Id.* at 3, citing 47 U.S.C. § 624(c).

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	Facility ID No. 68514
Methow Valley Communications District	)	NAL/Acct. No. MB-202241420011
	)	FRN: 0015559107
For License to Cover	)	File No. 0000190563
Television Translator Station	)	
K44EN-D, Methow, Washington	)	
	)	

FORFEITURE ORDER

Adopted: May 12, 2023

Released: May 12, 2023

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, we issue a monetary forfeiture in the amount of seven hundred and fifty dollars (\$750) to Methow Valley Communications District (Licensee), the licensee of television translator station K44EN-D, Methow, Washington (Station). We find that the Licensee willfully violated section 74.788¹ of the Commission's rules (Rules) by failing to timely file a license to cover application, and willfully and repeatedly violated section 301 of the Communications Act of 1934, as amended (Act),² by engaging in unauthorized operation of the Station after its construction permit had expired.

II. BACKGROUND

2. On June 10, 2022, the Video Division (Division) of the Media Bureau (Bureau) issued a *Notice of Apparent Liability for Forfeiture (NAL)* in the amount of six thousand five hundred dollars (\$6,500) to Licensee for these violations.³ The *NAL* gave the Licensee thirty days to pay the full amount of the proposed forfeiture or file a written statement seeking reduction or cancellation of the proposed forfeiture.⁴

3. In the *NAL*, we found that the Licensee had failed to timely file a license to cover as required by section 74.788 of the Rules,⁵ continued Station operations with the permitted facilities after the Station's construction permit expired on November 26, 2021, and did not seek special temporary

¹ See 47 CFR § 74.788 (2022).

² See 47 U.S.C. § 301.

³ *Methow Valley Communications District*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 22-627 (Vid. Div. June 10, 2022) (*NAL*).

⁴ *Id.* at 5, para. 10.

⁵ See 47 CFR § 74.788 (2022). Effective October 24, 2022, 47 CFR § 74.788 of the Rules was eliminated and found by the Commission to be duplicative with 47 CFR § 73.3598 of the Rules. See 87 FR 58200, Oct. 24, 2022; *In the Matter of Amend. of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Update of Parts 74 of the Commission's Rules Related to Low Power Television and Television Translator Stations*, FCC 22-58 (July 13, 2022); 47 CFR § 74.780 (2022) (making 47 CFR § 73.3598 applicable to all TV translator and LPTV stations). At the time the violation at issue occurred, 47 CFR § 74.788 was in effect.

authority (STA) to operate with those facilities after the expiration of the construction permit.⁶ Further, as a result of its late filing, we found that Licensee also apparently engaged in unauthorized operation in violation of section 301 of the Act.⁷ Accordingly, we issued the *NAL*.

4. The Licensee submitted a written response to the *NAL* in which it did not dispute that it had violated the rules, but requested that we reduce or cancel the proposed forfeiture based on the Licensee's claimed inability to pay it.⁸ As part of its response, the Licensee provided copies of its financial statements that were submitted to the Office of the Washington State Auditor for the last three years in order to demonstrate that imposition of the proposed forfeiture would be excessive.⁹ It also provided a sworn statement from its site manager verifying that it is a special taxing district of Okanogan County, Washington, and it operates with an annual budget primarily funded through annual assessments on local taxpayers.¹⁰ According to the Licensee, it serves a rural area with a population of approximately 9,100 persons and its translator provides broadcast signals from Spokane, Washington, which is located about 120 miles to the east.¹¹ Licensee argued that imposition of a forfeiture amount of \$6,500 would not serve the public interest because "the cost of paying the forfeiture for this administrative error would ultimately be borne by the taxpayers."¹²

III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with section 503(b) of the Act,¹³ section 1.80 of the Rules,¹⁴ and the Commission's *Forfeiture Policy Statement*.¹⁵ In assessing forfeitures, section 503(b)(2)(E) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.¹⁶

6. As noted in the *NAL*, the Commission will not consider reducing or canceling a forfeiture in response to claimed inability to pay unless the respondent submits: (1) federal tax returns for the most

⁶ As discussed in the *NAL*, the Station was displaced as a result of the television incentive auction and on July 24, 2017, the Station received a letter from T-Mobile USA, Inc. informing the Station that it was prepared to commence wireless broadband operations in November 2017. Consistent with Bureau guidance, the Licensee filed a request for legal STA and application for displacement on September 29, 2017. The Licensee's STA was granted on October 12, 2017, allowing it to begin operating temporarily on its digital displacement channel (channel 36) while its displacement application was pending. The Bureau subsequently granted the displacement application on November 26, 2018. *NAL* at 1-2, paras. 2-3.

⁷ See 47 U.S.C. § 301. See also 47 CFR § 73.1745 (unauthorized operation).

⁸ Response to Notice of Apparent Liability for Forfeiture of Methow Valley Communications District (dated July 7, 2022) (Response) and Amendment (dated March 28, 2023) (Amendment).

⁹ Amendment, Schedule 1 for 2020, 2021 and 2022.

¹⁰ Response at 1. Methow Valley Communications District is operated as a special taxing district under Washington State law. See <https://mvcomm.org/about-us/> (last visited May 8, 2023); https://okanogancounty.org/offices/treasurer/special_assessment_districts/communication_districts.php (last visited May 8, 2023).

¹¹ *Id.*

¹² *Id.*

¹³ 47 U.S.C. § 503(b).

¹⁴ 47 CFR § 1.80.

¹⁵ See *Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999).

¹⁶ 47 U.S.C. § 503(b)(2)(E).

recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status.¹⁷ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.¹⁸ In general, a licensee's gross revenues are the best indicator of its ability to pay a forfeiture. The Commission recognizes that, in some cases, other financial indicators, such as net losses, may also be relevant.¹⁹ If gross revenues are sufficiently great, however, the mere fact that a business is operating at a loss does not by itself mean that it cannot afford to pay.²⁰

7. Here, the Licensee provided financial documents to demonstrate that the proposed forfeiture of \$6,500 would constitute an excessive fine. In considering claims of financial hardship, the range of forfeitures that the Commission has deemed reasonable generally average about five percent of the violator's gross annual income and have not exceeded eight percent thereof,²¹ although a forfeiture equal to five percent of gross revenues has been found to be excessive where a licensee operated at a significant loss.²² Consistent with precedent and based on the financial documentation provided, the proposed forfeiture does not appear to be excessive and we are unwilling to cancel the forfeiture altogether. Instead, based on the Licensee's history of compliance and the unique facts and circumstances presented, notably the fact that the Station is a community translator serving rural areas that would otherwise have limited, if any, over-the-air television service, we find that a reduction in the total forfeiture amount to \$750 is appropriate for the violations involved in this case.²³

8. We have considered Licensee's Response and the record of this case in light of the above statutory factors, our rules, and the *Forfeiture Policy Statement*. We conclude that Licensee willfully²⁴

¹⁷ See *NAL* at 6, para. 14.

¹⁸ See *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7441 (2004), *modified*, Memorandum Opinion and Forfeiture Order, 24 FCC Rcd 2206 (MB 2009) (reducing forfeiture amount after review of submitted federal tax returns demonstrated a financial hardship).

¹⁹ *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089 (1992).

²⁰ *Id.*

²¹ *Zuma Beach FM Emergency and Community Broadcasters, Inc.*, Memorandum Opinion and Order, 34 FCC Rcd 5302, 5304 (MB 2019).

²² See *Valley Air, LLC*, Letter, 24 FCC Rcd 5505 (MB 2009) (cancelling a \$4,000 forfeiture after finding that the amount was reasonable given licensee's gross revenues of \$75,167, \$90,106, and \$69,330, but finding amount would pose a financial hardship where licensee lost \$345,000 during the same period).

²³ See *Hawkins Broadcasting Company*, Forfeiture Order, 25 FCC Rcd 12519, 12521 (MB 2010) (reducing a forfeiture amount from \$7,000 to \$4,000 where the proposed forfeiture amount would have constituted approximately 7 percent of the licensee's average gross revenues and licensee operated with significant loss), citing *CARE Broadcasting, Inc.*, Forfeiture Order, 24 FCC Rcd 1411 (MB 2010) (reducing forfeiture amount from \$14,000 to \$3,400 where the proposed forfeiture amount would have constituted approximately 11 percent of Licensee's average gross revenues).

²⁴ Section 312(f)(1) of the Act defines "willful" as "the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law. 47 U.S.C. § 312(f)(1). The legislative history of section 312(f)(1) of the Act clarifies that this definition of willful applies to Sections 312 and 503(b) of the Act, H.R. REP. NO. 97-765, 51 (Conf. Rep.), and the Commission has so interpreted the terms in the Section 503(b) context. See *Southern California Broadcasting Company*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 (1991) (*Southern California*).

and repeatedly²⁵ violated section 74.788 of the Rules and section 301 of the Act.²⁶ However, for the reasons set forth above, we find that reducing the forfeiture to seven hundred and fifty dollars (\$750) is warranted.

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.283 and 1.80 of the Commission's rules,²⁷ that Methow Valley Communications District **SHALL FORFEIT** to the United States the sum of seven hundred and fifty dollars (\$750) for willfully and repeatedly violating section 74.788 of the Commission's rules and section 301 of the Communications Act of 1934, as amended.²⁸

10. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),²⁹ or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted. Below are instructions that payors should follow based on the form of payment selected:³⁰

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).³¹ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/paymentFrnLogin.do>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN.

²⁵ Section 312(f)(2) of the Act defines "repeated" as "the commission or omission of [any] act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2). *See also Southern California*, 6 FCC Rcd at 4388 (applying this definition of "repeated" to Sections 312 and 503(b) of the Act).

²⁶ 47 CFR § 74.788 and 47 U.S.C. § 301.

²⁷ 47 U.S.C. § 503(b); 47 CFR §§ 0.283, 1.80.

²⁸ 47 CFR § 74.788 (2022) and 47 U.S.C. § 301.

²⁹ Payments made using CORES do not require the submission of an FCC Form 159.

³⁰ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

³¹ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

11. **IT IS FURTHER ORDERED** that copies of this *Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Methow Valley Communications District, P.O. Box 1031, Winthrop, Washington as well as e-mailed to tech@mvcomm.org.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
ABACUS TELEVISION	)	Facility ID No. 68411
	)	NAL/Acct. No. 202341420018
Low Power Television Station	)	FRN: 0008390981
WIIC-LD, Pittsburgh, Pennsylvania	)	
	)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: May 12, 2023

Released: May 12, 2023

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division (Division) of the Media Bureau (Bureau) has before it Abacus Television (Abacus), licensee of low power television (LPTV) station WIIC-LD, Pittsburgh, Pennsylvania (WIIC or Station). In this *Notice of Apparent Liability for Forfeiture (NAL)*,¹ we find that Abacus apparently willfully and repeatedly violated section 73.1745(a) of the Rules² and Section 301 of the Act³ by engaging in unauthorized operation. Abacus also apparently willfully and repeatedly violated section 73.1635(a) of the Act by failing to file for special temporary authority to operate at variance from the authorized parameters of its license.⁴ Based upon our review of the facts and circumstances before us, we conclude that Abacus is apparently liable for a monetary forfeiture in the amount of sixteen thousand dollars (\$16,000).

II. BACKGROUND

2. WIIC is a digital LPTV station licensed to operate on channel 31.⁵ Following an inquiry regarding the pending status of the Station's displacement application (Displacement App) to move from 31 to channel 10,⁶ the Division sent a letter of inquiry requesting that Abacus provide information about the Station's operational status since September 12, 2019, when the Station was displaced.⁷ Specifically, Abacus was requested to provide the exact dates of the Station's operation or silence since that date. In addition, for any time during the period in question that the Station was operational, Abacus was asked to

¹ This *NAL* is issued pursuant to section 503(b) of the Communications Act of 1934, as amended (Act), and section 1.80 of the Commission's rules (Rules). See 47 U.S.C. §§ 309(k), 503(b); 47 CFR § 1.80. The Bureau has delegated authority to issue the *NAL* under section 0.283 of the Rules. See 47 CFR § 0.283.

² 47 CFR § 73.1745.

³ 47 U.S.C. § 301.

⁴ 47 CFR § 73.1635.

⁵ See LMS File No. 0000001503.

⁶ See LMS File No. 0000089350.

⁷ See Letter to Abacus Television from Barbara A. Kreisman, Chief, Video Division to Abacus Television (dated Feb. 22, 2023) (Inquiry Letter), a copy of which is available at LMS File No. 0000089350. See *infra* para. 4.

provide the Station's technical operating parameters, specific evidence of the Station's operation throughout the entire period of operation, and the valid authorization under which the Station operated.⁸

3. On March 24, 2023, Abacus responded to the Inquiry Letter and provided documentary evidence that since September 12, 2019, the Station has been operating from its licensed location, and since October 16, 2019, it has been operating at reduced power.⁹ As explained in greater detail below, Abacus explained that it had been operating the Station at reduced power in order to avoid causing interference to full power station WYTV, channel 31, Youngstown, Ohio (WYTV) and while awaiting processing of its Displacement App.¹⁰ Abacus conceded that it operated the Station at reduced power without proper special temporary authority for nearly three and a half years.¹¹ Abacus further explained that "while no single factor explains or excuses [its] failure...a confluence of misjudgments and distractions resulted in [its] failure to act in accordance with the Rules."¹²

4. *Displacement and History of Unauthorized Operations.* In September 2019, Abacus determined that the Station was causing approximately 5.33 percent interference to full power station WYTV, which had begun operating with a power increase on September 12, 2019.¹³ On October 16, 2019, Abacus first attempted to lower the Station's power to 7.5 kW to eliminate the interference.¹⁴ While Abacus informed Division staff via email that it had commenced operation at 7.5 kW,¹⁵ it never formally sought special temporary authority to operate at such a power. On November 8, 2019, Division staff informed Abacus that operation at 7.5 kW would not resolve the interference.¹⁶ As a result, Abacus reduced its power further to 0.0363 kW. While this power level was suggested by Division staff in order to reduce interference to WYTV below the 0.5 percent interference threshold,¹⁷ such operation was not formally approved by the Division and Abacus once again failed to seek special temporary authority for this reduction in power. The Station operated at 0.0363 kW until it went silent on March 16, 2023.¹⁸

5. In November 2019, Abacus filed the Displacement App seeking to move to channel 8.¹⁹ A day later, Abacus amended the Displacement App to instead specify channel 10. Abacus was then informed by Division staff that the Displacement App was not acceptable because the Station's proposed facilities would cause impermissible interference to other full power Ohio television stations.²⁰ In

⁸ Inquiry Letter at 3.

⁹ See Response of Abacus Television (Mar. 24, 2023) (Response), a copy of which is available at LMS File No. 0000089350. Abacus provided evidence including photos of the Station's equipment, copies of electric bills, lease payments, and Station logs that demonstrated operation of the Station since September 12, 2019.

¹⁰ Response at 1-2. See *infra* paras. 4 and 5.

¹¹ *Id.* at 2 and 5.

¹² *Id.* at 5. For example, Abacus points to its mistaken belief that the informal conversations with and suggestions by Division staff were sufficient given the temporary nature of the operations and that a formal filing would be "unnecessary" and "wasteful." *Id.*

¹³ Inquiry Letter at 1.

¹⁴ *Id.* at 2. See also e-mails between Station staff and Video Division staff dated October 16, 2019, November 8, 2019; November 13, 2019; and November 14, 2019, copies of which are available at Station's main record page, LMS Facility No. 68411.

¹⁵ See e-mail from Benjamin Perez to Hossein Hashemzadeh, Video Division, October 16, 2019, *supra* n.12.

¹⁶ See e-mail from Mark Colombo, Video Division to Benjamin Perez, November 8, 2019, *supra* n.12.

¹⁷ *Id.*

¹⁸ See LMS File No. 0000212844 and Response at 2. The station went silent pursuant to Division instructions. Inquiry Letter at 4.

¹⁹ LMS File No. 0000089350.

²⁰ Inquiry Letter at 2.

February 2020, Abacus amended the Displacement App to avoid objectionable interference to other stations, however, this amendment failed to resolve the interference issue.²¹ Finally, on September 26, 2022, the Station amended its Displacement App to resolve the predicted interference.²² The Displacement App remains pending as a result of the Division's investigation.

III. DISCUSSION

6. Pursuant to section 503(b)(1)(B) of the Act,²³ a person who is found to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.²⁴ Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.²⁵ The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act,²⁶ and the Commission has so interpreted the term in the section 503(b) context.²⁷ Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”²⁸

7. *Apparent Violation.* We find that Abacus apparently willfully and repeatedly failed to comply with sections 73.1745(a) and 73.1635(a) of the Rules and section 301 of the Act.²⁹ Section 73.1745(a) of the Rules and section 301 of the Act require a station to operate pursuant to the terms and conditions contained in its license.³⁰ Pursuant to 73.1635(a) of the Rules, in order for a station to operate at variance from its licensed parameters, it must seek special temporary authority at least 10 days prior to the date of the proposed operation.³¹ Here, Abacus has acknowledged that it operated the Station at variance to its licensed parameters from October 16, 2019 until March 16, 2023, in violation of section 73.1745(a) of the Rules and section 301 of the Act and that it failed to seek special temporary authority for its reduced power operations as required by section 73.1635(a) of the Rules. Abacus, which has been a Commission licensee since the 1990s, claims its apparent violation was the result of “misjudgments and

²¹ See Amendment to LMS File No. 0000089350 (filed Feb. 28, 2020).

²² See Amendment to LMS File No. 0000089350 (filed Sept. 26, 2022). The Displacement App was amended on March 24, 2023 to include Abacus's response to the Inquiry Letter. No other changes were made to the application.

²³ 47 U.S.C. § 503(b)(1)(B).

²⁴ *Id.* See also 47 CFR § 1.80(a)(1).

²⁵ 47 U.S.C. § 312(f)(1).

²⁶ See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

²⁷ See *Southern California Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991), *recon. denied*, Memorandum Opinion and Order, 7 FCC Rcd 3454 (1992).

²⁸ 47 U.S.C. § 312(f)(2).

²⁹ See 47 CFR §§ 73.1745 and 47 CFR § 73.1635; 47 U.S.C. § 301.

³⁰ 47 CFR § 73.1745(a); 47 U.S.C. § 301.

³¹ 47 CFR § 73.1635(a). Special temporary authority may be granted for an initial period of no more than 180 days and extended a limited number of times for additional periods not exceeding 180 days. *Id.* Requests for special temporary authority are electronically filed in the Commission's Licensing Management System (LMS). A station may also seek to modify its license pursuant to section 74.787 of the Rules. 47 CFR § 74.787. However, in this case, it does not appear that Abacus intended to permanently modify its license to operate at .0363 kW, but only do so temporarily until it was able to construct a displacement facility on channel 10. As such we do not find an apparent violation of section 74.787 of the Rules. *Id.*

distractions.”³² It is well-settled that such factors are not an excuse for failure to comply with the Rules.³³ Furthermore, it is the obligation of a Commission licensee to be familiar with all rules governing its station’s operations.³⁴

8. *Proposed Forfeiture Amount.* The Commission’s *Forfeiture Policy Statement* and section 1.80(b)(10) of the Rules establish a base forfeiture amount of \$3,00 for the failure to file a required form.³⁵ The guidelines also specify a base forfeiture amount of \$10,000 for construction and operation without an instrument of authorization for the service.³⁶ In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in section 503(b)(2)(E) of the Act, including “the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”³⁷

9. In this case, Abacus engaged in unauthorized operation of the Station for more than three and one half years by operating at reduced power without special temporary authority. Abacus also failed to file an application for special temporary authority. Abacus should have filed an application for special temporary authority prior to commencing reduced operations on October 16, 2019, and again prior to November 8, 2019. Accordingly, we find Abacus failed to make a required filing on two separate occasions.³⁸ Abacus gives no justifiable reason for its failures and violations of the Rules and Act. We note that Abacus also has a history of violating the Commission’s rules, including with regards to operation of the Station.³⁹ Taking into consideration all of the factors required by section 503(b)(2)(E) of the Act and the *Forfeiture Policy Statement*, we decline to reduce the forfeiture from the base amount. While in other cases involving LPTV stations we have reduced the base forfeiture amount for violations

³² Response at 5.

³³ See, e.g., *Adrian Abramovitch, Marketing Strategy Leaders, Inc. and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4674, para. 32 & n.79 (2018) (“[O]ne may not ‘claim ignorance of the law as a defense’” (internal cites omitted); *PTT Phone Cards, Inc.*, Forfeiture Order, 30 FCC Rcd 14701, 14704, para. 10 (2015) (“PTT’s purported ignorance of the law certainly does not excuse the fact that it . . . [was] out of compliance with all of the provisions of the Act and the [Commission’s] [r]ules to which it was subject.”); *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, para 3 (1991), recon. denied, 7 FCC Rcd 3454 (1992) (stating that “inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”) (internal cite omitted); see also *Townsquare Media of El Paso, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6661, 6665, para. 5 & n. 37 (EB 2020) (“It is immaterial whether . . . violations were inadvertent, the result of ignorance of the law, or the product of administrative oversight.”) (internal cites omitted); *Rufus Resources, LLC*, Forfeiture Order, 33 FCC Rcd 6793, 6794, para. 5 (MB 2018) (“It is well settled that ignorance of the [Commission’s] [r]ules does not excuse a violation.”) (internal cites omitted).

³⁴ See 47 CFR § 74.769.

³⁵ See *Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) (*Forfeiture Policy Statement*), recon. denied, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b)(10), note to paragraph (b)(10), Section I.

³⁶ *Id.* A broadcast station requires an authorization from the Commission to operate. See 47 U.S.C. § 301.

³⁷ 47 U.S.C. § 503(b)(2)(E); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100; 47 CFR § 1.80(b)(10).

³⁸ Subsequently Abacus would have been required to renew its special temporary authority every 180 days. 47 CFR § 73.1635(a)(4).

³⁹ See *Abacus Television, Licensee of UHF Translator Station WIIC-LP, Pittsburgh, PA*, Forfeiture Order, 25 FCC Rcd 1766 (EB 2010) (finding station liable for a forfeiture in the amount of \$3,200 for failing to operate the station consistent with the terms of the station authorization); *Abacus Television, Former Licensee of Stations WBYD-CD, Pittsburgh, PA; WTOO-CD, Bolivar, PA; and WWAT-CD, Charleroi, PA*, Forfeiture Order, 32 FCC Rcd 3045 (Vid. Div. 2017) (finding licensee is liable for a forfeiture in the amount of \$5,250 for failing to file in a timely manner quarterly children’s television programing reports).

of the Rules,⁴⁰ we find the nature and extent of the violations, as well as Abacus's history of prior violations, justify imposition of the full base forfeiture of amount.⁴¹

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules,⁴² Abacus Television is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of sixteen thousand dollars (\$16,000) for its apparent willful and repeated violations of sections 73.1635(a) and 73.1745(a) of the Commission's rules and section 301 of the Communications Act of 1934, as amended.⁴³

11. **IT IS FURTHER ORDERED**, pursuant to section 1.80 of the Commission's rules,⁴⁴ that, within thirty (30) days of the release date of this *NAL*, Abacus Television **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),⁴⁵ or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted. Notification that payment has been made must be sent on the day of payment to Shaun.Maher@fcc.gov. Below are instructions that payors should follow based on the form of payment selected:⁴⁶

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁴⁷ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/userLogin.do>. To pay by credit card, log-in using the

⁴⁰ See, e.g., *Southwest Colorado TV Translator Association*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-1616 (rel. Dec. 21, 2021) (reducing base forfeiture amount as station provided a secondary service); *The Estate of Ettie Clark*, Memorandum Opinion and Order and Notice of Apparent Liability, DA 22-327 (rel. Mar. 28, 2022) (reducing base forfeiture amount, but compared to other similar cases finding that a higher forfeiture amount was appropriate based on the extent and nature of the violations).

⁴¹ The Station's pending Displacement App, LMS File No. 0000089350, will be considered in a separate action, subject to the resolution of this forfeiture proceeding. In the interim, Abacus may choose to resume its reduced operations on its currently licensed channel 31 upon filing and following grant of special temporary authority specifying its operational parameters. Any operations without valid special temporary authority will be considered unauthorized and Abacus will be subject to additional sanction.

⁴² 47 U.S.C. § 503(b); 47 CFR § 1.80.

⁴³ 47 CFR §§ 73.1635(a) and 73.1745(a); 47 U.S.C. § 301.

⁴⁴ 47 CFR § 1.80.

⁴⁵ Payments made using CORES do not require the submission of an FCC Form 159.

⁴⁶ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

⁴⁷ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.

- Payment by ACH must be made by using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/core/paymentFrnLogin.do>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

13. Any request for making full payment over time under an installment plan should be sent to: Associate Managing Director—Financial Operations, Federal Communications Commission, 45 L Street, N.E., Washington, DC 20554.⁴⁸ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

14. Any written response seeking reduction or cancellation of the proposed forfeiture must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission’s rules.⁴⁹ The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington DC 20554, ATTN: Shaun Maher, Attorney, Video Division, Media Bureau, and **MUST INCLUDE** the NAL/Acct. No. referenced above. Filings can be sent 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.⁵⁰ A courtesy copy should also be emailed to Shaun.Maher@fcc.gov to assist in processing the response.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects the respondent’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by

⁴⁸ See 47 CFR § 1.1914.

⁴⁹ 47 CFR §§ 1.16 and 1.80(g)(3).

⁵⁰ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (2020).

reference to the financial documentation submitted. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we have discretion to not reduce or cancel the forfeiture if other prongs of section § 503(b)(2)(E) of the Communications Act of 1934, as amended, support that result.⁵¹ In addition, requests to withhold documents from public inspection must comport with the requirements of the Commission's rules.⁵²

16. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Abacus Television, 4310 Brownsville Road, Pittsburgh, PA 15236. A courtesy copy will also be sent via electronic mail to: ben@abacustelevision.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁵¹ See 47 U.S.C. § 503(b)(2)(E); *Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018).

⁵² See 47 CFR § 0.459. Casual requests (including simply stamping pages “confidential”) which do not comply with the requirements of the Commission's rules will not be considered. 47 CFR § 0.459(c).

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Establishing Emergency Connectivity Fund to	)	WC Docket No. 21-93
Close the Homework Gap	)	
	)	

ORDER

Adopted: May 12, 2023

Released: May 12, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant, in part, the Request for Waiver filed by the Schools, Health & Libraries Broadband (SHLB) Coalition and the Consortium for School Networking (CoSN) (collectively, the Petitioners). First, we waive and extend the service delivery date for certain applicants who applied for Emergency Connectivity Fund (ECF) support for equipment, other non-recurring services, and recurring services during the first, second, and third filing windows, recognizing that some did not receive a funding commitment decision letter (FCDL) or revised funding commitment decision letter (RFCDL) approving an appeal, waiver, or post-commitment change request early enough to make full use of the commitment.¹ Next, we waive and extend the service delivery date for recurring service requests for first, second, and third filing window applicants that were approved for new construction services, but were unable to use the full amount of their approved funding for monthly recurring services associated with the construction.

2. We find that because of the timing for processing ECF applications and other factors beyond ECF applicants' and service providers' control, some ECF applicants may not be able to use all of their approved committed funding to the fullest extent possible without an additional waiver and extension of the service delivery date. Therefore, in providing this relief, we make it easier for ECF applicants to use their full approved funding commitments and ensure applicants are treated fairly and equitably regardless of when their ECF applications are processed and funding commitment decision letters are issued. At the same time, we also seek to de-obligate funding that applicants do not need as soon as possible to make additional funds available for the ECF funding applications that otherwise could not be funded because demand received during the third application filing window exceeded the amount of available funds. Accordingly, we grant, in part, the Petitioners' request and waive and modify section 54.1711(e) of the Commission's rules, and we direct the Universal Service Administrative Company (USAC or Administrator) to extend the service delivery date for all the relevant funding requests, as discussed further below.

II. BACKGROUND

3. As part of the American Rescue Plan Act of 2021 (Act), Congress appropriated \$7.171 billion and directed the Commission to promulgate rules for distributing funding from the Emergency Connectivity Fund to eligible schools and libraries for the purchase of eligible equipment and/or advanced telecommunications and information services for use by students, school staff, and library patrons at

¹ Petition of Schools, Health & Libraries Broadband Coalition, et al., WC Docket No. 21-93, at 1 (filed Apr. 5, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/104051359207045> (SHLB/CoSN Petition).

locations that include locations other than a school or library.² On May 10, 2021, the Commission adopted the *Emergency Connectivity Fund Report and Order* establishing rules for the ECF Program to distribute the funding to eligible schools and libraries.³

4. The Commission and USAC opened an initial 45-day application filing window from June 29, 2021 to August 13, 2021,⁴ and a second 15-day application filing window from September 28, 2021 to October 13, 2021, in which applicants requested a combined \$6.4 billion in support.⁵ During these two application filing windows, applicants could request funding for eligible equipment and services received or delivered between July 1, 2021 and June 30, 2022.⁶ To address instances where the service delivery date for equipment or other non-recurring services may not be known at the time of the funding request submission, on July 22, 2021, the Wireline Competition Bureau (Bureau) issued a *Public Notice and Order* clarifying that applicants could use June 30, 2022 as the service delivery date for equipment and other non-recurring services for their ECF FCC Form 471 funding requests if the equipment or services have not been ordered or received at the time that the applicant submitted their funding request(s).⁷ Subsequently, the Bureau acted on a petition for waiver and extended the service delivery date for all ECF equipment, recurring, and non-recurring funding requests submitted during the first and second filing windows to June 30, 2023, but leaving the service delivery date for new construction services requests without change.⁸ The Bureau then opened a third 15-day application filing window from April 28, 2022 to May 13, 2022 to allow applicants to request eligible equipment and services purchased and delivered between July 1, 2022 and December 31, 2023. During the third filing window, the Commission received timely filed requests for over \$2.8 billion for purchases of eligible equipment and services.⁹ Because the total demand received during the third filing window exceeded the amount of support available, the Commission and USAC are prioritizing funding for the third window requests submitted by schools and libraries entitled to higher discount rates until the funds are

² American Rescue Plan Act, 2021, H.R. 1319, Pub. L. No. 117-2, 117th Cong., tit. VII, § 7402(a)(1)-(2) (2021) (enacted), available at <https://www.congress.gov/bill/117th-congress/house-bill/1319/text> (American Rescue Plan Act) (enrolled bill).

³ See generally *Establishing the Emergency Connectivity Fund to Close the Homework Gap*; WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696 (2021) (*Emergency Connectivity Fund Report and Order*).

⁴ News Release, FCC, FCC Announces Emergency Connectivity Fund Application Window Will Open on June 29 (June 15, 2021), <https://www.fcc.gov/document/emergency-connectivity-fund-application-window-opens-june-29> (*First ECF Application Window News Release*).

⁵ News Release, FCC, FCC Announces Over \$5 Billion in Funding Requests Received in Emergency Connectivity Fund Program (Aug. 25, 2021), <https://www.fcc.gov/document/fcc-announces-over-5-billion-emergency-connectivity-fund-requests> (*Second Application Window News Release*).

⁶ See 47 CFR § 54.1710; *Emergency Connectivity Fund Report and Order*, 36 FCC Rcd at 8734, 8737, paras. 78, 83.

⁷ *Wireline Competition Bureau Sets Service Delivery Date for Emergency Connectivity Fund Program Initial Application Filing Window and Modifies Funding Application Certification Language*, WC Docket No. 21-93, Public Notice, DA 21-881, 2021 WL 3128232, at *1-2 (WCB July 22, 2021) (*ECF Service Delivery Date Public Notice*) (extending the date for windows one and two if equipment or services have not been ordered or received at the time that the applicant submitted their funding requests); see *Establishing the Emergency Connectivity Fund to Close the Homework Gap*; WC Docket No. 21-93, Order, DA 21-1499, 2021 WL 5759736, at *4 (WCB Dec. 2, 2021) (*ECF Service Delivery Date Clarification Order*) (extending the date for all recurring and non-recurring funding requests to reduce confusion and minimize administrative burdens for windows one and two).

⁸ *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 22-176, 2022 WL 544369 (WCB Feb. 22, 2022).

⁹ *Wireline Competition Bureau Announces Third Application Filing Window for the Emergency Connectivity Fund Program*, WC Docket No. 21-93, Public Notice, DA 22-309, 2022 WL 867322, at *1 (WCB Mar. 23, 2022) (*Third ECF Application Window PN*).

exhausted.¹⁰ At this time, despite denials and cancellations, there are insufficient funds to commit funding to all of the ECF third window funding requests, and de-obligation of previously committed and unused funding is needed to process and fund the remaining ECF funding requests and allow applicants time to complete their purchases of eligible equipment and services.¹¹

5. For purposes of the Emergency Connectivity Fund, section 7402 of the Act defines the COVID-19 emergency period as beginning on the date the Secretary of Health and Human Services determined that a public health emergency exists as a result of COVID-19 pursuant to section 319 of the Public Health Service Act,¹² and ending on the June 30 that first occurs after the date that is one year after the Secretary of Health and Human Services determines that a public health emergency no longer exists.¹³ The COVID-19 public health emergency expired at the end of the day on May 11, 2023,¹⁴ and therefore ECF funding will only be available for purchases of eligible equipment and services made by June 30, 2024.

6. The Commission also established an invoice filing deadline rule for the program in the *Emergency Connectivity Fund Report and Order*.¹⁵ Section 54.1711(d) of the Commission's rules provides that "[i]nvoices must be submitted to the Administrator within 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post-commitment change or a successful appeal of previously denied or reduced funding; or service delivery date, whichever is later."¹⁶ After the invoice filing deadline has expired, unused funds remaining on these committed funding requests may be de-obligated and used to issue commitments for the remaining ECF third filing window funding requests.¹⁷

7. On April 5, 2023, the Petitioners requested a waiver of section 54.1711(e) of the Commission's rules and an extension of the current service delivery dates for equipment, non-recurring services, and recurring services submitted during the first, second, and third application filing windows.¹⁸ Specifically, the Petitioners explain that the extension is necessary due to timing of the issuance of funding commitments, the ongoing nature of the COVID-19 emergency, and deployment delays experienced by some applicants and their service providers.¹⁹ For the first and second window ECF

¹⁰ News Release, FCC, FCC Announces Over \$2.8 Billion in Funding Requests for Final Window in Ongoing Work to Close the Homework Gap (May 25, 2022), <https://docs.fcc.gov/public/attachments/DOC-383685A1.pdf> (*Third ECF Application Window News Release*).

¹¹ When funding modifications or denials are appealed or waivers are requested, the funds at issue remain on reserve pending final resolution to ensure the limited appropriated funds are available if the appeal or waiver is granted. Unlike the E-Rate Program, there are not any rollover funds that could be made available, if needed.

¹² See H.R. 1319, tit. VII, § 7402(d)(5)(A). The Secretary of Health and Human Services determined that a public health emergency has been in existence since January 27, 2020 as a result of COVID-19 pursuant to section 319 of the Public Health Service Act. 47 U.S.C. § 247d.

¹³ H.R. 1319, tit. VII, § 7402(d)(5)(B); see also 47 U.S.C. § 247d.

¹⁴ News Release, Department of Health and Human Services (HHS), HHS Secretary Xavier Becerra Statement on End of the COVID-19 Public Health Emergency (May 11, 2023), <https://www.hhs.gov/about/news/2023/05/11/hhs-secretary-xavier-becerra-statement-on-end-of-the-covid-19-public-health-emergency.html>; Department of Health and Human Services (HHS), COVID-19 Public Health Emergency (PHE), <https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html> (last visited May 12, 2023).

¹⁵ *Emergency Connectivity Fund Report and Order*, 36 FCC Rcd at 8743, para. 98.

¹⁶ 47 CFR § 54.1711(d).

¹⁷ *Emergency Connectivity Fund Report and Order*, 36 FCC Rcd at 8743, para. 98.

¹⁸ SHLB/CoSN Petition at 1.

¹⁹ *Id.* at 1.

funding requests, the Petitioners request that the Bureau extend the service delivery date to June 30, 2024 for applicants that received an FCDL or RFCDL on or after March 1, 2022.²⁰ For the third window ECF funding requests, the Petitioners request that the service delivery date be extended to June 30, 2024 for all applicants.²¹

III. DISCUSSION

8. Generally, the Commission's rules may be waived for good cause shown.²² The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.²³ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.²⁴

9. To ensure the first and second filing window ECF applicants can fully use their approved funding, we find that good cause exists to waive and extend the service delivery date if an FCDL or RFCDL approving an appeal, waiver, or post-commitment change was issued after a certain date, depending on funding request type. For recurring service funding requests with an FCDL or approved RFCDL dated on or after July 1, 2022, the service delivery date is 14 months after the date of the FCDL or approved RFCDL, but not to extend beyond June 30, 2024. For eligible equipment funding requests with an FCDL or approved RFCDL dated on or after January 1, 2023, we extend the service delivery date to 180 days after the date of the FCDL or RFCDL, not to extend beyond June 30, 2024. We provide 14 months and 180 days, respectively, because we recognize that receiving a commitment decision after a specific date that then does not allow the applicant to use the full 12 months of approved recurring services, or receive its approved equipment, presents special circumstances that merit a waiver of our rules. This means that applicants receiving an FCDL or RFCDL will have time to purchase equipment or up to 12 months of recurring services delivered after the FCDL or approved RFCDL, but not to extend beyond the ECF Program's sunset date of June 30, 2024.²⁵

10. For equipment funding requests submitted in the first and second filing windows, we find that six months is sufficient time for delivery after an FCDL or RFCDL. In this regard, we note that connected devices, hotspots, and other eligible equipment are commercially available through multiple service providers and that supply chain issues that may have existed during the pandemic have lessened.²⁶ Given our goal of ensuring that ECF funds are used expeditiously for their intended purpose, and that any unused funding is available for the pending third application filing window ECF requests, we expect schools and libraries to timely place orders for eligible equipment, and for service providers to timely fulfill them. Further, if the requested equipment is no longer needed, we also expect applicants will take action to return the unneeded funds to the program so the funds may be made available to other ECF applicants whose students, school staff, or library patrons have continuing unmet needs. Accordingly, we are providing a shorter period of time for the receipt and delivery of eligible equipment to ensure this funding is being used expeditiously, and for the intended purposes of this emergency program.

²⁰ *Id.* at 2.

²¹ *Id.* at 2.

²² 47 CFR § 1.3.

²³ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

²⁴ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

²⁵ Once the COVID-19 emergency period ends, the Commission cannot waive or extend the date to provide applicants with additional time to purchase eligible equipment and/or services beyond June 30, 2024. This is a statutorily set date, and the statutory language requires that purchases be made before this date to be eligible for reimbursement through the ECF program. See H.R. 1319, tit. VII, § 7402(d)(5)(B).

²⁶ See, e.g., Michael S. Debry, *NY Fed Says Supply Chain Pressures Normalized in February*, Reuters (Mar. 6, 2023), <https://www.reuters.com/business/ny-fed-says-supply-chain-pressures-normalized-february-2023-03-06/>.

11. The Petitioners request that we extend the service delivery date for all first and second window applicants that did not receive the FCDL or approved RFCDL until on or after March 1, 2022.²⁷ We find that, on balance, a blanket waiver is not appropriate for these funding requests and that it is better to target the waiver relief to the ECF applicants that are more likely to have issues being able to use their full funding commitment before the service delivery date. We must balance our efforts to de-obligate unused ECF funding and make it available to the remaining third window ECF applications that otherwise cannot be funded because of insufficient available funds. If there are applicants that received funding commitment decisions before the dates outlined in this Order or other applicants that fall outside of the relief provided in this Order, and are unable to fully use their committed ECF support due to special circumstances, they may file a waiver with the Commission to request to extend their current service delivery date.²⁸ This will allow the Bureau to grant relief to those applicants that may need additional time without delaying the Commission's ability to de-obligate unused ECF funding for the majority of first and second window ECF applicants that have fully used their funding and do not need additional time. For similar reasons, we also elect to extend the service delivery date for first and second window applicants that received an FCDL or RFCDL on or after July 1, 2022, for recurring services, and on or after January 1, 2023, for equipment, by 14 months and 180 days, respectively, rather than extending all these ECF first and second window funding requests' service delivery dates to June 30, 2024, in order to de-obligate unused funds and make them available for remaining timely-filed ECF third window requests. Fourteen months provides schools and libraries with time to deploy equipment and provide up to 12 months of recurring service, and 180 days provides schools and libraries with time to purchase and distribute equipment and devices to students, school staff, and library patrons with unmet need.

12. Next, we extend the current December 31, 2023 service delivery date to June 30, 2024 for all third application filing window equipment, non-recurring, and recurring service requests. We recognize that due to circumstances beyond the control of the ECF applicants and service providers, additional time is needed for applicants to be able to fully use their approved funding for these third window requests. Receiving a commitment decision or an approved appeal or waiver after a specific date that then does not allow the applicant time to purchase and receive the approved eligible equipment and services, presents special circumstances that merit a waiver of our rules. Unlike for the funding requests from the first and second filing windows, on balance, we find that a single service delivery date for the majority of third window funding requests provides administrative simplicity and reduces confusion given that these funding requests with a current December 31, 2023 service delivery date will likely not be de-obligated and committed in time to allow additional third filing window applicants enough time to purchase and receive eligible equipment and services before the program's funding sunsets on June 30, 2024. This extension is limited to the number of months requested and approved in the third application filing window, and is not to exceed 12 months.

²⁷ SHLB/CoSN Petition at 2.

²⁸ Examples of special circumstances for which the Bureau may grant a waiver in the *Streamlined Monthly Appeals Public Notice* and extend the service delivery date include: (1) applicants that were unable to fully use their commitment in the first and second windows because the FCDL or approved RFCDL was not received until on or after March 1, 2022; (2) applicants that received a commitment for new construction, but were unable to fully use their commitment for recurring services due to the one-year service delivery date for such funding requests; (3) applicants that need additional time due to a long deployment of equipment before services could start. *See also, e.g., Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 21-93, et al., Public Notice, DA 23-333, at 24 (WCB Apr. 28, 2023) (extending the service implementation deadline for special construction finding the delays were outside the control of the applicant and service provider and the petitioner made good faith effort to comply with the rules). If the relief requested falls outside the scope the actions taken in this Order, parties may file a petition and demonstrate how the waiver standard is met and the relief requested is consistent with the public interest. *See, e.g.,* Letter from Gene Stone, Superintendent, Lower Yukon School District, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-93 (filed May 5, 2023).

13. Recognizing that there are some recurring services associated with new construction funding requests that may need additional time, we also extend relief to ECF applicants receiving a commitment for recurring services associated with a new construction request approved during the first, second, or third filing windows that received an FCDL or approved RFCDL on or after July 1, 2022. Unlike requests for equipment or commercially available services, applicants seeking support for new construction are provided one year from the date of their funding commitment decision letter to demonstrate that construction is completed and the services have been provided.²⁹ The one-year deadline for new construction was established to ensure the greatly needed services were provided as quickly as possible to these students, school staff, and library patrons with continuing unmet needs.³⁰ We now recognize that, due to special circumstances, some applicants are unable to fully use the months of service for which funding was approved because funding commitments were issued close to the service delivery date for these recurring service funding requests. We therefore extend the service delivery date to June 30, 2024 for approved recurring services associated with a new construction funding request if the FCDL or approved RFCDL for the new construction services was received on or after July 1, 2022. However, we do not otherwise extend or waive the current one-year deadline to complete the special construction services from the date of the FCDL.

14. We find that waiving and extending the service delivery date for the ECF applicants discussed above will not lead to any additional funding being made available to these applicants, but rather it allows the applicants to use their approved and committed ECF funding pursuant to the Commission's rules. In addition, we find that the public interest would not be served if these applicants are not able to fully use the approved and committed ECF support for the eligible equipment and broadband services needed for these students, school staff, and library patrons with unmet needs who otherwise are not able to fully engage in remote learning. Rather, the actions we take today will allow applicants to provide and use the ECF-supported equipment and services beyond the current service delivery dates, thereby enhancing the availability of off-campus connectivity to students, school staff, and library patrons with continuing unmet needs consistent with the goals of the ECF Program.

15. We are mindful that these ECF funds are limited and have adopted safeguards to ensure the funds are fully used for their intended purpose.³¹ We conclude that waiving and extending the service delivery date for these ECF funding requests will allow for the greater provision of affordable devices and connectivity to students, school staff, and library patrons in need and, therefore, furthers the mission of the ECF.³² We encourage applicants and service providers, who agree to invoice on behalf of the applicant, to continue to submit timely requests for reimbursement after receiving the requested eligible equipment or services, to allow the unused ECF support to be made available to for the remaining ECF third window funding requests so that other students, school staff, and library patrons with continuing unmet needs can also be served before the June 30, 2024 sunset date of the ECF Program.

16. We also modify section 54.1711(e) of the Commission's rules as reflected in Appendix A to reflect the updated service delivery deadlines adopted herein. We make this change without notice and

²⁹ *Emergency Connectivity Fund Report and Order*, 36 FCC Rcd at 8717, para. 41.

³⁰ *Id.* at 8717, para. 41, n.125 (finding that additional construction time is inconsistent with the goals of this emergency program).

³¹ For example, we note that USAC has appropriate review procedures and internal controls to ensure applicants will not be able to request and receive duplicative support for Emergency Connectivity Fund-supported equipment and services.

³² *See Emergency Connectivity Fund Report and Order*, 36 FCC Rcd at 8703, para. 16.

comment in accordance with the exception to the Administrative Procedure Act (APA) for procedural rules.³³ The updated rule will become effective upon publication of this Order in the Federal Register.³⁴

17. Finally, we find no evidence of waste, fraud, or abuse is presented by waiving and extending the service delivery date in this manner. We emphasize that the Commission is committed to guarding against waste, fraud, and abuse and ensuring that funds disbursed through the ECF Program are used for their intended purposes to provide broadband connectivity and connected devices to students, school staff, and library patrons with unmet needs. Although we grant a waiver of and extend the service delivery date for certain ECF funding requests, these actions do not affect the authority of the Commission or USAC to conduct audits and other reviews and investigations to verify compliance with ECF Program rules and requirements.³⁵ The Commission is also required to recover funds disbursed in violation of statutory and/or rule requirements.³⁶

IV. ORDERING CLAUSES

18. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that section 54.1711 of the Commission's rules IS WAIVED and AMENDED to the extent provided herein.

19. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

20. The amended rule adopted in this Order and contained in Appendix A constitutes a rule of agency organization, procedure and practice and is not subject to the Administrative Procedure Act requirements.³⁷ Accordingly, this amended rule is EFFECTIVE upon publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

³³ 5 U.S.C. § 553(b)(3)(A). This amended rule is not subject to the APA requirements because it is a procedural rule setting a service delivery date for eligible equipment, non-recurring, and recurring services purchased between July 1, 2021 and June 30, 2024.

³⁴ 47 CFR § 1.427(b) (allowing procedural rules to take effect upon publication in the Federal Register). The APA's requirement that rules must be published in the Federal Register at least 30 days before their effective date, subject to certain exceptions, applies only to "substantive rules." See 5 U.S.C. § 553(d); see also *Neighborhood TV Co. v. Federal Commc'ns Comm'n.*, 742 F.2d 629, 637 (D.C. Cir. 1984) (recognizing that "[t]he FCC has maintained . . . that its interim processing procedures are procedural rules, and therefore are not subject to the APA's notice and comment, or advance publication requirements.").

³⁵ 47 CFR § 54.1714.

³⁶ 31 U.S.C. § 3711(a)(1); see also 31 CFR § 901.1 (requiring aggressive collection actions).

³⁷ 5 U.S.C. § 553(b)(3)(A).

APPENDIX A**Final Rule**

For the reasons set forth above, section 54.1711(e) is amended and reads as follows:

(e) *Service delivery date.*

- (1) Except as provided in paragraphs (i) and (ii), for the initial filing window set forth in § 54.1708(b) and second application filing window, the service delivery date for equipment, other non-recurring services, and recurring services is June 30, 2023.
 - (i) If the funding commitment decision letter or a revised funding commitment decision letter approving an appeal, waiver, or post-commitment request for equipment, is received on or after July 1, 2022, the service delivery date for service funding requests is 14 months from the date of that letter or June 30, 2024, whichever date is earlier.
 - (ii) If the funding commitment decision letter or a revised funding commitment decision letter approving an appeal, waiver, or post-commitment request for equipment, is received on or after January 1, 2023, the service delivery date for equipment is 180 days from the date of that letter or June 30, 2024, whichever date is earlier.
- (2) For the third application filing window and any subsequent filing windows covering funding for purchases made between July 1, 2022 and June 30, 2024, the service delivery date for equipment, other non-recurring services, and recurring services is June 30, 2024.



PUBLIC NOTICE

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DA 23-406

Released: May 12, 2023

WIRELINE COMPETITION BUREAU AND OFFICE OF THE MANAGING DIRECTOR PROVIDE GUIDANCE ON EMERGENCY CONNECTIVITY FUND PROGRAM UPON TERMINATION OF THE EMERGENCY PERIOD

WC Docket No. 21-93

The Wireline Competition Bureau (Bureau) and Office of the Managing Director (OMD) offer guidance to participants in the Emergency Connectivity Fund (ECF) Program on the expiration of the COVID-19 public health emergency on May 11, 2023 and announce June 30, 2024 as the sunset date for the ECF Program.

As part of the American Rescue Plan Act of 2021 (Act), Congress appropriated \$7.171 billion and directed the Federal Communications Commission (Commission) to promulgate rules to distribute funding from the ECF to eligible schools and libraries for the purchase *during the COVID-19 emergency period* of eligible equipment and/or advanced telecommunications and information services for use by students, school staff, and library patrons at locations that include locations other than a school or library.¹ On May 10, 2021, the Commission adopted the *Emergency Connectivity Fund Report and Order* establishing the rules for the ECF Program to distribute the funding to eligible schools and libraries.²

For purposes of the ECF, section 7402 of the Act defines the COVID-19 emergency period as beginning on the date the Secretary of Health and Human Services determined that a public health emergency exists as a result of COVID-19 pursuant to section 319 of the Public Health Service Act,³ and ending on the June 30 that first occurs after the date that is one year after the Secretary of Health and Human Services determines that a public health emergency no longer exists.⁴ On January 31, 2020, the Department of Health and Human Services declared that a public health emergency exists and has existed since January 27, 2020.⁵ The COVID-19 public health emergency expired at the end of the day on May

¹ American Rescue Plan Act, 2021, H.R. 1319, Pub. L. No. 117-2, 117th Cong., tit. VII, § 7402(a)(1)-(2) (2021) (enacted), available at [https://www.congress.gov/bill/117th-congress/house-bill/1319/text](https://www.congress.gov/bills/117th-congress/house-bill/1319/text) (American Rescue Plan Act) (enrolled bill) (emphasis added).

² See *generally Establishing the Emergency Connectivity Fund to Close the Homework Gap*; WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696 (2021) (*Emergency Connectivity Fund Report and Order*).

³ See H.R. 1319, tit. VII, § 7402(d)(5)(A). The Secretary of Health and Human Services determined that a public health emergency has been in existence since January 27, 2020 as a result of COVID-19 pursuant to section 319 of the Public Health Service Act. 47 U.S.C. § 247d.

⁴ H.R. 1319, tit. VII, § 7402(d)(5)(B); see also 47 U.S.C. § 247d.

⁵ Department of Health and Human Services, Administration for Strategic Preparedness & Response, Determination That A Public Health Emergency Exists (Jan. 31, 2020) <https://aspr.hhs.gov/legal/PHE/Pages/2019-nCoV.aspx>.

11, 2023,⁶ and thereafter, ECF funding will only be available for purchases of eligible equipment and services made by June 30, 2024, the sunset date for the program.

As of May 11, 2023, \$3.173 billion has been disbursed to ECF participants. For all funding requests with outstanding commitments or pending decisions (e.g., funding decisions, post-commitment requests, appeals, waivers, or requests for reimbursements), the expiration of the COVID-19 emergency period requires that all purchases of eligible equipment and services must be made by June 30, 2024, in order for the purchase to be eligible for reimbursement through the ECF Program.

Below is a summary of upcoming deadlines based on the sunsetting of the ECF Program on June 30, 2024:

- **Service delivery date:** The service delivery dates were extended in the *May 2023 Service Delivery Deadline Extension Order* as detailed below.⁷
 - **ECF Application Filing Windows 1 and 2**
 - Applicants with funding requests with a service delivery date of June 30, 2023, the expiration of the COVID-19 emergency period has no impact on these requests.
 - Applicants that received a funding commitment decision letter (FCDL) or revised funding commitment decision letter (RFCDL) approving an appeal, waiver, or post-commitment request for a service funding request on or after July 1, 2022:
 - Recurring service funding requests have a service delivery date of 14 months after the date of the letter, or June 30, 2024, whichever date is earlier.
 - Approved, up-to-12 months of recurring service funding requests associated with an approved special construction request have a service delivery date of June 30, 2024.
 - Applicants that received an FCDL or RFCDL approving an appeal, waiver, or post-commitment request for an equipment funding request on or after January 1, 2023:
 - Equipment funding requests have a service delivery date 180 days after the date of the letter, but not to exceed beyond June 30, 2024.
 - Applicants with other service delivery dates (e.g., special construction funding requests that have a deadline of one year from the date of the letter), must meet the service delivery date listed in the ECF Portal or on USAC's Open Data.

⁶ News Release, Department of Health and Human Services (HHS), HHS Secretary Xavier Becerra Statement on End of the COVID-19 Public Health Emergency (May 11, 2023), <https://www.hhs.gov/about/news/2023/05/11/hhs-secretary-xavier-becerra-statement-on-end-of-the-covid-19-public-health-emergency.html>; Department of Health and Human Services (HHS), COVID-19 Public Health Emergency (PHE), <https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html> (last visited May 12, 2023).

⁷ *Establishing Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Order, DA 23-405 (WCB May 12, 2023).

- **ECF Application Filing Window 3**
 - All applicants with approved third filing window funding requests for recurring services, non-recurring services, and equipment have a service delivery date of June 30, 2024.
 - Applicants with other service delivery dates (e.g., special construction funding requests that have a deadline of one year from the date of the letter), must meet the service delivery date listed in the ECF Portal or on USAC's Open Data.
- **Pending Appeals, Waivers, or Post-Commitment Change Requests on June 30, 2024**
 - Applicants or service providers with pending appeals, waivers, or post-commitment change requests as of **June 30, 2024** will also have a service delivery date of June 30, 2024.
 - Applicants, in such a scenario, must have purchased the eligible equipment and/or services by June 30, 2024, to be eligible to be reimbursed through the ECF program after the end of the COVID-19 emergency period. However, applicants making such a purchase *do so at their own risk* if the funding decision is ultimately denied.
 - **Invoice filing deadline date:** The invoice filing deadline date remains unchanged under the ECF Program rules. Pursuant to section 54.1711(e) of the Commission's rules, requests for reimbursement must be filed within 60 days of the FCDL; an RFCDL approving a post-commitment change or a successful appeal of a previously denied or reduced funding; or service delivery date, whichever is later.⁸
- **ECF Application Filing Windows 1 and 2**
 - Applicants with funding requests with a service delivery date of June 30, 2023, ECF requests for reimbursement must still be filed by August 29, 2023.
 - Applicants with a different or later service delivery date, requests for reimbursement must be filed within 60 days of the service delivery date.
- **ECF Application Filing Window 3**
 - Applicants with funding requests with a service delivery date of June 30, 2024, ECF requests for reimbursement must be filed by August 29, 2024.
 - Applicants with a different or later service delivery date, requests for reimbursement must be filed within 60 days of the service delivery date.
- **Pending Appeals, Waivers, or Post-Commitment Change Requests on June 30, 2024**
 - If the invoice filing deadline occurs after June 30, 2024, the applicant or service provider can file an ECF request for reimbursement and receive funds after June 30, 2024, provided that the eligible equipment and services were purchased prior to June 30, 2024. However, as noted above, applicants making such a purchase *do so at their own risk* if the funding decision is ultimately denied.
 - Once the COVID-19 emergency period ends, the Commission cannot waive or extend the date to provide applicants with additional time to purchase eligible equipment and/or services beyond June 30, 2024. This is a statutorily set date,

⁸ 47 CFR § 54.1711(e).

and the statutory language requires that purchases be made before this date to be eligible for reimbursement through the ECF Program.

To reduce processing delays near the invoice filing deadlines, the Bureau recommends filing requests for reimbursement as soon as the eligible equipment or services are received. The Commission will de-obligate unused funds to make them available for the remaining timely-filed third application filing window funding requests. We encourage applicants to assist the Commission and other applicants by filing post-commitment requests to reduce funding requests with outstanding, excess commitments,⁹ or cancel funding requests that will not be used.¹⁰ As soon as the invoice filing deadline date has passed for a funding request, USAC will begin the de-obligation process for any remaining, unused funding. The Bureau does not expect to grant waivers of the ECF invoice filing deadline date, absent extraordinary circumstances. Therefore, we encourage applicants, and service providers who agreed to invoice on behalf of the applicant, to submit their ECF requests for reimbursement as soon as possible after receiving the eligible equipment and/or services.

Finally, the Commission is committed to protecting against waste, fraud, and abuse, and ensuring that funds disbursed through the ECF Program are used for their intended purposes of providing broadband connectivity and connected devices to students, school staff, and library patrons with unmet needs during the emergency period. The Commission and USAC may conduct audits and other reviews or investigations to verify compliance with ECF Program rules and requirements.¹¹ In the event of a violation of program rules or requirements, the Commission may seek recovery of disbursed funds or take other appropriate action(s).

Additional Information. For assistance, all ECF Program participants can check the Frequently Asked Questions (FAQs) at the Commission's website for the Emergency Connectivity Fund Program, <https://www.fcc.gov/emergency-connectivity-fund-faqs>, which have recently been updated to reflect these changes and address questions. Participants can also contact Kate Dumouchel of the Wireline Competition Bureau's Telecommunications Access Policy Division at 202-418-1839 or kate.dumouchel@fcc.gov for additional information.

- FCC -

⁹ For example, if a school district received a commitment for \$20,000, but ultimately only required and invoiced for \$10,000, the applicant can file a post-commitment request to reduce the commitment from \$20,000 to \$10,000 and the remaining \$10,000 can be made available to other applicants before the sunset of the program on June 30, 2024.

¹⁰ For additional information about reducing or cancelling a funding request, please visit <https://www.emergencyconnectivityfund.org/ecf-post-commitment-request-form/post-commitment-changes/>.

¹¹ 47 CFR § 54.1714.



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-407

Released: May 12, 2023

ROLKA LOUBE ASSOCIATES SUBMITS PAYMENT FORMULAS AND FUNDING REQUIREMENTS FOR THE TELECOMMUNICATIONS RELAY SERVICES FUND

CG Docket No. 03-123

Comments Due: May 26, 2023

Reply Comments Due: June 5, 2023

The Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (Commission) seeks comment on the Telecommunications Relay Services (TRS) Fund administrator's proposed provider compensation formulas, funding requirements, and contribution factors for the period from July 1, 2023, through June 30, 2024 (2023-24 Fund Year).¹

TRS Using MARS Plan Formula

Rolka Loube Associates LLC (Rolka Loube), the TRS Fund administrator, proposes per-minute compensation formulas for services subject to the Multi-state Average Rate Structure (MARS) plan methodology,² as follows: \$5.7204 for interstate traditional TRS; \$6.8514 for interstate speech-to-speech relay service (STS); and \$2.6619 for interstate captioned telephone service (CTS).³ We seek comment on whether these proposed formulas correctly apply the MARS formula.

IP Relay

Pursuant to the *2022 IP Relay Compensation Order*,⁴ Rolka Loube recommends a compensation amount of \$2.0927 per minute, calculated as 106.9% of the prior year's amount (\$1.9576). We seek comment on whether the recommendation correctly applies the *2022 IP Relay Compensation Order*.

¹ See Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51 (filed May 1, 2023), <https://www.fcc.gov/ecfs/document/1050410304699/1> (2023 TRS Report); see also 47 CFR § 64.604(c)(5)(iii)(H).

² Under the MARS plan methodology, interstate TRS Fund compensation formulas for relay services provided through state TRS programs are calculated based on a weighted average of the per-minute intrastate compensation paid by state TRS programs for the same or a similar relay service. See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20151-58, paras. 16-37 (2007) (*2007 TRS Compensation Methodology Order*).

³ 2023 TRS Report at 5. The current compensation levels for these services are: \$4.5098 per minute for interstate traditional TRS; \$5.6408 per minute for interstate STS; and \$2.3419 per minute for interstate CTS. *Id.* at 5-7.

⁴ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Petition for Rulemaking of Sprint Corporation*, CG Docket No. 03-123 and RM-11820, Notice of Proposed Rulemaking, FCC 22-48 (June 30, 2022) (*2022 IP Relay Compensation Order*) (adopting compensation plan for IP Relay).

VRS and IP CTS

The Commission will address compensation for Video Relay Service (VRS) and Internet Protocol Captioned Telephone Service (IP CTS) in the relevant rulemaking proceedings.⁵

Funding Requirement and Contribution Factors

Comment is invited on Rolka Loube's demand projections and funding requirements for the various relay services supported by the Fund.⁶ For purposes of calculating funding requirements and contribution formulas, Rolka Loube assumes continued application of the current compensation formulas for IP CTS and VRS.⁷

We also seek comment on Rolka Loube's estimates and recommendations for disbursements under the National Deaf-Blind Equipment Distribution Program (\$10,000,000) and for funding to cover TRS research and administration (\$55,287,515), including allowances for database administration, Fund administration, data collection agent costs, the TRS Fund Advisory Council, service provider audits, bankruptcy representation, an independent financial audit of the Fund, an improper-payments audit, and user identity verification.⁸ In addition, we seek comment on Rolka Loube's recommendation, consistent with the practice in the past few years, to include a two-month payment reserve, totaling \$203,316,773, in the overall funding requirement for the coming year.⁹

Rolka Loube proposes a total Fund requirement of \$1,508,071,592 for the 2023-24 Fund Year.¹⁰ Rolka Loube anticipates that there will be a budget surplus of approximately \$277,430,000 for the 2022-23 Fund Year.¹¹ Deducting last year's surplus from the total Fund requirement, Rolka Loube proposes a net Fund requirement of \$1,230,641,592.¹²

In June 2022, the Commission modified the TRS Fund contribution rules to provide that contributions to support all IP-based relay services are determined based on Fund contributors' interstate

⁵ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Notice of Proposed Rulemaking and Order, 36 FCC Rcd 8802 (2021) (proposing compensation plan for VRS); *Internet Protocol Captioned Telephone Service Compensation; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket Nos. 22-408, 03-123 and 13-24, Notice of Proposed Rulemaking and Order on Reconsideration, DA 22-97, 2022 WL 17958805 (2021) (proposing compensation plan for IP CTS).

⁶ 2022 TRS Report at 13-14 & Exh. 2.

⁷ *Id.* at 4. The current compensation level for IP CTS is \$1.30 per minute. *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 13-24, 03-123 and 10-51, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, 35 FCC Rcd 10866 (2020). The current compensation levels for VRS are: for emergent providers, \$5.29 per minute; for Tier I (1st 1 million monthly minutes), \$4.82 per minute; for Tier II (next 1.5 million monthly minutes), \$3.97; for Tier III (monthly minutes over 2.5 million), \$2.63. *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Order, 32 FCC Rcd 5891, 5935, Appx. A (2017).

⁸ 2023 TRS Report at 14-15 & Exh. 2.

⁹ *Id.* at 14 & Exh. 2.

¹⁰ *Id.* at 15 & Exh. 2.

¹¹ *Id.* at 15.

¹² *Id.*

and intrastate end-user revenues.¹³ Pursuant to the *2022 TRS Fund Contributions Order*, Rolka Loube calculates a contribution factor of 0.01547 for support of IP-based relay services, to be applied to contributors' interstate and intrastate end-user revenues, and a contribution factor of 0.00024 for support of other relay services, to be applied to contributors' interstate end-user revenues.¹⁴ We seek comment on the proposed contribution factors.

Filing Requirements. Interested parties may file comments on the 2023 TRS Report on or before the date indicated on the first page of this document.¹⁵ All filings must reference CG Docket No. 03-123. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).¹⁶

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.
- Paper Filers:
 - Parties who choose to file by paper must file an original and one copy 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.
 - Currently, the Commission does not accept any hand delivered or messenger delivered filings as a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. In the event that the Commission announces the lifting of COVID-19 restrictions, a filing window will be opened at the Commission's office located at 9050 Junction Drive, Annapolis Junction, Maryland 20701.¹⁷
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail may be addressed to 45 L Street, NE, Washington, DC 20554.
 - During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

¹³ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Misuse of Internet Protocol Relay Service*, CG Docket Nos. 03-123, 10-51, and 12-38 Report and Order, FCC 22-49 (rel. June 30, 2022) (*2022 TRS Fund Contributions Order*); see also 47 CFR § 64.604(c)(5)(iii)(A). Previously, IP CTS was supported from contributors' interstate and intrastate end-user revenues, and all other services were supported from contributors' interstate end-user revenues. See *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Report and Order, 34 FCC Rcd 11265 (2019).

¹⁴ 2023 TRS Report at 15-17 & Exh. 2.

¹⁵ See 47 CFR §§ 1.1, 1.45, 1.49.

¹⁶ *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

¹⁷ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020).

Ex Parte Requirements. The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁸ 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 rule 1.1206(b). In proceedings governed by rule 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.

Accessible Materials. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice).

For further information, please contact Michael Scott at (202) 418-1264 or by e-mail at Michael.Scott@fcc.gov.

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¹⁸ 47 CFR §§ 1.1200 *et seq.*



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
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News Media Information 202-418-0500
Internet: www.fcc.gov
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DA 23-408

Released: May 15, 2023

WIRELESS TELECOMMUNICATIONS BUREAU ANNOUNCES PROCEDURES FOR FILING OF C-BAND PHASE II CERTIFICATIONS OF ACCELERATED RELOCATION AND IMPLEMENTATION OF THE COMMISSION'S INCREMENTAL REDUCTION PLAN FOR PHASE II ACCELERATED RELOCATION PAYMENTS

GN Docket No. 18-122; GN Docket No. 23-97

I. INTRODUCTION

With this Public Notice, the Wireless Telecommunications Bureau (WTB or Bureau) announces its procedures related to the filing of Phase II Certifications of Accelerated Relocation (Certifications) and implementation of the Commission's incremental reduction plan for Phase II Accelerated Relocation Payments (ARPs) as part of the ongoing transition of the 3.7 GHz band.¹ On March 13, 2023, as directed by the Commission in the *3.7 GHz Report and Order*, WTB issued a Public Notice which proposed adopting filing procedures largely modeled after those previously adopted for Phase I to allow eligible space station operators to submit Certifications, and stakeholders to file related challenges, with respect to the Phase II migration of incumbent services in this band.² WTB also proposed adopting an approach that parallels the Phase I process for calculating the incremental reduction of an eligible space station operator's ARP should it fail to meet the Phase II Accelerated Relocation Deadline.³ The Bureau received one comment⁴ and three *ex parte* submissions.⁵ After reviewing the record, we adopt certain of

¹ See *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2456-57, paras. 297-300 (2020) (*3.7 GHz Report and Order*).

² *Id.* at 2457, para. 298; 47 CFR § 27.1412(g); *Wireless Telecommunications Bureau Seeks Comment on C-Band Phase II Certification of Accelerated Relocation Procedures and Implementation of the Commission's Incremental Reduction Plan for Phase II Accelerated Relocation Payments*, GN Docket Nos. 18-122 and 23-97, Public Notice, DA 23-204, 3-6 (WTB 2023) (*Phase II Certification Procedures and Incremental Reduction Comment PN*); *Wireless Telecommunications Bureau Opens a New Docket and Establishes the Process for C-band Space Station Operator Phase I Certification of Accelerated Relocation*, GN Docket Nos. 18-122 and 21-320, Public Notice, 36 FCC 12359 (WTB 2021) (*Phase I ARP Certification Procedures PN*).

³ *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 297; 47 CFR § 27.1422(d); *Phase II Certification Procedures and Incremental Reduction Comment PN* at 6; *Wireless Telecommunications Bureau Announces Implementation of the Commission's Incremental Reduction Plan for Phase I Accelerated Relocation Payments*, GN Docket Nos. 18-122 and 21-320, Public Notice, 36 FCC Rcd 14012 (WTB 2021) (*Phase I Incremental Reduction Plan PN*).

⁴ Embratel TVSAT Telecomunicações S.A. Comments (filed Apr. 7, 2023) (Embratel Comments).

⁵ Letter from Brian D. Weimer, counsel to SES Americom, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122 and 23-97 (filed Apr. 5, 2023) (*SIT April 5 Ex Parte*) (SES Americom, Inc., Intelsat, and Telesat, jointly participated in this *ex parte* presentation); Letter from Richard Cameron, Counsel for Eutelsat Americas, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122 and 23-97 (filed Apr. 12, 2023) (*Eutelsat April 12 Ex Parte*); Letter from Brian D. Weimer, Counsel to SES Americom, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 18-122 and 23-97 (filed Apr. 12, 2023) (*SES Americom April 12 Ex Parte*).
(continued....)

the proposals outlined in the *Phase II Certification Procedures and Incremental Reduction Comment PN*, with the modifications described below.

II. BACKGROUND

In the *3.7 GHz Report and Order*, the Commission adopted rules to make 280 megahertz of mid-band spectrum available for flexible use (plus a 20 megahertz guard band) throughout the contiguous United States by transitioning existing services out of the lower portion of the band and into the upper 200 megahertz of the C-band (*i.e.*, 4.0-4.2 GHz).⁶ The *3.7 GHz Report and Order* established a deadline of December 5, 2025, by which incumbent space station operators were to complete the transition of their operations to the upper 200 megahertz of the band, but it also provided an opportunity for accelerated clearing of the band by allowing eligible space station operators to voluntarily commit to relocate on a two-phased accelerated schedule, with a Phase I deadline of December 5, 2021, and a Phase II deadline of December 5, 2023.⁷

All five eligible space station operators elected accelerated relocation,⁸ which means, among other things, that they voluntarily committed to perform all necessary tasks to enable any incumbent earth station that receives or sends C-band signals to a space station owned by that operator to maintain that functionality in the upper 200 megahertz of the band.⁹ The *3.7 GHz Report and Order* provided that “[t]o the extent eligible space station operators can meet the Phase I and Phase II Accelerated Relocation Deadlines, they will be eligible to receive the accelerated relocation payments associated with those deadlines.”¹⁰ The ARPs are to be disbursed by the Relocation Payment Clearinghouse (Clearinghouse).¹¹

The *3.7 GHz Report and Order* specified that an “eligible space station operator’s satisfaction of the Accelerated Relocation Deadlines will be determined by the timely filing of a Certification of Accelerated Relocation demonstrating, in good faith, that it has completed the necessary clearing actions to satisfy each deadline” and directed WTB to prescribe the form of such Certifications.¹² Further, “the Bureau, Clearinghouse, and relevant stakeholders will have the opportunity to review the Certification of Accelerated Relocation and identify potential deficiencies.”¹³

If “credible challenges as to the space station operator’s satisfaction of the relevant deadline are made, the Bureau will issue a public notice identifying such challenges and will render a final decision as

Docket Nos. 18-122 and 23-97 (filed Apr. 17, 2023) (*SSO April 17 Ex Parte*) (SES, Intelsat, Telesat, Eutelsat, and Embratel, jointly participated in this *ex parte* presentation).

⁶ *3.7 GHz Report and Order*, 35 FCC Rcd at 2345, para. 4. The *3.7 GHz Report and Order* established that new 3.7 GHz service licensees would reimburse the reasonable, actual relocation costs of eligible FSS space station operators, incumbent FSS earth station operators, and incumbent Fixed Service licensees (collectively, incumbents) to transition out of the band. *Id.* at 2391, 2465-66, paras. 111, 326; 47 CFR § 27.4. The *3.7 GHz Band Report and Order* defined the incumbents that will be eligible to be reimbursed for their reasonable relocation costs. *See 3.7 GHz Report and Order*, 35 FCC Rcd at 2426, para. 200; 47 CFR § 27.1411(b)(1)-(2) (defining an eligible space station operator); *3.7 GHz Report and Order*, 35 FCC Rcd at 2392, para. 116; 47 CFR §§ 25.138(c), 27.1411(b)(3) (defining incumbent earth stations).

⁷ *3.7 GHz Report and Order*, 35 FCC Rcd at 2408, para. 155; 47 CFR § 27.1412(b)(1)-(2).

⁸ *Wireless Telecommunications Bureau Announces Accelerated Clearing in the 3.7-4.2 GHz Band*, GN Docket No. 18-122, Public Notice, 35 FCC Rcd 5517 (WTB 2020).

⁹ *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 292.

¹⁰ *Id.* at 2456, para. 297; 47 CFR § 27.1412(b).

¹¹ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 300.

¹² *Id.* at 2457, para. 298; 47 CFR § 27.1412(g).

¹³ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457 para. 299; 47 CFR § 27.1412(g)(1).

to the validity of the certification no later than 60 days from its filing.”¹⁴ Absent notice from WTB of deficiencies in a Certification within 30 days of its filing, the Certification will be deemed validated.¹⁵ Following validation, the Clearinghouse shall promptly notify overlay licensees, who must pay the ARP to the Clearinghouse within 60 days of the notice.¹⁶ The Clearinghouse must disburse the ARP to the eligible space station operator within seven (7) days of receipt.¹⁷ Should an eligible space station operator miss either Accelerated Relocation Deadline, it may still receive a reduced, but non-zero, ARP if it otherwise meets the Certification requirements within six months after the relevant Accelerated Relocation Deadline.¹⁸

The *3.7 GHz Report and Order* directed WTB to: (1) “prescribe the form” of Certifications and any challenges by relevant stakeholders, and (2) establish the process for how such challenges will impact incremental decreases in the ARP.¹⁹ On August 4, 2021, WTB issued a Public Notice implementing filing procedures for Phase I Certifications and related challenges,²⁰ and adopted the incremental reduction plan for Phase I ARPs on September 29, 2021.²¹ Each eligible space station operator subsequently filed its Phase I Certification, which were all in turn validated by the Bureau without any challenges or triggering of the incremental reduction plan.²²

III. RECORD AND DISCUSSION

In the *Phase II Certification Procedures and Incremental Reduction Comment PN*, we solicited comment on using the Phase I Certification procedures and incremental reduction plan as the baseline for Phase II, subject to certain proposed modifications. The record reflects support for using the Phase I Certification procedures as a starting point for Phase II, and three of the five eligible space station operators, SES Americom, Intelsat, and Telesat, jointly proposed to the Commission a standardized model for submission of the Phase II Certifications, which is intended to facilitate their review by the Bureau, along with other responsive points.²³ Embratel and Eutelsat, the two remaining eligible space

¹⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 299; 47 CFR § 27.1412(g)(2).

¹⁵ 47 CFR § 27.1412(g)(2).

¹⁶ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 300; 47 CFR § 27.1422(c).

¹⁷ 47 CFR § 27.1422(c).

¹⁸ *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 297; 47 CFR § 27.1422(d).

¹⁹ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, paras. 298-99.

²⁰ See *Phase I ARP Certification Procedures PN*.

²¹ See *Phase I Incremental Reduction Plan PN*; *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 297; 47 CFR § 27.1422(d).

²² *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation Satélites Mexicanos S.A. de C.V. d/b/a Eutelsat Americas*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 15297 (WTB 2021) (*Eutelsat Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of Embratel TVSAT Telecomunicações S.A.*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 15835 (WTB 2021) (*Embratel Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of Intelsat License LLC, debtor in possession, as amended*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 15844 (WTB 2021) (*Intelsat Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of Telesat Spectrum Corporation, as amended*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 16211 (WTB 2021) (*Telesat Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of SES Americom, Inc., as amended*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 16432 (WTB 2021) (*SES Phase I Certification Order*).

²³ *SIT April 5 Ex Parte*; *SSO April 17 Ex Parte*.

station operators, later confirmed their general agreement with the Bureau's proposal,²⁴ subject to minor differences discussed below. With respect to the incremental reduction plan, no commenters disagreed with replicating the Phase I process approach for Phase II, and all the eligible space station operators specifically noted their agreement with our proposal in this regard.²⁵

Sections IV and V *infra* delineate the specific Certification of Accelerated Relocation procedures and incremental reduction plan that we are adopting for the Phase II transition. Below we more generally address the record received in response to each topic raised in the *Phase II Certification Procedures and Incremental Reduction Comment PN* with respect to potential modifications to the Phase I procedures for Phase II.

Threshold Trigger. The *3.7 GHz Report and Order* directs each eligible space station operator to submit a Certification of its completion of the necessary clearing actions by the applicable Accelerated Relocation Deadline.²⁶ In the *Phase II Certification Procedures and Incremental Reduction Comment PN*, we sought comment on whether to adopt a trigger mechanism that would potentially allow the Bureau, Clearinghouse, and relevant stakeholders to contemporaneously review the Phase II Certifications and more easily identify deficiencies and concerns.²⁷ We also sought comment on what impact not adopting any threshold trigger would have on the ability of the Bureau, Clearinghouse, and stakeholders to evaluate the completeness of the Phase II Certifications.²⁸ The eligible space station operators were supportive of a trigger mechanism for the filing of Phase II certifications,²⁹ with a view towards establishing June 1, 2023 as the key date in initiating the required next steps towards completing the Phase II Certification process.³⁰ Specifically, the eligible space station operators jointly proposed that the following should occur no later than June 1, 2023: (1) WTB would open a filing window for the eligible space station operators to submit their Phase II Certifications;³¹ (2) WTB would open a window for the eligible space station operators to update their Phase II Transition Plans, if necessary;³² and (3) the Relocation Coordinator would file with the Commission a final and complete list of incumbent earth station antenna claims and assignments down to a feed level.³³

²⁴ Embratel Comments; *Eutelsat April 12 Ex Parte*.

²⁵ *SSO April 17 Ex Parte* at 2.

²⁶ *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 298.

²⁷ *See Phase II Certification Procedures and Incremental Reduction Comment PN* at 5.

²⁸ *Id.*

²⁹ *SIT April 5 Ex Parte* at Attachment A at 3 (expressing support for two triggering events to the filing of Phase II Certifications: (1) the filing by the Relocation Coordinator of a final and complete list of incumbent earth station claims, including the SSO responsible for each earth station and each feed of each earth station; and (2) the submission of updated Transition Plans); *SSO April 17 Ex Parte*. Eutelsat also agreed that a "final list prepared and filed by the Relocation Coordinator to reflect the satellite operators' consensus on all incumbent earth station claims would help ensure comprehensive earth station coverage during Phase II." *Eutelsat April 12 Ex Parte* at 2.

³⁰ *SSO April 17 Ex Parte* at 1-2; *see also* Embratel Comments at 1 (supporting the proposal that eligible space station operators may certify completion of their Phase II transition work beginning no later than June 1, 2023). In an *ex parte* filing, Eutelsat argued that the Relocation Coordinator should be directed to file its final list upon resolution of the "small number of incumbent earth station claims issues that remain unresolved," rather than waiting until June 1. *Eutelsat April 12 Ex Parte*. However, we find that establishing a uniform June 1st date initiating the Certification filing window and related processes will promote efficiency and will potentially allow the Bureau, Clearinghouse, and relevant stakeholders to contemporaneously review all necessary information to evaluate the Certifications.

³¹ *SSO April 17 Ex Parte* at 1-2.

³² *Id.*

³³ *Id.*

We agree that adopting a coordinated approach will aid in a timely and fulsome review of the Phase II Certifications and related information by the Bureau, Clearinghouse, and interested parties to ensure that all necessary Phase II transition work has been duly completed. Such an approach will ensure that stakeholders have access to accurate, final submissions from each satellite operator during the short review period provided by the *Report and Order*. As proposed in the *SSO April 17 Ex Parte*, we find it in the public interest to set a unified June 1, 2023 start date for various Phase II transition actions, in lieu of identifying a specific triggering event. Establishing a set date will better satisfy the goals of providing clarity and uniformity for stakeholders regarding the Phase II certification timeline. Accordingly, we will open a window commencing June 1, 2023 for the filing of Phase II Certifications by the eligible space station operators and, through a separate Bureau action also released today, open a limited and final window for the submission of Transition Plan amendments also starting June 1, 2023.³⁴

To facilitate stakeholder review of satellite operator Certifications and Transition Plans, we further direct the Relocation Coordinator to file, by June 1, 2023,³⁵ a final list of all incumbent earth stations included on the *March 2023 Incumbent Earth Station List Public Notice*³⁶ and all antennas and feeds associated with each incumbent earth station, including the eligible space station operator responsible for transitioning each antenna and feed (whether by claim or assignment), utilizing the format the incumbent satellite operators proposed in the *SSO April 17 Ex Parte*.³⁷ The Relocation Coordinator should, prior to filing this final list with the Commission, coordinate with Space Bureau staff as to the implementation of this format. The final list should be filed through ECFS in GN Docket Nos. 18-122 and 23-97. Once the Relocation Coordinator final list is publicly filed with the Commission, we will deem all Incumbent Earth Station antenna and feed claims or assignments to be frozen for the remainder of the Phase II transition.³⁸

In order to establish a common baseline for comparison, we clarify that the *March 2023 Incumbent Earth Station List Public Notice* also should be used by the eligible space station operators in the preparation of their Phase II Certifications and Transition Plan amendments, subject to guidance below on the treatment of antennas pending removal from such list. Our expectation is that each

³⁴ *Wireless Telecommunications Bureau Opens Window For Eligible C-Band Satellite Operators To Account For Final Updates to Their Transition Plans*, GN Docket Nos. 18-122 and 20-173, Public Notice, DA 23-409 (WTB 2023) (Final Transition Plan Amendment PN).

³⁵ These procedures will be effective upon publication in the Federal Register. We recognize that the effective date of any rules that may be contained in this *Phase II ARP Certification Procedures and Incremental Reduction Plan Public Notice* will therefore be less than 30 days following its publication in the Federal Register, as generally required. See 5 U.S.C. § 553(d). However, we believe the nature of this proceeding, which has been consistently focused on expediting clearing of the C-band, and in particular the fact that these procedures will apply only to a limited number of entities which have been closely involved in the planning of these procedures and have themselves proposed an abbreviated deadline, constitutes “good cause” for a shorter time period. See *id.* § 553(d)(3).

³⁶ See *International Bureau Releases Updated List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, IB Docket No. 20-205; GN Docket No. 20-305, Public Notice, DA 23-176 (IB Mar. 3, 2023) (*March 2023 Incumbent Earth Station List Public Notice*). We note that although this list may be subject to further updates, for example as a result of the most recent pending inactive earth station public notice, it will represent the most up-to-date list available when the Phase II Certification window opens. See *International Bureau Identifies Earth Station Antennas on C-Band Incumbent List that may be Inactive or Otherwise Not Operational on the 3.7 GHz Band*, IB Docket No. 20-205, Public Notice, DA 23-237 (IB Mar. 21, 2023) (*March 21 Inactive IES Public Notice*).

³⁷ *SSO April 17 Ex Parte*, Attach. B.

³⁸ *SIT April 5 Ex Parte*, Attach. A at 2 (“Accordingly, after June 1, 2023, changes to a SSO’s IES claims or assignments should only occur in the event of administrative errors.”). This freeze on claims and assignments applies only to the Certification and Transition Plan amendment process for Phase II. The status of incumbent earth stations listed on the *March 21 Inactive IES Public Notice* will be determined through that ongoing process.

incumbent earth station antenna and each feed on a shared multi-feed antenna relating to Phase II of the C-band transition from the *March 2023 Incumbent Earth Station List Public Notice* will be claimed by, or assigned to, one or more eligible space station operators on both the final list provided by the Relocation Coordinator, as well as across the individual Phase II Certifications and final Transition Plans of the eligible space station operators.

Standardized Format, Terminology, and Descriptions. In the *Phase II Certification Procedures and Incremental Reduction Comment PN*, we sought comment on requiring the eligible space station operators to utilize standardized forms, terminology, and descriptions in their Phase II Certifications – particularly with respect to transition work relating to incumbent earth station antennas and feeds – to promote transparency and administrative efficiency.³⁹ The joint proposal advanced by the eligible space station operators provides for standardization across their Phase II Certifications by specifying that they will all mirror the format and terminology used by the Relocation Coordinator in the Excel spreadsheet reflecting its final incumbent earth station claims and assignments list.⁴⁰

We find that this proposal furthers the goals of transparency and administrative efficiency we identified in the *Phase II Certification Procedures and Incremental Reduction Comment PN*. We therefore adopt the requirement that, in the filing of Phase II Certifications to demonstrate the completion of their transition responsibilities, the eligible space station operators must utilize the format and terminology provided in the attachment to the *SSO April 17 Ex Parte* to report their transition work relating to incumbent earth station antennas and feeds in an Excel spreadsheet.⁴¹ Where certain fields may not be relevant to a given eligible space station operator, it may indicate that such field is not applicable.⁴²

Variances from Transition Plans. In the *Phase II Certification Procedures and Incremental Reduction Comment PN*, we proposed to retain our requirement applicable to the Phase I Certifications that an eligible space station operator provide an explanation of any variance from its Transition Plan, including situations involving transition agreements between itself and incumbent earth station operators allowing for self-installations.⁴³ We also sought comment on whether we should require the inclusion of additional information in a Certification change log for any deviations from an eligible space station operator's previous Transition Plan, how to treat incumbent earth station antennas pending removal from the Incumbent Earth Station list, and strict application of the seven day notice requirement of any transition delays as part of the Phase II Certification process.⁴⁴

In the *SIT April 5 Ex Parte*, SES, Intelsat, and Telesat argued that the Commission does not need detailed information about self-installations because the eligible space station operator responsible for that incumbent earth station antenna remains responsible to remedy any issues that might occur in the transition of such an earth station.⁴⁵ The eligible space station operators separately noted their willingness to provisionally claim all antennas that remain pending removal from the Incumbent Earth Station list as

³⁹ See *Phase II Certification Procedures and Incremental Reduction Comment PN* at 4.

⁴⁰ *SSO April 17 Ex Parte* at 2-3, Attach B.; *Eutelsat April 12 Ex Parte* at 1.

⁴¹ Use of this standard form is not intended to obviate the requirements discussed below for an eligible space station operator to include additional required information relating to its incumbent earth station transition work, including completion dates and the identification of self-installations by incumbent earth station operators.

⁴² See, e.g., Embratel Comments at 3-4. Embratel initially argued it should be exempt from any standardization requirements since it has already exited the C-band market and, therefore, such a requirement would not “serve a benefit and would complicate review of Embratel’s certification.” Embratel later indicated that it could put “N/A” on all fields of the form that are not applicable. See *id.*; see also *SSO April 17 Ex Parte* at 2, n.6.

⁴³ See *Phase II Certification Procedures and Incremental Reduction Comment PN* at 4.

⁴⁴ See *id.* at 4-5.

⁴⁵ *SIT April 5 Ex Parte*, Attach. A at 1-2.

of June 1, 2023, to ensure that any such stations will be remediated if it is later determined to be necessary.⁴⁶ Finally, they argued that the form they propose for the spreadsheets to be included in their Certifications would provide sufficient information regarding any variances from their transition plans for stakeholders to review their submissions.⁴⁷ No comment was received on application of the seven day transition delay notice requirement.

While we agree that, given the ongoing responsibility of incumbent space station operators to transition all earth stations that they have claimed or been assigned, detailed documentation or information about self-installations of filters and other equipment by incumbent earth station operators is not necessary for purposes of the Phase II Certification process, we nonetheless will require eligible space station operators to identify which incumbent earth station antennas and feeds were subject to such self-installations by including a “self-installation” note in the Excel spreadsheet accompanying the relevant eligible space station operator’s Certification. In contrast, we will require that any other type of formal written transition agreement should be identified as a variance from the eligible space station operator’s Transition Plan, as per the *Phase I ARP Certification Procedures PN*. We agree that submission of a separate change log of variances from an eligible space station operator’s Transition Plan is not necessary at this final stage, given that the Incumbent Earth Station antenna and feed claims or assignments for all eligible space station antennas will be frozen once the Relocation Coordinator files its final list of claims and assignments with the Commission. As to any incumbent earth stations pending removal from the *March 2023 Incumbent Earth Station List Public Notice* that remain on an incumbent satellite operator’s Transition Plan,⁴⁸ we agree with the proposal for the relevant eligible space station operator(s) to identify such incumbent earth station antenna and feeds as provisional claims on its Phase II Certification, and we will require that in the event that any such incumbent earth station is ultimately not removed from the Space Bureau’s next iteration of the Incumbent Earth Station list,⁴⁹ remediation work will be promptly performed by the relevant eligible space station operator. Finally, in the absence of comments to the contrary, we adopt our proposal to strictly enforce application of the seven-day notice requirement of any transition delays as part of the Phase II Certification process.

Remedial Condition. In the *Phase II Certification Procedures and Incremental Reduction Comment PN*, we proposed to include in all Phase II Certification validation orders a requirement that the relevant eligible space station operator remains responsible for the remediation of any issues that arise, even after the validation of its Phase II Certification.⁵⁰ We also sought comment on whether to impose any additional documentation or timing requirements to ensure any required work is completed promptly, given that the Phase II Accelerated Relocation Deadline marks the end of the C-band transition.⁵¹ The eligible space station operators agreed that they will remain responsible for any remedial transition work and indicated that they will take “commercially reasonable efforts to promptly complete the work” necessary to resolve any issues and argued that no additional documentation or timing requirement is

⁴⁶ *SIT April 5 Ex Parte*, Attach. A at 1-2.

⁴⁷ *Id.*, Attach. A at 2.

⁴⁸ See *March 21 Inactive IES Public Notice*.

⁴⁹ We reiterate that for purposes of the Phase II Certification process, the relevant version of the Incumbent Earth Station list is the *March 2023 Incumbent Earth Station List Public Notice*. Any future Incumbent Earth Station list issued by the Space Bureau will not affect the transition obligations of the eligible space station operators, except in so far as an incumbent earth station was pending removal from the *March 2023 Incumbent Earth Station List Public Notice* and a provisional claim of that earth station was made by one or more eligible space station operators on their Phase II Certifications.

⁵⁰ See *Phase II Certification Procedures and Incremental Reduction Comment PN* at 5.

⁵¹ See *id.* at 5-6.

necessary.⁵²

We believe the inclusion in all Phase II Certification validation orders of an ongoing requirement to remediate will ensure that any remedial work is promptly completed and accounted for by the responsible eligible space station operator. We therefore find it unnecessary to impose any additional documentation or timing requirements in this regard as part of the Phase II transition.

IV. PHASE II CERTIFICATION PROCEDURES

Based upon the record discussed above, the Bureau hereby establishes the following filing procedures and challenge process for the Phase II Certification of Accelerated Relocation process.

Filing Window. All eligible space station operators may submit their Phase II Certifications commencing June 1, 2023, provided they have first submitted any final Transition Plan amendments, if necessary.⁵³

Filing Procedures. To claim an ARP, eligible space station operators must submit Certifications to the Clearinghouse via any of the communication methods established between those parties. In addition, these eligible space station operators must file their Certifications with WTB, which may be done electronically with a submission to the FCC's Electronic Comment Filing System (ECFS). All Certifications must be filed in and reference **GN Docket No. 18-122 and GN Docket No. 23-97**. Any related challenges from stakeholders must be filed in and reference **GN Docket No. 23-97**. If a stakeholder seeks to challenge multiple eligible space station operator Certifications, each challenge must be filed separately with respect to each Certification in **GN Docket No. 23-97**.

Certification Form. To satisfy the Phase II deadline, the Certification must include an Excel spreadsheet detailing any transition work with respect to incumbent earth station antenna and feeds, utilizing the standardized form and terminology provided by the eligible space station operators as Attachment B to their *SSO April 17 Ex Parte*. That spreadsheet must demonstrate that the eligible space station operator has completed all work required to fully transition all claimed or assigned incumbent earth station antennas and feeds, as reflected in the final list of incumbent earth station claims and assignments filed with the Commission by the Relocation Coordinator no later than June 1, 2023.

Certification Content. The Certification must detail each action that was taken by the eligible space station operator, including the date of completion, matching that operator's Transition Plan as updated. This description should include (but is not limited to):

- The operations that were repacked to satisfy the Phase II deadline;
- The number of new satellites, if any, that the eligible space station operator launched, including the dates of launch, reaching final orbit, and start of operations;
- A description of how services were migrated to the upper portion of the band, including the pre- and post-transition frequencies that each customer occupied and now occupies;
- Any necessary technology upgrades or other solutions, such as video compression or modulation, that the eligible space station operator implemented, described on a per antenna and/or feed basis, as appropriate;
- The number and location of antennas and feeds that were transitioned to satisfy the Phase II deadline in the same format as the Relocation Coordinator's final list of Phase II incumbent earth station claims and assignments. This information should be provided in the format specified above and also include the actions taken (e.g., retuning and repointing, self-installations by the incumbent earth station operator) for each;

⁵² *SIT April 5 Ex Parte*, Attach. A at 4; Embratel Comments at 3 (stating that the condition to remediate worked well during Phase I).

⁵³ See Final Transition Plan Amendment PN.

- The date of completion of the above items (with the exception of self-installations by incumbent earth station operators);⁵⁴
- A description of the steps that the eligible space station operator has taken to identify all associated earth stations, antennas, and feeds, and to ensure that they are all are transitioned as of the date of Certification, including where the incumbent earth station operator has elected to perform a self-installation;
- Any variances from the eligible space station operator's Transition Plan, such as antennas and feeds involving circumstances beyond the control of the eligible space station operator and therefore subject to a transition delay notice,⁵⁵ and antennas and feeds that are otherwise pending removal from the *March 2023 Incumbent Earth Station List Public Notice* list which must be identified as provisional claims,⁵⁶ or antennas and feeds subject to a written agreement regarding the transition between the eligible space station operator and the incumbent earth station operator, other than self-installations by incumbent earth station operators.⁵⁷

The eligible space station operator must certify that it attests to the truthfulness of the above information and is making the Certification in good faith.⁵⁸ Eligible space stations operators are reminded that Certifications are subject to section 1.17 of the Commission's rules and violators will be subject to potential enforcement action, including monetary penalties or actions affecting the eligible space station operator's market access authorization or status as a licensee.⁵⁹ The Bureau will determine that a

⁵⁴ For example, completion dates for incumbent earth station transition work other than self-installations should be reported by including a note in the Excel spreadsheet accompanying the relevant eligible space station operator's Certification.

⁵⁵ The *3.7 GHz Report and Order* stated, "[O]nly incumbent earth station transition delays that are beyond the control of the incumbent space station operators will not impact their eligibility for the accelerated relocation payment. However, to partake of this exception, we require that any eligible space station operator submit a notice of any incumbent earth station transition delays to the Wireless Telecommunications Bureau within seven days of discovering an inability to accomplish the assigned earth station transition task. Such a request must include supporting documentation to allow for resolution as soon as practicable and must be submitted before the Accelerated Relocation Deadlines." *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 294. The filing of such notice in circumstances that the eligible space station operator believes are likely to jeopardize its ability to meet the Phase II deadline does not, in and of itself, remove an earth station, antenna, or feed from said operator's Transition Plan. Further, the eligible space station operator remains responsible for transitioning the earth station, antenna, or feed at issue until the Certification process is complete. Any such notices and supporting information should be publicly filed in GN Docket No. 23-97 and be simultaneously provided to the affected earth station operator. The Bureau will take such notices, and the weight, if any, they should be accorded, into account when determining whether the eligible space station operator has met its transition obligations for ARP purposes.

⁵⁶ See *March 2023 IES List*; see also *International Bureau Release Updated List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, DA 22-1282 (IB Dec. 9, 2022).

⁵⁷ Such written agreements may, for example, reflect that the earth station operator, whose station is associated with the eligible space station operator and included on its Transition Plan, has relieved said eligible space station operator of any obligation to effectuate the transition (in whole or in part, as per the agreement) of the subject earth station.

⁵⁸ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 298.

⁵⁹ *Id.* No entity may "in any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading." 47 CFR § 1.17(a)(2). This rule provides that "[i]n any investigatory or adjudicatory matter within the Commission's jurisdiction (including, but not limited to, any informal adjudication or informal investigation but excluding any declaratory ruling proceeding) and in any proceeding to amend the FM or Television Table of Allotments (with respect to expressions of interest) or any tariff proceeding, no person subject to this rule shall: (1) (continued....)

Certification has been made in bad faith if, for example, the certifying party makes a statement that is false and if it finds the party did not use due diligence in providing information that is correct and not misleading to the Commission, including taking appropriate affirmative steps to determine the truthfulness of what is being submitted.⁶⁰ In cases where it is found that the ARP was disbursed based on a Certification that the eligible space station operator had filed in bad faith, the operator may be subject to the additional consequence of having to return some or all of the ARP, depending on the circumstances.⁶¹

We note that subsequent to the filing of the Certification, the Bureau may, based on the information filed by the eligible space station operator or contained in a challenge to that operator's Certification, request additional information from the operator. Because such information may prove necessary to determine whether the eligible space station operator completed the relocation by the relevant accelerated deadline, eligible space station operators must respond to such requests for information in a prompt and complete manner.

Requirement to remediate. If, after the resolution of any credible challenges and the disbursement of the ARP, it is subsequently found, by the Relocation Coordinator, Clearinghouse, or WTB, that the eligible space station operator should have transitioned additional earth stations, antennas, or feeds that it did not account for in its Transition Plan and Certification(s), the eligible space station operator will be required to remediate such earth stations, antennas, or feeds in a prompt and effective manner.⁶²

Challenges. Challenges to a Certification must be filed in **GN Docket No. 23-97** within ten (10) days after the Certification is published in ECFS and the eligible space station operators' replies must be filed in that docket within five (5) days.⁶³ Pursuant to the *3.7 GHz Report and Order*, WTB will announce by Public Notice whether credible challenges have been made within 30 days of the Certification's filing.⁶⁴ After reviewing a Certification and any relevant challenges, WTB will issue one of two Public Notices. If there are no credible challenges, WTB will issue a Public Notice that lists the submitted challenges (if any), states that none constitutes a "credible challenge" to the validity of the Certification, and provides a brief explanation for the finding that said challenges are non-credible. If there is at least one credible challenge, WTB will issue a Public Notice announcing that one or more credible challenges have been made and instructing the Clearinghouse not to issue the ARP until WTB has made a final determination as to the validity of the challenge. WTB will issue a final determination

In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and (2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading." 47 CFR § 1.17(a)(1)-(2).

⁶⁰ *In Re Amend. of Section 1.17 of Commission's Rules Concerning Truthful Statements to Comm'n*, Report and Order, 18 FCC Rcd 4016, 4021 at para. 12 (2003).

⁶¹ See 47 CFR § 27.1412(a).

⁶² *Id.* ("Eligible space station operators are responsible for all necessary actions...to migrate the existing services of incumbent earth stations in CONUS to the 4000-4200 MHz band (unless the incumbent earth station opts out of the formal relocation process, per paragraph (e) of this section), as of December 5, 2025. Eligible space station operators that fail to do so will be in violation of the conditions of their license authorization and potentially subject to forfeitures and other sanctions"). The obligation to remediate is independent from, and without prejudice to, any determination that the Certification (or any subsequent remediation effort) was made in bad faith. This may include any previously unidentified incumbent earth stations subsequently added to future versions of the Incumbent Earth Station list by the Space Bureau.

⁶³ 47 CFR § 1.45(b)-(c). This requirement applies to all challenges filed by stakeholders as well as the Clearinghouse.

⁶⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 299.

on any challenges no later than sixty (60) days after the eligible space station operator files its Certification.⁶⁵ If WTB ultimately finds the Certification was valid, disbursement of the Phase II ARP to the eligible space station operator will proceed as outlined above and in the *3.7 GHz Report and Order*.⁶⁶

V. PHASE II ARP INCREMENTAL REDUCTION PLAN

The Bureau hereby adopts for Phase II the same procedures relating to specific timing scenarios involving credible challenges filed by relevant stakeholders in connection with the ARP certification process as we did in Phase I.⁶⁷ In doing so we note the *3.7 GHz Report & Order* directive that “[f]ollowing validation, the Clearinghouse shall *promptly* notify overlay licensees, who must pay the ARP to the Clearinghouse within 60 days of the notice.”⁶⁸

Certification and Incremental Reduction Scenarios. At its outset, the *Phase I Incremental Reduction Plan PN* recognized the two most straightforward Certification and incremental reduction scenarios, and we adopt those scenarios for Phase II. First, all Certifications filed without subsequent change—whether by amendment or superseded by a refiled Certification—will not be subject to any incremental decrease in the ARP if the Certification was filed before the Phase II deadline and is ultimately validated.⁶⁹ Second, any Certifications filed for the first time after the Phase II deadline and later validated without amendment or refiling will be subject to the incremental reduction schedule established by the Commission in the *3.7 GHz Report and Order*, using the Certification filing date as the “Date of Completion” for determining the applicable percentage by which the ARP will be reduced.⁷⁰ In both situations, the challenge process laid out in in this Public Notice would remain unaffected.⁷¹

Amending or Refiling a Certification by the Phase II Deadline. In the *3.7 GHz Report and Order*, the Commission stated that it was adopting accelerated relocation rules “to facilitate the expeditious deployment of next-generation services nationwide across the entire 280 megahertz made available for terrestrial use.”⁷² In furtherance of this goal, we concluded in the *Phase I Incremental Reduction Plan PN*, and affirm here for the Phase II process, that eligible space station operators may amend or refile an incomplete or invalid Certification without any incremental reduction in the ARP if, before the Phase II deadline,⁷³ the eligible space station operator corrects any underlying problems and submits an amended or refiled Certification that has no invalidating infirmities. Such amendment or refiling may be either on the eligible space station operator’s own motion,⁷⁴ in response to a challenge, or in response to the

⁶⁵ *Id.*; 47 CFR § 27.1412(g)(2).

⁶⁶ *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 297; 47 CFR § 27.1422 (a)-(b).

⁶⁷ *Phase II Certification Procedures and Incremental Reduction Comment PN* at 6; *see also Phase I Incremental Reduction Plan PN*.

⁶⁸ *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 300; 47 CFR § 27.1422(c) (emphasis added).

⁶⁹ *See Phase I Incremental Reduction Plan PN* at 4-5. This includes situations where: (1) the Bureau’s determination of validity falls after the Phase II deadline, so long as the Certification was filed before such deadline; and (2) a Certification filed before the Phase II deadline is credibly challenged and the Bureau nonetheless finds that such Certification—without amendment or refiling—is valid.

⁷⁰ *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 297 (containing Incremental Reduction Schedule).

⁷¹ *See supra* Section IV (Challenges).

⁷² *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 297.

⁷³ *Id.*; 47 CFR § 27.1422(d); *Phase I Incremental Reduction Plan PN* at 5-7.

⁷⁴ The *3.7 GHz Report and Order* directed WTB to decide if a challenge is credible, to issue a public notice identifying such challenges, and issue a final decision on the validity of the Certification. *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 299; 47 CFR § 27.1412(g)(2). It remains within the discretion of an eligible space station operator as to whether it wishes to amend or refile its Certification in response to a challenge. To the
(continued....)

Bureau's determination that the original Certification was invalid.⁷⁵ If WTB ultimately determines (before or after the Phase II deadline) that all the underlying problems have been resolved, the certifying space station operator will, in fact, have come into compliance with all the requirements for claiming the ARP by the Phase II deadline, provided the operator had resolved those problems before said deadline and such resolutions were reflected by the filing—also before this deadline—of an amendment or refiled Certification.

We also affirm for Phase II the approach related to challenges as outlined in the *Phase I Incremental Reduction Plan PN*.⁷⁶ New challenges to an amended or refiled Certification will be permitted but must be limited to matters involving changes made to the original Certification (whether the addition of new information, modifications of information that had been included in the original Certification, or the deletion of previously included information).⁷⁷ We reiterate our earlier conclusion that if the Bureau has not already ruled on the original Certification, we may nevertheless consider all points raised during the original challenge cycle to the extent those points may still be relevant to the amended or refiled Certification.

We also reiterate that where an eligible space station operator either amends or refiles its Certification, the filing date of the amendment or refiled Certification will open a new 30-day window for the identification of any deficiencies by the Bureau in the entire Certification, as amended or refiled. Further, it also triggers a new 60-day window for a final Bureau determination on the validity of the entire Certification, as amended or refiled, where the Bureau identifies any deficiencies in the entire Certification within the new 30-day window.⁷⁸ In other words, the amending or refiling of a Certification restarts the clock for Bureau review of that Certification. This clarification conforms with the *3.7 GHz Report and Order*'s directive to the Bureau to “render a final decision as to the validity of the certification no later than 60 days from its filing,” because an amendment or refiling will necessarily alter or replace the underlying Certification and otherwise make it impossible to ascertain whether the eligible space station operator had fulfilled its transition responsibilities absent a full review. Indeed, we would risk frustrating the Commission's objective of making an accurate determination on a Certification if we were to conclude that corrections to a Certification or remedial actions made during the 60-day review period would not affect the date by which a final determination must be made. For instance, if an eligible space station operator were to substantially or entirely replace its Certification fifty-nine (59) days after its original filing and the Bureau took the position that this action had no effect on the timing of a final

extent the eligible space station operator opts to address a challenge in reply comments without submitting an amendment or refiling, it remains free to do so but assumes the risk that the Bureau may ultimately conclude that its Certification was invalid when filed. Eligible space station operators should also take into account that, as detailed above, WTB will consider remedial action that an eligible space station operator may take only if said operator has memorialized that action in a Certification (whether amended or refiled).

⁷⁵ See *supra* Section IV (Challenges).

⁷⁶ *Phase I Incremental Reduction Plan PN* at 6-7; *Phase I Incremental Reduction Comment PN* at 4. Thus, WTB would place the amended or refiled Certification on Public Notice for a new challenge cycle, *i.e.*, ten (10) days from the release of the Public Notice to file oppositions, and five (5) days to file replies.

⁷⁷ We note, however, that the filing of an amended Certification would not cut off a potential challenger's right to raise objections to still-relevant aspects of the original Certification, to the extent that time remained within the cycle established for filing challenges to the original Certification. Thus, potential challengers would have that remaining time within the original cycle to raise such objections, and WTB would take those objections into account to the extent relevant when adjudicating the validity of the amended Certification. SES stated in its comments in response to the *Phase I Incremental Reduction Comment PN* that “[t]o the extent this additional challenge process is valid, the Commission should clarify that it applies equally to relevant stakeholders as well as the Clearinghouse.” SES Phase I Comments at n.9. We continue to agree.

⁷⁸ *Phase I Incremental Reduction Plan PN* at 7. As discussed above, the filing of an amended Certification also opens a 10-day filing window for challenges related to any new or revised information not included in the original Certification.

determination, then both outside parties and the Bureau would be deprived of the ability to assess the Certification's validity before the Bureau issued a final determination, which we believe would be inconsistent with the Commission's directive in the *3.7 GHz Report and Order*. Eligible space station operators are strongly encouraged to ensure their original filings are complete and conform to the requirements specified in this Public Notice to avoid the need for any amendments or refiling.

We affirm that, as in the *Phase I Incremental Reduction Plan PN*, if WTB decides in Phase II that the amended or refiled Certification is valid, the eligible space station operator's ARP will be based on the filing date of the amended or refiled Certification.⁷⁹ As noted above, where the amended or refiled Certification is submitted before the Phase II deadline and that Certification is found to be valid, there will be no reduction in the ARP.⁸⁰

Amending or Refiling a Certification After the Phase II Deadline. We adopt our approach from the *Phase I Incremental Reduction Plan PN* whereby, if WTB rejects a Certification filed before the Phase II deadline (whether the original or an amended or refiled Certification), then the eligible space station operator will have to finish any incomplete aspects of the transition and file a new Certification that the Bureau will have to find to be valid before its entitlement to an ARP could be determined.⁸¹ If the filing date of this new, valid Certification falls after the Phase II deadline, then the ARP will be subject to the incremental reduction schedule established by the Commission in the *3.7 GHz Report and Order*, as applicable, based on that Certification's filing date.⁸² We establish the same treatment in cases where the Bureau has not yet ruled on a Certification and, after the Phase II deadline, the eligible space station operator either submits an amended or refiled Certification on its own motion, or in response to a challenge.

Where a Certification is amended or refiled after the Phase II deadline, we establish the same challenge process as where an amended or refiled Certification is filed before the Phase II deadline. Thus, new challenges to the amended or refiled Certification will be permitted but must be filed within 10 days of the filing of the Certification and be limited to matters involving changes made to the original Certification (whether the addition of new information, modifications of information that had been included in the original Certification, or the deletion of previously included information).⁸³ If the Bureau has not already ruled on the original Certification, we may nevertheless consider all timely filed points raised during the original challenge cycle (even if that cycle ends after the filing of an amended or refiled Certification) to the extent those points may still be relevant to the amended or refiled Certification.

Accounting for Remedial Action by Eligible Space Station Operators. Subject to the provision on agreements below, we also affirm that WTB will consider remedial action taken by an eligible space station operator only if said operator has memorialized that action in a Certification (whether amended or refiled).⁸⁴ Thus, if WTB issues a final determination rejecting a Certification, the fact that the eligible space station operator has taken remedial action—after filing its Certification but before WTB's decision—to address the problems in said Certification that had prompted WTB's rejection will not, in

⁷⁹ *Phase I Incremental Reduction Plan PN* at 7.

⁸⁰ This includes situations where: (1) the Bureau's determination of validity falls after the Phase II deadline, so long as the amended or refiled Certification was filed before such deadline; and (2) an amended or refiled Certification filed before the Phase II deadline is credibly challenged and the Bureau nonetheless finds such Certification is valid without subsequent additional amendment or refiling.

⁸¹ *Phase I Incremental Reduction Plan PN* at 8.

⁸² *3.7 GHz Report and Order*, 35 FCC Rcd at 2456, para. 297 (containing Incremental Reduction Schedule).

⁸³ As discussed above, we also decline to distinguish between different types of substantive amendments or revisions.

⁸⁴ As discussed above, challenges to an amended or refiled certification are limited to matters involving changes made to the original.

and of itself, invalidate or otherwise affect WTB's determination. Rather, for such remedial action to be considered, the eligible space station operator will need to submit an amended or refiled Certification reflecting that remedial action. The amended or refiled Certification will initiate a new challenge process as to those aspects that had not yet been subject to the initial challenge process, will be subject to 60 day review by the Bureau, and will, if accepted as valid, establish a new date by which the eligible space station operator's ARP will be calculated.

Agreements. We likewise retain our procedures from the *Phase I Incremental Reduction Plan PN* which permitted eligible space station operators and stakeholders (including, but not limited to, incumbent earth station operators) to enter into agreements to resolve any outstanding issues raised in a challenge to a Certification and submit any such agreements to WTB before the Bureau has made a final determination regarding the validity of the Certification without refiling or amending that Certification.⁸⁵ For instance, if an eligible space station operator submits a Certification (either before or after the Phase II deadline) that is credibly challenged, and it attempts to address any alleged deficiency before WTB has issued a decision, the eligible space station operator and challenging parties can enter into an agreement(s) to resolve all outstanding issues between those parties and submit this agreement(s) to WTB. If, after review, WTB accepts this agreement(s) as a good faith resolution of issues in the eligible space station operator's Certification, the Bureau will find that the original Certification is valid and dismiss the related outstanding challenges. If such an agreement resolved all outstanding challenges, the Bureau would calculate the ARP as of the date the original Certification was filed. If the agreement, or agreements, entered into by the eligible space station operator and the relevant challenger(s) does not resolve all outstanding issues in an eligible space station operator's Certification, then the Bureau will proceed to make a determination on any outstanding issues not addressed by the agreement or agreements. To the extent the eligible space station operator files an amended Certification before such determination is made, attesting that it has completed the necessary remedial steps on any outstanding issues, then we will calculate the ARP as of the date of the amended Certification (assuming this amended Certification is found valid). Parties to an agreement may request confidential treatment under section 0.459 of the Commission's rules.⁸⁶ We direct parties to review the Commission's previous guidance on the submission of confidential information, which was released in March 2020.⁸⁷

Although we allow eligible space station operators and stakeholders to enter into agreements to resolve issues raised in challenges, to ensure the integrity of the transition process, we continue to bar the use of greenmail to reach agreements designed to avoid incremental reductions.⁸⁸ When a challenge against a Certification is withdrawn as the result of an agreement with an eligible space station operator, we will require that the written withdrawal agreement be accompanied by an affidavit from all parties certifying that no parties involved have received or will receive any money or other consideration, or pay any money or other consideration, in excess of legitimate and prudent expenses in exchange for the agreement or withdrawal of the challenge.⁸⁹ We will address specific applications of this policy on a

⁸⁵ The *3.7 GHz Report and Order* only mandates that relevant stakeholders have the opportunity to review Certifications, not agreements between parties. *3.7 GHz Report and Order*, 35 FCC Rcd at 2457, para. 299; 47 CFR § 27.1412(g)(2).

⁸⁶ See 47 CFR § 0.459 (detailing procedures to request withholding materials from public inspection).

⁸⁷ See *FCC Provides Instructions Regarding Submission of Confidential Materials*, Public Notice, 35 FCC Rcd 2973 (2020).

⁸⁸ 47 CFR § 1.935 (settlement agreements require Commission approval and applicants may not "receive any money or other consideration in excess of the legitimate and prudent expenses incurred in preparing and prosecuting the application, petition to deny, informal objection, or other pleading in exchange for withdrawal or dismissal of the application, petition to deny, informal objection or other pleading, or threat to file a pleading"); see also *Phase I Incremental Reduction Plan PN* at 9-10.

⁸⁹ See, e.g., 47 CFR § 73.3588. We note that the record in response to the *Phase I Incremental Reduction Comment PN* generally supported the Bureau's proposal to bar greenmail. See Intelsat Phase I Comments at 8; Verizon Phase I Comments at 10. (continued....)

case-by-case basis, and reject any agreement where we have reason to believe greenmail has changed hands.

Finally, if the eligible space station operator takes remedial action to address any challenges to a filed Certification but does not attempt to negotiate with the challengers or such negotiations fail, WTB will proceed to make a decision based on the information submitted by the eligible space station operator in its Certification (original, amended, or refiled, as applicable).

Paperwork Reduction Act. This *Public Notice* does not adopt or propose new or substantively modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.⁹⁰ In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. § 3506(c)(4).

Regulatory Flexibility Act. The Regulatory Flexibility Act of 1980, as amended (RFA),⁹¹ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.⁹² If an agency files a certification with a rulemaking, the certification must contain a statement that provides a factual basis for its conclusion that there will not be significant economic impact on a substantial number of small entities.⁹³ Accordingly, the Commission has prepared a Final Regulatory Flexibility Certification (FRFC) certifying that any rules subject to the RFA that may be contained in this *Public Notice* will not have a significant economic impact on a substantial number of small entities. The FRFC is set forth in Appendix A below.

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

I Comments at 6. Eutelsat and NCTA, however, sought clarification that: (1) “the parties are permitted to determine any payment under such an agreement based on a reasonable, good faith estimate of ‘legitimate and prudent relocation expenses, rather than retrospectively based on actual documented costs;” (2) “the agreement may include compensation for reasonable internal project management or other costs that the relevant stakeholder, in good faith, expects to incur;” and (3) “the greenmail rule would not bar a challenger that enters into an agreement with a space station operator to resolve concerns from accepting the reasonable consideration necessary to resolve those concerns.” Eutelsat Phase I Comments at 8-9; NCTA Phase I Comments at 2. We declined in the *Phase I Incremental Reduction Plan PN* to adopt these clarifications and noted that our greenmail policy does not specifically require any documentation be submitted to the Commission other than the affidavit described above. We reach the same result here with respect to the Phase II incremental reduction plan. The greenmail policy was constructed to allow the parties to submit an affidavit as to the nature of the expenses covered, rather than submitting documentation of those expenses to us. Parties must submit their affidavit based on legitimate, prudent, and reasonable expenses.

⁹⁰ SES Americom, Inc., Intelsat License LLC, Telesat Spectrum Corporation, Eutelsat Americas, and Embratel TVSAT Telecomunicações S.A. are the five SSOs that will file certifications in this final stage of the C-band transition, which is fewer than the 10 entity threshold of the PRA. 5 CFR § 1320.3(c).

⁹¹ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

⁹² *Id.* § 605(b).

⁹³ *Id.*

Additional Information. For further information concerning this Public Notice, please contact Susan Mort, Wireless Telecommunications Bureau, (202) 418-2429, Susan.Mort@fcc.gov.

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APPENDIX A

Final Regulatory Flexibility Certification

1. The Regulatory Flexibility Act of 1980, as amended (RFA),¹ requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”² The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”³ In addition, the term “small business” has the same meaning as the term “small business concerns” under the Small Business Act.⁴ A “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵

2. As required by the RFA, the Wireless Telecommunications Bureau (WTB or Bureau) incorporated an Initial Regulatory Flexibility Certification (IRFC) in the *C-Band Phase II Certification of Accelerated Relocation Procedures and Implementation of the Commission’s Incremental Reduction Plan for Phase II Accelerated Relocation Public Notice (Phase II Certification Procedures and Incremental Reduction Comment PN)*, certifying that the rules and policy changes proposed in the *Phase II Certification Procedures and Incremental Reduction Comment PN* would not have a significant economic impact on a substantial number of small entities. The Bureau sought written public comment on the proposals in the *Phase II Certification Procedures and Incremental Reduction Comment PN* including comment on the IRFC. No comments were filed addressing the IRFC.

3. The two statutorily-mandated criteria to be applied in determining the need for an RFA analysis are: (1) whether the proposed rules, if adopted, would have a *significant economic effect*; and (2) if so, whether the economic effect would directly affect a *substantial number of small entities*.⁶ For the reasons discussed below, we have determined that any rules subject to the RFA that may be contained in the *C-Band Phase II Certification of Accelerated Relocation Procedures and Implementation of the Commission’s Incremental Reduction Plan for Phase II Accelerated Relocation Public Notice (Phase II ARP Certification Procedures and Incremental Reduction Plan Public Notice)* will not have a significant economic impact on a substantial number of small entities. Accordingly, the Bureau has prepared this Final Regulatory Flexibility Certification (FRFC).

4. In 2020, the Commission adopted rules to make 280 megahertz of mid-band spectrum available for flexible use (plus a 20 megahertz guard band) throughout the contiguous United States by transitioning existing services out of the lower portion of the band and into the upper 200 megahertz of the C-band (*i.e.*, 4.0-4.2 GHz). Incumbent space station operators were provided an opportunity for

¹ See 5 U.S.C. §§ 601–612. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² *Id.* § 605(b).

³ *Id.* § 601(6).

⁴ *Id.* § 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.”

⁵ 15 U.S.C. § 632.

⁶ 5 U.S.C. § 603, *et seq.* See also *Mid-Tex Electric Cooperative, Inc., v. FERC*, 773 F.2d 327, 342-343 (D.C. Cir. 1985) (*Mid-Tex Electric*).

accelerated clearing of the band by allowing eligible space station operators to voluntarily commit to relocate on a two-phased accelerated schedule, as described in 47 CFR § 27.1412. Incumbent space station operators were required to file a Transition Plan, as described in 47 CFR § 27.1412(d) and a Certification of accelerated relocation for each phase, as described in 47 CFR § 27.1412(g). The Bureau was to prescribe the form of such Certifications and any challenges by relevant stakeholders and establish a process for how such challenges will impact incremental decreases in the accelerated relocation payment.⁷ On August 4, 2021, WTB issued a Public Notice implementing filing procedures for Phase I Certifications and related challenges,⁸ and adopted the incremental reduction plan for Phase I ARPs on September 29, 2021.⁹ This information collection has been approved by the Office of Management and Budget, control number 3060-0678.¹⁰

5. In the *Phase II Certification Procedures and Incremental Reduction Comment PN*, we proposed adopting filing procedures modeled after those previously adopted for Phase I to allow eligible space station operators to submit Certifications, and stakeholders to file related challenges, with respect to the Phase II migration of incumbent services in this band. We proposed to modify those procedures by requiring information be provided in a standardized format, and sought comment on how eligible space station operators should describe variances from their transition plans. In addition, we sought comment on a potential threshold trigger before Phase II Certifications may be submitted for validation. The Bureau stated that these proposals will create more transparency and efficiency in the Phase II Certification review process. We also proposed adopting an approach that parallels the Phase I process for calculating the incremental reduction of an eligible space station operator's ARP should it fail to meet the Phase II Accelerated Relocation Deadline. We stated that these proposals will provide eligible space station operators certainty and streamline the process for filing Certifications. Currently, the five eligible space station operators that have filed Phase I Certifications that have been validated by the Bureau are not small entities.¹¹

6. The entities subject to the procedures adopted here are wireless telecommunications carriers and satellite telecommunications service providers that must provide Certifications as part of the Phase II transition and are specific to those entities and their transition obligations. The processes do not

⁷ 47 CFR § 27.1412(g).

⁸ See *The Wireless Telecommunications Bureau Opens a New Docket and Establishes the Process for C-band Space Station Operator Phase I Certification of Accelerated Relocation*, GN Docket Nos. 18-122 and 21-320, Public Notice, 36 FCC 12359 (WTB 2021) (*Phase I ARP Certification Procedures PN*).

⁹ See *Wireless Telecommunications Bureau Announces Implementation of the Commission's Incremental Reduction Plan for Phase I Accelerated Relocation Payments*, GN Docket Nos. 18-122 and 21-320, Public Notice, 36 FCC Rcd 14012 (WTB 2021) (*Phase I Incremental Reduction Plan PN*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Report and Order and Proposed Modification*, 35 FCC Rcd 2343, 2456, para. 297 (2020) (*3.7 GHz Report and Order*).

¹⁰ See OMB Approvals for Non-Substantive Changes to Currently Approved Information Collections (OMB Control No. 3060-0678), July 16, 2021.

¹¹ *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation Satélites Mexicanos S.A. de C.V. d/b/a Eutelsat Americas*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 15297 (WTB 2021) (*Eutelsat Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of Embratel TVSAT Telecomunicações S.A.*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 15835 (WTB 2021) (*Embratel Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of Intelsat License LLC, debtor in possession, as amended*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 15844 (WTB 2021) (*Intelsat Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of Telesat Spectrum Corporation, as amended*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 16211 (WTB 2021) (*Telesat Phase I Certification Order*); *Expanding Flexible Use of the 3.7 to 4.2 GHz Band, Phase I Certification of Accelerated Relocation of SES Americom, Inc., as amended*, GN Docket Nos. 18-122 and 21-320, Order, 36 FCC Rcd 16432 (WTB 2021) (*SES Phase I Certification Order*).

impose increased reporting burdens on telecommunications carriers or satellite telecommunications service providers generally, nor do we expect the processes to result in increased costs for such businesses. Moreover, the procedures largely parallel the processes that the eligible space station operators complied with in Phase I and do not create any new burdens on the entities.

7. Accordingly, based on our application of the two statutorily-mandated criteria, we conclude that any rules subject to the RFA that may be contained in the *Phase II ARP Certification Procedures and Incremental Reduction Plan Public Notice* will not have a significant economic impact on a substantial number of small entities. We therefore certify that the *Phase II ARP Certification Procedures and Incremental Reduction Plan Public Notice* will not have a significant economic impact on a substantial number of small entities.

8. The Bureau will send a copy of the *Phase II ARP Certification Procedures and Incremental Reduction Plan Public Notice*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act. The *Phase II ARP Certification Procedures and Incremental Reduction Plan Public Notice* and this Final Regulatory Flexibility Certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the Federal Register.¹²

¹² 5 U.S.C. § 605(b).



PUBLIC NOTICE

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DA 23-409

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WIRELESS TELECOMMUNICATIONS BUREAU OPENS WINDOW FOR ELIGIBLE C-BAND SATELLITE OPERATORS TO ACCOUNT FOR FINAL UPDATES TO THEIR TRANSITION PLANS

GN Docket No. 18-122; GN Docket No. 20-173

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) will open a limited filing window on June 1, 2023, and directs eligible Fixed Satellite Service (FSS) space station operators in the 3.7-4.2 GHz band (C-band) to submit any necessary amendments to their final Transition Plans, which were filed August 14, 2020 and in some cases updated on October 28, 2020, July 7, 2021, and September 30, 2021, during earlier amendment windows.¹ During this limited and final filing window, such space station operators are required to account for any updates to the information provided in any of their Transition Plans since September 30, 2021. This window also provides a final opportunity for eligible space station operators to adjust their Transition Plans for Phase II of the C-band transition.

In the *3.7 GHz Report and Order*, the Commission adopted rules to make 280 megahertz of mid-band spectrum available for flexible use (plus a 20 megahertz guard band) throughout the contiguous United States by transitioning existing services out of the lower portion of the band and into the upper 200 megahertz of the C-band.² The *3.7 GHz Report and Order* established that new 3.7 GHz Service licensees would reimburse the reasonable relocation costs of eligible FSS space station operators, incumbent FSS earth station operators, and incumbent Fixed Service licensees (collectively, incumbents) to transition out of the band.³

¹ *Wireless Telecommunications Bureau Opens Window For Eligible C-Band Satellite Operators To Account For Earth Station Lump Sum Elections In Their Transition Plans*, GN Docket Nos. 18-122 and 20-173, Public Notice, 35 FCC Rcd 10584 (WTB 2020) (*First Transition Plan Amendment Window PN*); *Wireless Telecommunications Bureau Opens Window For Eligible C-Band Satellite Operators To Account For Updates in Their Transition Plans*, GN Docket Nos. 18-122 and 20-173, Public Notice, 36 FCC Rcd 9981 (WTB 2021) (*Second Transition Plan Amendment Window PN*); *Wireless Telecommunications Bureau Opens Window For Eligible C-Band Satellite Operators To Account For Final Phase I Updates to Their Transition Plans*, GN Docket Nos. 18-122 and 20-173, Public Notice, 36 FCC Rcd 13306 (WTB 2021) (*Third Transition Plan Amendment Window PN*).

² *Expanding Flexible Use of the 3.7-4.2 GHz Band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2345, para. 4 (2020) (*3.7 GHz Report and Order*).

³ *Id.* at 2391, 2465-66, paras. 111, 326; 47 CFR § 27.4. The *3.7 GHz Band Report and Order* defined the incumbents that will be eligible to be reimbursed for their reasonable relocation costs. See *3.7 GHz Report and Order*, 35 FCC Rcd at 2426, para. 200; 47 CFR § 27.1411(b)(1)-(2) (defining an eligible space station operator); *3.7 GHz Report and Order*, 35 FCC Rcd at 2392, para. 116; 47 CFR §§ 25.138(c), 27.1411(b)(3) (defining incumbent earth stations); *3.7 GHz Report and Order*, 35 FCC Rcd at 2465, para. 326 (defining Incumbent Fixed Service licensees). The *3.7 GHz Band Report and Order* provides limited instances in which earth stations outside of the contiguous United States are eligible for reimbursement. See *id.* at 2428, para. 204 (providing for reimbursement for (continued....))

The *3.7 GHz Report and Order* established a deadline of December 5, 2025, by which incumbent space station operators were to complete the transition of their operations to the upper 200 megahertz of the band, but it also provided an opportunity for accelerated clearing of the band by allowing eligible space station operators to voluntarily commit to relocate on a two-phased accelerated schedule, with a Phase I deadline of December 5, 2021, and a Phase II deadline of December 5, 2023.⁴ All five eligible space station operators elected accelerated relocation⁵ which means, among other things, that they voluntarily committed to perform all necessary tasks to enable any incumbent earth station that receives or sends C-band signals to a space station owned by that operator to maintain that functionality in the upper 200 megahertz of the band.⁶

The *3.7 GHz Report and Order* required eligible space station operators to submit to the Commission and make available for public review a Transition Plan describing the necessary steps and estimated costs to transition existing services out of the lower 300 megahertz of C-band spectrum.⁷ Since all eligible space station operators elected accelerated relocation, such operators were required to describe in their Transition Plans the number and location of earth stations receiving the space station operators' transmissions and all transition actions that will be necessary at each earth station location to transition its services to the upper portion of the band.⁸ Initial Transition Plans were filed on June 19, 2020 and final Transition Plans were due August 14, 2020.⁹ The *3.7 GHz Report and Order* dictated that eligible space station operators may modify their Transition Plans after August 14, 2020 only with the approval of the Commission.¹⁰

expenses of earth stations located outside of the contiguous United States to the extent they can demonstrate that the system modifications for which reimbursement is sought is a direct result of the C-band transition). The process by which costs will be determined to be reimbursable is defined in 47 CFR § 25.1416. The *3.7 GHz Report and Order* also established that incumbent FSS earth station operators may opt out of the formal relocation process and, in lieu of reimbursement, elect to receive a lump sum payment based on an amount to be announced by the Bureau. *3.7 GHz Report and Order*, 35 FCC Rcd at 2427-28, paras. 202-03. Earth station operators electing the lump sum are "responsible for performing any necessary actions" to accommodate the changes in the C-band. *Id.* at 2428, para. 203. The Bureau announced the lump sum amounts on July 30, 2020, and lump sum elections were due on September 14, 2020. *See Wireless Telecommunications Bureau Releases Final Cost Category Schedule for 3.7-4.2 GHz Band Relocation Expenses and Announces Process and Deadline for Lump Sum Elections*, GN Docket No. 18-122, IB Docket No. 20-205, Public Notice, 35 FCC Rcd 7967 (WTB 2020) (*Lump Sum Public Notice*); Order Granting Extension Request, GN Docket No. 18-122, IB Docket No. 20-205, 35 FCC Rcd 8856 (WTB 2020) (extending the original August 31, 2020 deadline for lump sum elections until September 14, 2020). The former International Bureau issued a final list of accepted lump sum elections on November 30, 2020. *International Bureau Completes Review of Lump Sum Elections*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, DA 20-1294 (IB Oct. 30, 2020); *International Bureau Issues Updated Lump Sum Election Table*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, DA 20-1421 (IB Nov. 30, 2020); *see also Incumbent Earth Station List December 2020 Erratum*.

⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2408, para. 155; 47 CFR § 27.1412(b)(1)-(2).

⁵ *Wireless Telecommunications Bureau Announces Accelerated Clearing in the 3.7-4.2 GHz Band*, GN Docket No. 18-122, Public Notice, 35 FCC Rcd 5517 (WTB 2020).

⁶ *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 292.

⁷ *Id.* at 2457-59, paras. 302-06.

⁸ *Id.* at 2458, para. 303.

⁹ *Id.* at 2457, 2459, paras. 302, 306; *see also Expanding Flexible Use of the 3.7-4.2 GHz Band*, GN Docket No. 18-122, Order Granting Extension, 35 FCC Rcd 5866 (WTB 2020) (granting brief extension of the original June 12, 2020 deadline for filing Transition Plans).

¹⁰ *3.7 GHz Report and Order*, 35 FCC Rcd at 2459, para. 306.

In September 2020, pursuant to authority delegated to it by the Commission,¹¹ the Bureau opened a limited window for eligible space station operators to modify their Transition Plans, to the extent necessary, no later than October 28, 2020, to allow space station operators to remove any associated earth stations that elected the lump sum option and to accurately account for any updates to the Incumbent Earth Station List released by the former International Bureau at that time.¹² In opening this earlier window and inviting the filing of such modified Transition Plans, the Bureau, also pursuant to its delegated authority, approved the eligible space station operators' substitution of any such Transition Plans—to the extent they were modified for these purposes and filed within the designated window—for their previously-filed Transition Plans.¹³

In addition to filing their Transition Plans, eligible space station operators are required to file with the Commission quarterly status reports, starting December 31, 2020, detailing their efforts to ensure a timely transition.¹⁴ In their quarterly status reports, several eligible space station operators purported to include updates to their final Transition Plans.¹⁵ As noted above, eligible space station operators are permitted to amend their Transition Plans only with Commission approval, and the submission of quarterly status reports is not a means for updating the Transition Plans.¹⁶ On two prior occasions, June 23, 2021, and September 3, 2021, the Bureau thus opened a limited window for eligible space station operators to submit, as needed, updates to their final Transition Plans including, *inter alia*, all previous updates the submitting eligible space station operator may have included in their quarterly status reports,

¹¹ See 47 CFR § 27.1412(h) (delegating to the Bureau “the role of providing clarifications or interpretations to eligible space station operators of the Commission’s orders for all aspects of the transition”); 47 U.S.C. § 155(c).

¹² See *First Transition Plan Amendment Window PN*.

¹³ As with the Transition Plans generally, such approval of the substitution of the modified Transition Plans did not constitute a ruling on the substance of any of the Transition Plans. The *3.7 GHz Report and Order* does not require Commission or Bureau approval of the Transition Plans. Rather, the Bureau’s action merely allowed an eligible space station operator to rely on such a modified Transition Plan to the same extent it would have been able to rely on its Transition Plan as originally filed.

¹⁴ *3.7 GHz Report and Order*, 35 FCC Rcd at 2461, para. 316. We note that the filing of quarterly status reports does not act as an update to the Transition Plans.

¹⁵ Letter from Alfred M. Mamlet and Matthew R. Friedman, Counsel to Embratel, GN Docket No. 18-122, at 2 (filed Dec. 28, 2022) (Embratel Dec. 2020 Quarterly Report); Letter from Carlos M. Nalda, LMI Advisors for Eutelsat S.A. and Wladimir Bocquet, Eutelsat S.A. to Marlene H. Dortch, Secretary, FCC GN Docket No. 18-122 at 1 (filed Dec. 31, 2021) (Eutelsat Dec. 2020 Quarterly Report); Letter from Michele V. Bryan, Secretary, Intelsat License LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed Dec. 28, 2020) (Intelsat Dec. 2020 Quarterly Report); Letter from Telesat Canada, GN Docket No. 18-122 (filed Dec. 21, 2021) (Telesat Dec. 2020 Quarterly Report); Letter from Petra A. Vorwig, Vice President, SES Americom Inc. to Marlene H. Dortch, GN Docket No. 18-122 Secretary, FCC, (filed Dec. 29, 2021) (SES Dec. 2020 Quarterly Report); Letter from Alfred M. Mamlet and Matthew R. Friedman, Counsel to Embratel, GN Docket No. 18-122, at 2 (filed March 29, 2021) (Embratel March 2021 Quarterly Report); Letter from Carlos M. Nalda, LMI Advisors for Eutelsat S.A. and Wladimir Bocquet, Eutelsat S.A. to Marlene H. Dortch, Secretary, FCC GN Docket No. 18-122 at 1 (filed March 31, 2021) (Eutelsat March 2021 Quarterly Report) (“The revised Exhibits incorporate adjustments to reflect the current status of Eutelsat’s transition plans.”); Letter from Michele V. Bryan, Secretary, Intelsat License LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 18-122 (filed March 31, 2021) (Intelsat March 2021 Quarterly Report); Letter from Telesat Canada, GN Docket No. 18-122 (filed March 31, 2021) (Telesat March 2021 Quarterly Report); Letter from Petra A. Vorwig, Vice President, SES Americom Inc. to Marlene H. Dortch, GN Docket No. 18-122 Secretary, FCC, (filed March 26, 2021) (SES March 2021 Quarterly Report).

¹⁶ To date no eligible space station operator has formally sought approval to amend its Transition Plan since October 2020. As such, the Commission does not recognize any of the proposed updates in the quarterly status reports as formal amendments of the Transition Plans.

to the extent those updates remained accurate, as well as updates reflecting changes to the Incumbent Earth Station List.¹⁷

Pursuant to the authority delegated to the Bureau in the *3.7 GHz Report and Order*, we are opening a new, limited, and final window starting June 1, 2023, during which eligible space station operators are directed to file modified Transition Plans to accurately account for any updates since September 2021. If there are any residual updates that an eligible space station operator may have included in their quarterly status reports through the period ending March 31, 2023, they should be formally integrated into such operator's Transition Plan during this window, in addition to any new updates since that time. As was the case during the window opened by the *Third Transition Plan Amendment PN*, any modifications to the last formally filed Transition Plan (e.g., the last eligible space station operator's Transition Plan filed in response to one of the Bureau's earlier amendment windows), whether based on unreported developments or reflecting updates that were included in a quarterly status report update, should generally be accompanied by an explanation of the changes.¹⁸ With respect to any earth station antenna that is still listed as an incumbent earth station on the most recent Incumbent Earth Station List, however, an eligible space station operator needs to specify all such Phase II antennas and feeds (including all feeds on shared multi-feed antennas) for which it claims, or has been assigned by the Relocation Coordinator, responsibility for transition work. The eligible space station operator is not required to provide a change log explaining the reasons for any changes since its last formally filed Transition Plan.¹⁹ The eligible space station operator should also identify as a provisional claim in its Transition Plan any associated earth station antenna that has been included on an active 90-day public notice to remove it from the most recent Incumbent Earth Station List.

We reiterate that an eligible space station operator remains responsible for transitioning any earth station antenna that receives that space station's feed, including any feeds on shared multi-feed antennas, which receive feeds as well from other eligible space station operators.²⁰ Accordingly, that the Transition Plan of one eligible space station operator lists an incumbent earth station antenna does not mean that the same earth station antenna should not also be listed in another eligible space station operator's Plan. To ensure that each Transition Plan clearly reflects the full responsibilities of the eligible space station operator that has submitted that Plan, we are therefore continuing to require that every eligible space station operator revise its Transition Plan to the extent necessary to identify each shared multi-feed earth station antenna,²¹ and the number of feeds on that antenna for which it is responsible for transitioning.²² To facilitate the transparency and review of the transition status of individual earth station antennas and feeds, eligible space station operators are directed to provide this information in spreadsheets formatted

¹⁷ *Third Transition Plan Amendment Window PN*; see also *Second Transition Plan Amendment Window PN* at 1; see, e.g., *International Bureau Releases Updated List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, 36 FCC Rcd 9974 (IB 2021). The most recent Incumbent Earth Station List was released in March 2023. *International Bureau Releases Updated List of Incumbent Earth Stations in the 3.7-4.2 GHz Band in the Contiguous United States*, IB Docket No. 20-205, GN Docket No. 20-305, Public Notice, DA 23-176 (IB 2023) (*March 2023 Incumbent Earth Station List Public Notice*).

¹⁸ *Third Transition Plan Amendment PN* at 4.

¹⁹ Regardless of any amendments to the Transition Plans filed, eligible space station operators still bear responsibility under the *3.7 GHz Report and Order* to transition all associated earth stations by the relevant deadlines. *3.7 GHz Report and Order*, 35 FCC Rcd at 2414, para. 171; see 47 CFR § 27.1412(b)(1)-(2).

²⁰ *Third Transition Plan Amendment PN* at 4-5; *Second Transition Plan Amendment Window PN* at 4.

²¹ Shared multi-feed earth station antennas are multi-feed antennas where not all feeds are the responsibility of one eligible space station operator. *Third Transition Plan Amendment PN* at 4-5; *Second Transition Plan Amendment Window PN* at 4.

²² A Transition Plan does not have to identify the other eligible space station operator(s) that also provide service to a multi-feed antenna.

consistently with the template being simultaneously adopted by the Bureau for the Phase II Certification of Accelerated Relocation process.²³ Eligible earth station operators are further instructed to provide additional details, as described above, when an operator is transitioning only a subset of the total quantity of antennas listed in an individual record in the List or when an operator is transitioning only a subset of the feeds of a shared multi-feed antenna.

The deadline for an eligible space station operator to submit amendments, explanations, and updates to the final Transition Plans in GN Docket Nos. 18-122 and 20-173 is no later than **the date on which that eligible space station operator's Phase II Certification of Accelerated Relocation is validated**. In other words, no eligible space station operator may file an amendment to their Transition Plan after it has certified its Phase II transition work is complete and such certification has been validated. Until this time, an eligible space station operator may file one or more amendments to its Transition Plans as appropriate.

Eligible space station operators should confirm that all associated earth station antennas and feeds for which they are responsible for Phase II are listed in their respective Plans. All Transition Plans should identify and address earth stations and antennas in the following categories: (1) antennas and feeds for which the transition involves circumstances beyond the control of the eligible space station operator and therefore have been subject to a transition delay notice;²⁴ (2) antennas and feeds that have been included on an active 90 day public notice or are otherwise pending removal from the most recent Incumbent Earth Station List, which should be identified as provisional claims;²⁵ and (3) antennas and feeds subject to a written agreement regarding the transition between the eligible space station operator and the earth station operator, with the exception of self-installations by the earth station operator.²⁶ Our expectation is that all

²³ See *Wireless Telecommunications Bureau Announces Procedures for Filing of Phase II Certifications of Accelerated Relocation and Implementation of the Commission's Incremental Reduction Plan for Phase II Accelerated Relocation Payments*, GN Docket Nos. 18-122 and 23-97, Public Notice, DA 23-408 (WTB 2023); Letter from Brian D. Weimer, Counsel to SES Americom, Inc., to Marlene H Dortch, Secretary, FCC, GN Docket Nos. 18-122 and 23-97 at Attachment B (filed Apr. 17, 2023).

²⁴ The *3.7 GHz Report and Order* stated, "Only incumbent earth station transition delays that are beyond the control of the incumbent space station operators will not impact their eligibility for the accelerated relocation payment. However, to partake of this exception, we require that any eligible space station operator submit a notice of any incumbent earth station transition delays to the Wireless Telecommunications Bureau within seven days of discovering an inability to accomplish the assigned earth station transition task. Such a request must include supporting documentation to allow for resolution as soon as practicable and must be submitted before the Accelerated Relocation Deadlines." *3.7 GHz Report and Order*, 35 FCC Rcd at 2455, para. 294. The filing of such notice in circumstances that the eligible space station operator believes are likely to jeopardize its ability to meet the Phase II deadline does not, in and of itself, remove an earth station, antenna, or feed from said operator's Transition Plan. Further, the eligible space station operator remains responsible for transitioning the earth station, antenna, or feed at issue until the Certification process is complete. Any such notices and supporting information should be publicly filed in GN Docket No. 23-97 and be simultaneously provided to the affected earth station operator. The Bureau will take such notices, and the weight, if any, they should be accorded, into account when determining whether the eligible space station operator has met its transition obligations for ARP purposes.

²⁵ See, e.g., *March 2023 Incumbent Earth Station List Public Notice*.

²⁶ Such written agreements may, for example, reflect that the earth station operator, whose station is associated with the eligible space station operator and included on its Transition Plan, has relieved said eligible space station operator of any obligation to effectuate the transition (in whole or in part, as per the agreement) of the subject earth station. Assertions regarding written agreements that fall within this category are not presumptively valid and all such assertions will be assessed by the Bureau during its Certification of Accelerated Relocation review process. Informal agreements, such as for the self-installation of filters by the incumbent earth station operator, need not be reported in this category, but we are requiring that eligible space station operators identify any earth station antennas and feeds that were subject to self-installations as part of the Phase II Certification of Accelerated Relocation filing procedures.

earth station antennas and feeds relating to Phase II of the C-band transition from the *March 2023 Incumbent Earth Station List Public Notice* will be claimed on one or more Transition Plans.

For further information concerning this Public Notice, please contact Susan Mort, Wireless Telecommunications Bureau, (202) 418-2429, Susan.Mort@fcc.gov.

Action by Chief, Wireless Telecommunications Bureau.

- FCC -



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-410

Released: May 15, 2023

FCC RELEASES BROADBAND FUNDING MAP

WC Docket No. 11-10
WC Docket No. 19-195

The Office of Economics and Analytics, in conjunction with the Wireline Competition Bureau, announces the release of the Broadband Funding Map. The Broadband Funding Map and the map's underlying data can be found at <https://fundingmap.fcc.gov/>.

Section 60105 of the Infrastructure Investment and Jobs Act (IIJA) requires the Commission “to establish an online mapping tool to provide a locations overview of the overall geographic footprint of each broadband infrastructure deployment project funded by the Federal Government.”¹ The map released today contains data received from the Department of Agriculture (USDA), the National Telecommunications and Information Administration (NTIA), and the Department of Treasury as well as the Commission's own data. Any funding data that are submitted to the Commission by other federal agencies in the future will be added to the map as part of regular updates the Commission will make to the map in accordance with the IIJA.²

The Broadband Funding Map allows users to identify, search, and filter federal funding programs by the Internet Service Provider receiving funding, the duration timeline, the number of locations included in the project, and the download and upload speeds.³

In addition to depicting where broadband funding exists, the Broadband Funding Map contains broadband availability data as of June 30, 2022—the same data that currently appear on the National Broadband Map.⁴ When the Commission releases more recent availability data on the National Broadband Map, the Broadband Funding Map will be updated as well.

-FCC-

¹ 47 U.S.C. § 1704(b).

² *See id.* § 1704(e)(1).

³ *Id.* § 1704(d)(3).

⁴ The National Broadband Map can be found at <https://broadbandmap.fcc.gov>. Availability data are incorporated to meet the requirements of 47 U.S.C. § 1704(d)(4).



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DA 23-411
Released: May 15, 2023

MEDIA BUREAU UPDATES GUIDANCE ON LOWEST UNIT CHARGE (LUC) FOR CANDIDATE ADVERTISING

COVID-Related LUC Relief No Longer Warranted

At the onset of the COVID-19 pandemic, the Media Bureau released a Public Notice¹ in which it announced that broadcasters and other regulatees that are subject to section 315(b) of the Communications Act of 1934, as amended (Act),² would be permitted to exclude free time that they provide to commercial advertisers when calculating lowest unit charge (LUC), provided the free time is not associated with an existing commercial contract for paid time or otherwise considered bonus spots. The *2020 Public Notice* stated that such relief would be afforded until “more ordinary conditions are restored.”³

After more than three years, the unprecedented circumstances that necessitated the *2020 Public Notice* are no longer present.⁴ Therefore, effective immediately, the temporary relief provided in the *2020 Public Notice* is rescinded. Going forward, broadcasters and other regulatees that are subject to section 315(b) of the Act should include free time that they provide to commercial advertisers when calculating their LUC.

For further information, please contact Robert Baker, Media Bureau, at (202) 253-8419; Gary Schonman, Media Bureau, at (202) 239-9702; or Sima Nilsson, Media Bureau, at (202) 418-2708.

- FCC -

¹ *Media Bureau Provides Guidance on Political Advertising Lowest Unit Charge During Coronavirus (COVID-19) Pandemic*, Public Notice, DA 20-335 (rel. March 25, 2020) (*2020 Public Notice*).

² See 47 U.S.C. § 315(b)(1). Pursuant to section 315(b)(1) of the Act, broadcast licensees must charge legally qualified candidates who use their facilities in connection with their campaigns no more than the lowest unit charge for the same class and time during the same period. Pursuant to section 315(b)(1)(A) of the Act, the lowest unit charge requirement is applicable during the 45 days preceding a primary or primary runoff election, and during the 60 days preceding a general or special election.

³ *2020 Public Notice* at p. 1.

⁴ As a related matter, the U.S. Department of Health and Human Services announced that the federal Public Health Emergency for COVID-19 expired May 11, 2023. See Fact Sheet, HHS, End of the COVID-19 Public Health Emergency, (May 9, 2023), <https://www.hhs.gov/about/news/2023/05/09/fact-sheet-end-of-the-covid-19-public-health-emergency.html>.



PUBLIC NOTICE

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DA 23-413

Released: May 15, 2023

COMMENTS INVITED ON SECTION 214 APPLICATION(S) TO DISCONTINUE DOMESTIC NON-DOMINANT CARRIER TELECOMMUNICATIONS SERVICES

WC Docket No(s). 23-111 & 23-148

Comments Due: May 30, 2023

Unless otherwise specified, the following procedures and dates apply to the application(s) (the Section 214 Discontinuance Application(s)) listed in the Appendix.

The Wireline Competition Bureau (Bureau), upon initial review, has found the Section 214 Discontinuance Application(s) listed herein to be acceptable for filing and subject to the procedures set forth in Section 63.71 of the Commission's rules.¹ The application(s) request authority, under section 214 of the Communications Act of 1934, as amended,² and section 63.71 of the Commission's rules,³ to discontinue, reduce, or impair certain domestic telecommunications service(s) (Affected Service(s)) in specified geographic areas (Service Area(s)) as applicable and as fully described in each application.

In accordance with section 63.71(f) of the Commission's rules, the Section 214 Discontinuance Application(s) listed in the Appendix will be deemed granted automatically on **June 15, 2023**, the 31st day after the release date of this public notice, unless the Commission notifies any applicant(s) that their grant will not be automatically effective.⁴ We note that the date on which an application for Commission authorization is deemed granted may be different from the date on which applicants are authorized to discontinue, reduce, or impair service ("Authorized Date"). Any applicant whose application has been deemed granted may discontinue, reduce or impair their Affected Service(s) in their Service Area(s) on or after the authorized date(s) specified in the Appendix, in accordance with their filed representations. Accordingly, pursuant to section 63.71(f), and the terms outlined in each application, absent further Commission action, each applicant may discontinue, reduce or impair the Affected Service(s) in the Service Area(s) described in their application on or after the authorized discontinuance date(s) listed in the Appendix for that application. For purposes of computation of time when filing a petition for reconsideration, application for review, or petition for judicial review of the Commission's decision(s), the date of "public notice" shall be the later of the auto grant date stated above in this Public Notice, or the release date(s) of any further public notice(s) or order(s) announcing final Commission action, as

¹ 47 CFR § 63.71.

² 47 U.S.C. § 214.

³ 47 CFR § 63.71.

⁴ See 47 CFR § 63.71(f) (stating, in relevant part, that an application filed by a non-dominant carrier "shall be automatically granted on the 31st day... unless the Commission has notified the applicant that the grant will not be automatically effective.").

applicable. Should no petitions for reconsideration, applications for review, or petitions for judicial review be timely filed, the proceeding(s) listed in this Public Notice shall be terminated, and the docket(s) will be closed.

Comments objecting to any of the applications listed in the Appendix must be filed with the Commission on or before **May 30, 2023**. Comments should refer to the specific WC Docket No. and Comp. Pol. File No. listed in the Appendix for the particular Section 214 Discontinuance Application that the commenter intends to address. Comments should include specific information about the impact of the proposed discontinuance on the commenter, including any inability to acquire reasonable substitute service. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁵ Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs>. Filers should follow the instructions provided on the Web site for submitting comments. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number.

Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit one additional copy for each additional docket or rulemaking number associated with the proceeding in which they choose to file comments. Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.⁶ All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, D.C. 20554.

Copies of the comments may also be emailed to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, using the contact information listed in the Appendix for the appropriate Section 214 Application. In addition, comments should be served upon the Applicant(s).

These proceedings are considered "permit but disclose" proceedings for purposes of the Commission's *ex parte* rules.⁷ Participants should familiarize themselves 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

⁶ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

⁷ 47 CFR § 1.1200 *et seq.*

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 rule 1.1206(b).

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

For further information, please see the contact(s) for the specific discontinuance proceeding you are interested in as listed in the Appendix. For further information on procedures regarding section 214 please visit <https://www.fcc.gov/encyclopedia/domestic-section-214-discontinuance-service>.

– FCC –

Appendix

1) Applicant(s): Level 3 Telecom of California, LP, a Lumen company

WC Docket No. 23-111, Comp. Pol. File No. 1835

Link – [https://www.fcc.gov/ecfs/search/search-filings/results?q=\(proceedings.name:\(%2223-111%22\)\)](https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2223-111%22)))

Affected Service(s) – Basic Business Line Service, Digital PBX Trunk, VersiPak Lines and Trunks Service, VersiPakFlex T Service and VersiPak Power T Service, VersiPak Flex T-12, VersiPak Flex T-24, VersiPak Power T-12, VersiPak IPRI Service, VersiPak Mach 2 Service and VersiPak Mach 3 Service

Service Area(s) – Bakersfield, Beaumont, Caruthers, Clovis, Corona, Delano, Fresno, Loma Linda, Madera, North Hollywood, Ontario, Pasadena, Riverside, San Bernardino, Visalia and West Covina, California

Authorized Date(s) – on or after June 15, 2023

Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau

2) Applicant(s): AT&T Services, Inc., on behalf of its affiliate, AT&T Corp. (AT&T)

WC Docket No. 23-148, Comp. Pol. File No. 1841

Link – [https://www.fcc.gov/ecfs/search/search-filings/results?q=\(proceedings.name:\(%2223-148%22\)\)](https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2223-148%22)))

Affected Service(s) – Access Channel Service and Inter-Office Channel Service offered at T1, T3, OC3, OC12, and OC48 speeds, as well as AT&T Toll-Free MEGACOM® Service

Service Area(s) – throughout AT&T's service territories in the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands

Authorized Date(s) – on or after June 15, 2023

Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau

Note: AT&T plans to grandfather the Affected Services as follows: on or after June 15, 2023, pending regulatory approval, the Affected Services will no longer be available for purchase by new or existing customers, except as provided for in any existing contracts, and AT&T will not renew any existing service agreements. AT&T plans to discontinue the Affected Services on or after October 30, 2026.



PUBLIC NOTICE

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DA 23-414
Released: May 16, 2023

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES PRE-HURRICANE SEASON REFRESHER FOR FILERS IN THE DISASTER INFORMATION REPORTING SYSTEM (DIRS) ON JUNE 6-7, 2023

In preparation for the 2023 hurricane season, the Federal Communications Commission's (FCC) Public Safety and Homeland Security Bureau (Bureau) will conduct its annual Disaster Information Reporting System (DIRS) refresher for DIRS filers on June 6 and 7, 2023. During times of crisis, such as hurricanes, wildfires, and earthquakes, the FCC may activate DIRS. Communications providers can use DIRS to quickly and efficiently report the operational status of their service and infrastructure to the FCC, as well as to request assistance. The planned refresher will help ensure that communications providers, including broadcast, cable, satellite, wireless, and wireline providers, can access and file in the DIRS system; train new employees to become familiar with the DIRS reporting process; and update DIRS contact information.

Service providers that have not previously participated in DIRS reporting are encouraged to take advantage of this opportunity to register for DIRS and become familiar with the system. Providers can create an account at the following link: <https://www.fcc.gov/nors/disaster/>.

The refresher will include a simulated event, commencing with the Bureau sending a mock activation letter on June 5 to all registered DIRS participants. The mock activation letter will provide a list of pre-selected counties that form the disaster area for this practice event. Providers will be asked to report data on any of their communications assets (e.g., broadcast, cable, satellite, wireless, and wireline) in the affected area. As this is only a simulated event, the Bureau does not expect to receive actual counts of outages. If a provider does not have any communications assets in the affected counties, it can still participate by reporting notional data for the pre-selected counties.

We ask that event participants provide their initial data sets by 10:00 a.m. EDT on June 6 with an updated report filed by June 7 at 10:00 a.m. EDT. The Bureau will send a deactivation letter by 3:00 p.m. EDT on June 7 notifying participants that the simulated event has been completed.

Providers wanting to participate should email michael.caiafa@fcc.gov and gerald.english@fcc.gov by May 26th with the following information:

1. Name of the provider;
2. Names of all participants from the provider;
3. Email and phone numbers of all participants from the provider; and
4. Specific geographic areas (counties, state) that the provider would like to have included in the disaster area for this exercise (optional).

There is no response necessary for providers that do not wish to participate.

Questions regarding this prep or DIRS generally should be directed to the following in the Public Safety and Homeland Security Bureau, Cybersecurity and Communications Reliability Division:

- Michael Caiafa: michael.caiafa@fcc.gov or (202) 418-1311
- Jay English: gerald.english@fcc.gov or (202) 418-0432



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
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DA 23-415

Released: May 16, 2023

WIRELINE COMPETITION BUREAU REMINDS COMPETITIVE LOCAL EXCHANGE CARRIERS TO FILE REVISED TARIFFS BY JULY 18, 2023 AND TO SUBMIT NEW FILING FEES THROUGH CORES

WC Docket Nos. 18-156, 23-9

By this Public Notice, the Wireline Competition Bureau (Bureau) reminds competitive local exchange carriers (LECs) to file interstate tariff revisions, as necessary, removing interstate toll free (8YY) originating end office access service rates and reducing database query charges by **July 18, 2023**.¹ We encourage competitive LECs to make this filing *after* the competing incumbent LEC's changes to their interstate access charge tariffs filed on 7-days' notice become effective on July 3, 2023.² We also remind competitive LECs submitting this tariff filing to pay the \$1,040 standard tariff filing fee through the Commission's Registration System (CORES).³

Pursuant to section 51.911 and 61.26 of the Commission's rules, competitive LECs are prohibited from filing a tariffed rate for interstate switched exchange access services that is higher than "the benchmark rate"—"the rate charged for similar services by the competing [incumbent LEC]."⁴ If an incumbent LEC to which a competitive LEC benchmarks its rates, lowers its rates, the competitive LEC "must revise its rates to the lower level within 15 days of the effective date of the lowered [incumbent LEC] rate."⁵ This year, incumbent LECs must submit annual access charge tariff filings implementing the transitional rate changes adopted in the *USF/ICC Transformation Order* and the *8YY Access Charge*

¹ See 47 CFR § 51.911(e) (competitive LECs "assessing a tariffed intrastate or interstate Toll Free Database Query Charge shall revise its tariffs as necessary to ensure that its intrastate and interstate Toll Free Database Query Charges do not exceed the rates charged by the competing incumbent local exchange carrier, as defined in § 61.26(a)(2) of this chapter."); *id.* § 61.26(c) ("If an [incumbent LEC] to which a [competitive LEC] benchmarks its rates . . . lowers the rate to which a [competitive LEC] benchmarks, the [competitive LEC] must revise its rates to the lower level within 15 days of the effective date of the lowered [incumbent LEC] rate."); *id.* §§ 51.907(k), 51.909(o) (requiring rate-of-return and price cap LECs to refile their interstate switched access tariffs and any state tariffs to remove any intercarrier charges for all intrastate and interstate toll free originating end office access service, and reduce all intrastate and interstate toll free database query charges to no more than \$0.0002 per query).

² Ordinarily, incumbent LECs are required to submit annual access charge tariff filings to be effective July 1. This year, however, because of the way in which the filing deadlines fell on the calendar, we established an effective date of July 3, 2023 for annual tariff filings made on 7-days' notice (for rate reductions) and an effective date of July 1, 2023 for annual tariff filings made on 15-days' notice (for rate increases). *July 1, 2023 Annual Access Charge Tariff Filings*, WC Docket No. 23-9, Order, DA 23-282, at *2-3, paras. 4-5 (WCB Apr. 3, 2023) (*Procedures Order*).

³ See 47 CFR § 1.1105.

⁴ 47 CFR §§ 51.911(c), 61.26(c).

⁵ 47 CFR § 61.26(c).

Reform Order.⁶ Accordingly, competitive LECs that benchmark their rates to competing incumbent LECs must likewise, as necessary, file tariff revisions implementing these transitional rate changes.

In the *8YY Access Charge Reform Order*, the Commission transitioned interstate and intrastate toll free originating end office access service rates to bill-and-keep and reduced toll free database query charges to \$0.0002 per query over a three-year period ending July 1, 2023.⁷ As the final step in the rate transition, this year the Commission requires incumbent LECs to refile their interstate and intrastate tariffs to remove any intercarrier charges for toll free originating end office access services.⁸ The Commission extended this rate transition to competitive LECs pursuant to sections 51.911(c) and 61.26 of the Commission's rules, which require competitive LECs to tariff switched access rates that are no higher than the benchmark rates charged for similar services by the competing incumbent LEC.⁹ Additionally, this year the Commission requires incumbent LECs to reduce all toll free database query charges to no more than \$0.0002 per query.¹⁰ The Commission extended this transition to competitive LECs pursuant to section 51.911(e) of the Commission's rules, which provides that a competitive LEC "assessing a tariffed intrastate or interstate Toll Free Database Query Charge shall revise its tariffs as necessary to ensure" that these charges "do not exceed the rates charged by the competing incumbent [LEC]."¹¹

Because incumbent LECs are required to refile their interstate switched access tariffs and any state tariffs to remove originating toll free end office access service rates, effectively reducing those rates to zero, and reduce database query charges, competitive LECs that benchmark to these rates must likewise revise their tariffed rates for similar services to the lower benchmarked rate levels. Competitive LECs are required to file tariff revisions reducing their benchmarked rates within 15 days of the effective date of the lowered competing incumbent LEC rate.¹² This year, incumbent LEC's rate reductions, which must be filed on 7-days' notice, will be effective on July 3, 2023.¹³ Accordingly, competitive LECs must file tariff revisions reducing their benchmarked rates on or before **July 18, 2023**.¹⁴ To minimize burdens on filers and to promote administrative efficiency, we encourage competitive LECs benchmarking rates to competing incumbent LECs' rates, to file their tariff revisions *after* the competing incumbent LECs' benchmarked rates become effective on July 3, 2023. This will ensure that a competitive LEC does not have to file revised tariff transmittals benchmarking revised rates if the competing incumbent LEC amends or revises its tariffed rates before the July 3, 2023 effective date.

⁶ See generally *Procedures Order*; *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17934-35, para. 801 & Fig. 9 (2011) (*USF/ICC Transformation Order*), *pets. for review denied sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014); *8YY Access Charge Reform*, WC Docket No. 18-156, Report and Order, 35 FCC Rcd 11594, 11604-05, para. 25 (Oct. 9, 2020) (*8YY Access Charge Reform Order*); 85 Fed. Reg. 75894 (Nov. 27, 2020).

⁷ *8YY Access Charge Reform Order*, 35 FCC Rcd at 11604-05, para. 25; see 47 CFR § 51.713 (defining bill-and-keep).

⁸ 47 CFR § 51.907(k)(1), 51.909(o)(1).

⁹ See *8YY Access Charge Reform Order*, 35 FCC Rcd at 11615, para. 49; 47 CFR §§ 51.911(c), 61.26(b)-(c).

¹⁰ 47 CFR § 51.907(k)(2), 51.909(o)(2).

¹¹ See *8YY Access Charge Reform Order*, 35 FCC Rcd at 11629, para. 81; 47 CFR § 51.911(e).

¹² 47 CFR § 61.26(c).

¹³ *Procedures Order* at *2-3, paras. 4-5 (establishing an effective date of July 3, 2023 for annual tariff filings filed on 7-days' notice reducing rates and an effective date of July 1, 2023 for annual tariff filings filed on 15-days' notice increasing rates).

¹⁴ See 47 CFR § 61.26(c).

When competitive LECs file their tariff transmittals with the Commission through the Electronic Tariff Filing System (ETFS),¹⁵ they must also pay the associated tariff filing fee, pursuant to section 1.1105 and 61.20(b) of the Commission's rules.¹⁶ Competitive LECs filing tariff revisions must pay the associated \$1,040 standard tariff filing fee (Form Corres. & 159, payment type code: CQK) through the CORES payment system.¹⁷

For more information about this Public Notice, please contact Christopher S. Koves, Pricing Policy Division, Wireline Competition Bureau, Christopher.Koves@fcc.gov.

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¹⁵ See FCC, Electronic Tariff Filing System (ETFS), <https://apps.fcc.gov/etfs/etfsHome.action>.

¹⁶ 47 CFR §§ 1.1105, 61.20(b).

¹⁷ 47 CFR § 1.1105. For more information about the CORES Payment System, please visit: <https://www.fcc.gov/licensing-databases/fees/cores-payment-system>. Carriers can access CORES either at <https://apps.fcc.gov/cores/userLogin.do>, using an existing FCC Username account, or through the CORES' FCC Registration Number (FRN) access page, <https://apps.fcc.gov/cores/paymentFrnLogin.do>. For technical assistance with CORES, please submit a help request through <https://www.fcc.gov/available-support-services>, or call 877-480-3201, or send an email to ARINQUIRIES@fcc.gov.



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
Internet: www.fcc.gov
TTY: 888-835-5322

DA 23-416

Released: May 16, 2023

BIENNIAL RECERTIFICATIONS OF STUDY AREA BOUNDARY DATA ARE DUE NO LATER THAN JUNE 30, 2023

WC Docket No. 10-90
WC Docket No. 05-337

The Office of Economics and Analytics (OEA), in conjunction with the Wireline Competition Bureau (WCB), announces that the filing deadline for the biennial recertification of study area boundary data is **June 30, 2023**. As required by the *Study Area Boundary Order*, incumbent local exchange carriers (ILECs) and state commissions that have voluntarily agreed to file study area boundary data on behalf of some or all ILECs operating within their jurisdictions (certifying state commissions) must review and recertify study area boundary data every two years.¹

ILECs and state commissions that have uploaded and certified new boundaries between December 31, 2022 and March 15, 2023 are not required to recertify their data this year.² All other ILECs and state commissions responsible for study area boundary information must recertify their information by following the two-step process below.

Confirming Study Area Boundaries. ILECs and certifying state commissions must confirm that the study area boundary data previously provided to the Commission are accurate. Current study area boundary map data are available at <https://www.fcc.gov/reports-research/maps/study-area-boundaries/>. Instructions for viewing the map data are found at https://apps.fcc.gov/edocs_public/attachmatch/DOC-344932A2.docx. Once the ILEC or certifying state commission confirms that these data are accurate, it can proceed to the recertification process outlined below. However, if these data are incorrect, the ILEC or state commission must file revised boundaries. Filers should contact the Study Area Boundary Team at StudyAreaBoundaries@fcc.gov to facilitate transfer and certification of updated boundary data because the Commission's filing interface is not currently accepting submissions.

ILEC Recertification. ILECs and certifying state commissions must also recertify the data. After an ILEC has confirmed that the Commission's study area boundary map information is correct, the ILEC must log into the site at <https://www.fcc.gov/licensing-databases/fcc-user-login>. After logging in, ILECs must enter contact information and the six-digit study area codes for the study areas that they are recertifying and attest to the information that they have entered. A tip sheet and instructions for recertifying ILEC study area boundary data electronically are found at <https://docs.fcc.gov/public/attachments/DOC-345283A1.docx>.

¹ *Connect America Fund: High-Cost Universal Service Support*, WC Docket Nos. 10-90 and 05-337, Report and Order, 27 FCC Rcd 13528, 13535, para. 23 (WCB 2012) (*Study Area Boundary Order*).

² *See id.* (requiring ILECs and certifying state commissions to submit updated data by March 15 of each year showing any changes made to study area boundaries by December 31 of the previous year).

Certifying State Commission Recertification. After a certifying state commission has confirmed that the Commission's study area boundary map information is correct for its state, the state commission must complete and sign the recertification notification available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-345129A1.docx. The completed recertification notification, which must include a list of six-digit study area codes for the study areas that the state commission is recertifying, must then be emailed to StudyAreaBoundaries@fcc.gov.

Additional information on the study area boundary data collection, including the order referenced in this Public Notice, can be found on the Commission's study area boundary webpage at <http://www.fcc.gov/encyclopedia/study-area-boundary-data-collection>. Specific questions should be directed to John Emmett at (202) 418-0386 or John.Emmett@fcc.gov.

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PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>

DA 23-417
Released: May 16, 2023

**DOMESTIC SECTION 214 APPLICATION GRANTED
FOR THE ACQUISITION OF CERTAIN ASSETS OF
ECHO WIRELESS BROADBAND, INC. BY RESOUND NETWORKS, LLC**

WC Docket No. 21-277

By this Public Notice, the Wireline Competition Bureau grants an application, pursuant to section 214 of the Communications Act of 1934, as amended (the Act), and sections 63.03-04 of the Commission's rules,¹ filed for the transfer of Echo Wireless Broadband, Inc.'s (Echo) domestic section 214 authorization to Resound Networks, LLC (Resound) (collectively, Applicants).²

On July 14, 2021, the Bureau released a Public Notice seeking comment on the Application.³ The Bureau did not receive comments or petitions in opposition to the Application.

Applicants and Description of Transaction

Echo, a Texas corporation, is an eligible telecommunications carrier (ETC) in certain areas in Texas and New Mexico.⁴ Echo is authorized to receive \$3,933,712.70 of Connect America Fund (CAF) Phase II Auction support (CAF Phase II auction support) over 10 years to serve 1,093 qualifying locations in 439 census blocks in Texas, and \$1,542,197.80 of CAF Phase II auction support over 10 years to serve 624 qualifying locations in 200 census blocks in New Mexico (collectively, Assigned Blocks).⁵

¹ See 47 U.S.C. § 214; 47 CFR §§ 63.03-04.

² See Application of Echo Wireless Broadband, Inc. and Resound Networks, LLC for Consent to Assignment of Domestic Section 214 Authorization, WC Docket No. 21-277 (filed June 28, 2021) (Application). Applicants filed supplements to their domestic section 214 application on July 2, 2021, November 17, 2021, July 19, 2022, and March 29, 2023. Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed July 2, 2021) (July 2 Supplement); Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed Nov. 17, 2021) (Nov. 17 Supplement); Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed July 19, 2022) (July 19 Supplement); Letter from Stephen E. Coran, Counsel to Resound, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-277 (filed Mar. 29, 2023) (Mar. 29 Supplement). Any action on the domestic section 214 application is without prejudice to Commission action on other related, pending applications.

³ See *Domestic Section 214 Application Filed for the Transfer of Certain Authorizations of Echo Wireless Broadband, Inc. to Resound Networks, LLC*, WC Docket No. 21-277, Public Notice, 36 FCC Rcd 10924 (WCB 2021).

⁴ Application at 5.

Subsequent to its authorization and pending authorization of this transfer, Echo “decided to exit the broadband business and will not deploy CAF-supported service in the subject census blocks upon transfer of the CAF obligations to Resound.”⁶

Resound, a Texas limited liability corporation, provides voice services and broadband services to more than 10,000 customers in Texas, New Mexico, and Oklahoma.⁷ Resound is authorized to receive Rural Digital Opportunity Fund (RDOF) support in seven states (Texas, New Mexico, Arizona, Arkansas, Colorado, Kansas, and Oklahoma).⁸ Resound has been designated as an ETC for all areas where it has been authorized to receive RDOF support in each of the seven states.⁹ In addition, the Texas Public Utility Commission and the New Mexico Public Regulation Commission have each separately and conditionally designated Resound as an ETC in the relevant Assigned Blocks in their respective states and conditionally granted Echo relinquishment of its ETC designation for those same blocks.¹⁰ The following U.S. entity and U.S. citizens own 10% or more of Resound: Curtis Resound Group (16.49%); Quentin C. Giles (10.84%), and Bryan E. Waldrip (46.11%).¹¹

Pursuant to the terms of the proposed transaction, Applicants request Commission approval to transfer certain assets, including Echo’s CAF Phase II auction support obligations to serve eligible areas in Texas and New Mexico, to Resound.¹² Applicants state that, pursuant to two Interim Services Agreements, “Resound has assumed management of Echo’s CAF obligation in exchange for a monthly management fee and is undertaking construction and related activities to accelerate the deployment of voice and broadband services to unserved locations within Echo’s CAF-supported areas.”¹³

⁵ Application at 3; *see also Connect America Fund Phase II Auction Support Authorized for 1,031 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 8009, 8046, Attach. A (Authorized Long-Form Applicants and Winning Bids) (WCB 2019) (*CAF Phase II Authorization Public Notice*).

⁶ Application at 7.

⁷ *Id.* at 3.

⁸ *Id.* at 4; *see Rural Digital Opportunity Fund Support Authorized for 1,764 Winning Bids; Etheric Communications LLC’s Petition for Waiver of the June 7, 2021 Eligible Telecommunications Carrier Documentation Deadline denied*, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, Public Notice (WCB rel. Jan. 13, 2023).

⁹ Application at 4; 47 CFR § 54.804(b)(5) (requiring RDOF support applicants to submit proof of ETC designation). Resound participates in the Affordable Connectivity Program and plans to expand that program to the Echo CAF areas. March 19 Supplement at 1.

¹⁰ *See* July 19 Supplement at 3-12 (Application of Echo Wireless Broadband, Inc. to Relinquish its ETC Designation and Application of Resound Networks, LLC for ETC Designation for the Service Area Previously Designated for Echo Wireless Broadband, Inc., Docket No. 52147, Order (Tex. Pub. Util. Comm’n, Jan. 14, 2022)); *see id.* at 13-22 (Joint Petition of Echo Wireless Broadband Inc. and Resound Networks, LLC for Echo Wireless to Relinquish its ETC Designation and to Transfer its FCC CAF Phase II Census Blocks to Resound Networks, LLC, Case No. 22-00045-UT, Order adopting Certification of Stipulation (New Mex. Pub. Reg. Comm’n, July 13, 2022)).

¹¹ Application at 12-13; July 2 Supplement at 2. Applicants state that Resound is not affiliated with any other telecommunications provider. July 2 Supplement at 2.

¹² Application at 6, 9. *See Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Order, 36 FCC Rcd 9384, 9393-94, para. 30 (WCB 2021) (“ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act or to engage in the sale of assets under section 214 (including any authorization to receive RDOF support) must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission’s rules governing the procedures for domestic transfer of control/asset applications.”). Applicants state that Resound has already acquired Echo’s non-CAF assets. Application at 4-5.

¹³ Application at 5, Nov. 17 Supplement.

Applicants assert that a grant of the Application would serve the public interest, convenience, and necessity.¹⁴

Discussion

We find, upon consideration of the record, that a grant of the Application will serve the public interest, convenience, and necessity. To make this determination under Commission precedent, we consider whether the proposed transaction could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.¹⁵ We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.¹⁶ The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.¹⁷

We find that there are no potential public interest harms identified in the record. First, the proposed transaction will not result in a reduction of competition. Applicants state that the transaction does not involve the transfer of traditional wireline voice facilities or wireline voice customers,¹⁸ and thus there will be no physical overlap or reduction in service providers in any markets as a result of the transaction.¹⁹ Further, because “there are no customers receiving telecommunications services from Echo [and] no rates, charges or conditions of service are impacted by the transaction,”²⁰ we expect no potential harm to existing customers to result from the transaction.

Second, Resound commits to meeting all public interest and performance obligations associated with the receipt of the transferred CAF Phase II auction funding, and the record indicates that Resound has the technical, financial, and managerial expertise to do so.²¹ In this regard, Resound attests that it will

¹⁴ Application at 7.

¹⁵ See, e.g., *Application of Verizon Communications Inc. and América Móvil S.A.B. de C.V. for Consent to Transfer Control of International Section 214 Authorization*, GN Docket No. 21-112, IBFS File No. ITC-T/C-20200930-00173, Memorandum Opinion and Order, FCC 21-121, at 8, para. 21 (Nov. 22, 2021) (*Verizon-TracFone Order*) (citing *China Mobile International (USA) Inc., Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended*, ITC-214-20110901-00289, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3366, para. 9 (2019); *Applications for Consent to the Assignment and/or Transfer of Control of Licenses, Adelphia Communications Corporation (and Subsidiaries, Debtors-in-Possession), Assignors, to Time Warner Cable Inc. (Subsidiaries), Assignees; Adelphia Communications Corporation, (and Subsidiaries, Debtors-in-Possession), Assignors and Transferors et al.*, MB Docket No. 05-192, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8219-21, paras. 27-28 (2006) (*Adelphia-TWC Order*)).

¹⁶ See *Verizon-TracFone Order* at 8, para. 21 (citing *Applications of AT&T Inc. and DIRECTV for Consent to Assign or Transfer Control of Licenses and Authorizations*, MB Docket No. 14-90, Memorandum Opinion and Order, 30 FCC Rcd 9131, 9140, para. 18 (2015) (*AT&T-DIRECTV Order*)) (further citations omitted).

¹⁷ See *Verizon-TracFone Order* at 8, para. 21 (citing *AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 18; *Adelphia-TWC Order*, 21 FCC Rcd at 8217, para. 23; *Application of EchoStar Communications Corp., General Motors Corp., and Hughes Electronics Corp., Transferors, and EchoStar Communications Corp., Transferee*, CS Docket No. 01-348, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 25 (2002)) (further citations omitted).

¹⁸ Application at 6.

¹⁹ *Id.* at 8.

²⁰ *Id.* at 6.

²¹ See March 29 Supplement at 1, Declaration of Tyson Curtis (Curtis Declaration) at paras. 1, 4. The Bureau has provided a summary of the various obligations of authorized CAF Phase II auction support recipients in prior authorization public notices. As stated in these public notices, the list is not intended to be comprehensive and all authorized parties are responsible for conducting the due diligence required to comply with universal service fund

“comply with all Connect America Fund obligations [originally assumed by Echo] after consummation of the proposed transaction,”²² and acknowledges that, upon its authorization to receive the CAF Phase II Auction support, originally authorized to receive, it will “become responsible for meeting all CAF and ETC associated requirements, and will become subject to consequences for failing to meet these requirements, including withholding, default, and potentially, forfeiture actions.”²³ Applicants maintain that “Resound has both the necessary industry experience and requisite financial means to take on the responsibility of deploying CAF-supported voice and broadband service in [the Assigned Blocks]” and that Resound will “not incur any additional debt as a result of this transfer.”²⁴ In addition, applicants have confirmed that “no fundamental changes are planned” from Echo’s deployment plans as approved at the time of its authorization to receive CAF Phase II auction support.²⁵ Overall, we conclude that the record in this proceeding does not support a finding of a public interest harm.

We next consider whether the proposed transaction is likely to generate verifiable, transaction-specific public interest benefits.²⁶ Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.²⁷ Where potential harms appear unlikely, as is the case with the Application before us here, the Commission accepts a lesser degree of magnitude and likelihood than when harms are present.²⁸

Applicants assert that the infusion of capital and human resources resulting from the proposed transaction will enable consumers to receive CAF-supported services more quickly.²⁹ Further, Applicants assert that because “Echo’s operations and the CAF-supported areas are adjacent or nearby Resound’s existing operations and its RDOF areas,” Resound can “achieve economies of scale and leverage its labor force, infrastructure and operational capabilities to rapidly and cost-effectively build out the Echo CAF areas as it expands its broadband operations.”³⁰ Applicants contend that Resound has the “scale and financial wherewithal to maintain and expand Echo’s existing operations and to meet Echo’s buildout and performance obligations.”³¹

The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor,³² and accelerating private sector deployment of advanced services is one

requirements and the Commission’s rules. *See, e.g., CAF Phase II Authorization Public Notice*, 34 FCC Rcd at 8009-8012.

²² *See* March 29 Supplement, Curtis Declaration at paras. 1, 4.

²³ *Id.*

²⁴ Application at 7, March 29 Supplement at 5. We find relevant Resound’s successful completion of the RDOF application process, which required the Bureau to assess the applicant’s audited financial statements, managerial experience, and technical capabilities and plans necessary to demonstrate that it could meet RDOF obligations. 47 CFR § 54.804; *see generally Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077 (2020).

²⁵ *See* March 29 Supplement at 4; July 2 Supplement at 1.

²⁶ *See AT&T/DIRECTV Order*, 30 FCC Rcd at 9237, paras. 273-74.

²⁷ *See id.* at 9237-38, paras. 275-76.

²⁸ *See id.*

²⁹ Application at 8.

³⁰ *Id.* at 8.

³¹ Application at 15.

³² *See, e.g., AT&T-DIRECTV Order*, 30 FCC Rcd at 9140, para. 19.

of the aims of the Act.³³ In light of Applicants' respective commitments to meet all of Licensees' federal high-cost funding obligations³⁴ and the fact that Applicants are prepared to devote additional capital to accelerate facilities-based service offerings,³⁵ we find it likely that the proposed transaction would result in some public interest benefits. Absent any potential harms, and considering that the proposed transaction is likely to yield some benefits, we find, on balance, that the proposed transaction serves the public interest.

Therefore, pursuant to section 214 of the Act, 47 U.S.C. § 214, and sections 0.91, 0.291, 63.03, and 63.04 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 63.03, and 63.04, the Bureau hereby grants the Application discussed in this Public Notice, subject to Applicants' compliance with all applicable obligations.³⁶

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice.³⁷ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 CFR §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Dennis Johnson, Wireline Competition Bureau, Competition Policy Division, (202) 418-0809.

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³³ See *Verizon-TracFone Order* at 9, para. 22 (citing 47 U.S.C. §§ 254, 332(c)(7), 1302; Telecommunications Act of 1996, Pub. L. No. 104-104, Preamble, 110 Stat. 56 (1996) (one purpose of the Act is to "accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services")).

³⁴ Application at 2, 11-12.

³⁵ *Id.* at 7.

³⁶ See, e.g., *Echo CAF Phase II Authorization Public Notice*, 34 FCC Rcd at 8009-8012 (providing non-exhaustive list of CAF Phase II Auction support recipient's public interest and performance obligations).

³⁷ We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 21-277 that the proposed transaction has closed, with the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Lingo Telecom, LLC	)	Complaint No. 6130525
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

ORDER

Adopted: May 16, 2023**Released: May 17, 2023**

By the Acting Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau:

1. In this Order, we consider a complaint alleging that Lingo Telecom, LLC (Lingo) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.¹ We conclude that Lingo has responded to Complainant's complaint and has taken action to resolve the complaint.

2. Section 258 of the Communications Act of 1934, as amended (the Act), prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.² The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.³ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that satisfies our rules; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the order.⁴ The Commission has also adopted rules to limit the liability of subscribers when an unauthorized carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.⁵

3. The Commission's slamming rules prohibit misrepresentations on sales calls to further reduce the incidence of slamming.⁶ In adopting the rules, the Commission stated that upon a finding of

¹ See Informal Complaint No. 6130525 (filed Mar. 29, 2023); *see also* 47 CFR §§ 64.1100 – 64.1190.

² 47 U.S.C. § 258(a).

³ See 47 CFR § 64.1120.

⁴ See *id.* § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

⁵ These rules require the unauthorized carrier to absolve the subscriber where the subscriber has not paid his or her bill. If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. See *id.* §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.* Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. See *id.* §§ 64.1140, 64.1170.

⁶ *Id.* § 64.1120(a)(1)(i)(A).

material misrepresentation, including material omissions, during the sales call, the consumer's authorization to change carriers will be deemed invalid even if the carrier has some evidence of consumer authorization of a carrier switch, e.g., a third-party verification recording.⁷ The rule provides that a consumer's credible allegation of misrepresentation shifts the burden of proof to the carrier to provide evidence to rebut the consumer's claim regarding misrepresentation. The Commission made clear that an accurate and complete recording of the sales call may be the carrier's best persuasive evidence to rebut the consumer's claim that a misrepresentation was made on the sales call.⁸

4. We received Complainant's complaint alleging that Complainant's telecommunications service provider had been changed without Complainant's authorization.⁹ In the complaint, Complainant stated that she contacted Lingo "when I got a bill from them out of the blue...they stated that my office man[a]ger requested the switch on a recorded phone line and signed a contract...neither of which she did."¹⁰ Complainant also alleged that "Lingo assured me [the account] would be cancelled and my service would be switch[ed] back to Verizon...none of this was true."¹¹

5. Pursuant to our rules, we notified Lingo of the complaint and directed Lingo to address the claim of misrepresentation and to provide any evidence to rebut it.¹² Lingo responded, stating that its records show that Complainant's office manager signed a three-year contract with Lingo. Lingo provided a document it claimed was the signed contract.¹³ Lingo also provided a recording of a call between one of its sales representatives and Complainant's office manager "to refute the claim that the business lines were switched to Lingo without the business' consent."¹⁴ The recording clearly followed an earlier sales call; however Lingo did not provide a recording of the initial sales call. Lingo instead argued that there was no reference to misrepresentation in the complaint, and therefore, that the complaint should not be handled as such. It further stated that it issued a credit on the account, bringing the account balance to zero.¹⁵

6. Based on all of the information provided by Lingo and Complainant, it appears that Lingo has fully absolved Complainant of all charges assessed by Lingo in a manner consistent with the Commission's liability rules.¹⁶ We therefore find that the complaint referenced herein has been

⁷ See *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges*, 33 FCC Rcd 5773, 5778-80, paras. 17-19 (2018) (*2018 Slamming Order*); 47 CFR § 64.1120(a)(1)(i)(A).

⁸ See *2018 Slamming Order*, 33 FCC Rcd at 5781, para. 23. The Commission also stated that a carrier is uniquely positioned via its access to sales scripts, recordings, training, and other relevant materials relating to sales calls to proffer evidence to rebut a consumer's claims. *Id.*

⁹ See Informal Complaint No. 6130525.

¹⁰ *Id.*

¹¹ *Id.*; see also e-mail from Complainant to Consumer Policy Division, Consumer and Governmental Affairs Bureau (May 9, 2023) (stating that "[Lingo] did demand that I pay them a fee of 195.90 in order for them to turn the service back on after they turned it off for 'non payment' after 64 days of service. I did this after not having a business phone for several days").

¹² 47 CFR § 1.719 (Commission procedure for informal complaints filed pursuant to section 258 of the Act); *id.* § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹³ See Lingo Response to Informal Complaint No. 6130525 (filed Apr. 29, 2023).

¹⁴ *Id.* at 1.

¹⁵ See Lingo Response to Informal Complaint No. 6130525 (filed May 12, 2023).

¹⁶ See *id.*; see also 47 CFR § 64.1160.

resolved.¹⁷

7. Accordingly, IT IS ORDERED that, pursuant to section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and sections 0.141, 0.361, and 1.719 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.719, the complaint filed against Lingo Telecom, LLC IS RESOLVED.

8. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kristi Thornton
Acting Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

¹⁷ If Complainant is unsatisfied with the resolution of its complaint, Complainant may file a formal complaint with the Commission pursuant to section 1.721 of the Commission's rules, 47 CFR § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. *See id.* § 1.719.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
The Rural Digital Opportunity Fund	)	AU Docket No. 20-34
Auction (Auction 904)	)	
	)	

ORDER

Adopted: May 17, 2023

Released: May 17, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) grants East Central Vermont Telecommunications District's (ECFiber) petition¹ requesting a six-month waiver of the Commission's requirement that Rural Digital Opportunity Fund auction (Auction 904) recipients obtain letters of credit (LOCs) from banks that maintain a Weiss bank safety rating of B- or better.² This waiver will allow ECFiber to maintain its letter of credit with its current bank until November 1, 2023.

II. BACKGROUND

2. The Commission requires that before being authorized to receive support awarded by Auction 904, an applicant must obtain a LOC issued by a qualified bank to protect the public's funds.³ To insure the availability of funds should the Commission need to draw against an LOC, the Commission has several eligibility criteria for banks issuing LOCs.⁴ One of these requirements is that the issuing bank must maintain a Weiss bank safety rating of at least a B-. The Commission determined that Weiss provides "an independent and objective perspective of the safety of the banks it rates based on capitalization, asset quality, profitability, liquidity, and stability indexes," and that banks with a rating of B- or higher had shown that they "offer[] good financial security and ha[ve] the resources to deal with a variety of adverse economic conditions."⁵

3. *ECFiber's Petition.* In its petition, ECFiber explains that it initially obtained LOCs from Silicon Valley Bank (SVB), which met the Commission's requirements at the time the LOCs were

¹ Petition for Temporary Waiver, WC Docket No. 10-90, AU Docket No. 20-34 (filed Apr. 17, 2023) (*ECFiber Petition*).

² 47 CFR § 54.804(c)(2)(i)(B).

³ 47 CFR § 54.804(c); *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5989-99, paras. 119-40 (2016) (*CAF Phase II Auction Order*); *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 729-35, paras. 96-112 (2020) (*Rural Digital Opportunity Fund Order*).

⁴ 47 CFR § 54.804(c).

⁵ *CAF Phase II Auction Order*, 31 FCC Rcd at 5993, para. 127.

issued.⁶ As a condition for providing the LOCs, SVB required ECFiber to purchase certificates of deposit in the amount of one year of RDOF support.⁷ After SVB was closed due to financial failure,⁸ ECFiber moved quickly to obtain new LOCs from its local bank, Mascoma Bank, which also required a purchase of certificates of deposit in the amount of one year of RDOF support.⁹ When obtaining its new LOCs, ECFiber did not realize that Mascoma Bank has a Weiss bank safety rating of C+,¹⁰ and therefore ECFiber may not rely on the Mascoma Bank LOC for the purposes of the RDOF program.

4. ECFiber wishes to: (1) cancel its existing LOC with SVB, and (2) maintain its only active LOC with Mascoma Bank, while it looks to obtain a new LOC from a bank that meets Commission requirements. To do so, ECFiber seeks a six-month waiver of the requirement that LOC issuing banks maintain a Weiss bank safety rating of at least a B- in order to obtain new LOCs from a bank that meets the Commission's requirements.¹¹ According to ECFiber, a six-month waiver would allow ECFiber to maintain its existing LOC with Mascoma Bank while it obtains a new LOC from a bank that meets the Commission's requirements. In support of its petition, ECFiber states that it has already completed significant deployment well before the RDOF deadlines,¹² and that, without a waiver, ECFiber would have significant resources tied up in the banks that issued its earlier LOCs.¹³ ECFiber also notes that a waiver would be consistent with our earlier, temporary waiver of the LOC rules to allow a support recipient to obtain new LOCs from a bank that met the Commission's requirement.¹⁴

III. DISCUSSION

5. Generally, the Commission's rules may be waived for good cause shown.¹⁵ Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.¹⁶ A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.¹⁷ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁸ We find good cause to grant ECFiber's petition and temporarily waive section 54.804(c)(2)(i)(B) of our rules until November 1, 2023. If at that time ECFiber has not obtained LOCs for all of its Auction 904 awards from a bank that meets the Commission's requirements,

⁶ *ECFiber Petition* at 2.

⁷ *Id.*

⁸ See Federal Deposit Insurance Corporations, Failed Bank List, Failed Bank Information for Silicon Valley Bank, Santa Clara, CA, <https://www.fdic.gov/resources/resolutions/bank-failures/failed-bank-list/silicon-valley.html>.

⁹ *Id.* at 3. SVB's purchaser, First-Citizens Bank & Trust Company, now holds the certificates of deposit associated with the SVB LOC.

¹⁰ See Weiss Ratings for Mascoma Bank available at <https://weissratings.com/en/bank/18013> (last visited May 17, 2023).

¹¹ *ECFiber Petition* at 4.

¹² *Id.* at 5

¹³ *Id.* at 5-6.

¹⁴ *Id.* at 5-6, citing *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, DA 22-951 (WCB Sept. 13, 2022) (Point Broadband Order).

¹⁵ 47 CFR § 1.3.

¹⁶ See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), *cert. denied*, 93 S.Ct. 461 (1972) (*WAIT Radio*)) (*Northeast Cellular*).

¹⁷ *Northeast Cellular*, 897 F.2d at 1166.

¹⁸ *WAIT Radio*, 418 F.2d at 1157.

we will suspend ECFiber's monthly support payments and ECFiber may be subject to additional non-compliance measures.¹⁹

6. We find that circumstances support a finding of good cause to grant the petition. ECFiber immediately sought a new LOC from Mascoma after SVB's unforeseen and sudden failure. Permitting ECFiber to continue to use Mascoma Bank's LOC will allow ECFiber to focus its resources on deploying broadband to its Auction 904 areas and will also provide additional time for ECFiber to obtain a LOC from an acceptable bank that meets our eligibility criteria. In further support of this waiver, we rely on ECFiber's substantial deployment to over 40 percent of the eligible locations in each of the states in which it was authorized to receive RDOF support.²⁰ Thus, the Commission is unlikely to need to draw on ECFiber's LOCs in the near future.

7. Granting ECFiber a temporary waiver is also consistent with our precedent. We previously issued a temporary waiver to allow Point Broadband to continue using its existing LOCs from a bank with a Weiss safety rating of C+ in order to allow Point Broadband to obtain new LOCs from a bank with an acceptable Weiss safety rating.²¹ Like ECFiber, Point Broadband had substantially deployed service in advance of relevant deadlines, and we recognized that granting a temporary waiver would allow Point Broadband to expend more of its capital on deployment efforts.²² For the same reasons, we grant ECFiber's request for a temporary waiver.²³

8. We emphasize, however, that auction support recipients must ensure that banks issuing LOCs comply with all of our eligibility rules. We rely on an independent standard to assess the stability of financial institutions because the Commission does not have the expertise to evaluate banks' financial health.²⁴

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, that this Order IS ADOPTED.

10. IT IS FURTHER ORDERED that the petition for temporary waiver filed by ECFiber IS GRANTED.

¹⁹ See, e.g., 47 CFR §§ 54.320(c), 54.806(b); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 732, para. 107.

²⁰ See *ECFiber Petition* at 5 (noting that ECFiber has already deployed service to 48 percent of its Vermont locations and 98 percent of its New Hampshire locations).

²¹ See generally *Point Broadband Order*.

²² See *id.* at 2, para. 5.

²³ Granting of this waiver will allow USAC to accept the LOCs from Mascoma Bank and terminate and return the LOCs from SVB. Terminating and returning the SVB LOCs will allow ECFiber to retrieve its certificates of deposit from SVB and use those funds to obtain LOCs from a bank that complies with the Commission's rules. Without this waiver, ECFiber would need even more of its capital to obtain a third LOC before its LOC from SVB could be terminated and returned.

²⁴ See *CAF Phase II Auction Order*, 31 FCC Rcd at 5992-93, para. 126 (noting the importance of "maintaining objective criteria that will provide sufficient assurance that letters of credit issued [to Auction support recipients] will be honored").

11. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

In the Matter of	)	
	)	
National Exchange Carrier Association, Inc.	)	WC Docket No. 22-427
2023 Modification of Average Schedules	)	
	)	

Released: May 18, 2023

3. According to NECA, its 2023 filing generally employs the same methods NECA employed in last year's filing, for tariff year July 1, 2022 to June 30, 2023, with a few notable differences.⁴ New this year, NECA reduced the disbursement formulas by 0.26% to account for loans forgiven under the pandemic-related Paycheck Protection Program (PPP).⁵ NECA's proposed formula changes would result in a 0.3% overall increase in average-schedule settlement disbursements at constant demand.⁶ NECA expects actual settlement disbursements "to increase by 1.8% due to projected increase in [consumer broadband-only loop (CBOL)] lines and be offset by the effects of losses in access lines and reductions in demand for special access services."⁷ According to NECA, these increases in settlement disbursements are driven by increases in CBOL and special access formulas "mainly attributed to decreases in demand."⁸ As NECA explains, the impact of the proposed changes "on individual average

⁸ *Id.*, Attach. at 4.

schedule companies will vary depending on each company's size, demand trends and other characteristics."⁹

4. We have reviewed NECA's 2023 filing and find that its proposed modifications of average-schedule settlement disbursement formulas are reasonable.

5. Accordingly, IT IS ORDERED, pursuant to sections 0.91, 0.291, and 69.606(a) of the Commission's rules, 47 CFR §§ 0.91, 0.291, 69.606(a), that the average-schedule formulas proposed by the National Exchange Carrier Association, Inc., on December 22, 2022 SHALL BECOME EFFECTIVE July 1, 2023, and remain in effect through June 30, 2024.

6. IT IS FURTHER ORDERED, pursuant to section 1.102(b) of the Commission's rules, 47 CFR § 1.102(b), that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Gil M. Strobel
Chief
Pricing Policy Division
Wireline Competition Bureau

⁹ *Id.*, Attach. at 1.



PUBLIC NOTICE

Federal Communications Commission
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Washington, DC 20554

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DA 23-421

Released: May 18, 2023

WIRELESS TELECOMMUNICATIONS BUREAU ESTABLISHES WT DOCKET NO. 23-158

WT Docket No. 23-158

By this Public Notice, the Wireless Telecommunications Bureau establishes WT Docket No. 23-158, which is captioned “Shared Use of the 42-42.5 GHz Band.”

Presentations are subject to “permit-but-disclose” *ex parte* rules. *See* 47 CFR §§ 1.206, 1.1200(a). 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). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed in the Sunshine Agenda, which typically is released a week prior to the Commission’s meeting. *See* 47 CFR §§ 1.1200(a), 1.1203.

Action by the Chief, Wireless Telecommunications Bureau.

-FCC-



PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20554

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DA 23-422
Released: May 18, 2023

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 34 (OKLAHOMA) 700 MHZ REGIONAL PLAN

WT Docket No. 02-378

Introduction. The Region 34 (Oklahoma)¹ 700 MHz Regional Planning Committee (RPC) (Region 34) submitted a proposed 700 MHz Public Safety Plan (Plan) for General Use spectrum² in the 769-775/799-805 MHz band for review and approval.³ For the reasons discussed below, we approve the Region 34 700 MHz Plan.

Background. In 1998, the Commission established a structure to allow RPCs optimal flexibility to meet state and local needs, encourage innovative use of narrowband spectrum in the 700 MHz band, and accommodate new and as yet unanticipated developments in technology and equipment.⁴ Each of the fifty-five (55) RPCs is required to submit its plan for General Use spectrum.⁵ The Commission's role in relation to the RPCs is limited to (1) defining the regional boundaries; (2) requiring fair and open procedures, *i.e.*, requiring notice, opportunity for comment, and reasonable consideration; (3) specifying the elements that all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans) or rejecting them with an explanation.⁶

The Region 34 700 MHz Plan Update. On May 11, 2022, the RPC submitted an amendment to the Region 34 – 700 MHz Plan.⁷ In its amendment, the RPC proposes, among other things, to:

¹ The Region 34 (Oklahoma) 700 MHz regional planning area includes the entire state of Oklahoma.

² The General Use spectrum is administered by RPCs and is licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

³ See Letter from Scott Walsh, Chair, Regional Planning Committee 34, to Chief, Public Safety and Homeland Security Bureau, Federal Communications Commission, WT Docket No. 02-378 (dated May 11, 2022) (Cover Letter). See also Region 34 700 MHz Plan Update, WT Docket 02-378 (filed May 11, 2022) (Plan Amendment).

⁴ See *Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010*, First Report and Order and Third Notice of Proposed Rulemaking, 14 FCC Rcd 152 (1998) (*First Report and Order*); Second Memorandum Opinion and Order, 15 FCC Rcd 16844 (2000). See also 47 CFR § 90.527.

⁵ See 47 CFR § 90.527.

⁶ *First Report and Order*, 14 FCC Rcd at 195 para. 87.

⁷ See Cover Letter and Plan Amendment.

- Indicate that all “Pre-Assignment” channel pools have expired and that the RPC will now process all applications for General Use channels on a first-come, first-served basis;⁸
- Incorporate the State License channels into its plan but reserve them for site-by-site licensing to the state until all other “General Access” channels are allotted to other licensees;⁹
- Specify that operation on interoperability channels will be guided by the most recent version of the National Interoperability Field Operations Guide (NIFOG), the State of Oklahoma Statewide Communications Interoperability Plan (SCIP) and local Tactical Interoperability Communications Plans (TICP);¹⁰
- Incorporate the Air-to-Ground and former Reserve channels into its plan;¹¹
- Designate six former Reserve channels for deployable trunked systems;¹²
- Allow meetings of the RPC to be held in person or virtual.¹³

Region 34’s RPC received concurrence letters for the proposed Plan Amendment from its nine adjacent regions: Region 4 (Arkansas), Region 7 (Colorado), Region 16 (Kansas), Region 24 (Missouri), Region 29 (New Mexico), Region 40 (Texas - Dallas), and Region 52 (Texas - Lubbock).¹⁴

On January 20, 2023, the Bureau released a Public Notice seeking comment on the Region 34 Plan Amendment.¹⁵ We received one comment from the National Regional Planning Council (NRPC) stating it “supports adoption of the amended Plan” but noting that “integration of ‘state’ channels into the ‘general channel’ pool (i.e., repacking), if required, potentially impacts the Computer Assisted Pre-coordination and Resource Database System (CAPRAD).”¹⁶ Nonetheless, the NRPC states that “[u]pon

⁸ *Id.* at 12, 32.

⁹ *Id.* at 32. *See also* 47 CFR § 90.531(b)(5) (listing all State License channels).

¹⁰ Plan Amendment at 42-44.

¹¹ *Id.*, Appendix D at 61-62. *See also* 47 CFR § 90.531(b)(2), (b)(7) (listing all Air-to-Ground and former Reserve channels).

¹² Plan Amendment, Appendix D at 64, 65, 66, 67, 92, and 94. The deployable trunked channels coincide with recommendations from National Public Safety Telecommunications Council and the National Regional Planning Council. *See Public Safety and Homeland Security Bureau Approves Recommended Nationwide Channels for Deployable Trunked Systems in the 700 MHz Narrowband Public Safety Band*, Public Notice, WT Docket 02-378, 30 FCC Rcd 3723 (PSHSB 2015).

¹³ Plan Amendment at 9.

¹⁴ *See* Letter from J.M. Rowe, Chairman Region 4, to Scott Walsh, Chairman, Region 39 RPC; Letter from Edward Boyer, Chairman Region 7, to Scott Walsh, Chairman, Region 39 RPC; Letter from Jason Bryant, Chairman Region 16, to Scott Walsh, Chairman, Region 39 RPC; Letter from Scott Bigham, Chairman, Region 24, to Scott Walsh, Chairman, Region 39 RPC; Letter from Philip Salazar, Chairman, Region 29, to Scott Walsh, Chairman, Region 39 RPC; Letter from CJ Holt, Chairman, Region 40, to Scott Walsh, Chairman, Region 39 RPC; Letter from John Kiehl, Chairman, Region 52, to Scott Walsh, Chairman, Region 39 RPC (collectively filed May 11, 2022).

¹⁵ *Public Safety and Homeland Security Bureau Seeks Comments on Region 34 (Oklahoma) 700 MHz Regional Plan Update*, Public Notice, DA 23-55 (PSHSB 2023).

¹⁶ *See* Comments of the National Regional Planning Council, WT Docket No. 02-378 (filed Feb. 20, 2023) at 2-3 (NRPC Comments).

review of the proposed changes, the NRPC supports Region 34 with its modifications and encourages the Commission to approve the Plan's amendment."¹⁷

Based on our review of the Plan Amendment and the comment we received, we conclude that Region 34's Plan Amendment complies with FCC rules and policies. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.102(b) of the Commission's rules, 47 CFR § 1.102(b), the Region 34 (Oklahoma) 700 MHz Plan is APPROVED.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

For further information regarding this matter, contact Brian Marengo, Electronics Engineer, Policy and Licensing Division, Public Safety and Homeland Security Bureau at (202) 418-0838 or Brian.Marengo@fcc.gov.

- FCC -

¹⁷ *Id.* at 3.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of International Section 214 Authorizations	)	IB Docket No. 23-119
to Assess Evolving National Security, Law	)	
Enforcement, Foreign Policy, and Trade Policy	)	
Risks;	)	
	)	
Amendment of the Schedule of Application Fees	)	MD Docket No. 23-134
Set Forth in Sections 1.1102 through 1.1109 of the	)	
Commission's Rules	)	

ORDER AND NOTICE OF PROPOSED RULEMAKING

Adopted: April 20, 2023

Released: April 25, 2023

By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements.

Comment Date: 30 days after date of publication in the Federal Register

Reply Comment Date: 60 days after date of publication in the Federal Register

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APPENDIX A—Proposed Rules

APPENDIX B—Initial Regulatory Flexibility Analysis

I. INTRODUCTION

1. In this Order and Notice of Proposed Rulemaking (Notice), we take another important step to protect the nation’s telecommunications infrastructure from threats in an evolving national security and law enforcement landscape by proposing comprehensive changes to the Commission’s rules that allow carriers to provide international telecommunications service pursuant to section 214 of the Communications Act of 1934, as amended (Act).¹ The overarching objective of this proceeding is to adopt rule changes that will enable the Commission, in close collaboration with relevant Executive Branch agencies, to better protect telecommunications services and infrastructure in the United States in light of evolving national security, law enforcement, foreign policy, and trade policy risks. By this Order, we adopt a one-time collection of foreign ownership information from international section 214 authorization holders.² By this Notice, we propose rules that would require carriers to renew, every 10 years, their international section 214 authority. In the alternative, we seek comment on adopting rules that would require all international section 214 authorization holders to periodically update information enabling the Commission to review the public interest and national security implications of those authorizations based on that updated information. Through these proposals, we seek to ensure that the Commission is exercising appropriate oversight of international section 214 authorization holders to safeguard U.S. telecommunications networks.

2. Today, a company seeking to offer international services originating or terminating in the United States must first obtain international section 214 authorization to do so. As part of this process, the Commission relies on the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) to assess national security and law enforcement risks associated with the proposed services. However, once authorization is granted, we have no set process for the periodic review of existing authorizations to monitor risks associated with these carriers. We receive updated information only when an authorization holder files an application for a modification,

¹ 47 U.S.C. § 214; 47 CFR §§ 63.12, 63.18, 63.21, 63.22, 63.23.

² 47 U.S.C. §§ 218, 219, 403.

assignment, or transfer of control of the authorization³ or notifies the Commission of a discontinuance while it is providing service to customers.⁴ Otherwise, the Commission does not ordinarily receive updated information about the ownership or the national security, law enforcement, foreign policy, and/or trade policy implications associated with these authorized services. As a result, the Commission has long had significantly incomplete and outdated information regarding international section 214 authorization holders with reportable foreign ownership.

3. In 2020, the report of the United States Senate Committee on Homeland Security and Government Affairs, Permanent Subcommittee on Investigations (PSI Report) recommended the periodic review and renewal of foreign carriers' international section 214 authorizations to ensure that the Commission and the Executive Branch account for evolving national security, law enforcement, foreign policy, and/or trade policy risks.⁵ In particular, the PSI Report highlighted the national security concerns associated with Chinese state-owned carriers operating in the United States.⁶ The Commission has taken concrete action to address those risks.⁷ Now, based in part on the PSI Report recommendation, we propose several changes to strengthen the Commission's oversight of international section 214 authorizations and ensure that a carrier's authorization continues to serve the public interest, as the Act intended.

4. *Executive Summary of the Proposed Rules.* To establish an effective and expeditious process for the renewal or, in the alternative, periodic review of international section 214 authorizations, in this Notice, we propose and seek comment on the following issues:

- *Renewal of International Section 214 Authority.* We propose to adopt a 10-year renewal requirement for all international section 214 authorization holders. In the alternative, we seek comment on adopting a periodic review process.
 - We propose to adopt a process that establishes a system of priorities for renewal applications according to the existence and nature of reportable foreign ownership and the likelihood that the applications will raise national security, law enforcement, foreign policy, and/or trade policy concerns.
 - Consistent with Commission practice, we will continue to coordinate with the

³ See 47 CFR §§ 63.18, 63.24(e), 63.24(f).

⁴ The current discontinuance rules only apply to international section 214 authorization holders with customers, or authorization holders that the Commission has classified as dominant in the provision of a particular international service. See 47 CFR § 63.19.

⁵ Staff Report of Senate Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, 116th Cong., *Threats to U.S. Networks: Oversight of Chinese Government-Owned Carriers* at 9, 12-13 (June 9, 2020) (PSI Report), <https://www.hsgac.senate.gov/subcommittees/investigations/library/files/threats-to-us-networks-oversight-of-chinese-government-owned-carriers/>; *id.* at 12 ("Congress should require the periodic review and renewal of foreign carriers' authorizations to provide international telecommunications services.").

⁶ See *id.* at 1 ("U.S. government officials have warned that Chinese state-owned carriers are 'subject to exploitation, influence, and control by the Chinese government' and can be used in the Chinese government's cyber and economic espionage efforts targeted at the United States.").

⁷ *China Telecom (Americas) Corporation*, GN Docket No. 20-109, File Nos. ITC-214-20010613-00346, ITC-214-20020716-00371, ITC-T/C-20070725-00285, Order on Revocation and Termination, 36 FCC Rcd 15966 (2021) (*China Telecom Americas Order on Revocation and Termination*), *aff'd*, *China Telecom (Americas) Corp. v. FCC*, 57 F.4th 256 (D.C. Cir. 2022); *China Unicom (Americas) Operations Limited*, GN Docket No. 20-110, File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427, Order on Revocation, FCC 22-9, 2022 WL 354622 (Feb. 2, 2022) (*China Unicom Americas Order on Revocation*) (9th Cir. argued Feb. 15, 2023); *Pacific Networks Corp. and ComNet (USA) LLC*, GN Docket No. 20-111, File Nos. ITC-214-20090105-00006, ITC-214-20090424-00199, Order on Revocation and Termination, FCC 22-22, 2022 WL 905270 (Mar. 23, 2022) (*Pacific Networks/ComNet Order on Revocation and Termination*) (D.C. Cir. argued Sept. 20, 2022).

Executive Branch agencies for assessment of any national security, law enforcement, foreign policy, and/or trade policy concerns.⁸

- To minimize administrative burdens, we propose to adopt streamlined and simplified procedures for renewal applications that do not have reportable foreign ownership.
- We propose, as a baseline, to apply to renewal applications the same rules applicable to initial applications for international section 214 authority and thus harmonize the application requirements.
- *Proposed Rules Applicable to All Applicants.*⁹ In addition, to continue to address evolving national security, law enforcement, foreign policy, and/or trade policy risks, we propose or seek comment on other improvements to the Commission's rules applicable to applications for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority.
 - *Five (5) Percent Threshold for Reportable Ownership Interests.* We seek comment on whether to adopt a new ownership reporting threshold that would require disclosure of 5% or greater direct and indirect equity and/or voting interests.
 - *Services and Geographic Markets.* We propose to adopt rules requiring applicants to provide information about their current and/or expected future services and geographic markets.
 - *Foreign-Owned Managed Network Service Providers (MNSPs).* We propose to require all applicants to provide information on foreign-owned MNSPs.
 - *Cross Border Facilities Information.* We propose to require applicants to identify the facilities that they use and/or will use to provide services under their international section 214 authority from the United States into Canada and/or Mexico and to

⁸ For over 25 years, the Commission has referred certain applications that have reportable foreign ownership to the Department of Defense (DOD), Department of Homeland Security (DHS), Department of Justice (DOJ), Department of State, Office of the U.S. Trade Representative (USTR), and Department of Commerce's National Telecommunications & Information Administration (NTIA). *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997) (*Foreign Participation Order*), *recon. denied*, *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, IB Docket 97-142, Order on Reconsideration, 15 FCC Rcd 18158 (2000) (*Reconsideration Order*); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927, 10928-29, para. 3 (2020) (*Executive Branch Process Reform Order*); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Erratum, 35 FCC Rcd 13164 (2020) (*Order Erratum*) (replacing Appendix B of the *Executive Branch Process Reform Order*). These agencies are collectively referred to as the Executive Branch agencies. The Executive Branch agencies are either Members of or Advisors to the Committee created pursuant to Executive Order 13913. *See* Executive Order No. 13913 of April 4, 2020, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 Fed. Reg. 19643, 19643-44 (Sec. 3(b), (d)) (Apr. 8, 2020) (Executive Order 13913). DOJ, DHS, and DOD also are known informally as "Team Telecom." *Executive Branch Process Reform Order*, 35 FCC Rcd at 10929-30, para. 5.

⁹ Unless indicated otherwise, we use the terms "applicant" or "applicants" and "application" or "applications" to refer to applications and notifications filed under section 63.18 and/or section 63.24 of the Commission's rules, as well as the proposed renewal rules: (1) applicants that file an initial application for international section 214 authority or an application for modification, assignment, transfer of control, or renewal of international section 214 authority, and (2) authorization holders that file a notification of *pro forma* assignment or transfer of control of international section 214 authority. *See* 47 CFR § 63.18; *id.* § 63.24(e) ("Applications for substantial transactions"); *id.* § 63.24(f) ("Notifications for non-substantial or pro forma transactions"). We use the term "international section 214 application" to refer to any of the aforementioned applications or notifications.

provide updated information on a periodic basis.

- *Facilities Certifications.*
 - *Facilities Cybersecurity Certification.* We propose to require applicants to certify in their application that they will undertake to implement and adhere to baseline cybersecurity standards based on universally recognized standards.
 - *Facilities “Covered List” Certification.* We propose to require applicants to certify in their application whether or not they use equipment or services identified in the Commission’s “Covered List” of equipment and services deemed pursuant to the Secure and Trusted Communications Networks Act to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.¹⁰
- *Other Changes to Parts 1 and 63 of the Commission’s Rules.* To further ensure that carriers’ use of their international section 214 authority is consistent with the public interest, we propose and seek comment on modifications to Part 1 and 63 rules.
 - *Permissible Number of Authorizations.* We propose to adopt a rule that would allow an authorization holder to hold only one international section 214 authorization except in certain limited circumstances.
 - *Commence Service Within One Year.* We propose to adopt a rule requiring an international section 214 authorization holder to commence service under its international section 214 authority within one year following the grant.
 - *Changes to the Discontinuance Rule.* We propose to amend section 63.19 of the Commission’s rules to require all authorization holders that permanently discontinue service provided pursuant to their international section 214 authority, to file a notification of the discontinuance and surrender the authorization.
 - *Ongoing Reporting Requirements.* We propose to require authorization holders to provide updated ownership information, cross border facilities information, and other information every three years.
 - *International Signaling Point Codes (ISPCs).* We propose to adopt a rule requiring applicants seeking to assign or transfer control of their international section 214 authorization to identify in their applications any ISPCs that they hold and whether the ISPC will be subject to the assignment or transfer of control.
 - *Administrative Modifications.* We propose to adopt other administrative corrections to Parts 1 and 63 of the Commission’s rules.

II. BACKGROUND

5. *Current Requirements.* Section 214(a) of the Act prohibits any carrier from constructing, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate from the Commission “that the *present or future* public convenience and necessity require or will require the construction, or operation, or construction and operation, of such . . . line”¹¹ Section 214(b) of the Act requires that the Commission ensure that a copy of the international section

¹⁰ See 47 U.S.C. §§ 1601–1609; 47 CFR § 1.50000 *et seq.*; see also FCC, *List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, <https://www.fcc.gov/supplychain/coveredlist> (last updated Sept. 20, 2022) (*List of Covered Equipment and Services*).

¹¹ 47 U.S.C. § 214(a) (emphasis added); see *Reform of Rules and Policies on Foreign Carrier Entry Into the U.S. Telecommunications Market*, IB Docket No. 12-299, Report and Order, 29 FCC Rcd 4256, para. 2, n.2 (2014) (2014 (continued....))

214 application is provided to the Secretary of Defense and the Secretary of State.¹² In 1999, the Commission granted all telecommunications carriers blanket authority under section 214 of the Act to provide domestic interstate services and to construct or operate any domestic transmission line.¹³ The Commission, however, did not extend this blanket authority to international services.¹⁴ Instead the Commission streamlined the rules applicable to international section 214 applications “to remove regulatory obstacles to a fully competitive marketplace while retaining the appropriate ability to detect and deter anticompetitive conduct.”¹⁵ Importantly, the reason the Commission did not adopt similar blanket authority for international section 214 authorizations was because the “FBI and [DOD] made both legal and policy arguments [contending] that, despite the progression of meaningful economic competition between carriers, it remains important to continue to review some applications and transactions due to national security, law enforcement, and other considerations.”¹⁶

6. The Commission’s current rules require that any person or entity that seeks to provide U.S.-international common carrier telecommunications service (also referred to as U.S.-international “telecommunications service”)¹⁷ must obtain prior Commission approval pursuant to section 214 of the Act by filing with the Commission an application for international section 214 authority that contains

Foreign Carrier Entry Order) (“Any party seeking to provide common carrier telecommunications services between the United States, its territories or possessions, and a foreign point must request authority by application pursuant to section 214(a) of the Act, 47 U.S.C. § 214(a), and section 63.18 of the Commission’s rules, 47 C.F.R. § 63.18.”). The Supreme Court has determined that the Commission has considerable discretion in deciding how to make its section 214 public interest findings. *FCC v. RCA Communications, Inc.*, 346 U.S. 86, 90 (1953); see *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, CC Docket No. 79-252, First Report and Order, 85 FCC 2d 1, 40-44, paras. 117-29 (1980) (discussing the Commission’s authority under section 214(a) of the Act); *Streamlining the International Section 214 Authorization Process and Tariff Requirements*, IB Docket No. 95-118, Notice of Proposed Rulemaking, 10 FCC Rcd 13477, 13480, para. 6 (1995) (*1995 Streamlining NPRM*); *Streamlining the International Section 214 Authorization Process and Tariff Requirements*, IB Docket No. 95-118, Report and Order, 11 FCC Rcd 12884, 12903, para. 44, n.63 (1996) (*1996 Streamlining Order*); Telecommunications Act of 1996, Pub. L. 104-104, § 402(b)(2)(A) (1996), codified at 47 U.S.C. § 214 nt. (“The Commission shall permit any common carrier—(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; . . .”).

¹² 47 U.S.C. § 214(b); 47 CFR § 1.763(b).

¹³ *Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996; Petition for Forbearance of the Independent Telephone & Telecommunications Alliance*, Report and Order and Second Memorandum Opinion and Order, 14 FCC Rcd 11364, 11365-66, para. 2 (1999) (*Domestic 214 Blanket Authority Order*). This Notice does not propose rules to modify blanket domestic section 214 authority. We primarily focus on rules concerning international section 214 authorizations and make limited proposals regarding domestic section 214 authority only to the extent necessary. See *infra* note 244. Specifically, if we adopt a 5% reporting requirement for international section 214 authorizations, we propose to require that applicants filing a joint international and domestic section 214 transfer of control application must continue to submit information that satisfies the requirements in both sections 63.04 and section 63.18, including ownership information that would be required by section 63.18(h) under the 5% ownership reporting threshold. See *infra* para. 88 & note 244.

¹⁴ *Domestic 214 Blanket Authority Order*, 14 FCC Rcd at 11365-66, para. 2 & n.8 (citing *1998 Biennial Regulatory Review—Review of International Common Carrier Regulations*, IB Docket No. 98-118, Report and Order, 14 FCC Rcd 4909 (1999) (*Biennial Regulatory Review Order*)); 47 CFR § 63.01.

¹⁵ *Biennial Regulatory Review Order*, 14 FCC Rcd at 4912, para. 7.

¹⁶ *Id.* at 4911, para. 5.

¹⁷ See 47 U.S.C. § 153(50) (“The term ‘telecommunications’ means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”); *id.* § 153(53) (“The term ‘telecommunications service’ means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”).

information required by section 63.18 of the Commission's rules.¹⁸ An applicant for international section 214 authority may file an application for global facilities-based and/or resale authority.¹⁹ International section 214 authorization holders may provide service pursuant to their international section 214 authority by using their own facilities and/or by reselling service provided over another provider's facilities. Authorization holders include both wireline and commercial mobile radio service (CMRS) carriers.²⁰ In addition, any person or entity that holds an international section 214 authorization must obtain prior Commission approval before the authorization holder consummates a *substantial* assignment or transfer of control of its international section 214 authorization or other regulated assets (such as customer accounts)²¹ to any other person or entity, including another authorized U.S.-international carrier.²² In simple terms, an assignment is a transaction in which an international section 214 authorization is assigned from one entity to another entity.²³ A transfer of control is a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder.²⁴ An application for Commission consent to assign or transfer control of an international section 214 authorization shall be filed in accordance with the requirements set forth in section 63.24 of the Commission's rules.²⁵

7. In addition, any person or entity that holds an international section 214 authorization must file a notification of a non-substantial, or "*pro forma*" assignment or transfer of control of its international section 214 authorization or other regulated assets (such as customer accounts) to any other person or entity, including another authorized U.S.-international carrier.²⁶ A *pro forma* assignment or

¹⁸ See 47 CFR § 63.18 ("Except as otherwise provided in this part, any party seeking authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct a new line, or acquire or operate any line, or engage in transmission over or by means of such additional line for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request such authority by formal application. The application shall include information demonstrating how the grant of the application will serve the public interest, convenience, and necessity. Such demonstration shall consist of the following information, as applicable . . .").

¹⁹ *Id.* § 63.18(e)(1)-(2). If applying for authority to acquire facilities or to provide services not covered by section 63.18(e)(1) and (e)(2), an applicant shall provide a description of the facilities and services for which it seeks authorization. *Id.* § 63.18(e)(3). Examples of authorizations under section 63.18(e)(3) include authorizations for overseas cable construction (submarine cables operated on a common carrier basis), authorizations for use of facilities on the Commission's Exclusion List, and authorizations for facilities-based carriers affiliated with a foreign carrier in a destination market where the Commission has not determined that carrier does not have market power in the destination market. See *id.* § 63.22(a), (c).

²⁰ *Id.* § 63.18(e)(1)-(3).

²¹ See *id.* § 63.24, Note to paragraph (b) ("The sale of a customer base, or a portion of a customer base, by a carrier to another carrier, is a sale of assets and shall be treated as an assignment, which requires prior Commission approval under this section."); *Amendment of Parts 1 and 63 of the Commission's Rules*, IB Docket No. 04-47, Report and Order, 22 FCC Rcd 11398, 11411-12, para. 38 (2007) (*2007 Amendment of Parts 1 & 63 Order*).

²² See 47 CFR § 63.24(a)-(c), (e)(1).

²³ *Id.* § 63.24(b) ("Following an assignment, the authorization is held by an entity other than the one to which it was originally granted."). The exception is where only assets, excluding international section 214 authorization(s), are assigned to another entity. See *id.* § 63.24, Note to Paragraph (b). This type of transaction is referred to as a partial assignment of assets.

²⁴ *Id.* § 63.24(c).

²⁵ *Id.* § 63.24(a) ("Except as otherwise provided in this section, an international section 214 authorization may be assigned, or control of such authorization may be transferred by the transfer of control of any entity holding such authorization, to another party, whether voluntarily or involuntarily, directly or indirectly, only upon application to and prior approval by the Commission."); *id.* § 63.24 (b)-(c); *id.* § 63.24(e) ("Applications for substantial transactions").

²⁶ See *id.* § 63.24(f); *id.* § 63.24, Note to paragraph (b).

transfer of control is a transaction that does not result in a change in the actual controlling party.²⁷ Whether there has been a change in the actual controlling party must be determined on a case-by-case basis.²⁸ Prior Commission approval is not required for a *pro forma* assignment or transfer of control.²⁹ A notification of the *pro forma* assignment or transfer of control must be filed with the Commission no later than 30 days after the assignment or transfer of control is completed, in accordance with the requirements set forth in section 63.24 of the Commission's rules.³⁰

8. The regulatory framework for international section 214 authority ensures that the Commission considers whether foreign participation in the U.S. telecommunications market would raise national security, law enforcement, foreign policy, and/or trade policy concerns due to an applicant's foreign ownership, as well as potential anti-competitive behavior by a carrier with market power in a foreign country,³¹ and that grant of an international section 214 authorization is consistent with the public interest.³² As part of the Commission's public interest analysis, the Commission considers a number of factors and examines the totality of the circumstances in each particular situation.³³ In addition to assessing potential anti-competitive behavior by a foreign carrier with market power,³⁴ as well as other public interest factors, the Commission considers whether an application for international section 214 authority or modification, assignment, or transfer of control of international section 214 authority raises any national security, law enforcement, foreign policy, and/or trade policy concerns related to the applicant's reportable foreign ownership.³⁵ In this regard, the Commission has sought the expertise of the relevant Executive Branch agencies³⁶ in identifying and evaluating issues of concern that may arise from an applicant's or authorization holder's foreign ownership.³⁷ In the *Executive Branch Process Reform Order*, the Commission formalized the review process for the Committee to complete its review

²⁷ *Id.* § 63.24(d) ("Transfers of control or assignments that do not result in a change in the actual controlling party are considered non-substantial or *pro forma* . . .").

²⁸ *Id.* (" . . . Whether there has been a change in the actual controlling party must be determined on a case-by-case basis with reference to the factors listed in Note 1 to this paragraph (d). The types of transactions listed in Note 2 to this paragraph (d) shall be considered presumptively *pro forma* and prior approval from the Commission need not be sought."); *see id.* § 63.24, Note 1 to paragraph (d) ("Because the issue of control inherently involves issues of fact, it must be determined on a case-by-case basis and may vary with the circumstances presented by each case . . ."); *see id.* § 63.24, Note 2 to paragraph (d) ("If a transaction is one of the types listed further, the transaction is presumptively *pro forma* and prior approval need not be sought. In all other cases, the relevant determination shall be made on a case-by-case basis . . .").

²⁹ *Id.* § 63.24(f)(1) ("In the case of a *pro forma* assignment or transfer of control, the section 214 authorization holder is not required to seek prior Commission approval.").

³⁰ *Id.* § 63.24(f) ("Notifications for non-substantial or *pro forma* transactions").

³¹ *Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket No. 95-22 *et al.*, Report and Order, 11 FCC Rcd 3873, 3877, para. 6 (1995).

³² *Foreign Participation Order*, 12 FCC Rcd at 23918-21, paras. 59-66.

³³ *See id.*; *see China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15970, para. 5, *aff'd*, *China Telecom (Americas) Corp. v. FCC*.

³⁴ The Commission assesses potential anti-competitive behavior by the entry of a foreign carrier with market power into the U.S. market. *Foreign Participation Order*, 12 FCC Rcd at 23897-98, 23910-11, paras. 11, 13, 45-46.

³⁵ *See id.* at 23918-21, paras. 59-66; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10928-29, para. 3.

³⁶ *See supra* note 8.

³⁷ *See Foreign Participation Order*, 12 FCC Rcd at 23919-20, paras. 62-63 (recognizing that "foreign participation in the U.S. telecommunications market may implicate significant national security or law enforcement issues uniquely within the expertise of the Executive Branch"); *Executive Branch Process Reform Order*, 35 FCC Rcd at 10928-29, para. 3; *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15970, para. 5, *aff'd*, *China Telecom (Americas) Corp. v. FCC*.

consistent with Executive Order No. 13913 of April 4, 2020.³⁸ The Commission ultimately makes an independent decision in light of the information in the record, including any information provided by the applicant, authorization holder, or licensee in response to any filings by the Executive Branch agencies.³⁹

9. The Commission's current rules allow for either streamlined or non-streamlined processing of applications for international section 214 authority or modification, assignment, or transfer of control of international section 214 authority.⁴⁰ Applications without reportable foreign ownership normally will be granted automatically 14 days following the date that the Office of International Affairs has placed the application on "Accepted for Filing" public notice.⁴¹ An "Actions Taken" public notice is released identifying the applications that were granted. If an applicant has reportable foreign ownership, the application process usually is not streamlined and the Office of International Affairs refers the application to the Committee for review at the time it places the application on "Accepted for Filing" public notice.⁴² Under the new rules and procedures adopted in the *Executive Branch Process Reform Order*, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures.⁴³ Upon grant of an international section 214 authorization, under the current rules, a facilities-based or resale-based authorization holder may provide international telecommunications services to any route for which it is classified as non-dominant pursuant to the terms of its authorization.⁴⁴

10. The Commission continues to reassess on an *ad hoc* basis whether a carrier's retention of international section 214 authority presents national security and law enforcement risks that warrant

³⁸ See generally *Executive Branch Process Reform Order*; Executive Order 13913, 85 Fed. Reg. at 19643 (stating that, "[t]he security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests"); *id.* at 19643-44 (establishing the "Committee," composed of the Secretary of Defense (DOD), the Secretary of Homeland Security (DHS), and the United States Attorney General (DOJ), who serves as the Chair, and the head of any other executive department or agency, or any Assistant to the President, as the President determines appropriate (Members), and also providing for Advisors, including the Secretary of State, the Secretary of Commerce, and USTR).

³⁹ *Foreign Participation Order*, 12 FCC Rcd at 23921, para. 66 ("We emphasize that the Commission will make an independent decision on applications to be considered and will evaluate concerns raised by the Executive Branch agencies in light of all the issues raised (and comments in response) in the context of a particular application.").

⁴⁰ See 47 CFR § 63.12.

⁴¹ *Id.* § 63.12(a).

⁴² *Executive Branch Process Reform Order*, 35 FCC Rcd at 10928-31, 10957-58, paras. 3-7, 81; *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Notice of Proposed Rulemaking, 31 FCC Rcd 7456, 7471, para. 38 (2016) (*2016 Executive Branch Process Reform NPRM*); 47 CFR § 1.40001.

⁴³ *Executive Branch Process Reform Order*, 35 FCC Rcd at 10928, 10955-56, paras. 2, 76; *Order Erratum*, 35 FCC Rcd at 13171-72, para. 7; 47 CFR § 1.40004. Some of the rule changes adopted in the *Executive Branch Process Reform Order* have not gone into effect yet.

⁴⁴ 47 CFR § 63.18(e)(1) ("Global facilities-based authority"); *id.* § 63.18(e)(2) ("Global Resale Authority"); *id.* § 63.18(e)(3) ("If applying for authority to acquire facilities or to provide services not covered by paragraphs (e)(1) and (e)(2) of this section, the applicant shall provide a description of the facilities and services for which it seeks authorization. The applicant shall certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.22 and/or 63.23, as appropriate."); *id.* §§ 63.21, 63.22, 63.23. Under the Commission's rules, a carrier is classified as non-dominant on a U.S.-international route if it is not affiliated with a foreign carrier with market power on the foreign end of the route or it provides an international switched service on that route solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services. 47 CFR § 63.10(a); see *infra* note 69.

revocation or termination of its international section 214 authority.⁴⁵ The Executive Branch agencies also may recommend that the Commission modify or revoke an existing authorization if they at any time identify unacceptable risks to national security or law enforcement interests of the United States.⁴⁶ If revocation or termination may be warranted, the Commission may institute a revocation proceeding to “provide the authorization holder such notice and an opportunity to respond as is required by due process and applicable law, and appropriate in light of the facts and circumstances.”⁴⁷

11. *Current Authorizations Listed in ICFS.* The Commission’s records in the International Communications Filing System (ICFS) indicate there are nearly 7,400 international section 214 authorizations, held by approximately 7,000 authorization holders.⁴⁸ We believe that this number significantly exceeds the total number of active authorization holders providing service to customers today.⁴⁹ This is because the Commission’s current rules allow authorization holders to retain their international section 214 authorization even if they are no longer in business or using their authorization. Additionally, the Commission does not have a clear mechanism by which the Commission can identify or account for all active international section 214 authorization holders.

12. *Estimate of Active International Section 214 Authorizations.* We estimate that the number of active international section 214 authorization holders is approximately 1,500—or roughly a fifth of the approximately 7,000 international section 214 authorization holders listed in ICFS. Our estimate of active authorization holders is based on two Commission resources: (1) the Commission’s Form 499-A records and (2) the Commission’s most recent traffic and revenue data as of December 31, 2014.⁵⁰ First, the Commission’s Form 499-A records indicate that approximately 1,500 international section 214 authorization holders may have filed an annual FCC Form 499-A for the 2022 reporting year but only 748 of those carriers reported revenue for U.S.-international service. Under the Commission’s rules, all interstate and international providers of telecommunications within the United States are obligated to file the FCC Form 499-A to report historical revenues from the prior year on an annual basis.⁵¹ Second, the Commission’s U.S.-international telecommunications traffic and revenue data as of

⁴⁵ See *infra* paras. 37, 48; see generally *China Telecom Americas Order on Revocation and Termination*, *aff’d*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation*; *Pacific Networks/ComNet Order on Revocation and Termination*.

⁴⁶ Executive Order 13913, 85 Fed. Reg. at 19645 (Sec. 6(a)); see also *id.* at 19646 (Sec. 9(b)).

⁴⁷ *Executive Branch Process Reform Order*, 35 FCC Rcd at 10964, para. 92; *id.* at 10962-64, paras. 90-92.

⁴⁸ These estimates are based on the Commission’s records as of April 14, 2023. FCC, *MyIBFS*, <https://licensing.fcc.gov/myibfs/welcome.do>.

⁴⁹ See *infra* para. 12. Additionally, the Commission’s records indicate that approximately 3% of authorization holders hold more than one authorization as of April 14, 2023.

⁵⁰ International Bureau Report—2014 U.S. International Telecommunications Traffic and Revenue Data (revised Dec. 2017), <https://www.fcc.gov/document/2014-us-international-telecommunications-traffic-and-revenue-data> (presenting information on telecommunications services between the United States and international points as of December 31, 2014, based on the former section 43.62 reporting requirements) (2014 Traffic and Revenue Report). In 2017, the Commission streamlined the international reporting requirements and eliminated the traffic and revenue reports and the requirement to file terrestrial and satellite circuit data. *Section 43.62 Reporting Requirements for U.S. Providers of International Services*; *2016 Biennial Review of Telecommunications Regulations*, Report and Order, 32 FCC Rcd 8115 (2017).

⁵¹ See 47 CFR §§ 52.17(b), 52.32(b), 54.708, 54.711, 64.604(c)(5)(iii)(A) and (B). The available data may not include, for example, certain resale-based providers, or providers that do not file the FCC Form 499-A because they are *de minimis* for USF contribution purposes, and need not file for any other purpose. See 2022 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A) at 6-10; *id.* at 7, n.17 (“A resale provider may contribute directly to the USF by signing a resale certificate or may be treated as an end user by its underlying carrier and therefore may contribute indirectly as a result of USF pass-through charges.”). We recognize that limitations in the available data prevent a more accurate picture of which international section 214 authorization holders are currently providing telecommunications service.

December 31, 2014, indicate that 1,542 telecommunications providers filed traffic and revenue reports for the 2014 reporting period.⁵² This is the best estimate we have that captures facilities-based and resale-based international section 214 authorization holders, yet the Commission last collected these traffic and revenue data nearly 10 years ago.

13. *Commission Efforts to Address Threats to National Security and Law Enforcement Risks.* Promotion of national security is an integral part of the Commission's public interest responsibility, including its administration of section 214 of the Act, and one of the core purposes for which Congress created the Commission.⁵³ Over the past several years, as part of the Commission's continuing efforts to promote national security and law enforcement, the Commission denied an application for international section 214 authority⁵⁴ and revoked, and in certain cases terminated for failure to satisfy certain conditions, certain carriers' section 214 authority based on recommendations and comments from interested Executive Branch agencies regarding evolving national security and law enforcement concerns.⁵⁵ In the *China Mobile USA Order*, the Commission denied an application for international section 214 authority, finding that grant of the application would raise substantial and serious national security and law enforcement risks that could not be addressed through a mitigation agreement.⁵⁶ In that proceeding, the Executive Branch agencies and the Commission confronted the implications of changed circumstances in the national security environment on the evaluation of international section 214 authority.⁵⁷ In the revocation and/or termination actions that followed in the *China Telecom Americas Order on Revocation and Termination*, *China Unicom Americas Order on Revocation*, and *Pacific Networks/ComNet Order on Revocation and Termination*, the Commission extensively evaluated national security and law enforcement considerations raised by existing section 214 authorizations and determined, based on thorough record development, that the present and future public interest, convenience, and necessity was no longer served by those carriers' retention of their section 214

⁵² See 2014 Traffic and Revenue Report at 1 ("The number of providers filing traffic and revenue reports is up 30 percent, from 1,457 in the previous report to 1,896 in this report, which includes, for the first time, 354 Interconnected VoIP Service providers."). We subtract Interconnected VoIP filers from the total number of filers, which equals 1,542 (1,896 – 354 = 1,542).

⁵³ 47 U.S.C. § 151; see *Foreign Participation Order*, 12 FCC Rcd at 23918-21, paras. 59-66; see also *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs et al.*, WC Docket No. 18-89 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order, 34 FCC Rcd 11423, 11436, para. 34 (2019) (*Protecting Against National Security Threats Order*), *aff'd*, *Huawei Technologies USA v. FCC*, 2 F.4th 421, 439 (5th Cir. 2021).

⁵⁴ *China Mobile International (USA) Inc.; Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended*, Memorandum Opinion and Order, 34 FCC Rcd 3361-62, 3365-66, 3376-77, 3380, paras. 1, 6, 8, 31-33, 38 (2019) (*China Mobile USA Order*).

⁵⁵ See *China Telecom Americas Order on Revocation and Termination* at 36 FCC Rcd at 15966-68, 15974, 15992-16030, paras. 1-3, 9, 44-99, *aff'd*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *1-2, 6, 20-46, paras. 1-3, 16, 49-110; *Pacific Networks/ComNet Order on Revocation and Termination* at *1-2, 6, 18-49, paras. 1-3, 14, 44-113; see also *supra* note 54.

⁵⁶ *China Mobile USA Order*, 34 FCC Rcd at 3361-62, 3365-66, 3376-77, 3380, paras. 1, 8, 31-33, 38.

⁵⁷ See generally *id.*; *id.* at 3372, para. 20 ("[I]n this case, the Executive Branch agencies identify significantly enhanced national security and law enforcement risks linked to the Chinese government's activities since the Commission last granted international section 214 authorizations to other Chinese state-owned companies more than a decade ago."); *id.* at 3379, para. 37 ("As noted, in the current environment the Executive Branch agencies have greater knowledge of the risks of granting international section 214 authorizations to Chinese state-owned enterprises, including increased awareness of China's role in economic and other espionage against the United States.").

authority.⁵⁸

14. The Commission has taken further steps to protect the nation's communications networks from potential national security threats. In November 2019, the Commission prohibited the use of public funds from the Commission's Universal Service Fund (USF) to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by companies posing a national security threat to the integrity of communications networks or the communications supply chain.⁵⁹ In December 2020, the Commission enacted rules to, among other things, (1) create and maintain the Covered List, which identifies communications equipment and services that pose an unacceptable risk to the national security of the United States or the security and safety of United States persons within the meaning of the Secure and Trusted Communications Networks Act of 2019 (Secure and Trusted Communications Networks Act);⁶⁰ (2) prohibit the use of Federal subsidies made available through a program administered by the Commission that provides funds for the capital expenditures necessary for the provision of advanced communications service to purchase, rent, lease, or otherwise obtain any covered communications equipment and service on the Commission's Covered List, or to maintain any such equipment or service that was previously purchased, rented, leased, or otherwise obtained;⁶¹ (3) require eligible telecommunications carriers receiving USF support to remove and replace covered communications equipment and services from their networks;⁶² (4) establish the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) to reimburse providers

⁵⁸ *China Telecom Americas Order on Revocation and Termination*, *aff'd*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation*; *Pacific Networks/ComNet Order on Revocation and Termination*. Short of denial of renewal applications or revocation of authorizations, the Commission may use its enforcement authority to impose monetary penalties. See, e.g., *Truphone, Inc.*, Notice of Apparent Liability for Forfeiture, FCC 22-30 (rel. Apr. 21, 2022) (the Commission proposed a forfeiture of \$660,639 for Truphone's misreporting its ownership structure which led to ownership by foreign entities that were not vetted as required by the Act and the Commission's rules).

⁵⁹ *Protecting Against National Security Threats Order*, 34 FCC Rcd at 11433, para. 26, *aff'd*, *Huawei Technologies USA v. FCC*, 2 F.4th 421. For the purposes of section 54.9 of the Commission's rules, covered communications equipment and services only include communications equipment and services produced or provided by Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE). See 47 CFR § 54.9(b) (establishing a process to designate entities subject to the prohibition in section 54.9 of the Commission's rules); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—Huawei Designation*, PS Docket No. 19-351, Order, 35 FCC Rcd 6604 (PSHSB 2020); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—ZTE Designation*, PS Docket No. 19-352, Order, 35 FCC Rcd 6633 (PSHSB 2020).

⁶⁰ *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284, 14311, para. 58 (2020) (*2020 Protecting Against National Security Threats Order*) (implementing the Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. §§ 1601-1609). In March 2021, the Commission's Public Safety and Homeland Security Bureau announced the publication of a list of communications equipment and services (Covered List) that are deemed to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. *Public Safety and Homeland Security Bureau Announces Publication of the List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, Public Notice, 36 FCC Rcd 5534 (PSHSB 2021). In March 2022 and September 2022, the Public Safety and Homeland Security Bureau announced additions to the Covered List. *Public Safety and Homeland Security Bureau Announces Additions to the List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, Public Notice, DA 22-320 (PSHSB 2022); *Public Safety and Homeland Security Bureau Announces Additions to the List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, Public Notice, DA 22-979 (PSHSB 2022).

⁶¹ 47 CFR § 54.10; *2020 Protecting Against National Security Threats Order*, 35 FCC Rcd at 14325-326, paras. 94-95; 47 U.S.C. § 1602.

⁶² 47 CFR § 54.11 (requiring eligible telecommunications carriers receiving universal service support to certify that they do not use covered communications equipment and services prior to receiving a funding commitment or support); *2020 Protecting Against National Security Threats Order*, 35 FCC Rcd at 14292-299, paras. 21-31.

of advanced communications service for costs reasonably incurred to permanently remove, replace, and dispose of covered communications equipment and services from their networks;⁶³ and (5) implement a new data collection applying to all providers of advanced communications service that requires these providers to annually report on covered communications equipment and services that were purchased, rented, leased, or otherwise obtained on or after certain dates.⁶⁴ In November 2022, the Commission adopted revisions to its equipment authorization program to prohibit authorization of equipment that has been identified on the Commission's Covered List as posing an unacceptable risk to national security of the United States or the security or safety of United States persons, and prohibited the marketing and importation of such equipment in the United States.⁶⁵

15. Our action today is intended to further protect the nation's telecommunications infrastructure from threats in an evolving national security and law enforcement landscape by proposing to establish a renewal requirement for all international section 214 authorization holders. In the alternative, we seek comment on adopting rules that require periodic Commission review of international section 214 authorizations. We tentatively conclude that the rules proposed in this Notice will improve the Commission's oversight of international section 214 authorizations. Importantly, in view of the evolving national security and law enforcement concerns identified in our recent proceedings revoking the section 214 authorizations of certain providers controlled by the Chinese government, we believe that a formalized system of periodically reassessing international section 214 authorizations would better ensure that international section 214 authorizations, once granted, continue to serve the public interest.⁶⁶

⁶³ 47 U.S.C. § 1603(a) (directing the Commission to establish the Reimbursement Program); 47 CFR § 1.50004; *2020 Protecting Against National Security Threats Order*, 35 FCC Rcd at 14331-368, paras. 108-208. In July 2021, the Commission modified its rules to incorporate the Consolidated Appropriations Act, 2021 (CAA) amendments to the Secure and Trusted Communications Networks Act of 2019. *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Third Report and Order, 36 FCC Rcd 11958, para. 1 (2021) (*2021 Protecting Against National Security Threats Order*); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 901, 134 Stat. 1182 (2020); Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601-1609). These rule modifications included, but were not limited to, revising the eligibility to participate in the Reimbursement Program to providers of advanced communications service with 10 million or fewer customers and adopting the CAA's prioritization scheme if program demand exceeds available funding. *2021 Protecting Against National Security Threats Order*, 36 FCC Rcd at 11963 at para. 13. The Commission also concluded that, pursuant to the CAA's amendments to the Secure and Trusted Communications Networks Act, "covered communications equipment and services" eligible for Reimbursement Program support is limited to communications equipment and services produced or provided by Huawei or ZTE and obtained by providers on or before June 30, 2020. *Id.* at 11965, 11978, paras. 18-19, 46. The certification requirement in section 54.11 of the Commission's rules is also limited to communications equipment and services produced or provided by Huawei or ZTE. *Id.* at 11975, para. 39 (aligning the scope of equipment and services required for removal under section 54.11 with the scope of equipment and services eligible for reimbursement through the Reimbursement Program).

⁶⁴ 47 CFR § 1.50007; *2020 Protecting Against National Security Threats Order*, 35 FCC Rcd at 14368-371, paras. 209-217.

⁶⁵ *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program*; *Protecting Against National Security Threats to the Communications Supply Chain through the Competitive Bidding Program*, ET Docket No. 21-232, EA Docket No. 21-233, Report and Order, Order, and Further Notice of Proposed Rulemaking, FCC 22-84, 2022 WL 17335868 (rel. Nov. 25, 2022) (*2022 Protecting Against National Security Threats Order*).

⁶⁶ See *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15966-68, 15974, 15992-16030, paras. 1-3, 9, 44-99, *aff'd*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *1-2, 6, 20-46, paras. 1-3; 16, 49-110; *Pacific Networks/ComNet Order on Revocation and Termination* at *1-2, 6, 18-49, paras. 1-3, 14, 44-113.

III. ORDER: REPORTING ON FOREIGN OWNERSHIP OF INTERNATIONAL SECTION 214 AUTHORIZATION HOLDERS

16. As an initial matter, we adopt an Order requiring all international section 214 authorization holders to respond to a one-time collection to update the Commission's records regarding the foreign ownership of international section 214 authorization holders.⁶⁷ As noted above, the Commission has incomplete and outdated information about international section 214 authorization holders. For example, the Commission's records in ICFS reflect there are approximately 7,000 international section 214 authorization holders, though we estimate the more accurate number is closer to approximately 1,500 active authorization holders.⁶⁸ Additionally, we do not have visibility on authorized carriers' current foreign ownership. Thus, the collection of this information is a necessary first step for the Commission to make an informed decision concerning the proposed rules and procedures set forth in the Notice. Among other things, the information derived from this one-time collection will allow the Commission to determine the number of active authorization holders and whether they have reportable foreign ownership. In addition, the information will enable the Commission to identify those authorization holders that are no longer in business or are in business but discontinued service under their international section 214 authority. Overall, the information will assist the Commission in developing a timely and effective process for prioritizing the review of international section 214 authorizations that are most likely to raise national security, law enforcement, foreign policy, and/or trade policy concerns, as proposed below.

17. Under the Commission's current rules, international section 214 authorization holders are not required to periodically report their ownership, including the extent of any foreign ownership interests, the identity of their foreign interest holders, and the countries associated with such foreign ownership. Following the grant of an international section 214 authorization, an authorized U.S.-international carrier can provide service globally to any route for which it is classified as non-dominant pursuant to the terms of its international section 214 authorization.⁶⁹ After the grant, the Commission ordinarily does not receive updated information unless an authorization holder files an application for a modification, assignment, or transfer of control of the authorization.⁷⁰ Additionally, international section 214 authorization holders only need to notify the Commission of a planned discontinuance of service

⁶⁷ We take this action pursuant to sections 4(i), 214, 218, 219, and 403 of the Act, 47 U.S.C. §§ 4(i), 214, 218, 219, 403.

⁶⁸ See *supra* para. 12.

⁶⁹ Under the Commission's rules, a carrier is classified as non-dominant on a U.S.-international route if it is not affiliated with a foreign carrier with market power on the foreign end of the route or it provides an international switched service on that route solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services. 47 CFR § 63.10(a); *id.* § 63.10(a)(1) ("A U.S. carrier that has no affiliation with, and that itself is not, a foreign carrier in a particular country to which it provides service (i.e., a destination country) shall presumptively be considered non-dominant for the provision of international communications services on that route."); *id.* § 63.10(a)(2) ("Except as provided in paragraph (a)(4) of this section, a U.S. carrier that is, or that has or acquires an affiliation with a foreign carrier that is a monopoly provider of communications services in a relevant market in a destination country shall presumptively be classified as dominant for the provision of international communications services on that route . . ."); *id.* § 63.10(a)(4) ("A carrier that is authorized under this part to provide to a particular destination an international switched service, and that provides such service solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services (either directly or indirectly through the resale of another U.S. resale carrier's international switched services), shall presumptively be classified as non-dominant for the provision of the authorized service . . .").

⁷⁰ We refer to "application" in this context to include an application to modify an international section 214 authorization; an application for substantial assignment or transfer of control of an international section 214 authorization; and a notification of *pro forma* assignment or transfer of control of an international section 214 authorization. See 47 CFR §§ 63.18, 63.24(e)(1), 63.24(f)(2).

when the authorization holder seeks to discontinue service for which it has customers.⁷¹ If an international section 214 authorization holder does not have any customers when it discontinues offering service, it may file with the Commission a notification to surrender its authorization, but is not required to do so. In those circumstances, the authorization holder may retain the authorization indefinitely. Following the grant of international section 214 authority, an authorization holder may retain the authorization even if it was never used or the authorization holder is not currently offering service or simply is no longer in business.

18. *One-Time Information Collection.* In furtherance of our goals in this proceeding and to inform our consideration of the regulatory approaches on which we seek comment in the NPRM, we adopt the information collection requirements herein, which are based on the requirements set forth in section 63.18(h) of the Commission's rules.⁷² Section 63.18(h) requires international section 214 applicants to provide the name, address, citizenship and principal businesses of any person or entity that directly or indirectly owns at least 10% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).⁷³ Specifically, we direct each authorization holder to identify its 10% or greater direct or indirect foreign interest holders that hold such equity and/or voting interests (reportable foreign ownership)⁷⁴ as of thirty (30) days prior to the filing deadline. Additionally, we require each authorization holder to certify as to the accuracy of the information provided. Such certification requires each authorization holder to conduct appropriate due diligence, thereby increasing the reliability of its information. In the Notice, we propose to cancel the authorizations of carriers that fail to respond to this Order and impose forfeitures or other measures where a carrier fails to respond in a timely or complete manner.⁷⁵

19. We anticipate that our information collection will not be unduly burdensome as international section 214 authorization holders, including small entities, would have information about their ownership available for purposes of compliance with the Commission's rules, e.g., to ascertain whether their ownership requires approval for, or notification of, a substantive or non-substantive assignment or transfer.⁷⁶ Most businesses likely maintain records of their 10% or greater direct or indirect equity and/or voting interest holders in the ordinary course of business. An authorization holder that is a privately held entity likely knows its investors. An authorization holder that is a publicly held company is

⁷¹ See 47 CFR § 63.19.

⁷² *Id.* § 63.18(h). In the *Executive Branch Process Reform Order*, the Commission amended section 63.18(h) to require that applicants must identify the voting interests, in addition to the equity interests, of individuals or entities with 10% or greater direct or indirect ownership in the applicant. *Executive Branch Process Reform Order*, 35 FCC Rcd at 10965, para. 95; *id.* at 10985, Appx. B, para. 11; *Order Erratum*, 35 FCC Rcd at 13173, para. 11. The amended rule is not yet effective.

⁷³ 47 CFR § 63.18(h); see *2016 Executive Branch Process Reform NPRM*, 31 FCC Rcd at 7475, para. 49 ("These rules originated when equity and voting ownership were usually the same. Today, applicants often have multiple classes of ownership and equity interests that differ from the voting interests. It is important for the Commission to know for potential control purposes who has voting interests in the applicant. The Commission has recognized this in other rules, where it requires an applicant to provide both equity and voting interests in an applicant."); *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985, Appx. B, para. 11; *Order Erratum*, 35 FCC Rcd at 13173, para. 11 (amending section 63.18(h) to read, "[t]he name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent) . . .").

⁷⁴ 47 CFR § 63.18(h); *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985, Appx. B, para. 11; *Order Erratum*, 35 FCC Rcd at 13173, para. 11.

⁷⁵ See *infra* Section IV.A.

⁷⁶ See, e.g., 47 CFR § 63.24.

also required to identify its interest holders in requisite filings with the U.S. Securities and Exchange Commission (SEC).⁷⁷

20. Pursuant to this Order, we require an international section 214 authorization holder to submit information based on the categories below.

- (1) **Reportable Foreign Ownership – Foreign Adversary – China (including Hong Kong), Cuba, Iran, North Korea, Russia, Maduro Regime.** Where there are interest holders that are entities and individuals that are a government organization or citizen of a “foreign adversary” country, an authorization holder must identify its 10% or greater direct or indirect foreign interest holders, including any 10% or greater direct or indirect foreign interest holders outside the foregoing “foreign adversary” countries. A “foreign adversary” country is defined in the Department of Commerce’s rule, 15 CFR § 7.4.⁷⁸ The authorization holder must:
 - identify each interest holder and the foreign country or countries, including countries that are not foreign adversary countries;
 - disclose whether any interest holder has dual or more citizenships and identify all countries where citizenship is held;⁷⁹ and
 - certify to the truth and accuracy of all information.
- (2) **Reportable Foreign Ownership – No Foreign Adversary.** Where there are no interest holders that are entities or individuals that are a government organization or citizen of any foreign country that is a “foreign adversary” country defined in the Department of Commerce’s rule, 15 CFR § 7.4, an authorization holder must identify its 10% or greater direct or indirect foreign interest holders. The authorization holder must:
 - identify each interest holder and the foreign country or countries;
 - disclose whether any interest holder has dual or more citizenships and identify all the countries where citizenship is held;⁸⁰ and
 - certify to the truth and accuracy of all information.
- (3) **No Reportable Foreign Ownership.** An authorization holder that has no reportable foreign ownership must certify to the truth and accuracy of this information.

⁷⁷ See *infra* para. 94; 15 U.S.C. § 78m(d)(1); 17 CFR § 240.13d-1; 17 CFR § 229.403; see *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272, 11293-94, para. 45-46 & n.130 (2016) (*2016 Foreign Ownership Report and Order*).

⁷⁸ 15 CFR § 7.4 (stating “[t]he Secretary has determined that the following foreign governments or foreign non-government persons have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons and, therefore, constitute foreign adversaries solely for the purposes of the Executive Order, this rule, and any subsequent rule” promulgated pursuant to the Executive Order); see 15 CFR § 7.2 (“Foreign adversary means any foreign government or foreign non-government person determined by the Secretary to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons.”); see Executive Order 13873 of May 15, 2019, Securing the Information and Communications Technology and Services Supply Chain, 84 Fed. Reg. 22689 (May 15, 2019).

⁷⁹ This requirement applies to United States citizens who hold dual citizenship or multiple citizenships and foreign persons who are citizens of two or more countries.

⁸⁰ This requirement applies to United States citizens who hold dual citizenship or multiple citizenships and foreign persons who are citizens of two or more countries.

21. *Information Collection Process and Deadline.* We direct the Office of International Affairs to conduct this information collection, including the creation of the forms, submit the information collection for Office of Management and Budget (OMB) review⁸¹ and, following OMB review, publish notice of the effective date of the information collection requirement and the filing deadline in the Federal Register. In so doing, the Office of International Affairs should take into account information recently provided to the Commission on the record that has not materially changed.⁸² The filing deadline shall be no fewer than thirty (30) days following the effective date of this Order. The Office of International Affairs also will issue a Public Notice announcing the deadline and will provide instructions for filing this information with the Commission.

22. *FCC Registration Number (FRN).* All authorization holders must have an FCC Registration Number (FRN) in order to file their response in ICFS.⁸³ An FRN is the 10-digit number assigned to all entities (individual and corporate) that transact business with the Commission, and it must be provided any time an authorization holder submits a filing or application in ICFS. We note that many international section 214 authorizations were granted to entities prior to the Commission requiring an FRN in 2001.⁸⁴ Such entities will need to obtain an FRN prior to filing their response to the information collection.⁸⁵

23. *Surrender of Authorizations.* Authorization holders that surrender their international section 214 authorizations before the filing deadline do not need to respond to the one-time information collection. Accordingly, we strongly encourage international section 214 authorization holders that no longer need or use their authorizations to do so before the filing deadline. International section 214 authorization holders may file a surrender letter in ICFS.

IV. NOTICE OF PROPOSED RULEMAKING

24. The Notice seeks comment on proposed rules and possible alternative approaches, including alternatives for small entities, that will further our goal of ensuring that the Commission continually accounts for evolving public interest considerations associated with international section 214 authorizations following an initial grant of the authority. *First*, we propose to cancel the authorizations of those international section 214 authorization holders that fail to respond to the one-time collection requirement adopted in the Order. *Second*, we propose to adopt a 10-year renewal framework for the Commission's reassessment of all authorizations or, in the alternative, seek comment on a formalized periodic review of such authorizations. *Third*, we propose to adopt a process that prioritizes renewal applications with foreign ownership to regularly reassess any evolving national security, law enforcement, foreign policy, and/or trade policy concerns, as opposed to reviewing international section 214 authorizations only on an *ad hoc* basis. We intend to continue to collaborate with the relevant Executive Branch agencies and to refer matters to the Executive Branch agencies, including the Committee, where

⁸¹ To the extent required, the Office of International Affairs would also modify the applicable System of Records Notice under the Privacy Act. See Federal Communications Commission, Privacy Act of 1974; System of Records, IB-1, International Bureau Filing System, 86 Fed. Reg. 43237 (Aug. 6, 2021).

⁸² See, e.g., Letter from Angie Kronenberg, President, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23-119, at 1-2 (filed Apr. 14, 2023).

⁸³ 47 CFR § 1.8002(a) ("The FRN must be obtained by anyone doing business with the Commission, see 31 U.S.C. 7701(c)(2) . . ."). An authorization holder may obtain an FRN through the Commission's CORES webpage. FCC, *Commission Registration System (CORES)*, <https://apps.fcc.gov/cores/userLogin.do> (last visited Apr. 18, 2023).

⁸⁴ Federal Communications Commission, Adoption of a Mandatory FCC Registration Number, 66 Fed. Reg. 47890 (Sept. 14, 2001) (amending the Commission's rules to require persons and entities doing business with the Commission to obtain a unique identifying number, called the FCC Registration Number (FRN), through the Commission Registration System (CORES), and to provide the number when doing business with the Commission, effective December 3, 2001).

⁸⁵ *International Bureau Filing System (IBFS)*, Order, 19 FCC Rcd 4575 (2004).

warranted.⁸⁶ We seek comment on categorizing applications to minimize burdens on the relevant Executive Branch agencies, including the Committee.⁸⁷ *Fourth*, we propose or seek comment on new application rules to capture critical information from all applicants with and without reportable foreign ownership⁸⁸ not currently collected and to require additional certifications. *Fifth*, to further ensure that carriers' use of their international section 214 authority is in the public interest, we propose and seek comment on modifications to related Parts 1 and 63 rules. *Finally*, we invite comment on the costs and benefits of the proposed rules and any alternatives.

A. Failure to Timely Respond to One-Time Information Collection

25. In the Order, we direct each authorization holder to identify its 10% or greater direct or indirect foreign interest holders (reportable foreign ownership),⁸⁹ as of thirty (30) days prior to the filing deadline. If an international section 214 authorization holder fails to timely respond to the information collection required in the Order, we propose to cancel its authorization. We would deem the failure to respond to the Order as presumptive evidence that the authorization holder is no longer in operation. We propose to publish a list of non-responsive authorization holders in the Federal Register and provide an additional 30 days from that publication for those authorization holders to respond to the information collection requirement or surrender the authorization. If an authorization holder has not responded within 30 days of the publication of the notice in the Federal Register, we propose that those authorizations would be automatically cancelled. We note that authorization holders that fail to comply with the information collection required in the Order are subject to forfeitures in addition to cancellation. We tentatively find this proposal is reasonable and necessary to ensure the accuracy of the Commission's records regarding international section 214 authorization holders and in consideration of the Commission's need to implement a renewal or, in the alternative, periodic review process with administrative efficiency.

26. We propose that any authorization holder whose authorization is cancelled for failure to timely respond to the information collection may file a petition for reinstatement *nunc pro tunc* of the authorization. We propose that a petition for reinstatement will be considered: (1) if it is filed within six months after publication of the Federal Register notice; (2) if the petition demonstrates that the authorization holder is currently in operation and has customers; and (3) if the petition demonstrates good cause for the failure to timely respond. We propose that an authorization holder whose authorization is cancelled under these procedures would be able to file an application for a new international 214 authorization in accordance with the Commission's rules, which would be subject to full review. We seek comment on the cancellation process generally and if there are any proposals to assist small entities. Should there be any other procedural requirements if an authorization holder does not file a petition for reinstatement within six months after publication of the Federal Register notice? We seek comment whether these procedures would provide non-responsive authorization holders with sufficient due process and notice and opportunity to respond.

B. International Section 214 Renewal or Periodic Review Requirements

1. Legal Authority

27. *Legal Authority.* As described below, we propose to adopt a 10-year renewal requirement for all international section 214 authorization holders, whereby those authorization holders

⁸⁶ Letter from Devin A. DeBacker, Chief, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23-119 (filed Apr. 12, 2023) (DOJ *Ex Parte*).

⁸⁷ See *id.* (noting resource implications of proposals for Committee member agencies).

⁸⁸ See *supra* note 9 (explaining the use of "applicant" or "applicants" in this Notice).

⁸⁹ 47 CFR § 63.18(h); *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985, Appx. B, para. 11; *Order Erratum*, 35 FCC Rcd at 13173, para. 11.

must periodically demonstrate that their authorization continues to serve the public interest, and such authorization would expire following appropriate proceedings if the holder fails to meet that burden. In the alternative, we seek comment on adopting a periodic review process whereby international section 214 authorization holders must periodically submit similar information demonstrating that their authorization continues to serve the public interest, and the Commission or the Office of International Affairs could institute a revocation proceeding if the holder fails to meet that burden. As a threshold matter, we tentatively find that the Commission has the authority to require the renewal of international section 214 authorizations. We also tentatively conclude that the Commission has the authority to adopt a periodic review process as an exercise of its power to revoke authorizations.

28. We tentatively conclude that the Commission has direct and ancillary authority under sections 4(i), 201(b), and 214 of the Act—individually and collectively—to adopt terms and conditions of service for international section 214 authorizations, including time limits on an authorization, and to cancel an authorization through non-renewal of the international section 214 authority where the Commission determines that the public interest so requires. Section 214 of the Act does not expressly require the renewal of section 214 authorizations unlike section 307(c), which permits the Commission to prescribe license terms by rule, except that broadcast license terms may not exceed eight years.⁹⁰ Although section 214 does not expressly provide for renewal of authorizations,⁹¹ section 214(c) affords the Commission discretion to grant the authority requested or “refuse” to do so, and the Commission may condition any grant on “such terms and conditions as in its judgment the public convenience and necessity may require.”⁹² In addition, under section 4(i), the Commission has broad authority to adopt rules, not inconsistent with the Act, “as may be necessary in the execution of its functions.”⁹³ Under section 201(b) the Commission has broad general grant of rulemaking authority to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this [Act].”⁹⁴

29. Section 214(a) of the Act prohibits any carrier from constructing, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate from the Commission “that the *present or future* public convenience and necessity require or will require the construction, or operation, or construction and operation, of such . . . line”⁹⁵ Thus, the Act requires the Commission to ensure that not only the “construction” of the line, but also its “operation,” further the public convenience and necessity. In addition, the Act requires the Commission to ensure that not only the present, but also the future operations of a telecommunications carrier authorized to provide service under section 214, further the public convenience and necessity. Promotion of national security is an integral part of the Commission’s public interest responsibility, including its administration of section 214 of the Act and one of the core purposes for which Congress created the Commission.⁹⁶ In recent

⁹⁰ See, e.g., 47 U.S.C. § 307(c) (providing that the Commission may prescribe license terms by rule, except that broadcast license terms may not exceed 8 years); *id.* § 309(k) (broadcast license renewal standards).

⁹¹ 47 U.S.C. § 214.

⁹² 47 U.S.C. § 214(c).

⁹³ 47 U.S.C. § 154(i).

⁹⁴ 47 U.S.C. § 201(b). Indeed, in upholding Commission’s exercise of ancillary jurisdiction pursuant to section 201(b), the Supreme Court stated in *AT&T v. Iowa Utilities Board* that “[w]e think that the grant in § 201(b) means what it says: The FCC has rulemaking authority to carry out the ‘provisions of this Act.’” 525 U.S. 366, 378 (1999).

⁹⁵ 47 U.S.C. § 214(a) (emphasis added).

⁹⁶ Section 1 of the Act provides that Congress created the Commission, among other reasons, “for the purpose of the national defense [and] for the purpose of promoting safety of life and property through the use of wire and radio communications” 47 U.S.C. § 151; see, e.g., *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15968, para. 3, *aff’d*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *2, para. 3; *Pacific Networks/ComNet Order on Revocation and Termination* at *2, para. 3; *Protecting Against National Security Threats Order*, 34 FCC Rcd 11423, *aff’d*, *Huawei Technologies USA, Inc. v. FCC*, 2 F.4th 421, 439; 2022 *Protecting Against National Security Threats Order*.

revocation actions, the Commission has found, given established statutory directives and longstanding Commission determinations, that it has authority to revoke section 214 authority.⁹⁷ By the same reasoning, we tentatively find that the Commission has the authority to require the renewal and/or periodic review of a carrier's international section 214 authority to ensure that the public convenience and necessity continues to be served by the carrier's operations.

30. In addition, section 214(c) of the Act permits the Commission to "attach to the issuance of the [section 214] certificate such terms and conditions as in its judgment the public convenience and necessity may require."⁹⁸ In granting all telecommunications carriers blanket domestic section 214 authority, the Commission found that the "present and future public convenience and necessity require the construction and operation of all domestic new lines pursuant to blanket authority," subject to the Commission's ability to revoke a carrier's section 214 authority when warranted to protect the public interest.⁹⁹ Likewise, when the Commission opened the U.S. telecommunications market to foreign participation in the late 1990s, it delineated a non-exhaustive list of circumstances where it reserved the right to designate for revocation an international section 214 authorization based on public interest considerations and stated that it considers "national security" and "foreign policy" concerns when granting authorizations under section 214 of the Act.¹⁰⁰ Thus, carriers are granted a section 214 authorization subject to the Commission's reserved power to revoke those authorizations if later circumstances warrant. Likewise, we tentatively find that under section 214(c) the Commission has reserved the power to adopt terms and conditions for authorizations granted under section 214 of the Act, such as requiring the renewal or other review of carriers' international section 214 authority, as the public convenience and necessity may require in order to provide the Commission the opportunity to assess whether an authorized telecommunications carrier and its operations raise national security, foreign policy, and/or trade policy concerns.

31. We tentatively find that section 4(i) of the Act provides further support for the Commission's authority to require renewal, or periodic review, of international section 214 authorizations. Section 4(i) authorizes the Commission to "perform any and all acts, make such rules and

⁹⁷ *China Telecom Americas Order on Revocation and Termination*, *aff'd*, *China Telecom (Americas) Corp.*; *China Unicom Americas Order on Revocation*; *Pacific Networks/ComNet Order on Revocation and Termination*.

⁹⁸ 47 U.S.C. § 214(c).

⁹⁹ *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15968-69, para. 4, *aff'd*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *2, 9, paras. 4, 24; *Pacific Networks/ComNet Order on Revocation and Termination* at *2, para. 4; *Domestic 214 Blanket Authority Order*, 14 FCC Rcd at 11374, para. 16. The Commission has explained that it grants blanket section 214 authority, rather than forbearing from application or enforcement of section 214 entirely, in order to remove barriers to entry without relinquishing its ability to protect consumers and the public interest by withdrawing such grants on an individual basis. *Id.* at 11372-73, 11374, paras. 12-14, 16.

¹⁰⁰ *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15968-99, para. 4, *aff'd*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *2, 9, paras. 4, 24; *Pacific Networks/ComNet Order on Revocation and Termination* at *2, para. 4; *Foreign Participation Order*, 12 FCC Rcd at 23896, 23919-20, paras. 9, 61-63. With regard to revocation of an international section 214 authorization, the Commission in the *Foreign Participation Order* and the *Reconsideration Order* delineated a non-exhaustive list of circumstances where it reserved the right to designate for revocation an international section 214 authorization based on public interest considerations. *See, e.g., Foreign Participation Order*, 12 FCC Rcd at 24023, para. 295; *Reconsideration Order*, 15 FCC Rcd at 18173, 18175-76, paras. 28, 35; *see also* 47 CFR § 63.11(g)(2); *2014 Foreign Carrier Entry Order*, 29 FCC Rcd at 4259, 4266, paras. 6, 22. In the *Foreign Participation Order*, the Commission also stated it considers "national security" and "foreign policy" concerns when granting authorizations under section 214 of the Act. *Foreign Participation Order*, 12 FCC Rcd at 23919-20, paras. 61-63 (in regulating foreign participation in the U.S. telecom market in the late 1990s, the Commission recommitted to considering "national security" and "foreign policy" concerns when granting licenses under section 310(b)(4) and authorizations under section 214(a) of the Act, stating it would also continue to "accord deference" to expert Executive Branch views on these issues that would inform its "public interest analysis").

regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.”¹⁰¹ The Commission has long found that section 4(i) “supports revocation authority, as reasonably ancillary to the Commission’s authority to authorize common carrier service in the first instance.”¹⁰² As the Commission explained, revocation authority “is necessary to ensure not only compliance with the Commission’s rules and its requirements for truthfulness, but also that circumstances with serious national security and law enforcement consequences that would have been relevant in determining whether to authorize service remain relevant in light of significant developments since the time of such authorization.”¹⁰³ For these same reasons, we tentatively find that the authority to refuse renewal of or require periodic review of carriers’ international section 214 authority is at least “reasonably ancillary” to the performance of the Commission’s responsibilities under section 214 of the Act to ensure that a carrier’s operations remain consonant with the “public convenience and necessity.”

32. We seek comment on our legal analysis and whether these statutory provisions give the Commission broad flexibility to promulgate regulations—such as a renewal or, in the alternative, a periodic review process for international section 214 authorizations—that may not be expressly identified in precise terms where necessary to carry out our regulatory responsibilities under section 214 consistent with the purposes of the Act, such as promoting national security.¹⁰⁴ At a minimum, would such rules be “reasonably ancillary to the effective performance of the Commission’s various responsibilities. . . .”?¹⁰⁵ We also seek comment on whether other statutory provisions provide a legal basis for adopting the renewal or in the alternative, a periodic review process outlined below. Would the Commission have authority to institute one of the proposals—period renewal or periodic review—but not the other?

33. *Due Process and Retroactivity.* As noted below, we seek comment on whether all international section 214 authorizations regardless of issuance date and ownership should be subject to renewal or, in the alternative, periodic review process. Because the renewal framework we propose to adopt will affect both existing authorization holders and authorizations held pursuant to applications granted, after the effective date of the renewal rules, we seek comment on due process and retroactivity concerns—including “primary” versus “secondary” retroactivity—that may arise from this proposal.¹⁰⁶ Specifically, we seek comment on the interplay between renewal standards and retroactivity concerns.

34. The courts have established a distinction for rules between “primary” retroactivity and “secondary” retroactivity. A rule is primarily retroactive if it (1) “increase[s] a party’s liability for past conduct”; (2) “impair[s] rights a party possessed when he acted”; or (3) “impose[s] new duties with respect to transactions already completed.”¹⁰⁷ The standard for primary retroactivity assesses whether a rule has changed the past legal consequences of past actions.¹⁰⁸ In contrast, a rule would be “secondarily”

¹⁰¹ 47 U.S.C. § 154(i).

¹⁰² *China Unicom Americas Order on Revocation* at *8, para. 22 (citing *CCN, Inc. et al.*, CC Docket No. 97-144, Order, 13 FCC Rcd 13599, 13607 (1998)); *Pacific Networks/ComNet Order on Revocation and Termination* at *9, para. 22 (citing same).

¹⁰³ *China Unicom Americas Order on Revocation* at *8, para. 22.

¹⁰⁴ See, e.g., *United States v. Southwestern Cable Co.*, 392 U.S. 157, 178 (1968) (upholding the Commission’s authority to regulate cable television).

¹⁰⁵ *Southwestern Cable*, 392 U.S. at 178; see also *AT&T v. Iowa Utilities Board*, 525 U.S. at 380 (noting that “‘ancillary’ jurisdiction . . . could exist even where the Act does not ‘apply’”) (emphasis in original).

¹⁰⁶ See, e.g., *Mobile Relay Assocs. v. FCC*, 457 F.3d 1, 11 (D.C. Cir. 2006) (non-renewal resulting from a new regulatory framework may “upset[] expectations based on prior law,” but that is not primarily retroactive).

¹⁰⁷ *Landgraf v. USI Film Prods.*, 511 U.S. 244, 280 (1994).

¹⁰⁸ *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 217-220 (1988).

retroactive if it “affects a regulated entity’s investment made in reliance on the regulatory status quo before the rule’s promulgation.”¹⁰⁹ Secondary retroactivity will be upheld “if it is reasonable.”¹¹⁰

35. We tentatively conclude that the renewal framework we propose here is not “primarily” retroactive as applied to applications granted after the effective date of any new rules, as the mere adoption of such a requirement would not make past conduct unlawful, alter rights the carrier had at the time an application was granted, or impose new duties with respect to completed transactions. For the same reasons, we do not believe a renewal requirement as applied to existing authorization holders would be primarily retroactive—for example, because the Commission may revoke a section 214 authorization, grant of an application does not confer a permanent authorization. We recognize, however, that such a requirement could upset the expectations of existing authorization holders. To the extent our proposed renewal process constitutes “secondary” retroactivity, we tentatively conclude it is reasonable and does not violate the Administrative Procedure Act as, among other things, the proposed renewal framework would simply provide for a more systematic review process that focuses on evolving national security, law enforcement, foreign policy, and/or trade policy concerns. We seek comment on our tentative conclusions. When and under what circumstances would denial of a renewal application trigger primary or secondary retroactivity concerns? For example, would non-renewal of an international section 214 authorization based on evolving national security, law enforcement, foreign policy, and/or trade policy risks, regardless of that authorization holder’s ongoing compliance with the Commission’s rules, have primary or secondary retroactive effect? Additionally, would the application of renewal or, in the alternative, periodic review procedures to existing authorization holders require different standards or procedures based on retroactivity, reliance interests, or fair notice concerns?

2. Need for International Section 214 Renewal Requirements

36. Our principal goal in this proceeding is to adopt a renewal process or, in the alternative, a formalized periodic review of international section 214 authorizations to assess evolving national security, law enforcement, foreign policy, and/or trade policy risks. As the Senate Subcommittee noted in the PSI Report, “[n]ational security and law enforcement concerns, as well as trade, and foreign policy concerns . . . are ever evolving, meaning that an authorization granted in one year may not continue to serve the public interest years later.”¹¹¹ The PSI Report stated, “[a]uthorizations effectively exist in perpetuity despite evolving national security implications,” yet “[t]he FCC does not require a foreign carrier’s authorization to be periodically reassessed to confirm the services continue to serve the public interest.”¹¹²

37. We tentatively conclude that adopting a systemized renewal or, in the alternative, formalized periodic review process for international section 214 authorizations would better enable the Commission to ensure that an authorization, once granted, continues to serve the public interest. While neither the proposed renewal process nor a formalized periodic review process would supplant the Commission’s existing authority to conduct *ad hoc* review of whether a carrier’s retention of international section 214 authority presents national security, law enforcement, foreign policy, and/or trade policy risks that warrant revocation or termination of its international section 214 authority, this *ad hoc* review based on current information collection requirements does not allow the Commission to systematically and continually account for evolving risks.

38. We tentatively conclude that the proposals in the Notice would help to ensure that the Commission and the Executive Branch agencies can continually account for evolving national security, law enforcement, foreign policy, and/or trade policy risks associated with the authorizations. As discussed above, the Executive Branch agencies may recommend that the Commission modify or revoke

¹⁰⁹ *Mobile Relay Assoc.*, 457 F.3d at 11.

¹¹⁰ *Id.*

¹¹¹ PSI Report at 12.

¹¹² *Id.* at 9.

an existing authorization if they at any time identify unacceptable risks to national security, law enforcement, foreign policy, and/or trade policy.¹¹³ For instance, in recent years, the Executive Branch agencies filed a recommendation requesting that the Commission revoke and terminate a carrier's international section 214 authorizations,¹¹⁴ stating that "[t]his recommendation reflects the substantial and unacceptable national security and law enforcement risks associated with [China Telecom (Americas) Corporation's] continued access to U.S. telecommunications infrastructure pursuant to its international Section 214 authorizations."¹¹⁵

39. With regard to the Executive Branch agencies' oversight of all authorization holders with mitigation agreements, the PSI Report nonetheless observed, "older [mitigation] agreements contained few provisions, were broad in scope, and provided little for Team Telecom to verify,"¹¹⁶ and "[w]here Team Telecom did reserve for itself the right to monitor a foreign carrier's operations in the United States, it exercised that authority in an *ad hoc* manner."¹¹⁷ The PSI Report further noted that although Executive Order 13913 "allows [the Committee] to review existing authorizations, it does not *mandate* periodic review or renewal."¹¹⁸ In view of these concerns, we believe that a renewal or, in the alternative, periodic review process would better enable the Commission and the Executive Branch agencies to reassess and account for evolving national security, law enforcement, foreign policy, and/or trade policy risks presented by international section 214 authorization holders in light of updated information about both the holder and the foregoing risks.

40. While the Commission could simply adopt a basic reporting mechanism for authorization holders to regularly inform the Commission of select information such as their current ownership, we tentatively conclude that a formalized system of renewal or, in the alternative, periodic review would better ensure that the Commission conduct periodic and comprehensive review of all authorizations, including reassessment of any national security, law enforcement, foreign policy, and/or trade policy concerns. Our review would be based on the totality of the circumstances presented by each situation, including additional information as necessary, to determine whether the public interest continues to be served by an authorization holder's international section 214 authority. Our proposed renewal framework would include rule-based conditions as well as any other appropriate conditions, the breach of which could warrant revocation or termination. In addition, a carrier's failure to file a renewal application would cause the authorization to expire automatically. Thus, a renewal framework is more efficient than case-by-case review of periodic reports followed by revocation proceedings where necessary. Additionally, a periodic and systemized reassessment framework is consistent with Commission's practice in other contexts, such as broadcast or wireless license renewals. We tentatively conclude that establishing a similar process will assist the Commission's ongoing efforts to protect the nation's telecommunications infrastructure from potential national security, law enforcement, foreign policy, and/or trade policy threats and ensure that only those individuals or entities with the requisite character qualifications have access to this critical infrastructure.

¹¹³ See *supra* para. 13; see Executive Branch Recommendation to the Federal Communications Commission to Revoke and Terminate [China Telecom (Americas) Corporation's] International Section 214 Common Carrier Authorizations, File Nos. ITC-214-20010613-00346, ITC-214- 20020716-00371, ITC-T/C-20070725-00285, at 1-2 (filed Apr. 9, 2020) (Executive Branch Recommendation to Revoke and Terminate). The Executive Branch agencies that jointly made this recommendation are DOJ, DHS, DOD, the Departments of State and Commerce, and USTR. *Id.* at 1, n.1. See also Executive Order 13913, 85 Fed. Reg. at 19646 (Sec. 9(b)); see also *id.* at 19645 (Sec. 6(a)).

¹¹⁴ See generally Executive Branch Recommendation to Revoke and Terminate.

¹¹⁵ *Id.* at 1.

¹¹⁶ PSI Report at 45.

¹¹⁷ *Id.* at 32.

¹¹⁸ *Id.* at 12.

3. Renewal Requirement Applicable to All International Section 214 Authorization Holders

41. We propose to adopt a renewal framework or, in the alternative, a formalized periodic review process for all international section 214 authorization holders, with or without foreign ownership, to ensure the Commission fully reassesses public interest considerations associated with all authorization holders. Under this proposal, all authorization holders would be subject to a renewal requirement, including authorization holders that have been granted international section 214 authority prior to the effective date of the renewal rules and authorization holders that are granted international section 214 authority after the effective date of the rules. We propose, as discussed below, to structure the periodic reassessment by prioritizing review of authorization holders with reportable foreign ownership, consistent with the Commission's long held view that foreign ownership in the U.S. telecommunications sector implicates national security, law enforcement, foreign policy, and/or trade policy considerations.¹¹⁹ We also recognize, in view of evolving and heightened threats to U.S. telecommunications infrastructure, that national security, law enforcement, foreign policy, and/or trade policy risks may also be raised irrespective of whether an authorization holder has foreign ownership.

42. In this Notice, we propose to capture critical information and require certifications of all applicants for international section 214 authority and modification, assignment, and transfer of control of international section 214 authority. We further propose to refer to the Executive Branch agencies, including the Committee, matters that may raise national security, law enforcement, foreign policy, and/or trade policy concerns to assist our public interest determination. The Commission has a continuing interest in ensuring that all authorization holders, not only those with reportable foreign ownership, maintain the requisite character qualifications and continue to comply with the Commission's rules. Furthermore, as discussed above, it is important for the Commission to have complete and accurate information concerning all international section 214 authorization holders, including identification of those authorization holders that no longer exist or provide service under their international section 214 authority. We seek comment on our proposed approach.

43. We do not address in this proceeding blanket domestic section 214 authority. Applying a renewal or, in the alternative, a periodic review process to domestic section 214 authority at this time would delay the implementation of solutions to our evolving concerns about international section 214 authorizations given, among other things, that the Commission has granted blanket section 214 authority for domestic service based on policy determinations that are beyond the scope of our current concerns. We believe the public interest would be better served by implementing a new framework for review of international section 214 authorizations as expeditiously as possible.

44. We seek comment generally on our proposal to implement a renewal or, in the alternative, periodic review process for international section 214 authorizations and whether the Commission should exempt certain authorization holders from either framework. What would be the justifications for excluding any authorization holders? Do these justifications outweigh the concerns raised by the Commission, other U.S. government agencies, and Congress regarding threats to the security of U.S. telecommunications infrastructure in an evolving national security and law enforcement environment? Are there any special considerations applicable to small businesses offering services pursuant to international section 214 authority? We also seek comment on how best to structure a periodic review process to the extent we decide to apply this alternative to some or all authorization holders.

4. 10-Year Renewal Timeframe

45. We propose to adopt a renewal timeframe of 10 years and seek comment on this proposal. We tentatively find that a renewal timeframe of 10 years—in conjunction with our proposal in this Notice to require authorization holders to provide updated ownership information, cross border

¹¹⁹ *Foreign Participation Order*, 12 FCC Rcd at 23918-21, paras. 59-66.

facilities information, and other information every three years—would ensure that the Commission and the relevant Executive Branch agencies can continually reassess and account for evolving national security, law enforcement, foreign policy, and/or trade policy concerns associated with international section 214 authorizations. We tentatively conclude that a 10-year timeframe is reasonable under the renewal framework that we propose in this Notice for structuring a formalized and systemic reassessment of carriers’ international section 214 authority. Moreover, a 10-year timeframe minimizes burdens on authorization holders and balances our policy considerations with administrative efficiency for the Commission and the relevant Executive Branch agencies, including the Committee.

46. We seek comment on our proposed 10-year renewal timeframe. Would a different timeframe better enable the Commission to periodically reassess international section 214 authorization holders in consideration of evolving risks and for compliance with the Act and its implementing rules? We note that wireless and broadcast licensees have various renewal terms. With regard to Miscellaneous Wireless Communications Services (WCS), the term of a license varies according to different spectrum bands, which results in different license periods such as 10, 12, or 15 years.¹²⁰ In the context of broadcast licensing, each license granted for the operation of a broadcasting station is limited to a term not to exceed eight years.¹²¹ Would a renewal timeframe similar to broadcast or wireless license renewals, such as 8, 12, or 15 years be more appropriate, and if so, why? Or would a shorter renewal timeframe, such as 5 years, better enable the Commission to reassess and account for evolving risks? We also seek comment on whether the 10-year period should reset if an international section 214 authorization holder undergoes a complete review, such as during the review of a substantive assignment or transfer of control application.¹²² Commenters should address the burdens that will be placed on authorization holders based on the length of the license term. We also propose below ongoing reporting requirements in the context of a 10-year renewal timeframe.¹²³

47. We also seek comment on whether we should adopt a rule reserving our discretion to issue a shorter renewal timeframe on a case-by-case basis where the Commission deems it appropriate to require the authorization holder to seek renewal sooner than otherwise would be required, or to adopt conditions on renewal where the Commission determines that renewal otherwise would not be in the public interest.¹²⁴

48. We tentatively affirm that, regardless of the renewal timeframe, the Commission would continue to be able to exercise its existing authority, as it deems necessary, to conduct *ad hoc* reviews of

¹²⁰ See 47 CFR § 27.13.

¹²¹ 47 U.S.C. § 307(c); *see, e.g.*, 47 CFR §§ 73.733, 73.1020(a), 74.15(d), 74.15(e); *see generally Implementation of Section 203 of the Telecommunications Act of 1996 (Broadcast License Terms)*, Report and Order, 12 FCC Rcd 1720 (1997) (*1997 Broadcast License Terms Order*).

¹²² For example, if an entity that is granted an international section 214 authorization in 2025, so that its 10-year renewal period would be 2035, files a substantive transfer of control application which is granted in 2030, should the 10-year renewal period be reset to 2040?

¹²³ See *infra* Section IV.F.4.

¹²⁴ We note that the Commission’s rules expressly preserve the Commission’s discretion to grant individual broadcast station licenses for less than the standard license term if the public interest, convenience, and necessity would be served by such action. See 47 CFR § 73.1020(a) (“Both radio and TV broadcasting stations will ordinarily be renewed for 8 years. However, if the FCC finds that the public interest, convenience and necessity will be served thereby, it may issue either an initial license or a renewal thereof for a lesser term.”); *id.* § 74.15(d) (“Lower power TV and TV translator station and FM translator station licenses will ordinarily be renewed for 8 years. However, if the FCC finds that the public interest, convenience or necessity will be served, it may issue either an initial license or a renewal thereof for a lesser term. The FCC may also issue a license renewal for a shorter term if requested by the applicant.”); *1997 Broadcast License Terms Order*, 12 FCC Rcd at 1729, 1739, n.24, Appx. A. See also 47 U.S.C. § 309(k)(2) (where applicant fails to meet the standards for renewal, the Commission may grant the application “on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted.”).

international section 214 authorizations at any time during renewal period. In other words, adoption of renewal rules does not mean that the Commission would only review authorizations at such periodic intervals. For instance, if the Commission were to adopt a renewal timeframe of 10 years, the Commission might still elect to exercise its existing authority to review and, if necessary, revoke authorizations at any time in between the scheduled 10-year renewal proceedings.

49. *Periodic Review Alternative.* In the alternative, we seek comment on whether the Commission should adopt a three-year formalized system of periodic review. Under this approach, the Commission would systematically and continually review all authorization holders at regular intervals to reassess whether their retention of international section 214 authority continues to serve the public interest or raises concerns that may warrant revocation of the international section 214 authority. To the extent circumstances in any particular situation raised such concerns, the Commission could initiate a revocation proceeding. Thus, in contrast to the renewal framework, an authorization would not be cancelled if the Commission determined that retention of the authorization was not in the public interest. Instead, the authorization would continue by default subject to the Commission instituting a revocation proceeding.

50. We seek comment generally on this approach and on the appropriate timeframe. We seek comment on whether the Commission should adopt this approach for all authorization holders, regardless of whether their international section 214 authority is granted prior to or after the effective date of new rules adopted in this proceeding. What other options should we consider with regard to a periodic review process given evolving national security, law enforcement, foreign policy, and/or trade policy risks? As noted with respect to the renewal approach, we also tentatively affirm that we retain discretion to review international section 214 authorizations at any time we deem such action to be necessary in the public interest, regardless of when a carrier's authorization may be scheduled for periodic review.

51. *Bifurcated Process.* We also seek comment on whether the Commission should adopt a bifurcated process for authorization holders depending on whether their international section 214 authority is granted prior to or after the effective date of new rules adopted in this proceeding. Specifically, should the Commission adopt a 10-year renewal framework, as proposed above, for authorization holders whose international section 214 application is granted after the effective date of new rules adopted in this proceeding? At the same time, should the Commission adopt a three-year formalized periodic review process for authorization holders whose international section 214 authority was or is granted prior to the effective date of rules adopted in this proceeding?

5. Application of New Framework

52. *Authorizations Granted After Effective Date of Rules.* With respect to authorization holders whose international section 214 authority is granted after the effective date of new rules adopted in this proceeding, we tentatively find the Commission may implement a renewal requirement, if adopted, pursuant to its statutory authority under section 214 of the Act to attach terms and conditions to the grant of international section 214 authority. Section 214(c) of the Act permits the Commission to “attach to the issuance of the [section 214] certificate such terms and conditions as in its judgment the public convenience and necessity may require.”¹²⁵ If the Commission were to adopt a renewal framework, these authorization holders would be subject to a renewal requirement as a condition of their international section 214 authority. The Commission would either grant or deny an application to renew the international section 214 authority. We seek comment on this proposed approach.

53. *Authorization Holders With Existing Authorizations Before Effective Date of Rules.* With respect to authorization holders whose international section 214 authority was or is granted prior to the effective date of new rules adopted in this proceeding, we tentatively find that the Commission may apply a similar renewal requirement pursuant to its statutory authority under sections 214, 201, and 4(i) of the Act,¹²⁶ but that a denial of an application to renew a carrier's existing international section 214 authority

¹²⁵ 47 U.S.C. § 214(c).

¹²⁶ 47 U.S.C. §§ 214, 201, 154(i).

granted prior to the effective date of any new rules would entail the same process that is due in a case of revocation. If the Commission were to apply a renewal requirement to these authorization holders, the Commission would either grant or deny an application to renew the international section 214 authority. A denial of such renewal application, however, would functionally be a revocation of an authorization holder's existing authority and require the same process that is due in a case of revocation, including notice and opportunity to respond. We seek comment on this proposed approach.

54. *Other Matters.* We seek comment on whether an existing authorization that is subject to a substantial and/or *pro forma* assignment or transfer of control should be considered a new authorization for purposes of adopting terms and conditions for that authorization, such as requiring the renewal of the international section 214 authority. We also seek comment as to whether and/or how a carrier's domestic blanket section 214 authority should be affected if the Commission were to deny the renewal of the carrier's international section 214 authority or revoke the carrier's international section 214 authority.

6. Public Interest Standard

55. *Renewals.* We tentatively conclude that the Commission will apply the same standard of review for applications for renewal of international section 214 authority as that applied to initial applications for international section 214 authority and to applications for modification, assignment, or transfer of control of international section 214 authority. Consistent with the Commission's public interest review of these applications, the Commission's grant of an application for renewal of international section 214 authority will be based on a finding by the Commission that the public interest, convenience, and necessity would be served by the renewal of that authority. We also propose to codify the same standard of review for initial applications for international section 214 authority and to applications for modification, assignment, or transfer of control of international section 214 authority. As discussed above, the Commission has long found that national security, law enforcement, foreign policy, and trade policy concerns are important to its public interest analysis of international section 214 authority, and these concerns warrant continued consideration of the public interest in view of evolving and heightened threats to the nation's telecommunications infrastructure. Accordingly, we propose that the Commission, as part of its public interest analysis, will examine the totality of the circumstances in each renewal application and consider, as its primary concerns, national security, law enforcement, foreign policy, and/or trade policy concerns, including in relation to an applicant's reportable foreign ownership as reflected by our proposal to structure the renewal process based on reportable foreign ownership.¹²⁷ Furthermore, the Commission has found that although a section 214 application from a World Trade Organization (WTO) Member applicant is entitled to a rebuttable presumption that grant of the application is in the public interest on competition grounds, "no such presumption applies to national security and law enforcement concerns, which are separate, independent factors the Commission considers in its public interest analysis."¹²⁸ We tentatively find that consideration of these issues is consistent with the Commission's longstanding practice and its ongoing responsibility to evaluate all aspects of the public interest, including any national security, law enforcement, foreign policy, and/or

¹²⁷ *Foreign Participation Order*, 12 FCC Rcd at 23918-21, paras. 59-66. We find that none of the proposals in this Notice, including our proposal to adopt periodic renewal requirements, affects the Committee's review of an authorization holder's section 214 authority. Consistent with our formal review process, we will refer to the Executive Branch those renewal applications where an applicant has reportable foreign ownership, pursuant to the rules adopted in the *Executive Branch Process Reform Order*. *Executive Branch Process Reform Order*, 35 FCC Rcd at 10934-35, para. 17; 47 CFR § 1.40001. We also propose in this Notice to routinely refer to the Committee certain renewal applications where the applicant does not have reportable foreign ownership but other aspects of the application may raise national security or law enforcement concerns that require the input of the Committee to assist our public interest determination. See *infra* para. 71.

¹²⁸ *China Mobile USA Order*, 34 FCC Rcd at 3367, para. 11 (citing *Foreign Participation Order*, 12 FCC Rcd at 23920-21, para. 65).

trade policy concerns associated with potential renewal of international section 214 authority.¹²⁹ We further propose that examination of competition and any other relevant issues that come to the Commission's attention is not foreclosed by its continuing assessment of the aforementioned concerns.

56. As with other applications involving international section 214 authority, we propose that the Commission will also consider whether an applicant seeking renewal of its international section 214 authority has the requisite character qualifications, including whether the applicant has violated the Act, Commission rules, or U.S. antitrust or other competition laws, has engaged in fraudulent conduct before another government agency, has been convicted of a felony, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder.¹³⁰ The Commission has found that such conduct demonstrates that a carrier may fail to comply with the Commission's rules and policies as well as any conditions on its authorization.¹³¹ The public interest may therefore require, in a particular case, that we deny the application of a carrier that has violated Commission rules, the Act, or other laws that may be indicative of a carrier's truthfulness and reliability. We believe consideration of an authorization holder's regulatory compliance and adherence to other relevant laws is also consistent with the Commission's review of renewal applications in other contexts¹³² and is important to the Commission's assessment as to whether the public interest, convenience, and necessity would be served by the renewal of international section 214 authority.

57. We seek comment on the standard that we propose to adopt for the renewal of international section 214 authority. Should the Commission consider factors in addition to those identified above, in determining whether to grant or deny a renewal application for international section 214 authority? Should the Commission consider a standard similar to that of broadcast station renewals, that renewal would serve "the public interest, convenience, and necessity" and the renewal applicant has had no serious violations of the Act or the Commission's rules or multiple violations that would constitute a "pattern of abuse"?¹³³ In the alternative, we seek comment on whether an applicant seeking renewal of international section 214 authority should be granted a renewal expectancy in any circumstance as long it can make a specific showing, and if so, what factors should be included in such a showing. Our existing

¹²⁹ *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15978-79, para. 17, *aff'd*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *11, para. 28; *Pacific Networks/ComNet Order on Revocation and Termination* at *9, para. 22.

¹³⁰ See generally *Policy Regarding Character Qualifications in Broadcast Licensing*, 102 FCC 2d 1179 (1986) (*Character Qualifications*), modified, 5 FCC Rcd 3252 (1990) (*Character Qualifications Modification*); see *infra* Section IV.E.6. The term "non-FCC misconduct" refers to misconduct other than a violation of the Rules or the Act. *Character Qualifications*, 102 FCC 2d at 1183 n.11, para. 7. The Commission and the courts have recognized that "[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing." See *Contemporary Media, Inc., v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000). Reliability is a key, necessary element to operating a broadcast station in the public interest. See *Character Qualifications*, 102 F.C.C.2d at 1195, para. 35. An applicant or licensee's propensity to comply with the law generally is relevant because a willingness to be less than truthful with other government agencies, to violate other laws, and, in particular, to commit felonies, is potentially indicative of whether the applicant or licensee will in the future conform to the Commission's rules or policies. See *Character Qualifications Modification*, 5 FCC Rcd at 3252, para. 3.

¹³¹ *Foreign Participation Order*, 12 FCC Rcd at 23915, para. 53 & n.90. See *Character Qualifications*, 102 FCC 2d at 1195-97, 1200-03, paras. 34-37, 42-44; *MCI Telecommunications Corp.; Petition for Revocation of Operating Authority*, 3 FCC Rcd 509, 512, n.14 (1988) (stating that character qualifications standards adopted in the broadcast context can provide guidance in the common carrier context).

¹³² See, e.g., FCC Form 303-S (broadcast license renewal application), Instructions at 7-8, <https://www.fcc.gov/sites/default/files/form303s.pdf>.

¹³³ 47 U.S.C. § 309(k)(1).

rules provide for any interested party to file a petition to deny an application.¹³⁴ We propose to afford the same opportunity with respect to renewal applications. What showings must an opposing party make in support of its position?

58. *Failure to Meet Public Interest Standard.* We tentatively conclude that the Commission would institute appropriate proceedings to deny an application seeking renewal of international section 214 authority if the Commission determines that an applicant has failed to meet the public interest standard. We propose that if the Commission denies the renewal of an authorization holder's international section 214 authority, the international section 214 authorization will be treated as expired without further administrative action by the Commission. Should the Commission apply the same approach to authorization holders whose authorization was or is granted prior to the effective date of new rules? We seek comment on these approaches.

59. *Periodic Review Alternative.* In the event we adopt a periodic review process, we seek comment on the extent such framework should incorporate the same public interest standards and processes as those proposed herein, or those the Commission might ultimately adopt, for renewal applications. For example, should the public interest standard for determining whether to revoke an authorization be the same as the standard for renewal? Should the Commission apply the same approach to authorization holders whose authorization was or is granted prior to the effective date of new rules?

60. *Failure to Meet Public Interest Standard.* We tentatively conclude that the Commission would institute appropriate proceedings to revoke an international section 214 authorization if the Commission determines that an authorization holder has failed to meet the public interest standard under a periodic review process. We seek comment on this tentative conclusion.

C. Renewal Process and Implementation

1. Prioritizing the Renewal Applications and Other National Security and Law Enforcement Concerns

61. We propose to adopt a renewal schedule that prioritizes the filing and review of renewal applications based on whether the carrier currently has reportable foreign ownership,¹³⁵ the length of the time since the Commission's most recent review of the authorization, and whether the authorization is subject to a mitigation agreement. We also propose to prioritize the filing and review of renewal applications where the authorization holder does not have reportable foreign ownership but the application raises other issues that require coordination with the Executive Branch agencies, including the Committee, to assist the Commission's public interest review, as discussed below. This should simplify the renewal process and minimize administrative burdens while prioritizing the Commission's consideration of those authorizations that most likely raise national security, law enforcement, foreign policy, and/or trade policy concerns. The Commission currently prioritizes the processing of renewal

¹³⁴ See 47 CFR § 63.20(d) ("Any interested party may file a petition to deny an application within the time period specified in the public notice listing an application as accepted for filing and ineligible for streamlined processing. The petitioner shall serve a copy of such petition on the applicant no later than the date of filing thereof with the Commission. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant may file an opposition to any petition to deny within 14 days after the original pleading is filed. The petitioner may file a reply to such opposition within seven days after the time for filing oppositions has expired. Allegations of facts or denials thereof shall similarly be supported by affidavit. These responsive pleadings shall be served on the applicant or petitioner, as appropriate, and other parties to the proceeding.").

¹³⁵ We refer here, in Section IV.C.1., to "reportable foreign ownership" to signify the ownership interests that an authorization holder or applicant is required to disclose as part of an application or notification required by section 63.18(h) and/or section 63.24 of the Commission's rules. See 47 CFR §§ 63.18(h), 63.24.

applications for broadcast station licenses and wireless licenses to promote administrative efficiency.¹³⁶ For broadcast renewal applications, the filing dates and license expiration dates for radio and television station licenses are based on geographical groupings of states.¹³⁷ In the context of wireless licensing, WCS licenses have different license terms based on different spectrum bands,¹³⁸ yet all renewal applications must be filed no later than the expiration date of the authorization and no sooner than 90 days prior to the expiration date.¹³⁹ Similarly, we seek to adopt a process in consultation with the Executive Branch agencies, including the Committee, to streamline and simplify the renewal filing procedures.¹⁴⁰ We propose to apply these same principles to the extent the Commission adopts a periodic review process rather than a renewal framework. We seek comment on the process described below both as it may apply in a renewal context and in a periodic review context.

62. *Other National Security, Law Enforcement, and Other Concerns.* As discussed further below, we propose to routinely refer to the Executive Branch agencies, including the Committee, certain renewal applications or, in the alternative, periodic review submissions, where the authorization holder does not have reportable foreign ownership but other issues associated with the filing may separately raise national security, law enforcement, foreign policy, and/or trade policy concerns that require input from the Executive Branch agencies to assist the Commission's public interest review.¹⁴¹ This would include, for example, international section 214 authorization holders without reportable foreign ownership that certify that they use or will use foreign-owned MNSPs and/or report cross border facilities that may separately raise national security, law enforcement, foreign policy, and/or trade policy concerns.¹⁴² We seek comment on this proposal.

63. *Priority Categories – Groups 1 to 5.* Specifically, we propose to prioritize the renewal applications or any periodic review filings and deadlines based on: (1) reportable foreign ownership, including any reportable foreign interest holder that is a citizen of a foreign adversary country, (2) the year of the oldest to most recent Commission action (i.e., initial grant, modification, assignment, or transfer of control), divided in fixed intervals, and (3) whether or not the authorizations are conditioned on a mitigation agreement. We also propose to prioritize any filings that raise other national security, law enforcement, or other concerns. We propose as well to have authorization holders with separate authorizations that fall into more than one group below to file for all their authorizations, perhaps in a single filing, based on the deadline for the highest priority group. We propose to delegate authority to the Office of International Affairs to establish the deadlines and make necessary modifications, if needed, and to consult with the Executive Branch agencies concerning prioritizing the renewal applications or any periodic review filings.

- **Group 1: All Authorization Holders with Reportable Foreign Ownership, Including Foreign Ownership from Foreign Adversary Country/No Mitigation Agreement/Authorization Granted over 10 Years Ago/Or Raises Other National Security, Law Enforcement, or Other Concerns.** We propose that the filing deadline for Group 1 will apply to authorizations where the authorization holder: (1) has reportable foreign interest holders, including those that are citizens or government organizations of any foreign adversary country; (2) the authorization is not conditioned on a mitigation agreement with the Executive Branch agencies; and (3) the Commission's most recent review of such

¹³⁶ 1997 Broadcast License Terms Order, 12 FCC Rcd at 1727, para. 18.

¹³⁷ See, e.g., 47 CFR § 73.1020; 1997 Broadcast License Terms Order, 12 FCC Rcd at 1727, para. 18.

¹³⁸ See 47 CFR § 27.13.

¹³⁹ Id. § 1.949(a).

¹⁴⁰ See *infra* para. 63-64.

¹⁴¹ See *infra* para. 71.

¹⁴² Id.; see *infra* Sections IV.E.3. and IV.E.4.

authorization (i.e., initial grant, modification, assignment, or transfer of control) occurred over 10 years ago; or (4) for any other national security, law enforcement, or other concerns.

- **Group 2: All Authorization Holders with Reportable Foreign Ownership, Including Foreign Ownership from Foreign Adversary Country/Mitigation Agreement/Authorization Granted over 10 Years Ago.** We propose that the filing deadline for Group 2 will apply to authorizations where the authorization holder: (1) has reportable foreign ownership; (2) the authorization is conditioned on a mitigation agreement with the Executive Branch agencies; and (3) the Commission's most recent review of such authorization (i.e., initial grant, modification, assignment, or transfer of control) occurred over 10 years ago.
- **Group 3: All Authorization Holders with Reportable Foreign Ownership, Including Foreign Ownership from Foreign Adversary Country/No Mitigation Agreement/Authorization Granted less than 10 Years Ago.** We propose that the filing deadline for Group 3 will apply to authorizations where the authorization holder: (1) has reportable foreign ownership; (2) the authorization is not conditioned on a mitigation agreement with the Executive Branch agencies; and (3) the Commission's most recent review of such authorization (i.e., initial grant, modification, assignment, or transfer of control) occurred less than 10 years ago.
- **Group 4: All Authorization Holders with Reportable Foreign Ownership, Including Foreign Ownership from Foreign Adversary Country/Mitigation Agreement/Authorization Granted less than 10 Years Ago.** We propose that the filing deadline for Group 4 will apply to authorizations where the authorization holder: (1) has reportable foreign ownership; (2) the authorization is conditioned on a mitigation agreement with the Executive Branch agencies; and (3) the Commission's most recent review of such authorization (i.e., initial grant, modification, assignment, or transfer of control) occurred less than 10 years ago.
- **Group 5: No Reportable Foreign Ownership/No Other National Security, Law Enforcement, or Other Concerns.** We propose that the filing deadline for Group 5 will apply to all other authorizations where: (1) the authorization holder does not currently have reportable foreign ownership; and (2) the authorization does not raise other national security, law enforcement, or other concerns.

64. *FCC's Preliminary Review and Referral to the Executive Branch Agencies of International Section 214 Authorizations.* Based on the Commission's records, our best estimate is that the number of active international section 214 authorization holders is approximately 1,500. We note that we are also seeking comment below on other new rules, such as proposing to require authorization holders to have only one authorization and seeking comment on decreasing the reportable ownership threshold to 5% that, if adopted, likely would affect the number of filings to be reviewed.¹⁴³ We estimate that approximately 375 of the 1,500 authorization holders have reportable foreign ownership.¹⁴⁴ We propose to prioritize the submission of filings with reportable ownership based on our preliminary review and refer to the Executive Branch agencies, including the Committee, the first four groupings (Group 1 to Group 4) set out above.¹⁴⁵ In addition, we propose to process in Group 1 any filings where the authorization holder does not have reportable foreign ownership but the application raises national

¹⁴³ See *infra* Sections IV.E.1 and IV.F.1.

¹⁴⁴ This estimate is based on the percentage of applications out of the total international section 214 applications (i.e., applications for international section 214 authority and applications for modification and substantial assignment and transfer of control of international section 214 authority) filed with the Commission where an applicant has reportable foreign ownership.

¹⁴⁵ See *supra* 63; see also *infra* at para. 72.

security, law enforcement, foreign policy, and/or trade policy concerns, such as applications that certify that they use or will use foreign-owned MNSPs and/or report cross border facilities.¹⁴⁶ The filing and review of submissions without reportable foreign ownership (Group 5) would occur after consideration of the priority submissions. We seek comment on this approach.

65. *Renewal Application or Periodic Review Submission Deadline.* We propose that, upon approval by the OMB of the information collections under the new rules proposed herein, the Office of International Affairs will establish filing deadlines for Groups 1 to 5 that require the first submissions of renewal applications by authorization holders within six months of OMB approval. We propose to apply these same principles to the extent the Commission adopts a periodic review process rather than a renewal framework. We seek comment generally from applicants and the Executive Branch agencies on the proposed approach for structuring the renewal process or, in the alternative, periodic review process and filing deadlines. We also seek comment on what filing deadlines would be feasible for applicants and the Executive Branch agencies, including the Committee, in consideration of the recent timeframes and rules adopted in the *Executive Branch Process Reform Order*.¹⁴⁷ We seek comment on these proposals and what potential burdens, if any, would be imposed upon authorization holders under any of these approaches.

66. We seek comment on how best to structure the filing and review of renewal applications or, in the alternative, periodic review submissions to prioritize those authorizations most likely to raise current national security, law enforcement, foreign policy, and/or trade policy issues. We believe that carriers' compliance with the one-time information collection required in the Order will be crucial for the Commission's efficient administration of a renewal process or, in the alternative, periodic review process. Through our assessment of the one-time information collection, we propose to delegate authority to the Office of International Affairs to (1) identify which authorization holders are existing and active and would undergo the renewal or other periodic review process; (2) identify which authorization holders fail to respond to the Order and thus presumptively are no longer in operation, and cancel their authorizations pursuant to the process proposed above; (3) identify, among the respondents, which authorization holders currently have or do not have reportable foreign ownership or other relevant indicia and designate them accordingly in Groups 1 to 5; and (4) determine which authorization holders in Groups 1 to 5 must file renewal applications or, in the alternative, periodic review submissions by each respective filing deadline based on a 10-year requirement. Therefore, the results of the one-time information collection will inform our determination of the best processing and timing approach for the renewal process or, in the alternative, periodic review process. In addition, the Office of International Affairs may release the results of the one-time information collection to improve the comment record or seek further comment based on the results of the one-time information collection, as needed.

67. *Periodic Review Alternative.* We propose to apply these same principles to the extent the Commission adopts a periodic review process rather than a renewal framework. We propose, for example, to prioritize the filing of the required information submissions and the review of specific authorizations in the same manner as proposed for a renewal framework. We seek comment on these proposals and how best to minimize administrative burdens and maximize the effectiveness of our review. We seek other suggestions on how best to prioritize and simplify the process. Should the Commission consider other options?

2. Processing Procedures

68. *Streamlined Renewal Processing Procedures.* We propose that the Commission adopt streamlined processing for renewal applications in Group 5 in certain situations. For instance, section 63.12(a) of the Commission's rules provides that, "[e]xcept as provided by paragraph (c) of this section, a complete application seeking authorization under § 63.18 of this part shall be granted by the Commission

¹⁴⁶ See *infra* para. 71.

¹⁴⁷ *Executive Branch Process Reform Order*, 35 FCC Rcd at 10928, 10955-56, paras. 2, 76; *Order Erratum*, 35 FCC Rcd at 13171-72, para. 7; 47 CFR § 1.40004.

14 days after the date of public notice listing the application as accepted for filing.”¹⁴⁸ In current practice, once filed, Commission staff review the application for compliance with the Commission’s rules and place the application on an Accepted for Filing public notice at that point. We propose to adopt similar streamlined processing procedures for renewal applications that are in Group 5, where the authorization holder does not currently have reportable foreign ownership and the application does not raise other national security, law enforcement, or other considerations. With regard to those authorization holders in Group 5, we would place the renewal application on streamlined Accepted for Filing public notice and the application would be granted by the Commission 14 days after the date of the public notice if: (1) the Commission does not refer the application to the Executive Branch agencies because the applicant does not have reportable foreign ownership and the application does not raise other national security, law enforcement, or other considerations; (2) the application does not raise other public interest considerations, including regulatory compliance; (3) the Executive Branch agencies do not separately request during the comment period that the Commission defer action and remove the application from streamlined processing; and (4) no objections to the application are timely raised by an opposing party. We seek comment on this proposal. We believe a streamlined process for renewal applications in Group 5 would decrease the burdens on applicants and ensure a faster review process.

69. *Authorizations Pending Renewal.* As with Title III licensees pursuant to section 307(c) of the Act, and consistent with the Administrative Procedure Act, we propose that an applicant that has timely applied for renewal of its international section 214 authority may continue providing service(s) under its international section 214 authority while its renewal application is pending review.¹⁴⁹ We seek comment on this proposal.

70. *Referral of Applications with Reportable Foreign Ownership to the Executive Branch Agencies, Including the Committee.* Consistent with our formal review process, we propose to refer to the relevant Executive Branch agencies, including the Committee agencies, those applications for renewal of international section 214 authority where the applicant has reportable foreign ownership.¹⁵⁰ For these referrals, we propose to apply the same time frames that were adopted in the *Executive Branch Process Reform Order*, a 120-day initial review period followed by a discretionary 90-day secondary assessment.¹⁵¹ We anticipate that a referral of a renewal application with reportable foreign ownership may result in a mitigation agreement, or modification of an existing mitigation agreement, or a recommendation by the Committee or other relevant Executive Branch agencies to deny the application.¹⁵² We seek comment on these proposals.

71. *Referral of Certain Applications Without Reportable Foreign Ownership to the Executive Branch Agencies, Including the Committee.* We recognize, in view of evolving and heightened threats to U.S. telecommunications infrastructure, that national security, law enforcement, foreign policy, and/or trade policy risks may also be associated with an authorization holder irrespective of whether it has foreign ownership. We propose in this Notice that all applicants provide information concerning foreign-

¹⁴⁸ 47 CFR § 63.12.

¹⁴⁹ See 5 U.S.C. § 558 (“When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.”); *id.* § 551(8) (“license” defined to mean “the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission”).

¹⁵⁰ See *Executive Branch Process Reform Order*, 35 FCC Rcd at 10934-35, paras. 17, 21; 47 CFR § 1.40001(a); see *supra* para. 8.

¹⁵¹ 47 CFR § 1.40004; *Order Erratum*, 35 FCC Rcd at 13171-72, para. 7; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10935, 10955-56, paras. 20, 76; *id.* at 10981-84, Appx. B, para. 7.

¹⁵² See Executive Order 13913, 85 Fed. Reg. at 19646 (Sec. 9).

owned MNSPs.¹⁵³ We propose and seek comment on rules that would require applicants to provide information on the facilities they use and/or will use to provide services between the United States and Canada and/or Mexico (cross border),¹⁵⁴ and also propose to require applicants to disclose whether they use equipment or services identified on the Commission's "Covered List."¹⁵⁵ If we adopt such requirements, we would propose to routinely refer to the Executive Branch agencies, including the Committee, to assist our public interest determination, those applications where an applicant discloses that it:

- uses and/or will use a foreign-owned MNSP;¹⁵⁶
- has cross border facilities;¹⁵⁷ and/or
- uses equipment or services identified on the Commission's "Covered List" of equipment and services pursuant to the Secure and Trusted Communications Networks Act.¹⁵⁸

For these referrals, we propose to apply the same time frames that were adopted in the *Executive Branch Process Reform Order*,¹⁵⁹ a 120-day initial review period followed by a discretionary 90-day secondary assessment.¹⁶⁰ We seek comment on these proposals. We reaffirm, however, that the Commission retains discretion to determine which applications it will refer to the Executive Branch agencies for review.¹⁶¹

72. *Non-Referral of Certain Applications.* As noted above, we are applying the same rules for renewal applications as we have applied to initial applications for international section 214 authority and applications to modify, assign, or transfer control of international section 214 authority.¹⁶² As an example, the Commission's current rules provide that it will generally exclude from referral to the Executive Branch agencies, including the Committee, certain categories of applications that present a low or minimal risk to national security, law enforcement, foreign policy, or trade policy.¹⁶³ Here, we similarly seek comment on whether there are categories of renewal applications where the Commission can leverage prior national security determinations to minimize burdens on the Executive Branch agencies, including the Committee, without sacrificing the ability to conduct comprehensive review. Are there categories of applications that we should not refer to the Executive Branch agencies, including applications concerning which the Commission on its own motion could take action and institute appropriate proceedings without referral? What prior national security determinations may be relevant to this analysis? For example, can the Commission leverage the list of foreign adversary countries as defined in the Department of Commerce rule, 15 CFR § 7.4,¹⁶⁴ in determining which applications to refer to the Executive Branch agencies and which applications it could act on without referral? We seek comment on these potential categories, the potential benefits and drawbacks of such an approach, as well

¹⁵³ See *infra* Section IV.E.3.

¹⁵⁴ See *infra* Section IV.E.4.

¹⁵⁵ See *infra* para. 124.

¹⁵⁶ See *infra* Section IV.E.3.

¹⁵⁷ See *infra* Section IV.E.4.

¹⁵⁸ See *infra* para. 124; see 47 U.S.C. §§ 1601–1609; 47 CFR § 1.50000 *et seq.*; see also *List of Covered Equipment and Services*.

¹⁵⁹ *Executive Branch Process Reform Order*, 35 FCC Rcd at 10935, 10955-56, paras. 20, 76.

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at 10929, para. 4.

¹⁶² *Id.* at 10938-41, paras. 29-36.

¹⁶³ See *id.* at 10938, para. 30.

¹⁶⁴ 15 CFR § 7.4; see *supra* para. 20. & note 78.

as our legal authority to do so.

73. *Failure to Timely File Renewal Applications.* We propose that if an authorization holder fails to timely file an application for renewal of its international section 214 authority, we will deem the international section 214 authorization expired and cancelled by operation of law. We propose to delegate authority to the Office of International Affairs to provide notice in advance of the renewal deadline. The Commission has similar procedures where it automatically terminates an earth station license upon the expiration of the license term if a renewal application was not timely filed.¹⁶⁵ In the case of a space station license, the license is “automatically terminated in whole or in part without further notice to the licensee” upon the expiration date unless an application for extension of the license term has been filed with the Commission.¹⁶⁶ The Commission’s rules allow the reinstatement of an earth station license or a space station license or authorization that is automatically terminated if the Commission determines that reinstatement would best serve the public interest, convenience and necessity, but a petition for reinstatement will only be considered if, among other things, it explains the failure to file a timely notification or renewal application.¹⁶⁷ When a broadcast licensee fails to file a timely renewal application, the authorization is cancelled pursuant to a public notice issued by the Media Bureau shortly after the expiration date of the license; a renewal application filed after such public notice may be processed provided that the applicant successfully petitions for reinstatement of license and the renewal application is filed within 30 days of the cancellation public notice.¹⁶⁸ The Media Bureau may commence an enforcement action for untimely filing and unauthorized operation.¹⁶⁹ In the wireless radio services context, if a renewal application is not filed in a timely manner, a licensee must request a waiver of the filing deadline, pursuant to section 1.925 of the Commission’s rules,¹⁷⁰ along with its late-filed renewal application. The Commission will grant the waiver and renewal application *nunc pro tunc* if they are filed up to thirty days after the expiration date and if the application is otherwise sufficient, but the

¹⁶⁵ 47 CFR § 25.121(e) (“Applications for renewals of earth station licenses must be submitted on FCC Form 312R no earlier than 90 days, and no later than 30 days, before the expiration date of the license”); *id.* § 25.161(b) (stating that a station authorization shall be automatically terminated upon the expiration of the license term, unless, “in the case of an earth station license, an application for renewal of the license has been filed with the Commission pursuant to § 25.121(e)”).

¹⁶⁶ *Id.* § 25.161(b) (stating that a station authorization shall be automatically terminated upon the expiration of the license term, unless, “in the case of a space station license, an application for extension of the license term has been filed with the Commission.”).

¹⁶⁷ *Id.* § 25.163 (“A station authorization terminated in whole or in part under the provisions of § 25.161 may be reinstated if the Commission, in its discretion, determines that reinstatement would best serve the public interest, convenience and necessity. Petitions for reinstatement will be considered only if: (1) The petition is filed within 30 days after the expiration date set forth in § 25.161(a) or § 25.161(b), whichever is applicable; (2) The petition explains the failure to file a timely notification or renewal application; and (3) The petition sets forth with specificity the procedures that have been established to ensure timely filings in the future.”).

¹⁶⁸ See, e.g., *Atlantic City Board of Education*, Memorandum Opinion and Order, 31 FCC Rcd 9380, 9383-85, paras. 9-11 (2016), *aff’d*, *Press Communications v. FCC*, 875 F.3d 1117, 1124 (D.C. Cir. 2017).

¹⁶⁹ See, e.g., *Magnolia State Broadcasting*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 2022 WL 354607, DA 22-105 (MB Feb. 3, 2022) (\$7,000 NAL issued to license that failed to timely file renewal application and continued station operations after its license expired).

¹⁷⁰ 47 CFR § 1.925.

licensee may be subject to enforcement action for untimely filing and unauthorized operation.¹⁷¹ The Commission will grant applications filed after this period under certain circumstances.¹⁷²

74. We seek comment on this proposed approach. Would this procedure be adequate as applied to international section 214 authorizations in effect as of the effective date of any new rules? We seek comment on alternative approaches. Would any of the procedures used in the other contexts, such as those discussed above, be appropriate or desirable in the international section 214 context? We propose that an authorization holder whose authorization expires due to its failure to timely file a renewal application may file an application for a new international section 214 authorization.

75. *Periodic Review Alternative/Processing.* We generally propose to apply similar processing to the extent the Commission adopts a periodic review process rather than a renewal framework. For instance, we propose to prioritize review of specific authorizations in the same manner as proposed under a renewal framework. We seek comment on these proposals and how best to minimize administrative burdens and maximize the effectiveness of our review under this alternative. We seek other suggestions on how best to prioritize and simplify the periodic review process. Should the Commission consider other options?

76. *Periodic Review Alternative/Failure to Timely File Required Information.* We propose that the Office of International Affairs initiate a revocation process against an authorization holder that, absent good cause,¹⁷³ fails to timely file periodic review information with the Commission. We seek comment on this proposed approach. What procedures would ensure that the authorization holder has the opportunity to demonstrate good cause, and what factors should we consider in evaluating a good cause showing? Should we accept late filings instead of initiating revocation proceedings? We further seek comment on whether and under what circumstances an authorization holder whose authorization is revoked for its failure to timely file periodic review information be barred from applying for a new international section 214 authorization.

3. Due Process and Procedural Requirements

77. *Due Process and Procedural Requirements.* We seek comment on the procedural measures necessary to ensure the development of an adequate administrative record, including procedures for participation by other interested parties, and on the appropriate procedural safeguards to ensure due process with regard to our proposed renewal or, in the alternative, a periodic review process. To determine what process is due involves consideration of the *Mathews v. Eldridge* three-part test: (1) “the private interest that will be affected by the official action;” (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;” and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.”¹⁷⁴ We note that neither the Act, the Commission’s rules, nor the Administrative Procedure Act requires trial-type hearing procedures. Congress has granted the Commission broad authority to “conduct its proceedings in

¹⁷¹ See *Biennial Regulatory Review—Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services et al.*, Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 11476, 11485, para. 22 (1999).

¹⁷² See *East Kentucky Power Coop., Inc.*, Letter Order, 28 FCC Rcd 2071, 2072 (WTB 2013) (explaining, on review of application to waive renewal deadline, that renewal applications filed more than 30 days after expiration “will not be routinely granted, will be subject to stricter review, and also may be accompanied by enforcement action, including more significant fines or forfeitures” and that the reinstatement determination will be based on “all of the facts and circumstances, including the length of the delay in filing, the reasons for the failure to timely file, the potential consequences to the public if the license should terminate, and the performance record of the licensee”).

¹⁷³ See 47 CFR § 1.3.

¹⁷⁴ *Mathews*, 424 U.S. at 335.

such manner as will best conduce to the proper dispatch of business and to the ends of justice.”¹⁷⁵ The Commission has broad discretion to craft its own rules “of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties.”¹⁷⁶ Furthermore, the Act gives the Commission the power of ruling on facts and policies in the first instance.¹⁷⁷ In exercising that power, the Commission may resolve disputes of fact in an informal hearing proceeding on a written record.¹⁷⁸ In particular, we seek comment on the extent to which our proposed renewal or in the alternative, a periodic review process should incorporate the procedures the Commission recently utilized—and which the Court of Appeals for the D.C. Circuit approved¹⁷⁹—in revoking, and in certain cases terminating, four Chinese government-owned carriers’ section 214 authority.¹⁸⁰

78. The Commission stated in those cases that the Act does not specify any procedures for revoking a section 214 authorization.¹⁸¹ Nor has the Commission promulgated any regulations setting forth any such procedures. The Commission explained that although the Commission adopted regulations prescribing certain procedures for the revocation of station licenses and construction permits pursuant to Part 1, Subpart B of its rules, those regulations do not apply to the revocation of a section 214 authorization¹⁸² and that hearing rights for common carriers under section 214 are limited.¹⁸³ In the recent revocation proceedings, the Commission exercised its discretion to “resolve disputes of fact in an informal hearing proceeding on a written record,”¹⁸⁴ and reasonably determined that the issues raised in those cases could be properly resolved through the presentation and exchange of full written submissions before the Commission itself.¹⁸⁵ The Commission determined, among other things, that the fiscal and administrative burden on the government would be especially heavy in those cases, as a trial before an

¹⁷⁵ 47 U.S.C. § 154(j); *China Telecom (Americas) Corp. v. FCC*, 57 F.4th at 265.

¹⁷⁶ *China Telecom (Americas) Corp.*, 57 F.4th at 268 (citing *FCC v. Schreiber*, 381 U.S. 279, 290 (1965)) (internal quotations omitted); see also *Vermont Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 543 (1978).

¹⁷⁷ *Procedural Streamlining of Administrative Hearings Order*, 35 FCC Rcd 10729, 10732-33, para. 11 (2020) (*Administrative Hearings Order*).

¹⁷⁸ *Id.*

¹⁷⁹ *China Telecom (Americas) Corp.*, 57 F.4th at 262 (citing *Administrative Hearings Order*, 35 FCC Rcd at 10732-33, para. 11) (“The Communications Act gives the Commission the power of ruling on facts and policies in the first instance. In exercising that power, the Commission may resolve disputes of fact in an informal hearing proceeding on a written record. And the Commission may reach any decision that is supported by substantial evidence in the record.”).

¹⁸⁰ See *China Telecom (Americas) Corp.*, 57 F.4th at 269 (“[The Commission reasonably determined that the issues raised in this case could be properly resolved through the presentation and exchange of full written submissions before the Commission itself.”).

¹⁸¹ See *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15981, para. 21, *aff’d*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *13, 16, paras. 34, 39; *Pacific Networks/ComNet Order on Revocation and Termination* at *12, 16, paras. 28, 37.

¹⁸² See 47 CFR §§ 1.201-1.377; 47 CFR § 1.91(a), (d).

¹⁸³ The hearing requirements applicable to Title III applications do not apply to section 214 applications. *Procedural Streamlining of Administrative Hearings*, Notice of Proposed Rulemaking, 34 FCC Rcd 8341, 8343, para. 4 & n.16 (2019); *Oklahoma W. Tel. Co. Order*, 10 FCC Rcd at 2243-44, para. 6 (finding no substantial public interest questions existed to justify hearing on section 214 application) (citing *ITT World Commc’ns v. FCC*, 595 F.2d 897, 900-01 (2d Cir. 1979)).

¹⁸⁴ *Administrative Hearings Order*, 35 FCC Rcd at 10732-33, para. 11.

¹⁸⁵ *China Telecom (Americas) Corp. v. FCC*, 57 F.4th at 256, 269.

administrative law judge could require participation by officials from other agencies.¹⁸⁶ More importantly, given the national security issues at stake, any resulting unwarranted delay could be harmful.¹⁸⁷ Accordingly, to provide affected carriers with due process, the Commission allowed them to submit evidence and arguments in writing and determined the need for the revocation and/or termination of 214 authorizations on the basis of a written record.¹⁸⁸ The court of appeals affirmed the Commission's use of these procedures.¹⁸⁹

79. We seek comment on the procedures applicable to international section 214 renewal applications and, in the alternative, to the periodic review applications. To the extent the Commission adopts a periodic review process framework under which an order instituting revocation procedures might ensue, we propose to implement the approach the Commission used in its most recent section 214 revocation proceedings.¹⁹⁰ The Commission has stated that if it is considering revoking an authorization, it will “provide the authorization holder such notice and an opportunity to respond as is required by due process and applicable law, and appropriate in light of the facts and circumstances.”¹⁹¹ Is there any reason the Commission should not use the same procedures if it adopts a renewal framework? We note that the Commission's Part 1, Subpart B provides procedures for hearings in appropriate circumstances.¹⁹² Those procedures do not automatically apply to section 214 authorizations,¹⁹³ but they provide a possible model for incorporating such procedures should the Commission determine they are appropriate in a specific case. Under what circumstances, if any, should any such procedures be incorporated in a renewal or periodic review hearing? If the Commission tentatively determines that renewal might not be warranted, it will provide the authorization holder such notice and an opportunity to respond as is required by due process and applicable law, and appropriate in light of the facts and circumstances. Should the procedures be different for authorization holders whose international section 214 authority was or is granted prior to the effective dates of the new rules, and if so, in what way?

80. *Burden of Proof/Renewal.* We propose to assign the burden of proof to the applicant seeking renewal of its international section 214 authority. Should the Commission use the same approach where a renewal applicant was or is granted international section 214 authority prior to the effective date of the new rules? Section 63.18 of the Commission's rules requires that an application for international section 214 authority “include information demonstrating how the grant of the application will serve the public interest, convenience, and necessity.”¹⁹⁴ The Commission has stated that the applicant for an international section 214 authorization bears the burden of demonstrating that grant of its application would serve the public interest in accordance with section 63.18 of the Commission's rules.¹⁹⁵ We believe the same burden of proof is appropriate with respect to applicants seeking renewal of international section 214 authority. If the Commission adopts a renewal requirement for existing authorization holders

¹⁸⁶ *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15985, para. 27, *aff'd*, *China Telecom (Americas) Corp. v. FCC*.

¹⁸⁷ *Id.*

¹⁸⁸ *See generally id.*; *China Unicom Americas Order on Revocation*; *Pacific Networks/ComNet Order on Revocation and Termination*.

¹⁸⁹ *China Telecom (Americas) Corp.*, 57 F.4th at 268-71 (holding that discovery and live hearing procedures, and an opportunity to achieve or demonstrate compliance were not required “by statute, regulation, FCC practice, or the Constitution”).

¹⁹⁰ *See supra* para. 78; PSI Report at 45.

¹⁹¹ *Executive Branch Process Reform Order*, 35 FCC Rcd 10927, 10964, para. 92.

¹⁹² *Administrative Hearings Order*, 35 FCC Rcd at 10729, para. 2.

¹⁹³ *China Telecom (Americas) Corp.*, 57 F.4th at 269.

¹⁹⁴ 47 CFR § 63.18.

¹⁹⁵ *China Mobile USA Order*, 34 FCC Rcd at 3367, para. 11.

that were or are granted international section 214 authority prior to the effective date of new rules, should the applicant or the Commission bear the burden of proof in a proceeding to deny renewal?¹⁹⁶

81. *Periodic Review Alternative/Burden of Proof.* If the Commission adopts a periodic review process framework for both existing and new authorization holders, how should the burden of proof be allocated? Should we determine the burden of proof on a case-by-case basis at the time of review?

D. Renewal Application Requirements

82. Given the increasing concerns about ensuring the security and integrity of U.S. telecommunications infrastructure, we propose or seek comment on new requirements that we anticipate will help us to acquire critical information from applicants including additional certifications to create accountability for applicants and to improve the reliability of the information that they provide.¹⁹⁷ We tentatively conclude that the new requirements that we propose or seek comment on would improve the Commission's assessment of evolving public interest risks.¹⁹⁸ We propose to apply the requirements applicable to initial applications for international section 214 authority to the proposed rules for renewal applications and thus harmonize the application requirements. We note that, whereas a renewal framework would require the filing of renewal applications, a periodic review process would require the Commission to obtain relevant information in a different manner. We propose that any periodic review process would require authorization holders to submit the same information as that required for a renewal application. Is there any reason we would not require authorization holders subject to periodic review to file the same information required in a renewal application? We seek comment on whether the two types of filings should be different in any respect, and if so, what purpose such differences would serve.

83. We propose, as a baseline, to apply the requirements applicable to initial applications for international section 214 authority to the proposed rules for renewal applications. Section 63.18 of the Commission's rules, which implements section 214 of the Act, requires that an application for international section 214 authority "include information demonstrating how the grant of the application will serve the public interest, convenience, and necessity," and "[s]uch demonstration shall consist of the following information as applicable."¹⁹⁹ Specifically, the current application rules provide important information and attestations concerning an applicant's contact information, the specific type of authority that each applicant seeks, any foreign carrier affiliations, and any competition issues, among other things. We propose to apply these provisions of section 63.18 to the application rules that we propose for renewal applicants.²⁰⁰ We believe these information and certification requirements are necessary for our public

¹⁹⁶ For example, in broadcast renewal proceedings, licensees bear the burden of proof in demonstrating that renewal is in the public interest, *see, e.g., Entercom License, LLC*, Hearing Designation Order and Notice of Opportunity for Hearing, 31 FCC Rcd 12196, 12231, para. 92 (2016), *subsequent hist. omitted*, whereas in a broadcast revocation proceeding, the Commission bears the burden of proof, 47 U.S.C. § 312(d); *see, e.g., Acumen Communications, Licensee of Various Authorizations in the Wireless Radio Services, Applicant for Modification of Various Authorizations in the Wireless Radio Services, Applicant for Renewal of Authorization in the Wireless Radio Services*, Order to Show Cause, Hearing Designation Order and Notice of Opportunity for Hearing, WTB Docket No. 17-17, 32 FCC Rcd 243, 248-49, paras. 16, 21 (MD-WTB 2017) (stating, among other things, that the burden of proceeding with the introduction of evidence and the burden of proof with regard to revocation of various Wireless Radio Service authorizations shall be on the Commission's Enforcement Bureau and the burden of proceeding with the introduction of evidence and the burden of proof with regard to various applications, including an application for renewal, shall be on the applicant).

¹⁹⁷ *See infra* Sections IV.D and IV.E.

¹⁹⁸ *Id.*

¹⁹⁹ 47 CFR § 63.18.

²⁰⁰ Specifically, we propose to apply the requirements of section 63.18(a)-(k), (m)-(o), (q)-(r) to the application rules that we propose for renewal applicants. *See* 47 CFR § 63.18(a)-(k), (m)-(o), (q)-(r). As discussed further below, we
(continued....)

interest review of applications for renewal of international section 214 authority. Furthermore, our proposal would require renewal applicants to provide the same information as applicants for international section 214 authority and we believe such harmonization would advance the public interest. We seek comment on these proposals and the draft rule provisions in Appendix A.²⁰¹

84. Specifically, we propose to require renewal applicants to submit the same application information and certifications that are set out in section 63.18,²⁰² including:

- *Applicant Information.* Section 63.18(a)-(c) of the rules requires basic information about the applicant and contact information.²⁰³
- *Type of International Section 214 Authority.* Section 63.18(d)-(f) of the rules requires information pertaining to an applicant's previous receipt of international section 214 authority²⁰⁴ and the specific authority, either facilities-based and/or resale-based and/or other authorization, that it seeks in the application.²⁰⁵ An applicant for global facilities-based authority must certify that it will comply with the terms and conditions contained in sections 63.21 and 63.22.²⁰⁶ An applicant for global resale authority must certify that it will comply with the terms and conditions contained in sections 63.21 and 63.23.²⁰⁷ An applicant for authority to acquire facilities or to provide services not covered by section 63.18(e)(1) and

propose or seek comment on amendments to the current requirements in section 63.18(h) and 63.18(o). *See infra* paras. 88-97, 163.

²⁰¹ *See infra* Sections IV.D-E, Appx. A.

²⁰² We tentatively conclude that we will not add two provisions of section 63.18 to the proposed rules for renewal applications. We will not add section 63.18(l), as it no longer contains a rule provision. In addition, we will not add section 63.18(p), which requires, "[i]f the applicant desires streamlined processing *pursuant to § 63.12*, a statement of how the application qualifies for streamlined processing." 47 CFR § 63.18(p) (emphasis added). As discussed in Section IV.C.2, we propose to adopt streamlined processing procedures for renewal applications in certain circumstances. *See supra* para. 68. We propose to add a new rule specifically for renewal applications that would address any streamlined processing procedures that we adopt for renewal applications.

²⁰³ Section 63.18(a) requires the "name, address, and telephone number of each applicant." 47 CFR § 63.18(a). Section 63.18(b) requires identification of "[t]he Government, State, or Territory under the laws of which each corporate or partnership applicant is organized." *Id.* § 63.18(b). Section 63.18(c) requires the "name, title, post office address, and telephone number of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed." *Id.* § 63.18(c). Collecting minimum contact information allows the Commission to communicate with the applicant including to address any questions or concerns that the Commission has.

²⁰⁴ Section 63.18(d) requires "[a] statement as to whether the applicant has previously received authority under Section 214 of the Act and, if so, a general description of the categories of facilities and services authorized (i.e., authorized to provide international switched services on a facilities basis)." *Id.* § 63.18(d).

²⁰⁵ *Id.* § 63.18(e)(1)-(3).

²⁰⁶ *Id.* § 63.18(e)(1) ("Global facilities-based authority. If applying for authority to become a facilities-based international common carrier subject to § 63.22 of this part the applicant shall: (i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to § 63.18(e)(1) of this part of the Commission's rules; (ii) List any countries for which the applicant does not request authorization under this paragraph (see § 63.22(a) of this part); and (iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.22 of this part.").

²⁰⁷ *Id.* § 63.18(e)(2) ("Global Resale Authority. If applying for authority to resell the international services of authorized common carriers subject to § 63.23, the applicant shall: (i) State that it is requesting Section 214 authority to operate as a resale carrier pursuant to § 63.18(e)(2) of this section of the Commission's rules; (ii) List any countries for which the applicant does not request authorization under this paragraph (see § 63.23(a) of this part); and (iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.23 of this part.").

(e)(2) must provide a description of the facilities and services for which it seeks authorization and certify that it will comply with the terms and conditions contained in sections 63.21 and 63.22 and/or 63.23, as appropriate.²⁰⁸ An applicant may apply for any or all of the authority provided for in section 63.18(e) of the rules in the same application.²⁰⁹

- *Ownership and Interlocking Directorates.* Section 63.18(h) requires that applicants provide information about any person or entity that directly or indirectly holds 10% or greater ownership interest in the applicant and identify any interlocking directorates with a foreign carrier.²¹⁰ While we seek comment on modifying the ownership disclosure requirements from 10% to 5%, as discussed below,²¹¹ we propose to require renewal applicants to provide ownership information consistent with section 63.18(h) as well as identification of any interlocking directorates with a foreign carrier.
- *Foreign Carrier Affiliation.* Section 63.18(i)-(k) and (m) of the rules requires applicants to provide information and certifications relating to whether an applicant is, or is affiliated with, a foreign carrier.²¹² Section 63.18(i) requires an applicant to certify whether it is or is affiliated with a foreign carrier and identify each foreign country in which the applicant is or is affiliated with a foreign carrier.²¹³ Section 63.18(j) requires an applicant to certify whether it seeks to provide international telecommunications services to any destination country where the applicant is or controls a foreign carrier in that country;²¹⁴ or any entity that owns more than 25% of the applicant, or that controls the applicant, controls a foreign carrier in that country;²¹⁵ or two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25% of the applicant and are parties to, or the beneficiaries of, a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States.²¹⁶ If any country identified by the applicant in the certification under section 63.18(j) is not a member of the World Trade Organization (WTO), the applicant must demonstrate whether the foreign carrier has market

²⁰⁸ *Id.* § 63.18(e)(3) (“*Other authorizations.* If applying for authority to acquire facilities or to provide services not covered by paragraphs (e)(1) and (e)(2) of this section, the applicant shall provide a description of the facilities and services for which it seeks authorization. The applicant shall certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.22 and/or 63.23, as appropriate. Such description also shall include any additional information the Commission shall have specified previously in an order, public notice or other official action as necessary for authorization.”).

²⁰⁹ *Id.* § 63.18(f). An applicant seeking facilities-based authority under section 63.18(e)(3) must provide a statement as to whether an authorization of the facilities is categorically excluded from environmental processing as defined by section 1.1306 of the rules. *Id.* § 63.18(g). Section 63.18(g) provides that “[i]f answered affirmatively, an environmental assessment as described in § 1.1311 of this chapter need not be filed with the application.” *Id.*

²¹⁰ *Id.* § 63.18(h). The *Executive Branch Process Reform Order* amended section 63.18(h), as discussed below, and redesignated these requirements as section 63.18(h)(1)-(3). See *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985-87, Appx. B; *Order Erratum*, 35 FCC Rcd at 13173-74. As discussed below, we seek comment on making changes to the ownership reporting requirements. See *infra* Section IV.E.1.

²¹¹ See *infra* Section IV.E.1.

²¹² See 47 CFR § 63.18(i)-(k), (m).

²¹³ *Id.* § 63.18(i).

²¹⁴ *Id.* § 63.18(j)(1)-(2).

²¹⁵ *Id.* § 63.18(j)(3).

²¹⁶ *Id.* § 63.18(j)(4).

power or lacks market power.²¹⁷ Any applicant that is or is affiliated with a foreign carrier in a country identified in the certification under section 63.18(i), and which seeks to be regulated as non-dominant for the provision of particular international telecommunications services to such country, should demonstrate that it qualifies for non-dominant classification.²¹⁸

- *No Special Concessions.* Section 63.18(n) of the rules requires an applicant to certify that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.²¹⁹
- *Not Subject to Denial of Federal Benefits.* Section 63.18(o) of the rules requires “[a] certification pursuant to §§ 1.2001 through 1.2003 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. 853a.”²²⁰ We propose to require renewal applicants to provide a certification that is consistent with the amendments we propose for section 63.18(o), as discussed in Section IV.F.
- *Other Requirements.* Section 63.18(q) of the current rules requires that applicants provide “[a]ny other information that may be necessary to enable the Commission to act on the application.”²²¹ Section 63.18(r) of the current rules requires that applications must be filed electronically through ICFS.²²²

85. We also propose to apply the application requirements that were adopted in the *Executive Branch Process Reform Order*, with regard to international section 214 authorizations, to renewal applications. We anticipate that these requirements will improve the Commission’s assessment of

²¹⁷ *Id.* § 63.18(k) (“For any country that the applicant has listed in response to paragraph (j) of this section that is not a member of the World Trade Organization, the applicant shall make a demonstration as to whether the foreign carrier has market power, or lacks market power, with reference to the criteria in § 63.10(a).”). Note to paragraph (k) provides that, “[u]nder § 63.10(a), the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.” *Id.* § 63.18(k), Note to paragraph (k).

²¹⁸ *Id.* § 63.18(m) (“With respect to regulatory classification under § 63.10 of this part, any applicant that is or is affiliated with a foreign carrier in a country listed in response to paragraph (i) of this section and that desires to be regulated as non-dominant for the provision of particular international telecommunications services to that country should provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to § 63.10 of this part.”).

²¹⁹ *Id.* § 63.18(n).

²²⁰ *Id.* § 63.18(o).

²²¹ *Id.* § 63.18(q). In the *Executive Branch Process Reform Order*, the Commission adopted a new section 63.18(q) and redesignated the current requirements of section 63.18(q) as section 63.18(s). *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985, Appx. B, para. 11; *Order Erratum*, 35 FCC Rcd at 13173, para. 11. The amended rule is not yet effective.

²²² 47 CFR § 63.18(r) (“Subject to the availability of electronic forms, all applications described in this section must be filed electronically through the International Communications Filing System (ICFS). A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.1000 through 1.10018 of this chapter and the ICFS homepage at <https://www.fcc.gov/icfs>. See also §§ 63.20 and 63.53.”). In the *Executive Branch Process Reform Order*, the Commission redesignated the current requirements of section 63.18(r) as section 63.18(t). *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985, Appx. B, para. 11; *Order Erratum*, 35 FCC Rcd at 13173, para. 11. The amended rule is not yet effective.

evolving national security, law enforcement, foreign policy, and/or trade policy risks associated with applications for renewal of international section 214 authority.

- *Calculation of Equity Interests Held Indirectly in the Carrier.* The *Executive Branch Process Reform Order* adopted a new subsection (1)(i) in section 63.18(h), which directs that equity interests that are held by an individual or entity indirectly through one or more intervening entities shall be calculated by successive multiplication of the equity percentages for each link in the vertical ownership chain, regardless of whether any particular link in the chain represents a controlling interest in the company positioned in the next lower tier.²²³ The new section 63.18(h)(1)(i) includes an example.²²⁴
- *Calculation of Voting Interests Held Indirectly in the Carrier.* The *Executive Branch Process Reform Order* adopted a new subsection (1)(ii) in section 63.18(h), which directs that voting interests that are held through one or more intervening entities shall be calculated by successive multiplication of the voting percentages for each link in the vertical ownership chain, except that wherever the voting interest for any link in the chain is equal to or exceeds 50% or represents actual control, it shall be treated as if it were a 100% interest.²²⁵ The new section 63.18(h)(1)(ii) includes an example.²²⁶
- *Ownership Diagram.* The *Executive Branch Process Reform Order* adopted a new subsection (2) in section 63.18(h), which requires applicants to provide an ownership diagram that illustrates the applicant's vertical ownership structure, including the direct and indirect ownership (equity and voting) interests held by the individuals and entities named in response to section 63.18(h)(1).²²⁷ The ownership diagram shall include both the pre-transaction and post-transaction ownership of the authorization holder.²²⁸
- *Responses to Standard Questions.* The *Executive Branch Process Reform Order* adopted a new section 63.18(p), which requires that each applicant for which an individual or entity that is not a U.S. citizen holds a 10% or greater direct or indirect equity or voting interest, or a controlling interest, in the applicant, must submit responses to Standard Questions, prior to or at the same time the applicant files its application with the Commission, directly to the

²²³ See *Order Erratum*, 35 FCC Rcd at 13173, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10986, Appx. B, para. 11.

²²⁴ See *Order Erratum*, 35 FCC Rcd at 13173, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10986, Appx. B, para. 11.

²²⁵ See *Order Erratum*, 35 FCC Rcd at 13173-74, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10986, Appx. B, para. 11. A general partner shall be deemed to hold the same voting interest as the partnership holds in the company situated in the next lower tier of the vertical ownership chain. *Order Erratum*, 35 FCC Rcd at 13173, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10986, Appx. B, para. 11. A partner of a limited partnership (other than a general partner) shall be deemed to hold a voting interest in the partnership that is equal to the partner's equity interest. *Order Erratum*, 35 FCC Rcd at 13173, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10986, Appx. B, para. 11.

²²⁶ See *Order Erratum*, 35 FCC Rcd at 13173-74, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10986, Appx. B, para. 11.

²²⁷ See *Order Erratum*, 35 FCC Rcd at 13174, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10987, Appx. B, para. 11. Every individual or entity with ownership shall be depicted and all controlling interests must be identified. *Order Erratum*, 35 FCC Rcd at 13174, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10987, Appx. B, para. 11.

²²⁸ See *Order Erratum*, 35 FCC Rcd at 13174, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10987, Appx. B, para. 11.

Committee.²²⁹ While we seek comment on modifying the ownership disclosure requirements, as discussed below,²³⁰ we propose to require renewal applicants to comply with the requirements consistent with the new section 63.18(p), including the amendments on which we seek comment herein.²³¹

- *Certifications.* The *Executive Branch Process Reform Order* adopted a new section 63.18(q) that requires each applicant to make the following certifications by which they agree:
 - (1) to comply with all applicable Communications Assistance for Law Enforcement Act (CALEA) requirements and related rules and regulations;²³²
 - (2) to make communications to, from, or within the United States, as well as records thereof, available in a form and location that permits them to be subject to a valid and lawful request or legal process in accordance with U.S. law;²³³
 - (3) to designate a point of contact who is located in the United States and is a U.S. citizen or lawful U.S. permanent resident, for the execution of lawful requests and as an agent for legal service of process;²³⁴
 - (4)(A) that the applicant is responsible for the continuing accuracy and completeness of all information submitted, whether at the time of submission of the application or subsequently in response to either the Commission or the Committee's request, as required in section 1.65(a), and that the applicant agrees to inform the Commission

²²⁹ See *Order Erratum*, 35 FCC Rcd at 13174, para. 11 (“(p) Each applicant for which an individual or entity that is not a U.S. citizen holds a ten percent or greater direct or indirect equity or voting interest, or a controlling interest, in the applicant, must submit: (1) Responses to standard questions, prior to or at the same time the applicant files its application with the Commission, pursuant to Part 1, subpart CC, of this chapter directly to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee). The standard questions and instructions for submitting the responses are available on the FCC website. The required information shall be submitted separately from the application and shall be submitted directly to the Committee. (2) A complete and unredacted copy of its FCC application(s), including the file number(s) and docket number(s), to the Committee within three (3) business days of filing it with the Commission. The instructions for submitting a copy of the FCC application(s) to the Committee are available on the FCC website.”); see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10987, Appx. B, para. 11.

²³⁰ See *infra* Section IV.E.1.

²³¹ See *infra* para. 171.

²³² See *Order Erratum*, 35 FCC Rcd at 13174, para. 11 (“(q)(1) Each applicant shall make the following certifications by which they agree: (i) To comply with all applicable Communications Assistance for Law Enforcement Act (CALEA) requirements and related rules and regulations, including any and all FCC orders and opinions governing the application of CALEA, pursuant to Communications Assistance for Law Enforcement Act and the Commission’s rules and regulations in part 1, subpart Z, of this chapter”); see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10987-88, Appx. B, para. 11.

²³³ See *Order Erratum*, 35 FCC Rcd at 13174, para. 11 (“(q)(1) Each applicant shall make the following certifications by which they agree . . . (ii) To make communications to, from, or within the United States, as well as records thereof, available in a form and location that permits them to be subject to a valid and lawful request or legal process in accordance with U.S. law, including but not limited to: (A) The Wiretap Act, 18 U.S.C. 2510 *et seq.*; (B) The Stored Communications Act, 18 U.S.C. 2701 *et seq.*; (C) The Pen Register and Trap and Trace Statute, 18 U.S.C. 3121 *et seq.*; and (D) Other court orders, subpoenas or other legal process”); see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10987-88, Appx. B, para. 11.

²³⁴ See *Order Erratum*, 35 FCC Rcd at 13174, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10988, Appx. B, para. 11.

and the Committee of any substantial and significant changes while an application is pending;²³⁵

- (4)(B) after the application is no longer pending for purposes of section 1.65 of the rules, the applicant must notify the Commission and the Committee of any changes in the authorization holder or licensee information and/or contact information promptly, and in any event within thirty (30) days;²³⁶ and
- (5) that the applicant understands that if the applicant or authorization holder fails to fulfill any of the conditions and obligations set forth in the certifications set out in section 63.18(q) or in the grant of an application or authorization and/or that if the information provided to the U.S. government is materially false, fictitious, or fraudulent, applicant and authorization holder may be subject to all remedies available to the U.S. government, including but not limited to revocation and/or termination of the Commission's authorization or license, and criminal and civil penalties, including penalties under 18 U.S.C. § 1001.²³⁷

86. *Application Fees.* We propose to adopt a fee for renewal applications and, in the alternative, a fee for periodic review submissions for international section 214 authority that is consistent with the fee for applications for new international section 214 authorizations.²³⁸ The proposed fee is consistent with the established fee category of "International Service"²³⁹ and will follow the fee calculation methodology adopted by the Commission in the *2020 Application Fee Report and Order*.²⁴⁰

²³⁵ See *Order Erratum*, 35 FCC Rcd at 13174, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10988, Appx. B, para. 11.

²³⁶ See *Order Erratum*, 35 FCC Rcd at 13174-75, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10988, Appx. B, para. 11.

²³⁷ See *Order Erratum*, 35 FCC Rcd at 13175, para. 11; see also *Executive Branch Process Reform Order*, 35 FCC Rcd at 10988-89, Appx. B, para. 11.

²³⁸ See 47 U.S.C. § 158(a); 47 CFR § 1.1101; 47 CFR § 1.1107. Section 8(c) of the Act requires the Commission to, by rule, amend the application fee schedule if the Commission determines that the schedule requires amendment so that: (1) such fees reflect increases or decreases in the costs of processing applications at the Commission or (2) such schedule reflects the consolidation or addition of new categories of applications. 47 U.S.C. § 158(c). Section 8(c) of the Act does not mandate a timeframe for making any such amendments under section 8(c). If the Commission determines that the application fee schedule may require an amendment pursuant to section 8(c), the Commission will initiate a rulemaking to seek comment on any proposed amendment(s) to the application fee schedule. We do so here. *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, Order, FCC 22-94, 2022 WL 17886514, at n.2 (rel. Dec. 16, 2022) (*2022 Application Fee Order*).

²³⁹ *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 20-270, Report and Order, 35 FCC Rcd 15089, 15094, para. 15 (2020).

²⁴⁰ *Id.* at 15092, para. 11 (adopting the methodology proposed in the *2020 Application Fee Notice of Proposed Rulemaking* to "base the application fees on an estimate of direct labor costs where possible," as modified therein); *id.* at 15134, para. 141 ("We adopt the proposed cost-based international section 214 fees in the [*2020 Application Fee Notice of Proposed Rulemaking*] for new authorizations, substantive assignments and transfers of control, pro forma assignments and transfers of control, foreign carrier affiliation notifications, modifications, STAs, waivers, and discontinuances of service. We adopt, however, one change from the fees proposed and reduce the cost of an international section 214 pro forma assignment or transfer of control."); *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 20-270, Notice of Proposed Rulemaking, 36 FCC Rcd 1618, 1657, para. 149 (2020) (*2020 Application Fee Notice of Proposed Rulemaking*) ("Applications to obtain an international section 214 authorization are filed online using IBFS and involve staff review. The Commission may also need to coordinate applications with other federal agencies. We estimate the Commission's resources in processing an application for an international section 214 authorization consist of the following: industry analyst processing and review, staff attorney review, and supervisory review.").

Currently, the fee for an application for a new international section 214 authorization is \$875.²⁴¹ Since we envision the level of Commission resources required to review a renewal application or periodic review submission will be consistent with review of an application for new international 214 authority, we propose to adopt a fee of \$875. We seek comment on our proposed application fee for a renewal application or periodic review submission.

87. We seek comment on these proposals and the draft rule provisions in Appendix A.²⁴² We propose to incorporate almost all of the application requirements in section 63.18 to the proposed rules for renewal applications or, in the alternative, periodic review submissions.²⁴³ Are there other related provisions of Part 63 that the Commission should require of authorization holders that file a renewal application or periodic review submission? Are there any reasons to modify certain information requirements in Part 63 as applied to renewal applications or periodic review submissions?

E. New Application Requirements for All International Section 214 Applicants and Authorization Holders

88. We propose or seek comment on adopting new application requirements to improve the Commission's assessment of evolving national security, law enforcement, foreign policy, and/or trade policy risks following a grant of international section 214 authority. We seek comment on whether to adopt a new 5% ownership reporting threshold for all initial applications for international section 214 authority and applications for modification, assignment, transfer of control, and renewal of international section 214 authority for certain cases.²⁴⁴ We also propose to require each applicant to provide information about its services, geographic markets, and facilities crossing the United States' borders with Canada and Mexico (cross border facilities), and certify that their facilities-based equipment meets certain requirements.²⁴⁵ Prior to the current global international section 214 licensing scheme, the Commission granted authorizations on a country-by-country basis and collected facilities information.²⁴⁶ That was

²⁴¹ 2022 *Application Fee Order* at Appx.; 47 CFR § 1.1107. This fee rate became effective on March 2, 2023. See Federal Communications Commission, Schedule of Application Fees, 88 Fed. Reg. 6169 (Jan. 31, 2023).

²⁴² See *infra* Appx. A.

²⁴³ See *supra* notes 200, 202.

²⁴⁴ We note that section 63.04(b) of the Commission's rules, pertaining to applications for transfer of control of domestic section 214 authorizations, permits joint international and domestic section 214 transfer of control filings and requires applicants filing such joint applications to satisfy the requirements in both sections 63.04 and 63.18 addressing ownership. See 47 CFR §§ 63.04(b), 63.18. This Notice does not propose to modify section 63.04(a)(4), which addresses ownership information required to be disclosed for domestic-only section 214 transfer of control applications. If we adopt a 5% reporting requirement for international section 214 authorizations, we propose to require that applicants filing a joint international and domestic section 214 transfer of control application must continue to submit information that satisfies the requirements in both sections 63.04 and section 63.18, including ownership information that would be required by section 63.18(h) under the proposed 5% ownership reporting threshold.

²⁴⁵ Unless indicated otherwise, we refer to "applicant" or "applicants" in this subsection, Section IV.E., to refer to (1) applicants that file an initial application for international section 214 authority or an application for modification, assignment, transfer of control, or renewal of international section 214 authority, and (2) authorization holders that file a notification of *pro forma* assignment or transfer of control. See 47 CFR § 63.18; *id.* § 63.24(e) ("Applications for substantial transactions"); *id.* § 63.24(f) ("Notifications for non-substantial or *pro forma* transactions"). Unless indicated otherwise, we refer to "application" or "applications" in this subsection, Section IV.E., to refer to applications for international section 214 authority; applications for modifications, assignments, transfers of control, and renewals of international section 214 authority; and *pro forma* notifications of assignments and transfers of control of international section 214 authority.

²⁴⁶ The Commission adopted global facilities-based international section 214 authorizations in 1996. 1996 *Streamlining Order*, 11 FCC Rcd at 12888-94, paras. 9-20. Prior to the 1996 *Streamlining Order*, the Commission's rules required that applications for international section 214 authority specify the geographic market (i.e., the
(continued....)

over 25 years ago. Since that time, the Commission has not collected and does not have any information on critical infrastructure that is used by international section 214 authorization holders to provide services under their international section 214 authority. Additionally, we propose or seek comment on requiring all authorization holders to report their reportable ownership and other information on an ongoing basis, starting every three years after grant of a renewal application. We tentatively conclude that these requirements that we propose or seek comment on are important and necessary for informing the Commission's evaluation of an applicant's request for international section 214 authority or the modification, assignment, transfer of control, or renewal thereof and would serve the public interest given evolving risks identified by the Commission and the Executive Branch.

1. Five (5) Percent Threshold for Reportable Interests

89. We seek comment on whether to adopt a new ownership reporting threshold that would require disclosure of certain 5% or greater direct and indirect equity and/or voting interests with respect to applications for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority. Over twenty years ago, the Commission found that a 10% reporting threshold would assist the Commission in determining whether a particular international section 214 application raises issues of national security, foreign policy, or law enforcement risks.²⁴⁷ The national security and law enforcement environment, however, has changed dramatically during this timeframe.²⁴⁸ The current 10% reporting threshold may not capture all foreign interests that may present national security, law enforcement, foreign policy, and/or trade policy concerns. In the *2021 Standard Questions Order*, the Commission noted, with respect to the Standard Questions, the views of Committee staff that “5% threshold is appropriate because in some instances a less-than-ten percent foreign ownership interest—or a collection of such interests—may pose a national security or law enforcement risk.”²⁴⁹ The Commission further noted, “[t]he Committee staff states that a group of foreign entities or persons, each owning nine percent and working together, could easily reach a controlling interest in a company without having to disclose any of their interests to the Committee for certain FCC application types.”²⁵⁰

90. In furtherance of our objective in this proceeding, and as we review the current rules and their applicability to the proposed renewal or, in the alternative, periodic review process, we seek comment on whether a 5% reporting threshold would better capture foreign interests, including and especially any such interests that are associated—either individually or in the collective—with a foreign adversary country. We seek comment whether the 5% reporting threshold as described would improve the Commission's assessment of evolving public interest risks. In the alternative, we seek comment whether we should only require disclosure of foreign ownership at the 5% level by citizens, entities, and government organizations from foreign adversary countries, as defined in the Department of Commerce's rule, 15 CFR § 7.4.²⁵¹

91. We seek comment on whether to apply the 5% reporting threshold to encompass all

country) to be served, the particular services to be provided, and the facilities to be used. *See 1995 Streamlining NPRM*, 10 FCC Rcd at 13481, para. 8.

²⁴⁷ *Biennial Regulatory Review Order*, Report and Order, 14 FCC Rcd at 4940, para. 76.

²⁴⁸ *See, e.g., China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 15967, para. 2, *aff'd*, *China Telecom (Americas) Corp. v. FCC*, 57 F.4th 256; *China Unicom Americas Order on Revocation* at *1, para. 2; *Pacific Networks/ComNet Order on Revocation and Termination* at *1, para. 2.

²⁴⁹ *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Second Report and Order, FCC 21-104, 36 FCC Rcd 14848, 14856-57, para. 16 (*2021 Standard Questions Order*); *see infra* para. 101 (explaining the Commission's adoption of Standard Questions that will require certain applicants and petitioners with reportable foreign ownership to provide answers to a set of standardized national security and law enforcement questions).

²⁵⁰ *2021 Standard Questions Order*, 36 FCC Rcd at 14856-57, para. 16.

²⁵¹ 15 CFR § 7.4.

equity and voting interests, regardless whether the interest holder is a domestic or foreign individual or entity. We note that in the context of foreign ownership rulings under section 310(b) of the Act,²⁵² the Commission does not require the identification of certain foreign investors if their investment meets insulation criteria set out in our rules.²⁵³ We seek comment on whether we should adopt such an approach for identifying ownership in international section 214 authorizations. In other words, should we require reporting only where the 5% or greater ownership interest is not passive or otherwise insulated? We note the potential for certain ownership of U.S. entities by foreign adversaries may pose unique national security and/or law enforcement risks. In light of these concerns, we seek comment on whether applicants that include ownership of 5% or greater by an entity or citizen of a foreign adversary country should be required to disclose those holdings regardless of whether they are passive or insulated or not. In the *Executive Branch Process Reform Order*, the Commission rejected arguments to seek, for purposes of the Standard Questions, only information regarding foreign investors with 5% or greater interests, noting, “the Executive Agencies’ review extends beyond just foreign policy considerations; the review process also involves national security and law enforcement issues as well, which could be implicated regardless of whether the equity interest holder is a domestic or foreign entity.”²⁵⁴

92. Currently, the ownership reporting threshold in section 63.18(h) of the Commission’s rules requires applicants for international section 214 authority to disclose the name, address, citizenship, and principal businesses of any person or entity that directly or indirectly owns at least 10% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%).²⁵⁵ Applicants seeking an assignment or transfer of control of an international section 214 authorization are also subject to the ownership disclosure requirement in section 63.18(h) pursuant to section 63.24 of the Commission’s rules.²⁵⁶ If we adopt a 5% threshold, we propose to amend the ownership disclosure requirement in section 63.18(h) of the rules to require that all applicants that file an application or notification required by section 63.18 and/or section 63.24 of the Commission’s rules must disclose all individuals and entities with 5% or greater direct and/or indirect equity and/or voting interest in the applicant, as specified in each rule.²⁵⁷ Where no individual or entity directly or indirectly owns 5% or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, we propose that the application must include a statement to that effect.²⁵⁸

93. We seek comment on the burdens that would be placed on applicants to report direct and

²⁵² 47 U.S.C. § 310(b).

²⁵³ See 47 CFR § 1.5001. The insulation criteria are set out in 47 CFR § 1.5003. See Letter from Andrew D. Lipman, Ulises Pin, and Patricia Cave, Counsel to DigitalBridge Group, Inc., Morgan, Lewis & Bockius LLP, and Matthew Brill and Elizabeth Park, Counsel to Searchlight Capital Partners, Latham & Watkins LLP, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23-119 and MD Docket No. 20-270, at 3 (filed Apr. 12, 2023) (DigitalBridge and Searchlight Apr. 12, 2023 *Ex Parte* Letter).

²⁵⁴ *Executive Branch Process Reform Order*, 35 FCC Rcd at 10945, para. 46.

²⁵⁵ 47 CFR § 63.18(h). In the 2020 *Executive Branch Process Reform Order*, the Commission amended its rules to require that applicants for domestic section 214 transactions, international section 214 authorizations, and submarine cable licenses must identify the voting interests, in addition to the equity interests, of individuals or entities with 10% or greater direct or indirect ownership in the applicant. 2020 *Executive Branch Process Reform Order*, 35 FCC Rcd at 10963-64, para. 95; *Order Erratum*, 35 FCC Rcd at 13173, para. 11. The amended rule is not yet effective.

²⁵⁶ See 47 CFR § 63.24. See 47 CFR § 63.18(h); *id.* § 63.24(e) (stating, with respect to applications for substantial transactions, “[t]he information requested in paragraphs (h) through (p) of § 63.18 is required only for the transferee/assignee”); *id.* § 63.24(f) (requiring that notifications for *pro forma* assignment or transfer of control transactions must contain “[t]he information requested in paragraphs (a) through (d) and (h) of § 63.18 for the transferee/assignee”).

²⁵⁷ See 47 CFR §§ 63.18(h), 63.24.

²⁵⁸ See *Order Erratum*, 35 FCC Rcd at 13173, para. 11; 2020 *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985-86, Appx. B, para. 11.

indirect equity and/or voting ownership at a 5% threshold.²⁵⁹ A reporting threshold of 5% would be consistent with other similar relevant federal reporting requirements.²⁶⁰ A reporting threshold of 5% would be consistent with the ownership threshold used by the Committee in its review of applications that are referred by the Commission, to obtain information from applicants concerning their 5% or greater owners.²⁶¹ Are there relevant differences between the FCC’s section 214 review process and the Committee’s processes that we should take into account? In the *Executive Branch Process Reform Order*, the Commission declined to add to its application forms additional questions regarding an applicant’s investors with 5% or more equity that were suggested by NTIA, given “they are inconsistent with the Commission’s ownership disclosure requirements” for applications concerning international section 214 authorizations, among other applications.²⁶² In light of our goal in this proceeding to establish a formalized and systemized process by which the Commission can reassess and continually account for evolving public interest risks, we take this opportunity to review the current ownership disclosure requirement for such applications and tentatively find that an ownership reporting threshold of 5% is consistent with the views previously expressed by the Committee and would better inform the Commission’s foreign ownership analysis.

94. A reporting threshold of 5% is also consistent with information that U.S. public companies and their shareholders provide to the SEC.²⁶³ The Exchange Act Rule 13d-1 requires a person or “group” that becomes, directly or indirectly, the “beneficial owner” of more than 5% of a class of equity securities registered under Section 12 of the Exchange Act to report the acquisition to the SEC.²⁶⁴

²⁵⁹ See, e.g., Letter from Andrew D. Lipman, Ulises Pin, and Patricia Cave, Counsel to DigitalBridge Group, Inc., Morgan, Lewis & Bockius LLP, and Matthew Brill and Elizabeth Park, Counsel to Searchlight Capital Partners, Latham & Watkins LLP, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23-119 and MD Docket No. 20-270, at 1 (filed Apr. 12, 2023) (DigitalBridge and Searchlight Apr. 12, 2013 *Ex Parte* Letter) (“[A] significantly larger number of investors—foreign and domestic—would be reportable under a 5 percent threshold than is reportable under the current 10 percent regime.”); Letter from Jonathan Adelstein, Managing Director and Head of Global Policy and Public Investment, Digital Bridge Group, Inc. *et al.*, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23-119 and MD Docket No. 20-270 at 2-3 (filed Apr. 13, 2023).

²⁶⁰ But see DigitalBridge and Searchlight Apr. 12, 2013 *Ex Parte* Letter at 2 (noting that the FCC process, unlike the CFIUS and Committee processes, is public); Letter from Jonathan Adelstein, Managing Director and Head of Global Policy and Public Investment, Digital Bridge Group, Inc. *et al.*, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23-119 and MD Docket No. 20-270 at 3 (filed Apr. 13, 2023).

²⁶¹ See 2016 *Executive Branch Process Reform NPRM*, 31 FCC Rcd at 7459, 7494, para. 7, Appx. D (Sample Questions Regarding National Security and Law Enforcement Provided by NTIA); *Executive Branch Process Reform Order*, 35 FCC Rcd at 10929-30, para. 5 & n.5; 2021 *Standard Questions Order*, 36 FCC Rcd at 14855-57, 14833-96, 14897-911, paras. 14, 16-17, Attach. A (Standard Questions for an International Section 214 Authorization Application), Attach. B (Standard Questions for an Application for Assignment or Transfer of Control of an International Section 214 Authorization).

²⁶² *Executive Branch Process Reform Order*, 35 FCC Rcd at 10945, para. 47 (noting, however, that they are part of the sample triage questions that the Commission will use as a basis for the Standard Questions); see, e.g., 2021 *Standard Questions Order*, 36 FCC Rcd at 14855-57, 14833-96, 14897-911, paras. 14, 16-17, Attach. A (Standard Questions for an International Section 214 Authorization Application), Attach. B (Standard Questions for an Application for Assignment or Transfer of Control of an International Section 214 Authorization).

²⁶³ 15 U.S.C. § 78m(d)(1); 17 CFR § 240.13d-1; 17 CFR § 229.403; see 2016 *Foreign Ownership Report and Order*, 31 FCC Rcd at 11293-94, paras. 45-46 & n.130.

²⁶⁴ 2016 *Foreign Ownership Report and Order*, 31 FCC Rcd at 11293, para. 45. For purposes of Exchange Act Rule 13d-1, Exchange Act Rule 13d-3(a) defines a beneficial owner of a security to include any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares voting power, which includes the power to vote, or to direct the voting of, such security; and/or investment power, which includes the power to dispose, or to direct the disposition of, such security. *Id.* at n.128; 17 CFR § 240.13d-3(a). Exchange Act Rule 13d-1(i) defines the term “equity security” as any equity security of a class which is registered pursuant to section 12 of that Act as well as certain equity securities of insurance companies and equity securities issued by

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We further note that various SEC forms filed by issuers, including their annual reports (or proxy statements) and quarterly reports, require the issuer to include a beneficial ownership table that contains, *inter alia*, the name and address of any individual or entity, or “group,” who is known to the issuer to be the beneficial owner of more than 5% of any class of the issuer’s voting securities.²⁶⁵

95. In addition, a reporting threshold of 5% is consistent with information that the Committee on Foreign Investment in the United States (CFIUS)²⁶⁶ requires of parties to a voluntary notice filed with CFIUS.²⁶⁷ Specifically, CFIUS regulations require that if an ultimate parent of a foreign person that is a party to the transaction is a public company, the parties to the transaction must provide in the voluntary notice, the name, address, and nationality (for individuals) or place of incorporation or other legal organization (for entities) of “any shareholder with an interest of greater than five percent in such parent.”²⁶⁸ Thus, we tentatively conclude that our proposal to adopt a reporting threshold of 5% would be consistent with other federal agencies and impose minimal burdens on applicants. We seek comment on what, if any, potential burdens would be imposed on applicants under the 5% equity and/or voting interest reporting threshold that we seek comment on here.

96. We seek comment on whether a reporting threshold of 5% equity and/or voting interest as described here adequately captures the relationship, association, and/or extent of influence that a foreign investor, including foreign governments, may have with respect to an applicant and/or other individuals or entities in the applicant’s chain of ownership. For instance, would a reporting threshold of 5% equity and/or voting interest sufficiently account for circumstances where a foreign government interest holder with comparatively smaller ownership interests may have a disproportionately significant influence on the applicant and its operations, such as through “golden shares”?²⁶⁹ Should the Commission require

closed-end investment companies registered under the Investment Company Act of 1940. *2016 Foreign Ownership Report and Order*, 31 FCC Rcd at 11293, n.128; 17 CFR § 240.13d-1(i).

²⁶⁵ *2016 Foreign Ownership Report and Order*, 31 FCC Rcd at 11294, n.130; see SEC Regulation S-K, 17 CFR § 229.403; see also 17 CFR § 229.10.

²⁶⁶ CFIUS is “an interagency committee authorized to review certain transactions involving foreign investment in the United States and certain real estate transactions by foreign persons, in order to determine the effect of such transactions on the national security of the United States.” U.S. Department of Treasury, *The Committee on Foreign Investment in the United States (CFIUS)*, <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius> (last visited Apr. 12, 2023); see U.S. Department of Treasury, *CFIUS Overview*, <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-overview> (last visited Apr. 12, 2023).

²⁶⁷ See 31 CFR §§ 800.501, 800.502(c)(1)(v)(C), 802.501, 802.502(b)(1)(vi)(C).

²⁶⁸ 31 CFR §§ 800.502(c)(1)(v)(C), 802.502(b)(1)(vi)(C). Additionally, CFIUS regulations require that a voluntary notice filed under 31 CFR § 800.501 must provide, with respect to the foreign person engaged in the transaction and its parents, the following information for any individual that has “an ownership interest of five percent or more in the acquiring foreign person engaged in the transaction and in the foreign person’s ultimate parent”: (1) a “curriculum vitae or similar professional synopsis,” and (2) “personal identifier information,” including full name, date of birth, and place of birth, among other thing. *Id.* § 800.502(c)(5)(vi); see also *id.* § 802.502(b)(3)(vi).

²⁶⁹ See, e.g., *In re Franchise Services of North America, Inc. v. U.S. Trustee*, 891 F.3d 198, 205 (5th Cir. 2018) (“Generally speaking, a ‘golden share’ is ‘[a] share that controls more than half of a corporation’s voting rights and gives the shareholder veto power over changes to the company’s charter.’ E.g., *Golden Share*, Black’s Law Dictionary (10th ed. 2014); see also Mariana Pargendler, *State Ownership and Corporate Governance*, 80 Fordham L. Rev. 2917, 2967 (2012) (noting that in the context of formerly stated-owned entities, “[g]olden shares are essentially a special class of stock issued to the privatizing government that grants special voting and veto rights that are disproportionate to, or even independent of, its cash-flow rights in the company”). As used in the bankruptcy context, the term generally refers to the issuance to a creditor of a trivial number of shares that gives the creditor the right to prevent a voluntary bankruptcy petition, potentially among other rights. See, e.g., *In re Intervention Energy Holdings, LLC*, 553 B.R. 258, 261–62 (Bankr. D. Del. 2016).”); see also Ryan McMorro, Qianer Liu, Cheng Leng, *China moves to take ‘golden shares’ in Alibaba and Tencent units* (Jan. 23, 2023),

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additional information about an applicant's reportable interest holders? For example, should we require applicants to identify other types of interests or interest holders in addition to equity interests and voting interests, such as management agreements? Is there any other information the Commission could require to fully capture interest holders that are either foreign governments or foreign state-owned entities? What additional ownership information would fully inform and assist the Commission's assessment of national security, law enforcement, foreign policy, and trade policy risks raised by such interest holders?

97. We seek comment on minimizing burdens on all applicants generally, including small entities, if we adopt a 5% ownership reporting threshold. For instance, if we adopt a 5% reporting threshold, we seek comment on whether we should treat the disclosure of certain ownership interests of 5% and up to less than 10% as presumptively confidential,²⁷⁰ without requiring the authorization holder to file a request for confidentiality.²⁷¹ We note that the information must be not publicly available elsewhere either in this country or another in order for us to make it confidential. Alternatively, should the Commission limit the public disclosure of ownership interests of 5% and up to less than 10% to only those interest holders that are citizens, entities, or government organizations of foreign adversary countries, as defined in the Department of Commerce's rule, 15 CFR § 7.4?²⁷² Since the Commission's ability to guarantee confidentiality may also be limited by other legal requirements, should the Commission allow relevant information about the identities of 5-10% foreign interests to be omitted from filings with the Commission and instead filed directly with the Committee?

2. Services and Geographic Markets

98. We propose to adopt rules requiring applicants to include in all initial applications for international section 214 authority and applications for modification, assignment, transfer of control, and renewal of international section 214 authority,²⁷³ information about their current and/or expected future services and the geographic markets where the authorization holder offers service in the United States under its international section 214 authority. The Commission's rules currently only require an applicant for international section 214 authority to indicate whether it seeks facilities-based authority, resale authority, and/or authority to acquire facilities or to provide services not covered by section 63.18(e)(1) or (e)(2) of the rules.²⁷⁴ The Commission's rules for modifications, assignments, and transfers of control of international section 214 authority only require that the applicant state "whether the applicant previously received authority under Section 214 of the Act and, if so, a general description of the categories of

<https://www.ft.com/content/65e60815-c5a0-4c4a-bcec-4af0f76462de>; Reuters, *Fretting about data security, China's government expands its use of "golden shares"* (Dec. 15, 2021), <https://www.reuters.com/article/china-regulation-data-idCAKBN2IU2B7>.

²⁷⁰ Other Commission requirements, such as supply chain annual reporting, provide for a checkbox certification and the submission of information that is presumptively confidential. *2020 Protecting Against National Security Threats Order*, 35 FCC Rcd at 14369-70, para. 214 ("We believe that the public interest in knowing whether providers have covered equipment and services in their networks outweighs any interest the carrier may have in keeping such information confidential Other information, such as location of the equipment and services; removal or replacement plans that include sensitive information; the specific type of equipment or service; and any other provider specific information will be presumptively confidential.").

²⁷¹ See, e.g., *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, Report and Order, 32 FCC Rcd 8115, 8125-26, para. 22 (2017); 47 CFR § 0.457.

²⁷² 15 CFR § 7.4; see *supra* para. 20 & note 78.

²⁷³ See *supra* notes 9, 245.

²⁷⁴ See 47 CFR §§ 63.18(e)(1) (Global facilities-based authority); *id.* § 63.18(e)(2) (Global Resale Authority); *id.* § 63.18(e)(3) (Other authorizations).

facilities and services authorized.”²⁷⁵ The current rules do not require applicants to provide the Commission with specific information about the services they provide and/or will provide under the international section 214 authority, the facilities they use and/or will use, or other information related to their operations in the United States and abroad.²⁷⁶

99. This information will further help the Commission to properly assess evolving national security, law enforcement, foreign policy, and/or trade policy risks associated with an applicant.²⁷⁷ In recent revocation actions, the Commission specifically assessed the risks associated with the particular services offered pursuant to international section 214 authority.²⁷⁸ In addition, we note that the Executive Branch agencies seek “detailed and comprehensive information” from applicants with reportable foreign ownership, including services to be provided.²⁷⁹ We believe information about an applicant’s current and/or planned future services would be important for the Commission’s review of applicants to meaningfully assess national security, law enforcement, and other considerations.

100. Specifically, we propose to require applicants to provide the following information with respect to services they provide and/or expect to provide using the international section 214 authority: (1) identification and description of the specific services they provide and/or will provide using the international section 214 authority; (2) types of customers that are and/or will be served; (3) whether the services will be provided through the facilities for which the applicant has an ownership, indefeasible-right-of use or leasehold interest or through the resale of other companies’ services; and (4) identification of where they currently and/or in the future expect to market, offer, and/or provide services using the particular international section 214 authority, such as a U.S. state or territory and/or U.S.-international route or globally. We note that the Office of International Affairs retains the authority to request additional information during the course of its review²⁸⁰ and, as discussed above, we propose to adopt a similar rule for the Commission’s review of renewal applications.²⁸¹ We seek comment on these proposals and the potential burdens on applicants. We seek comment on whether the Commission should instead require authorization holders to provide this information on an as-needed basis.

3. Foreign-Owned Managed Network Service Providers

101. In this proceeding, we consider managed network service providers (MNSPs) to be third parties with access to telecommunications network, systems, or records to provide Managed Services that

²⁷⁵ 47 CFR § 63.18(d) (requiring “[a] statement as to whether the applicant has previously received authority under Section 214 of the Act and, if so, a general description of the categories of facilities and services authorized (i.e., authorized to provide international switched services on a facilities basis)”; *id.* § 63.24(e)(2) (requiring that applications for substantial transactions “shall include the information requested in paragraphs (a) through (d) of § 63.18 for both the transferor/assignor and the transferee/assignee”); *id.* § 63.24(f)(2)(i) (requiring that notifications for non-substantial or *pro forma* transactions must contain “[t]he information requested in paragraphs (a) through (d) and (h) of § 63.18 for the transferee/assignee”).

²⁷⁶ See 47 CFR §§ 63.18, 63.24.

²⁷⁷ See *supra* note 246.

²⁷⁸ See *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 16008-30, Section III.B.2, *aff’d*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation* at *31-46, Section III.B.2; *Pacific Networks/ComNet Order on Revocation and Termination* at *33-49, Section III.B.2.

²⁷⁹ See *e.g.*, *Executive Branch Process Reform Order*, 35 FCC Rcd at 10943, para. 42; *id.* at 10981, Appx. C, para. 7; *Order Erratum*, 35 FCC Rcd at 13170, para. 7; *2021 Standard Questions Order*, 36 FCC Rcd at 14883-96, 14897-911, Attach. A (Standard Questions for an International Section 214 Authorization Application), Attach. B (Standard Questions for an Application for Assignment or Transfer of Control of an International Section 214 Authorization). The Standard Questions are not yet effective.

²⁸⁰ 47 CFR §§ 63.18(q), 63.24(e)(3).

²⁸¹ See *supra* para. 84 & note 221.

support core domestic and international telecommunications services, functions, or operations.²⁸² We rely on international section 214 authorization holders to protect U.S. records, such as customer proprietary network information (CPNI),²⁸³ and ensure the security and reliability of U.S. telecommunications networks. In October 2021, the Commission adopted an Order that will require certain applicants and petitioners with reportable foreign ownership—including applicants seeking international section 214 authority or modification, assignment, or transfer of control of international section 214 authority—to provide answers to a set of standardized national security and law enforcement questions (Standard Questions).²⁸⁴ The Standard Questions will require an applicant, prior to or at the same time the applicant files its application with the Commission, to submit answers to those Questions directly to the Committee, including whether “any third-party Individual or Entity [has] Remote Access to the Applicant’s network, systems, or records to provide Managed Services.”²⁸⁵ Those applicants without reportable foreign ownership are not routinely referred to the Committee or to other relevant Executive Branch agencies. Such applicants, however, also may reach contractual agreements or have other arrangements with foreign-owned MNSPs, thereby granting such foreign-owned MNSPs access to U.S. networks and potentially allowing them to take actions in ways that are contrary to U.S. interests, without the Committee ever being informed.

102. Given the potential vulnerabilities raised by a foreign-owned entity’s access to critical telecommunications infrastructure in the United States, we propose to require all applicants, including those without reportable foreign ownership, to identify in their application whether or not they use and/or will use foreign-owned MNSPs. We also propose to adopt this requirement for applicants seeking international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority.

103. We propose that any applicant with or without foreign ownership that indicates it uses and/or will use foreign-owned MNSPs will need to answer Standard Questions and those applications would be routinely referred to the Executive Branch agencies, including the Committee.²⁸⁶ Should we ask additional questions, such as requiring applicants to provide ownership information with respect to each foreign-owned MNSP that they use and/or will use? Should the Commission require applicants to identify all entities and/or individuals that hold 5% or greater direct or indirect equity and/or voting interests in the foreign-owned MNSP?²⁸⁷ Should an MNSP be considered “foreign-owned” only if it is

²⁸² See U.S. Department of Justice, Petition to Adopt Conditions to Authorizations and Licenses, File No. ITC-214-20190131-00073, Attach., Letter from Harjot Saluja, CEO, Tube Incorporated d/b/a Reach Mobile, to Assistant Attorney General for National Security, National Security Division, United States Department of Justice at 3 (June 5, 2020) (filed June 8, 2020).

²⁸³ 47 U.S.C. § 222 (“Privacy of customer information”); *id.* § 222(a) (“Every telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers, equipment manufacturers, and customers, including telecommunication carriers reselling telecommunications services provided by a telecommunications carrier.”); see *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information, Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 6927, 6931, para. 5 (2007) (*CPNI Order*) (adopting rules to ensure that CPNI is adequately protected from unauthorized access, use, or disclosure).

²⁸⁴ See generally *2021 Standard Questions Order*.

²⁸⁵ *2021 Standard Questions Order*, 36 FCC Rcd at 14883-96, 14897-911, Attach. A (Standard Questions for an International Section 214 Authorization Application), Attach. B ((Standard Questions for an Application for Assignment or Transfer of Control of an International Section 214 Authorization).

²⁸⁶ See, e.g., *id.*

²⁸⁷ See *2021 Standard Questions Order*, 36 FCC Rcd at 14885, Attach. A (Standard Questions for an International Section 214 Authorization Application) (defining “Ownership Interest,” with respect to an applicant, as “a 5% or greater equity (non-voting) and/or voting interest, whether directly or indirectly held, or a Controlling Interest in the Applicant, and includes the ownership in the Ultimate Parent/Owner of the Applicant and any other Entity(ies) in
(continued....)

majority-owned and/or controlled by one or more non-U.S. individual(s) or entity(ies)? Should the Commission require applicants to explain in detail the foreign individuals' or entities' involvement and management roles in the foreign-owned MNSP?²⁸⁸ How best can the Commission obtain additional information with regard to these arrangements for purposes of this proceeding? For instance, should we conduct a one-time collection targeted to the use of foreign-owned MNSPs?²⁸⁹

104. We seek comment on whether we should evaluate the character qualifications of foreign-owned MNSPs using the same standards that we propose herein to rely on for our assessment of applicants seeking international section 214 authority or modification, assignment, transfer of control, or renewal of international section 214 authority.²⁹⁰ Because MNSPs are not seeking Commission authorizations, and our character policy is meant to ensure that we can rely on regulated entities to deal truthfully with the Commission and comply with the Act and the Commission's rules, should we be concerned about different types of past misconduct when we assess an authorization holder's relationship with a foreign-owned MNSP?²⁹¹ Should the Commission require applicants, similar to the questions set out in the Standard Questions as applied to applicants, to identify whether or not the foreign-owned MNSP or any entity and/or individual with any ownership or controlling interest in such MNSP has "been investigated, arraigned, arrested, indicted, or convicted" of criminal violations that are indicative of a propensity to engage in behavior that may jeopardize the security and reliability of U.S. telecommunications networks?²⁹² Should we limit any information requirement regarding MNSPs to a specific prior period of time?

105. Are there other consideration regarding MNSPs that should factor into our analysis? For example, to what extent do applicants, both facilities-based and resale-based authorization holders, contract with foreign-owned MNSPs? Should we collect information on authorization holders' use of MNSPs in any other context? Should applicants identify in their application whether they use and/or will use a non-foreign-owned MNSP(s), or an MNSP with foreign ownership that is less than a reportable threshold, if that MNSP routes or manages traffic using facilities outside of the United States? Wireless carriers with international section 214 authorizations may provide international services to their customers. Are there any special concerns raised by use of foreign-owned MNSPs by wireless carriers,

the chain of ownership (i.e., all Entities that exist in the ownership structure between the Applicant itself and its Ultimate Parent).

²⁸⁸ See *2021 Standard Questions Order*, 36 FCC Rcd at 14887, Attach. A (Standard Questions for an International Section 214 Authorization Application) (directing an applicant to provide, with respect to each individual or entity with an "Ownership Interest" in the applicant, "a clear explanation of its involvement in the Applicant, including whether it will have a management role").

²⁸⁹ See, e.g., *infra* para. 117.

²⁹⁰ See *supra* para. 56 & note 130.

²⁹¹ Examples of past misconduct by an MNSP we might consider relevant to our assessment include deceptive sales practices, violations of consumer protection statutes and any regulations, and/or other fraud or abuse practices in violation of federal, state, and/or local law; and violations of federal, state, or local law in connection with the provision of telecommunications services, equipment, and/or products, and/or any other practices regulated by the Telecommunications Act of 1996 and/or by public utility commissions in the United States. See *2021 Standard Questions Order*, 36 FCC Rcd at 14883-96, Attach. A (Standard Questions for an International Section 214 Authorization Application).

²⁹² Such criminal violations of U.S. law would include violations of the Espionage Act (18 U.S.C. § 792 *et seq.*), the International Traffic in Arms Regulations (22 CFR Parts 120-130), and/or the Export Administration Regulations (15 CFR Part 730 *et seq.*). See *2021 Standard Questions Order*, 36 FCC Rcd at 14889, Attach. A, Standard Questions for an International Section 214 Authorization Application ("Has the Applicant or any Individual or Entity with an Ownership Interest in the Applicant, or any of their Corporate Officers, Senior Officers, Directors ever been investigated, arraigned, arrested, indicted, or convicted of any of the following: a) Criminal violations of U.S. law, including espionage-related acts or criminal violations of the International Trade in Arms Regulations (ITAR) or the Export Administration Regulations (EAR) . . .").

including by CMRS providers?

106. If we adopt such requirements, we would propose to routinely refer to the Executive Branch agencies, including the Committee agencies, to assist our public interest determination, an application for a new international section 214 authorization as well as an application to modify, assign, transfer control of, or renew the international section 214 authority where an applicant discloses that it uses and/or will use a foreign-owned MNSP.²⁹³ Similar to our current practice, we propose to delegate to the Office of International Affairs the authority to develop Standard Questions, to modify and harmonize existing questions on MNSPs and other matters, and to require applicants to submit answers to the Standard Questions, including personally identifiable information (PII), directly to the Committee prior to or at the same time the applicant files its application with the Commission.²⁹⁴ We seek comment on these proposals.

4. Cross Border Facilities Information

107. We propose to collect from current international section 214 authorization holders information on critical infrastructure that is used by authorization holders to provide service crossing the U.S.-Mexico and U.S.-Canada borders, including the location, ownership, and type of facilities, and to require authorization holders to continue to update this information as part of the ongoing three-year reporting requirement proposed below. We also propose to share this information with relevant Executive Branch agencies, including the Committee agencies. The Commission currently receives this information for submarine cables that land in the United States pursuant to its rules.²⁹⁵ With this proposed new information collection, the Commission would then have an understanding of not only submarine fiber cable connections to U.S. facilities, but also facilities information for terrestrial fiber cables that cross the U.S.-Mexico and U.S.-Canada borders. Below, we also propose to conduct a one-time information collection concerning cross border facilities and propose to require updates in the ongoing reports as well as sharing this information with our federal partners.²⁹⁶ The proposed rules would ensure that the Commission has knowledge of the critical infrastructure at our nation's borders. We seek comment on this proposal.

108. Congress created the Commission, among other reasons, “for the purpose of the national defense [and] for the purpose of promoting safety of life and property through the use of wire and radio communications”²⁹⁷ Throughout the past decade, Congress and the Executive Branch have repeatedly stressed the importance of identifying and eliminating potential security vulnerabilities in U.S. communications networks and supply chains.²⁹⁸ Recently, the Commission has taken a number of targeted steps as part of its ongoing efforts to protect the security of the networks that provide telecommunications services.²⁹⁹ The Commission has taken significant steps by blocking access to U.S.

²⁹³ See *supra* para. 71.

²⁹⁴ *Executive Branch Process Reform Order*, 35 FCC Rcd at 10944, para. 45.

²⁹⁵ See 47 CFR § 1.767(a)(5)(requiring an application for a cable landing license to provide “[a] specific description of the cable landing stations on the shore of the United States and in foreign countries where the cable will land”); *id.* § 1.767(a)(7)(requiring an application for a cable landing license to provide “[a] list of the proposed owners of the cable system, including each U.S. cable landing station”); *id.* § 1.767(a)(8)(requiring, for each applicant, “[t]he place of organization and the information and certifications required in §§ 63.18(h)”).

²⁹⁶ See *infra* paras. 117-118.

²⁹⁷ 47 U.S.C. § 151.

²⁹⁸ See generally PSI Report; *2020 Protecting Against National Security Threats Order*, 35 FCC Rcd at 14285-87, paras. 2-5.

²⁹⁹ See *supra* paras. 13-14; *Public Safety and Homeland Security Bureau Announces Additions to the List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, WC Docket No. 18-89, Public Notice, DA 22-320 (PSHSB Mar. 25, 2022) (updating the list of communications equipment and services (Covered List) (continued....))

communications networks, pursuant to its authority under section 214 of the Act, to providers posing a substantial and serious security threat to U.S. communications networks,³⁰⁰ and continues its efforts to identify and eliminate potential security vulnerabilities in U.S. telecommunications networks and supply chains.³⁰¹

109. The security of physical telecommunications facilities is essential to maintaining resilient infrastructure, not only for its role in ensuring that people can communicate but also because it enables all other critical infrastructure sectors, especially the energy, information technology, financial services, emergency services, and transportation systems sectors.³⁰² The Presidential Policy Directive on Critical Infrastructure Security and Resilience (Directive),³⁰³ released in 2013, called for the federal government to strengthen the security and resilience of critical infrastructure in an “integrated, holistic manner to reflect this infrastructure’s interconnectedness and interdependency.”³⁰⁴ The Directive also highlighted the federal government’s plan to engage with international partners to protect U.S. critical infrastructure.³⁰⁵ Recent guidance by the DHS Cybersecurity & Infrastructure Security Agency (CISA) on the convergence between cybersecurity and physical security warns against siloing information/cybersecurity and physical security, instead recommending integrated threat management.³⁰⁶ In addition, with respect to applicants with reportable foreign ownership, the Standard Questions adopted in the *2021 Standard Questions Order* include questions about the “present and anticipated physical locations” concerning applicants’ network equipment, data centers, and infrastructure, whether applicants’ network equipment, data centers, and infrastructure is owned or leased; descriptions of equipment used; network architecture diagrams, if the applicant will be operating any physical and/or virtual telecommunications switching platforms; and whether any entities, including foreign-based entities, will be able to control the infrastructure.³⁰⁷

that have been determined by Executive Branch interagency bodies to pose an unacceptable risk to national security of the United States or the security and safety of United States persons, to include: information security products, solutions, and services supplied, directly or indirectly, by AO Kaspersky Lab or any of its predecessors, successors, parents, subsidiaries, or affiliates; telecommunications services provided by China Telecom (Americas) Corp. subject to section 214 of the Communications Act of 1934; and international telecommunications services provided by China Mobile International USA Inc. subject to section 214 of the Communications Act of 1934); *Public Safety and Homeland Security Bureau Announces Additions to the List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, WC Docket No. 18-89, ET Docket No. 21-232, EA Docket No. 21-233, Public Notice, DA 22-979 (PSHSB Sept. 20, 2022) (updating the Covered List to include international telecommunications services provided by Pacific Networks Corp., its wholly-owned subsidiary ComNet (USA) LLC, and China Unicom (Americas) Operations Limited subject to section 214 of the Communications Act of 1934); *List of Covered Equipment and Services*.

³⁰⁰ See generally *China Mobile USA Order*; *China Telecom Americas Order on Revocation and Termination*, *aff’d*, *China Telecom (Americas) Corp. v. FCC*; *China Unicom Americas Order on Revocation*; *Pacific Networks/ComNet Order on Revocation and Termination*.

³⁰¹ See *supra* para. 14.

³⁰² See Cybersecurity & Infrastructure Security Agency, *Communications Sector*, <https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors/communications-sector> (last visited Apr. 13, 2023).

³⁰³ Directive on Critical Infrastructure Security and Resilience, 2013 Daily Comp. Pres. Doc. 92 (Feb. 12, 2013).

³⁰⁴ *Id.* at 2.

³⁰⁵ *Id.*

³⁰⁶ Cybersecurity & Infrastructure Security Agency, *Cybersecurity and Physical Security Convergence Action Guide* (Dec. 22, 2021), <https://www.cisa.gov/cybersecurity-and-physical-security-convergence>.

³⁰⁷ *2021 Standard Questions Order*, 36 FCC Rcd at 14893, Attach. A (“Provide all addresses of the present and anticipated physical locations for all of the Applicant’s network equipment, data centers, and infrastructure, whether (continued....)”).

110. The Commission has emphasized the importance of security and sensitivity of physical infrastructure relating to carriers' provision of telecommunications service in view of significant national security and law enforcement risks. For example, in the *China Unicom Americas Order on Revocation*, the Commission stated that China Unicom (Americas) Operations Limited's physical Points of Presence (PoPs) in the United States "are highly relevant to its ability to access, monitor, store, disrupt, and/or misroute communications to the detriment of U.S. national security and law enforcement."³⁰⁸ In the *China Telecom Americas Order on Revocation and Termination*, the Commission addressed concerns, among other things, that China Telecom (Americas) Corporation's (CTA) PoPs in the United States "are highly relevant to the national security and law enforcement risks associated with CTA"³⁰⁹ and that "CTA, like any similarly situated provider, can have both physical and remote access to its customers' equipment."³¹⁰ In the *Pacific Networks and ComNet Order on Revocation and Termination*, the Commission stated that the physical location of Pacific Networks Corp.'s and ComNet (USA) LLC's operations with respect to their points of presence in the United States "is relevant to identified national security and law enforcement risks."³¹¹ Given the potential vulnerabilities associated with carriers' physical presence and proximity to U.S. communications networks, we seek to collect information and better understand cross border facilities, bringing it in line with information that the Commission already collects in the context of submarine cable landing licenses.

111. Additionally, collecting more information on cross border facilities would assist the Commission and its partners in the federal government in understanding potential vulnerabilities in U.S. telecommunications networks involving traffic rerouting. We are especially concerned about the ability of service providers to move traffic outside of the United States when normal Internet Protocol (IP) routing protocols would not normally take such traffic outside of the United States (for example, when the origination and destination points are both located within the country). We note that misrouting of traffic outside of the United States can be done without the authorization and knowledge of the customer, and may result in traffic that is sent to locations that are not under U.S. legal protection. Cross border facilities are particularly significant because of potential threats raised by U.S.-inbound traffic, such as possible disruption to U.S. telecommunications service through bad actors inserting malware into U.S. networks or inbound denial of service attacks. Improved awareness of these facilities would provide needed insight into the international upstream networks sending traffic into the United States.

112. Based on our concerns above, we propose to require all applicants for facilities-based international section 214 authority to identify in their initial application for international section 214 authority and the application for renewal of their international section 214 authority, the facilities, services, and other information concerning the facilities that they use and/or will use to provide services under their international section 214 authority from the United States into Canada and/or Mexico. We propose to require the same information in applications for modifications, assignments, or transfers of control of facilities-based international section 214 authorizations. Similarly, we propose to require all applicants for resale-based international section 214 authority to identify in their initial application for international section 214 authority and the renewal application, the facilities they lease and/or will lease to

owned or leased—if leased, provide details of the owner(s) and a list of goods/services that the owner(s) provides—and the make and model of the primary equipment used.”); *id.* (“Will the Applicant be operating any physical and/or virtual telecommunications switching platforms (e.g., TDM and/or VoIP switches?) . . . If yes, provide a network architecture diagram that shows all switches and connection points.”); *id.* (“Is the Applicant or its affiliates or anyone else able to control operations at any POP and/or NOC from any overseas locations? . . . If yes, describe the nature of the foreign-based control, where it is, who has the control, and how?”).

³⁰⁸ *China Unicom Americas Order on Revocation* at *39, para. 102.

³⁰⁹ *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 16027, para. 92, *aff’d*, *China Telecom (Americas) Corp. v. FCC*.

³¹⁰ *Id.* at 16027-28, para. 93.

³¹¹ *Pacific Networks/ComNet Order on Revocation and Termination* at *48, para. 112.

provide services under their international section 214 authority from the United States into Canada and/or Mexico. We propose to require the same information in applications for modifications, assignments, or transfers of control of resale-based international section 214 authorizations.

113. Specifically, we propose requiring the collection of the following information from applicants for international section 214 authority, regardless of whether they seek facilities-based or resale-based authorizations, and applicants for modification, assignment, transfer of control, and renewal of international section 214 authority:

- Location of each cross border facility (street address and coordinates);
- Name, street address, email address, and telephone number of the owner(s) of each cross border facility, including the Government, State, or Territory under the laws of which the facility owner is organized;
- Identification of the equipment to be used in the cross border facilities, including equipment used for transmission, as well as servers and other equipment used for storage of information and signaling in support of telecommunications;
- Identification of all IP prefixes and autonomous system domain numbers used by the facilities that have been acquired from the American Registry for Internet Numbers (ARIN); and
- Identification of any services that are and/or will be provided by an applicant through these facilities pursuant to international section 214 authority.

114. Would the public interest be served by requiring less or more specific information? We encourage parties to address whether this information would enhance the Commission's ability to protect U.S. telecommunications infrastructure. Should the Commission share this information with, for example, state and local governments? Are there other sources of information for infrastructure at the U.S.-Canada and U.S.-Mexico borders? What other ways can the Commission ensure that it has information about all critical infrastructure facilities that are used by international section 214 authorization holders to provide services, under their international section 214 authority, crossing the U.S.-Canada and U.S.-Mexico borders?

115. We recognize that non-common carrier facilities located across the U.S.-Canada and U.S.-Mexico borders are an important component of cross border infrastructure security. We propose to require applicants to also provide the information set out above about their non-common carrier facilities offered across the U.S.-Canada and U.S.-Mexico borders. The security and safety of telecommunications network is critical and if we grant an international section 214 authorization, it is essential for the Commission and our federal partners to also receive non-common carrier information to assist in the goals of this proceeding. The Commission currently assesses fees on international non-common carrier circuits.³¹² We seek comment generally on this proposal, including the nature and extent of any burdens on applicants and authorization holders. We ask commenters to address whether this would ensure the collection of almost all facilities at the borders. Are there less burdensome alternatives that would achieve our national security objectives?

116. Finally, if we adopt such requirements, we would propose to routinely refer to the Executive Branch agencies, including the Committee, an application for a new international section 214 authorization as well as an application to modify, assign, transfer control of, or renew those authorizations where an applicant reports cross border facilities. These applications may separately raise national security, law enforcement, and other concerns that require input from the Executive Branch agencies to

³¹² *Assessment and Collection of Regulatory Fees for Fiscal Year 2022 Review of the Commission's Assessment and Collection of Regulatory Fees*, MD Docket Nos. 22-223, 22-301, Report and Order and Notice of Inquiry, FCC 22-68, 2022 WL 4079045, at *52 Appx. B (Sept. 2, 2022) (assessing fees on international non-common carrier circuits).

assist the Commission's public interest review.³¹³ We seek comment on this proposal.

117. *Cross Border Facilities—Initial Information Collection and Updates in the Ongoing Reports.* We propose requiring all current international section 214 authorization holders to report the information specified above sixty (60) days after the effective date of the rule, following OMB approval.³¹⁴ We further propose to require all current and future international section 214 authorization holders to report this information to the Commission as part of the ongoing reporting process discussed further below.

118. *Sharing with Federal Agencies.* We anticipate sharing the information gathered on cross border facilities with the Executive Branch agencies and other federal agencies to improve the Commission's understanding of the information and to augment the Executive Branch's understanding of cross border telecommunications security issues. To the extent that any of the information is confidential, we note that the Commission's existing rules already provide for the sharing of business confidential information with Executive Branch agencies, including the Committee, in the context of reviews within the scope of the Executive Order.³¹⁵ The rules also provide for sharing of confidential information with other federal agencies upon notice to the party seeking confidential treatment of the information.³¹⁶ We seek comment on whether sharing of the confidential information with other federal agencies should be subject to the same provisions regarding sharing confidential information with the Committee.³¹⁷ Disclosure of this information to other federal agencies, if adopted, may require modifications to the applicable System of Record Notice's routine uses.

119. *Updated Facilities Information.* We seek comment on requiring all authorization holders to notify the Commission within thirty (30) days after commencing service in the new facility or commencing service with an underlying facilities provider. We also seek comment on whether we should require applicants for initial international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority to report, within thirty (30) days, pursuant section 1.65(a), any changes that occur during the pendency of an application relating to the cross border information that was provided in the application with respect to existing facilities, as specified above,³¹⁸ and/or new facilities they are using or will use to provide services, under their international section 214 authority, crossing the U.S.-Canada and U.S.-Mexico borders.³¹⁹

120. We believe collecting updated timely information would promote equitable compliance for all entities subject to this requirement. In light of evolving national security, law enforcement, foreign policy, and trade policy threats, it is important for the Commission to collect this information as soon as practicable to ensure that the Commission and its federal partners have the most up-to-date information for their continued efforts to protect this nation's telecommunications infrastructure.

121. We seek comment on this information collection generally. For example, we seek comment as to whether other information should be submitted. We seek comment on whether subsequent

³¹³ See *supra* para. 71.

³¹⁴ See *supra* at para. 107.

³¹⁵ See 47 CFR § 1.40001(c).

³¹⁶ See *id.* § 0.442.

³¹⁷ The Commission will, to the extent required, modify the applicable System of Records Notice under the Privacy Act to account for, among other things, the collection of new information types (e.g., information regarding cross border facilities) or new disclosures (e.g., to new federal partners) as discussed throughout this Notice. See Federal Communications Commission, Privacy Act of 1974; System of Records, IB-1, International Bureau Filing System, 86 Fed. Reg. 43237 (Aug. 6, 2021).

³¹⁸ See *supra* para. 113.

³¹⁹ Any change to an applicant's cross border facilities information as discussed herein would be deemed substantial and significant, including deactivation of facilities.

updates by carriers concerning facilities equipment should be limited to identifying changes in or new additions to the types of equipment (e.g., next generation firewalls) and manufacturers, instead of a detailed list of equipment. Given the broad scope of our proposed approach, should we instead narrow the information collection and how? As discussed below, should the Commission require authorization holders to report updated information in ongoing reports required every three years instead of requiring it within 30 days after commencing service in the new facility or commencing service with an underlying facilities provider?³²⁰ We seek comment on whether the Commission should reserve the right to request detailed lists of equipment at the time of the Commission's choosing.

5. Facilities-Based Equipment, Resellers, and Service Certification

122. *Facilities Cybersecurity Certification.* We propose to require applicants for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority to certify in the application that they will undertake to implement and adhere to baseline cybersecurity standards based on universally recognized standards such as those provided by CISA or the Department of Commerce's National Institute of Standards and Technology (NIST). We tentatively conclude that baseline security requirements would help mitigate national security and law enforcement concerns associated with threats to the security of U.S. communications infrastructure. We seek comment on this proposal.

123. Other federal government agencies, namely CISA and NIST, have put forward cross-sector security standards.³²¹ We seek comment on whether there are other universally recognized baseline cybersecurity standards comparable to the security standards provided by CISA and NIST, and whether applicants should be allowed to certify instead that they will adopt those alternative cybersecurity standards. We seek comment on whether the proposed certification requirement should take into account the size of the applicant and its operations. For example, should the Commission allow large facilities-based providers and small resellers to certify adherence to different baseline security standards? We seek comment on these proposals and the potential burdens, if any, that would be imposed upon applicants.

124. *Facilities "Covered List" Certification.* We propose to require applicants for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority to certify in the application as to whether or not they use equipment or services identified on the Commission's "Covered List" of equipment and services deemed pursuant to the Secure and Trusted Communications Networks Act to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.³²² We propose that this certification would apply to covered equipment or services purchased, rented, leased, or otherwise obtained on or after August 14, 2018 (in the case of Huawei, ZTE, Hikvision, Dahua, and Hytera), or on or after 60 days after the date that any equipment or service is placed on the Covered List.³²³ We seek comment on whether applicants must provide notification to the Commission within 30 days prior to implementing any plan to add new vendors to provide equipment or services that are on the Covered List or plan to add/remove such services for existing or new customers. We also seek comment on whether applicants must provide notification to the Commission within 30 days after they add new vendors to provide equipment or services that are on the Covered List or add/remove such services for existing or new customers.

125. We propose to require applicants for international section 214 authority and modification,

³²⁰ See *infra* Section IV.F.4.

³²¹ See National Institute of Standards and Technology, Framework for Improving Critical Infrastructure Cybersecurity, Version 1.1 (Apr. 16, 2018), <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf>; Cybersecurity and Infrastructure Security Agency, Cross-Sector Cybersecurity Performance Goals March 2023 Update, <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf> (2023).

³²² See 47 U.S.C. §§ 1601-1609; 47 CFR § 1.50000 *et seq.*; see also *List of Covered Equipment and Services*.

³²³ See *List of Covered Equipment and Services*.

assignment, transfer of control, and renewal of international section 214 authority to certify that they will not purchase and/or use equipment made by entities (and their subsidiaries and affiliates) on the “Covered List” as a condition of the potential grant of the application. We seek comment on these proposals and generally on what other certifications the Commission should adopt concerning the “Covered List.”

126. Finally, if we adopt such requirements, we would propose to routinely refer to the Executive Branch agencies, including the Committee agencies, applications for new international section 214 authorizations as well as applications to modify, assign, transfer control of, or renew those authorizations where an applicant certifies that it uses equipment or services identified on the Commission’s “Covered List” of equipment and services pursuant to the Secure and Trusted Communications Networks Act. These applications may separately raise national security, law enforcement, foreign policy, and trade policy concerns that require input from the Executive Branch agencies to assist the Commission’s public interest review. We seek comment on this proposal.

6. Regulatory Compliance Certification

127. We propose that all applicants seeking international section 214 authority or modification, assignment, transfer of control, or renewal of international section 214 authority must certify in the applications whether or not they are in compliance with the Commission’s rules and regulations, the Act, and other laws. We propose to consider whether an applicant that files any application involving international section 214 authority has the requisite character qualifications. Specifically, we propose to require each applicant to certify in its application whether or not the applicant has violated the Act, Commission rules, or U.S. antitrust or other competition laws, has engaged in fraudulent conduct before another government agency, has been convicted of a felony, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder.³²⁴ We seek comment on these proposals. We also seek comment on whether the Commission should require applicants to disclose any pending FCC investigations, including any pending Notice of Apparent Liability, and any adjudicated findings of non-FCC misconduct.

F. Other Changes to Part 63 Rules

128. We propose additional changes to the Commission’s rules concerning international section 214 authorizations to ensure that the Commission has current and accurate information about which authorization holders are providing service under their international section 214 authority. As discussed above, although the Commission’s records indicate there are approximately 7,000 international 214 authorization holders, we estimate the more accurate number is closer to approximately 1,500 active authorization holders. We tentatively conclude that a substantial majority of international section 214 authorizations are in disuse, including those that may have never commenced use. Without accurate information about who is providing U.S.-international service and how that service is being provided, it is difficult for the Commission to ensure that such service does not raise national security, law enforcement, foreign policy, and/or trade policy concerns. We seek comment on a number of proposals to improve the information that the Commission has about authorization holders that provide service under their international section 214 authority and the service that they are providing. We also seek comment on whether there are specific rules in Part 63 where the benefits do not outweigh the burdens and whether the Commission should eliminate or modify such rules.

1. Permissible Number of Authorizations

129. We propose to adopt a rule that would allow an authorization holder to hold only one international section 214 authorization except in certain limited circumstances. We propose that, if an authorization holder currently has more than one international section 214 authorization, that carrier must surrender the excess authorization(s). As explained below, an authorization holder may have acquired different types of authorizations and under different circumstances. The Commission’s records indicate

³²⁴ See *supra* para. 56 & note 130.

that approximately 3% of authorization holders hold more than one authorization. Under the Commission's current rules, there may be various circumstances through which an authorization holder acquired more than one authorization. An authorization holder may have acquired multiple authorizations as a result of an assignment or transfer of control. Or, an authorization holder may have obtained different types of authorizations, such as global facilities-based authority, global resale authority, and/or other authorization pursuant to section 63.18(e)(1)-(3) of the Commission's rules.³²⁵ Our concern is that carriers may have duplicative authorizations that are not required for them to provide U.S.-international service. We recognize that in certain limited circumstances, a carrier may need more than one authorization, such as authority for overseas cable construction for a common carrier submarine cable or if the carrier is affiliated with a foreign carrier with market power on a U.S.-international route. However, we tentatively find that in most circumstances, a carrier only requires one international section 214 authorization to provide service(s) under that authority.

130. We seek comment on this proposal. How should we consider for these purposes multiple authorizations held by commonly controlled entities? Should carriers be allowed to hold more than one authorization in certain circumstances? If so, commenters should explain in detail why carriers should hold more than one authorization. Would a carrier need a different authorization for each type of authority enumerated in section 63.18(e)(1)-(3)? We seek comment on any additional exceptions that the Commission should consider. Should the Commission replace multiple authorizations held by a carrier with a single, consolidated authorization that includes all of the authority and conditions enumerated in each of the multiple authorizations? We seek comment on whether such a proposed measure is feasible under the Commission's current rules, and the reasons therefor.

2. Commence Service Within One Year

131. Currently an entity can obtain an international section 214 authorization and never provide U.S.-international service pursuant to the authorization. This may occur because business plans change or the entity goes out of business, and this has led to a large number of authorizations in our records where the authorization is not being used to provide service. We note that the Commission has requirements for other licensees of regulated services where the licensee must begin providing service within a set period of time or its license is cancelled.³²⁶ We propose to adopt similar requirements for international section 214 authorization holders. This proposed requirement would also provide the Commission with more accurate information as to who is actually providing U.S.-international service and improve the administration of the Commission's rules.³²⁷

132. We tentatively conclude that authorization holders should retain their authorization only if service is being provided to the public under that authorization. Consequently, we propose to adopt a rule requiring an international section 214 authorization holder to commence service under its international section 214 authority within one year following the grant. Under this proposal, an authorization holder will be required to file a notification with the Commission through ICFS within 30

³²⁵ 47 CFR § 63.18(e)(1)-(3).

³²⁶ *Id.* § 1.946(c) (requiring, with regard to a licensee in the Wireless Radio Services, “[i]f a licensee fails to commence service or operations by the expiration of its construction period or to meet its coverage or substantial service obligations by the expiration of its coverage period, its authorization terminates automatically (in whole or in part as set forth in the service rules), without specific Commission action, on the date the construction or coverage period expires”); see also *id.* § 1.955(a)(2) (“Authorizations automatically terminate (in whole or in part as set forth in the service rules), without specific Commission action, if the licensee fails to meet applicable construction or coverage requirements.”).

³²⁷ See also *1996 Streamlining Order*, 11 FCC Rcd at 12894, para. 20. In the *1996 Streamlining Order*, the Commission amended section 63.05 of the rules “so that international common carriers need not commence providing service within a specified time after the Section 214 authorization date.” *Id.* The Commission stated that “[i]nternational carriers need to obtain operating agreements from foreign carriers” and “[o]btaining such agreements may be delayed by events outside U.S. carriers’ control,” adding that, “[c]arriers’ traffic reports will advise the Commission of the year that carriers actually initiate service to individual countries.” *Id.*

days of the date when it begins to offer service but in no case later than one year following the grant of international section 214 authority. We propose that the commencement of service notification must include: (1) a certification by an officer or other authorized representative of the authorization holder that the authorization holder has met the commencement of service requirement; (2) the date that the authorization holder commenced service; (3) a certification that the information is true and accurate upon penalty of perjury; and (4) the name, title, address, telephone number, and association with the authorization holder of the officer or other authorized representative who executed the certifications. We propose that an authorization holder may obtain a waiver of the one-year time period if it can show good cause why it is unable to commence service within one year following the grant of its authorization and identify an alternative reasonable timeframe when it can commence service. If an authorization holder does not notify the Commission of the commencement of service or file a request for a waiver within one year following the grant of international section 214 authority, we propose to cancel the authorization.

133. We seek comment on these proposals, including whether one year is sufficient time to initiate U.S.-international service or if another time period is appropriate in certain situations, such as where an international section 214 authorization is acquired in association with a common carrier submarine cable. We seek comment on our proposal that authorization holders may seek a waiver of the one-year requirement. The Commission's rules provide in other contexts that licensees may seek a waiver of certain rules.³²⁸ If an authorization holder seeks a waiver of the one-year time period, what facts would establish good cause to extend the time period for commencing U.S.-international service pursuant to its international section 214 authority? We also seek comment on whether the Commission should require authorization holders with authorizations that were or are granted prior to the effective date of the new rules to file with the Commission a commencement of service notification within one year of the effective date of the rules.

3. Changes to the Discontinuance Rule

134. We propose to amend section 63.19 of the Commission's rules to require that all authorization holders that permanently discontinue service under their international section 214 authority must file with the Commission a notification of the discontinuance and surrender the authorization.³²⁹ Currently, the discontinuance procedures set out in section 63.19 only apply when an authorization holder discontinues the service for which it has customers.³³⁰ Section 63.19 requires that the carrier notify affected customers of the planned discontinuance, reduction, or impairment of service at least 30 days prior to its planned action.³³¹ When the Commission last revised the discontinuance rules in 2007, the

³²⁸ See, e.g., 47 CFR § 1.925.

³²⁹ In 2007, the Commission amended its rules "to reduce the notification period for a non-dominant carrier's discontinuance of international service from 60 days to 30 days, to be more consistent with the minimum period generally allowed before a non-dominant carrier can receive authority to discontinue domestic service." *2007 Amendment of Parts 1 & 63 Order*, 22 FCC Rcd at 11402, para. 10. The Commission found that "the further increase in the number of carriers and competition in the U.S. international telecommunications marketplace since 1996 justifies a further reduction in our discontinuance notice period for international services." *Id.* at para. 12. The Commission also modified its rules to require international carriers to file a copy of the discontinuance notification with the Commission at the same time they provide notification to their affected customers. *Id.* at 11402, 11403, paras. 10, 13. The Order did not address a situation where discontinuance of international service occurred where an authorized carrier had no customers.

³³⁰ See 47 CFR § 63.19.

³³¹ *Id.* § 63.19(a). Section 63.19(a) requires that "any international carrier that seeks to discontinue, reduce, or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines," must: (1) "notify all affected customers of the planned discontinuance, reduction, or impairment at least 30 days prior to its planned action," and (2) file with the Commission "a copy of the notification on the date on which notice has been given to all affected customers." *Id.* § 63.19(a)(1)-(2). The notification must "be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice." *Id.* § 63.19(a)(1). Section 63.19(b) contains procedural requirements for any international carrier that the Commission
(continued....)

Commission did not address the particular situation where an international section 214 authorization holder does not have customers.³³² As a result, an authorization holder may retain indefinitely an authorization that has never been used or is no longer being used. An authorization holder that ceases to provide international service or goes out of business altogether is not currently required to notify the Commission and surrender the authorization. This makes it difficult to effectively administer international section 214 authorizations given that our records indicate that many of the authorizations are no longer being used to provide U.S.-international service.³³³

135. *Permanent Discontinuance of Service.* We propose to modify section 63.19 by adding a requirement that an authorization holder that permanently discontinues service under its international section 214 authority must surrender the authorization. We propose to define permanent discontinuance of service as a period of three consecutive months during which an authorization holder does not provide any service under its international section 214 authority. We will continue to require that an authorization holder with existing customers must comply with the requirements of section 63.19(a) to notify all affected customers prior to discontinuance.³³⁴ If a carrier will discontinue part but not all of its U.S.-international services—for example, by discontinuing service only on a particular U.S.-international route—and will continue to provide other U.S.-international service(s) under its international section 214 authority, it must comply with the requirements of section 63.19(a) to notify affected customers prior to discontinuance of those services.

136. We propose that, if an authorization holder has permanently discontinued service provided pursuant to its international section 214 authority, it must surrender its authorization and file with the Commission a notification that contains the following information: (1) the name, address, and telephone number of the authorization holder; (2) the initial date as of when the authorization holder did not provide service under its international section 214 authority; (3) a statement as to whether any customers were affected, and if so, whether the authorization holder complied with section 63.19(a) of the Commission's rules; (4) whether or not the carrier is also surrendering any ISPCs; and (5) a request to surrender the authorization. We propose that if an authorization holder has permanently discontinued service provided pursuant to its international section 214 authority, the authorization holder must file this notification with the Commission within 30 days after the discontinuance. This proposed requirement applies to authorization holders regardless of whether or not they discontinued service with or without customers. We believe this information will give the Commission and the public sufficient information concerning when the discontinuance occurred and whether customers were affected by the discontinuance. We propose to require authorization holders to file this notification in the ICFS file number associated with their authorization.

137. We seek comment on our proposed framework regarding permanent discontinuance of

has classified as dominant in the provision of a particular international service because the carrier possesses market power in the provision of that service on the U.S. end of the route. *Id.* § 63.19(b). Any such carrier that seeks to retire international facilities, dismantle, or remove international trunk lines, but does not discontinue, reduce, or impair the dominant services being provided through these facilities, shall only be subject to the notification requirements of section 63.19(a). *Id.* If such carrier discontinues, reduces, or impairs the dominant service, or retires facilities that impair or reduce the service, the carrier shall file an application pursuant to sections 63.62 and 63.500. *Id.* Commercial Mobile Radio Service (CMRS) carriers, “as defined in section 20.9 of the Commission's rules, are not subject to the provisions of” section 63.19. *Id.* § 63.19(c).

³³² 2007 Amendment of Parts 1 & 63 Order, 22 FCC Rcd at 11403, para. 13 (“[W]e amend our rules to require carriers to notify the Commission at the same time they notify their affected customers. A carrier that is discontinuing service should file a discontinuance notice with the Commission's Secretary, with a copy to the Chief of the International Bureau, must identify the file number(s) of the international section 214 authorization(s) pursuant to which the carrier provides service, and include a copy of the notice provided to the affected customers.”).

³³³ See *supra* paras. 11-12, 17.

³³⁴ 47 CFR § 63.19.

service and the costs and benefits to the public, authorization holders, and the Commission. We seek comment on whether an alternative length of time should be used to define permanent discontinuance of service. We also seek comment on what may constitute good cause for waiver of these proposed rules.

138. *Additional Changes to Section 63.19.* We propose to modify section 63.19(a) by providing clear and consistent requirements concerning the notification that an authorization holder must provide to affected customers of its planned discontinuance, reduction, or impairment of service. In contrast to the notification requirements that apply to discontinuance, reduction, or impairment of domestic services,³³⁵ section 63.19(a)(1) currently does not specify what an authorization holder must include in a notification to affected customers of its planned discontinuance, reduction, or impairment of service under its international section 214 authority. We propose to require that an authorization holder that seeks to discontinue, reduce, or impair service under its international section 214 authority must include the following information in the notification to affected customers:

- Name and address of carrier;
- Date of planned service discontinuance, reduction, or impairment;
- Points of geographic areas of service affected (inside of the United States and U.S.-international routes);
- Brief description of type of service(s) affected; and
- Brief explanation as to whether the service(s) will be discontinued, reduced, or impaired.

139. These proposed requirements are similar to the notification requirements that apply to discontinuance, reduction, or impairment of domestic services.³³⁶ We seek comment on this proposal and whether carriers should include any additional information in the notification of planned discontinuance to affected customers.

140. We propose to modify section 63.19(a) to allow an authorization holder to provide notice by email to affected customers of its planned discontinuance, reduction, or impairment of service, if the authorization holder has the email addresses of those affected customers. The Commission's rules concerning discontinuance, reduction, or impairment of domestic service, provide that notice by email constitutes notice in writing.³³⁷ We seek comment on whether it is appropriate to similarly allow an authorization holder to provide notice by email to affected customers of its planned discontinuance, reduction, or impairment of service under its international section 214 authority. Alternatively, are there reasons to require different approaches for notifying affected customers of the planned discontinuance, reduction, or impairment of U.S.-international service and domestic service? We also seek comment on whether we should further amend section 63.19 to allow an authorization holder that seeks to discontinue, reduce, or impair any pre-paid calling service that is provided under its international section 214 authority to provide notice by recorded message when a customer makes a call. Would this approach provide sufficient notice for affected customers of pre-paid calling services, or should we also require the authorization holder to provide notice by email and/or letter to affected customers?

141. If we modify section 63.19(a)(1) to provide that notice by email to affected customers of planned discontinuance, reduction, or impairment of service constitutes notice in writing for purposes of section 63.19, we propose to require that an authorization holder must also comply with the following requirements:

- The carrier must have previously obtained express, verifiable, prior approval from customers to send notices via email regarding their service in general, or planned discontinuance,

³³⁵ *Id.* § 63.71.

³³⁶ *Id.* § 63.71(a)(1)-(4).

³³⁷ *Id.* § 63.71(a).

reduction, or impairment in particular;

- The carrier must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and
- Any email notice returned to the carrier as undeliverable will not constitute the provision of notice to the customer.

142. These proposed requirements are similar to the requirements that apply to discontinuance of domestic services.³³⁸ We seek comment on these proposals and whether an authorization holder should comply with any additional requirements if the Commission were to modify section 63.19(a) to allow an authorization holder to provide notice by email to affected customers of its planned discontinuance, reduction, or impairment of service, subject to the requirements proposed herein.

143. We propose to modify section 63.19(a)(2) to require an authorization holder to provide the Commission with a copy of the notification to affected customers through ICFS rather than by letter to the Office of the Secretary.³³⁹ Section 63.19(a)(2) provides that this filing with the Commission “shall identify the geographic areas of the planned discontinuance, reduction or impairment and the authorization(s) pursuant to which the carrier provides service.”³⁴⁰ We propose to require an authorization holder to also include the following information in a filing accompanying the copy of the notification to affected customers: (1) brief description of the dates and methods of notice to all affected customers; (2) whether or not the authorization holder is surrendering any ISPCs; and (3) any other information that the Commission may require. We propose to require that an authorization holder must file a copy of the notification to affected customers and the accompanying filing proposed herein in the ICFS file number associated with its authorization. We seek comment on these proposals.

144. We propose to make conforming edits to section 63.19(c) to specifically state that CMRS carriers are not subject to the provisions of paragraphs (a) and (b) of the section as modified. Section 63.19(c) states, “Commercial Mobile Radio Service (CMRS) carriers, as defined in § 20.9 of this chapter, are not subject to the provisions of this section.”³⁴¹

145. *Implementation.* We propose that these rule changes become effective at the same time for all authorization holders. We also propose to require that applicants seeking renewal of their international section 214 authority must specifically certify in the renewal application whether or not they discontinued service for three consecutive months at any time during the preceding renewal timeframe, in addition to certifying whether or not they are in compliance with the Commission’s rules and regulations, the Act, and other laws as proposed in this Notice.³⁴² We tentatively conclude that requiring authorization holders to affirmatively report on their provision of service for the preceding renewal timeframe would help to ensure that authorization holders are in compliance with these proposed requirements concerning the discontinuance, reduction, or impairment of service. We seek comment on these proposals.

4. Ongoing Reporting Requirements

146. We propose to require authorization holders to provide updated ownership information and other information every three years following the grant of a renewal application filed with the

³³⁸ *Id.* § 63.71(b).

³³⁹ *See id.* § 63.19(a)(2).

³⁴⁰ *Id.*

³⁴¹ 47 CFR § 63.19(c). As discussed further below, we propose to delete the citation to section 20.9, consistent with the Commission’s removal of this provision from the rules, and replace the citation with a citation to section 20.3, which defines “Commercial mobile radio service.” *See infra* para. 164. The proposed amendments to section 63.19, including the addition of paragraphs (d) and (e), are reflected in Appendix A. *See supra* paras. 134-136; *see infra* Section IV.F.6., Appx. A.

³⁴² *See supra* para. 127.

Commission, until the next grant of a renewal application. We further propose to establish a three-year reporting requirement that would commence as of the date that the Commission grants an application for international section 214 authority or modification, assignment, or transfer of control. We propose that an authorization holder must file the required report every three years based on the date of such grant, until and unless the Commission grants a subsequent application filed by the authorization holder, at which point the three-year reporting cycle would commence anew as of the date of the new grant. We propose that these reports must contain information that is current as of thirty (30) days prior to the date of the submission. We note that Commission staff may require any information prior to the three-year reporting deadline. We seek comment on these proposals and whether we should adopt a longer or shorter reporting cycle, instead of three years. Should the Commission instead require authorization holders to submit the reports starting three years after the effective date of the new rules? If so, we would propose to require international section 214 authorization holders to continue to file the reports while its renewal application or other international section 214 application is pending with the Commission. We seek comment on the potential burdens of a periodic reporting requirement as part of a renewal framework on authorization holders, including small businesses. We propose that these reports must contain information that is current as of thirty (30) days prior to the date of the submission.

147. We seek comment on the nature and extent of the potential burdens of this requirement. Does any information we address below involve confidential business information or other confidential, proprietary, or private information? As an alternative to this ongoing reporting requirement, should carriers instead provide updated information only when there is a material change in ownership or other relevant information? If so, how should we define what are material changes and relevant information? Are there any other alternatives that would allow for the provision of adequate information on a periodic basis with fewer burdens?

148. Our proposed ongoing reporting requirements will help ensure that the Commission and the Executive Branch agencies have the information necessary to continually account for ownership changes for purposes of assessing any evolving national security, law enforcement, foreign policy, and/or trade policy risks and compliance with the Commission's rules. We propose to require that all authorization holders must file a report every three years providing current and accurate information about their reportable ownership, consistent with the ownership disclosure requirements on which we seek comment in this proceeding.

149. *Five (5) Percent Reportable Interest Update.* Specifically, we seek comment on whether the authorization holder should provide updated information concerning those who hold 5% or greater direct and indirect equity and/or voting interests, or a controlling interest, in the authorization holder. In the alternative, if we do not adopt an ongoing reporting requirement at a 5% threshold, we would propose that the authorization holder must provide updated information concerning those who hold 10% or greater direct and indirect equity and/or voting interests, or a controlling interest, in the authorization holder.³⁴³ We propose that the reports be submitted through ICFS, or its successor system, and that authorization holders with reportable foreign ownership as of thirty (30) days prior to the date of the submission must also file a copy directly with the Committee. We seek comment on whether an ongoing reporting requirement every three years should be broader and include additional information about ownership, control, and/or influence by foreign governments or foreign state-owned entities. Additionally, we propose that failure to submit timely, consistent, accurate, and complete information would constitute grounds for enforcement action against the authorization holder, up to and including cancellation or revocation of the authorization.³⁴⁴

150. *Cross-Border Facilities Information.* We propose to require international section 214 authorization holders to file updated information on their cross border facilities in their three-year reports. We seek comment on whether the Commission should require this information in these reports or whether

³⁴³ The Commission's current rules require disclosure of 10% or greater interests. 47 CFR § 63.18(h).

³⁴⁴ See *infra* Section IV.F.6.

an alternative reporting framework for providing updated information to the Commission would be preferable, and the reasons therefor.

151. *Current Services/Geographic Market.* We propose to require international section 214 authorization holders to include in their three-year reports updated information concerning the services they currently provide to customers using their international section 214 authority and the geographic markets where they currently market, offer, and/or provide services using the particular international section 214 authority, consistent with the changes we propose to the application requirements.³⁴⁵ We propose to require authorization holders to disclose whether or not they have discontinued service as of the most recent renewal process or the most recent report.

152. *Facilities-Based Equipment, Resellers, and Service Certification.* We propose to require international section 214 authorization holders to make certifications in the three-year reports. First, we propose to require authorization holders to certify in the report that they will undertake to implement and adhere to baseline cybersecurity standards based on universally recognized standards such as those provided by the CISA or the NIST.³⁴⁶ Second, we seek comment on whether to require authorization holders to certify in the report as to whether or not they use equipment or services identified on the Commission's "Covered List."³⁴⁷

153. *Regulatory Compliance and Character Qualifications.* We propose in Section IV.E.6. that all applicants seeking international section 214 authority or modification, assignment, transfer of control, or renewal of international section 214 authority must certify in the applications whether or not they are in compliance with the Commission's rules and regulations, the Act, and other laws.³⁴⁸ We propose to require each applicant to certify in its application as to whether or not the applicant has violated the Act, Commission rules, or U.S. antitrust or other competition laws, has engaged in fraudulent conduct before another government agency, has been convicted of a felony, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder.³⁴⁹ We propose to require authorization holders to also certify as to their compliance in the three-year reports. We seek comment on this proposal.

154. *Data Storage Information.* Serious national security, law enforcement, foreign policy, and/or trade policy concerns are presented where a foreign government may have access to U.S. telecommunications records through data stored in that foreign country or through the routing of data through such country. We seek comment on whether, as part of their three-year reporting requirement, authorization holders should report, with respect to services provided pursuant to their international section 214 authority, the current location(s) of their data storage facilities; the foreign countries where they currently store U.S. records; the foreign countries from which their infrastructure in the United States is currently and/or can be accessed, controlled, and/or owned; and the countries in which their employees, subsidiaries, and/or offices are currently located. We seek comment on whether authorization holders should also disclose the equipment such as the hardware and software that they currently use to store U.S. records for services provided pursuant to their international section 214 authority. We seek comment on whether the Commission should require applicants to provide any of this information in the initial application for international section 214 authority and the renewal application or, in the alternative, periodic review submission.

155. *Other Information.* We seek comment on what other information the Commission should require generally for all applicants so that we can address evolving national security, law enforcement,

³⁴⁵ See *supra* Section IV.E.2.

³⁴⁶ See *supra* para. 122.

³⁴⁷ See *supra* para. 124.

³⁴⁸ See *supra* Section IV.E.6.

³⁴⁹ See *id.*

foreign policy, and/or trade policy risks. We seek comment on the types of ongoing information that the Commission should refer to the Executive Branch agencies for review. For example, should the Commission require authorization holders to periodically notify the Commission of any criminal convictions involving the authorization holder? We note that a similar requirement applies to broadcast licensees.³⁵⁰

5. International Signaling Point Codes (ISPCs)

156. We propose to adopt a rule requiring that applicants seeking to assign or transfer control of their authorization must identify in their application any ISPCs that they hold and whether the ISPC will be subject to the assignment or transfer of control. As the Commission previously stated, “ISPCs are a scarce resource that are used by international Signaling System 7 (SS7) gateways as addresses for routing domestic voice traffic to an international provider.”³⁵¹ The Commission is the Administrator of ISPCs for SS7 networks for the United States consistent with the ITU-T Recommendation Q.708.³⁵² Anyone seeking an ISPC assignment is required by rule to file an application with the Commission.³⁵³

157. In its letters provisionally assigning the ISPCs to carriers, the Office of International Affairs imposes conditions that require carriers to be in compliance with the ITU-T Recommendation Q.708. Notably, the ITU also advises that ISPCs “may not be transferred, except in the case of a merger, acquisition, divestiture, or joint venture” and that “[t]he Administrator(s) shall be notified of any such transfer by the signalling point operators.”³⁵⁴ Based on our experience, carriers may have assigned or transferred control of their ISPCs to other carriers without filing with the Commission the requisite notification of such assignment or transfer of control. In fact, on June 1, 2020, China Unicom (Americas) Operations Limited admitted that it had failed to notify the Commission of the transfer of ISPC 3-194-2 from China Netcom (USA) Operations Limited to China Unicom USA Corporation in August 2009.³⁵⁵

³⁵⁰ See 47 CFR § 1.65(c) (“All broadcast permittees and licensees must report annually to the Commission any adverse finding or adverse final action taken by any court or administrative body that involves conduct bearing on the permittee’s or licensee’s character qualifications and that would be reportable in connection with an application for renewal as reflected in the renewal form . . .”).

³⁵¹ *China Telecom (Americas) Corporation*, GN Docket No. 20-109, File Nos. ITC- 214-20010613-00346, ITC- 214-20020716-00371, ITC-T/C-20070725-00285, Order Instituting Proceedings on Revocation and Termination and Memorandum Opinion and Order, 35 FCC Rcd 15006, 15040, para. 58 (2020); *China Telecom Americas Order on Revocation and Termination*, 36 FCC Rcd at 16054, para. 135, *aff’d*, *China Telecom (Americas) Corp. v. FCC*; see *China Unicom Americas Order on Revocation* at *50, para. 121; *Reporting Requirements for U.S. Providers of International Telecommunications Services—Amendment of Part 43 of the Commission’s Rules*, IB Docket No. 04-112, Notice of Proposed Rulemaking, 19 FCC Rcd 6460, 6474, para. 36, n.83 (2004). ITU-T Recommendation Q.708 defines a signaling point code as a “code with a unique 14-bit format used at the international level for [signaling] message routing and identification of [signaling] points involved.” See International Telecommunication Union, ITU-T Recommendation Q.708 (03/99), Series Q: Switching and Signalling, Specifications of Signalling System No. 7—Message Transfer Part (MTP), Assignment procedures for international signalling point codes, at 1, <https://www.itu.int/rec/recommendation.asp?lang=en&parent=T-REC-Q.708-199903-I> (ITU-T Recommendation Q.708).

³⁵² *Pacific Networks/ComNet Order on Revocation and Termination* at *68, para. 157, n.824.

³⁵³ ITU-T Recommendation Q.708. The Commission has adopted rules requiring applicants to submit ISPC applications electronically via the International Communications Filing System (ICFS) and stating that the Commission will take action on ISPC applications via a letter issued to the applicant. See 47 CFR §§ 1.10007(a), 1.10014(h).

³⁵⁴ ITU-T Recommendation Q.708 at 3 (Subclause 7.10).

³⁵⁵ Letter from Denise Coca, Chief, Telecommunications and Analysis Division, FCC International Bureau, to Robert E. Stup, Jr. and Paul C. Besozzi, Counsel for China Unicom (Americas) Operations Limited, DA 21-227, at 1 (Mar. 10, 2021) (on file in GN Docket No. 20-110, File Nos. SPC-NEW-20030730-00031, SPC-NEW-20031009-00040, SPC-NEW-20070112-00002, ITC-214-20020728-00361, ITC-214-20020724-00427) (reclaiming ISPCs 3-194-2, 3-195-0, and 3-199-2).

The ISPC authorization holders must comply with the ITU guidelines, which clearly require ISPC operators to inform the Commission of any transfers.³⁵⁶ Currently, we ask carriers informally. We believe, however, that a rule would help to ensure that the carrier provides the required notice if an ISPC is also being transferred in a transaction. We believe this proposal would ensure the Commission has accurate information about current ISPC holders. We seek comment on this proposal and what potential burdens, if any, would be imposed on carriers.

6. Enforcement of International Section 214 Authorization Rules

158. We propose that even if an authorization holder fails to file a notification of discontinuance and surrender the authorization, an authorization will be cancelled if the Commission determines that the authorization holder has permanently discontinued service under the international section 214 authority.³⁵⁷ We seek comment on what facts would warrant cancellation and the process for such cancellation. For example, if an authorization holder fails to respond to Commission requests, and has not otherwise interacted with the Commission during the same time period, could we conclude that the entity is no longer in business and cancel the authorization? How should the Commission notify the authorization holder of its intent to cancel the authorization and how much time should the Commission afford to such authorization holder for any response?

159. We also propose that the authorizations of authorization holders that fail to comply with other reporting requirements should be subject to cancellation under similar circumstances, i.e., where there are no other indications that the carrier remains in business.³⁵⁸ Should the Commission adopt a rule that conditions international section 214 authorizations on an authorization holder's compliance with the three-year reporting requirements or cross border reporting requirements proposed herein, whereupon failure to file timely and sufficient ongoing reports is grounds for termination?

160. We propose to direct the Office of International Affairs to release an informative public notice announcing the proposed cancellation of the authorization. The authorization holder would have 30 days to respond and explain why the authorization should not be cancelled. If the authorization holder does not respond, the authorization would be automatically cancelled at the end of the 30-day period.³⁵⁹ We propose that an international section 214 authorization holder whose authorization is cancelled for the foregoing reasons may file an application for a new international section 214 authorization. We note that authorization holders that fail to comply with reporting and notification requirements are subject to forfeitures in addition to cancellation. We seek comment on this process.

7. Other Administrative Modifications

161. *Section 214(b) of the Act.* We propose to clarify the requirements of section 1.763(b) of the rules, which implements section 214(b) of the Act, and to amend section 63.18 to incorporate the requirements of section 1.763. Section 214(b) of the Act requires, “[u]pon receipt of an application for any such certificate, the Commission shall cause notice thereof to be given to, and shall cause a copy of such application to be filed with, the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points), and the Governor of each State in which such line is

³⁵⁶ ITU-T Recommendation Q.708 at 3 (Subclause 7.10).

³⁵⁷ For instance, with respect to Wireless Radio Service licenses, the Commission's rules provide that “[a]n authorization will automatically terminate, without specific Commission action, if service or operations are permanently discontinued as defined in this section, even if a licensee fails to file the required form requesting license cancellation.” 47 CFR § 1.953(f); 47 CFR § 1.953(a) (“A licensee’s authorization will automatically terminate, without specific Commission action, if the licensee permanently discontinues service or operations under the license during the license term.”).

³⁵⁸ See *supra* at para. 25, Sections IV.E.4. and IV.F.4.

³⁵⁹ Under the Commission's rules, the authorization holder would have 30 days to file a petition for reconsideration of this action. 47 CFR § 1.106.

proposed to be constructed, . . . acquired, or operated”³⁶⁰ Section 1.763(b) in turn states, “[i]n cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points), and the Governor of each State involved. Hearing is held if any of these persons desires to be heard or if the Commission determines that a hearing should be held. Copies of applications for certificates are filed with the regulatory agencies of the States involved.”³⁶¹ We propose to amend section 1.763(b) to clarify that an applicant must give notice and file a copy of the application with the Secretary of Defense, the Secretary of State, and the Governor of each State involved, and must file copies of applications for certificates with the regulatory agencies of the State involved.

162. We also propose to amend section 63.18 of the rules by adding a subsection that expressly references the requirement in section 1.763(b) and requires applicants for international section 214 authority to certify service to the Secretary of Defense, the Secretary of State, and the Governor of each State involved on a service list attached to the application or other filing. We seek comment on these proposals.

163. *Anti-Drug Abuse Act Certification.* We propose to amend section 63.18(o) of the Commission’s rules to reflect changes in underlying rule and statutory provisions referenced in section 63.18(o).³⁶² Section 63.18(o) requires “[a] certification pursuant to §§ 1.2001 through 1.2003 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. 853a.”³⁶³ Specifically, we propose to delete the citation to section 1.2003, consistent with the Commission’s removal of this provision from the rules.³⁶⁴ In addition, we propose to replace the citation to 21 U.S.C. 853a with a citation to 21 U.S.C. § 862, consistent with the redesignation of section 5301 of the Anti-Drug Abuse Act of 1988 as section 421 of the Controlled Substances Act.³⁶⁵

164. *Section 63.19(c).* We propose to amend section 63.19(c) of the Commission’s rules to reflect changes in an underlying rule referenced in section 63.19(c). Section 63.19(c) states, “Commercial Mobile Radio Service (CMRS) carriers, as defined in § 20.9 of this chapter, are not subject to the provisions of this section.”³⁶⁶ Section 20.9 no longer contains a rule provision. We propose to delete the citation to section 20.9, consistent with the Commission’s removal of this provision from the rules,³⁶⁷ and replace the citation with a citation to section 20.3, which defines “Commercial mobile radio service.”³⁶⁸

165. *Applications for Substantial Transactions.* We propose to make an administrative

³⁶⁰ 47 U.S.C. § 214(b).

³⁶¹ 47 CFR § 1.763(b).

³⁶² *Id.* § 63.18(o).

³⁶³ *Id.*

³⁶⁴ See *Amendment of Parts 0, 1, 73, and 74 of the Commission’s Rules*, Order, 26 FCC Rcd 13538, 13543, para. 9 (2011) (finding, “[t]he list of applications in section 1.2003 is outdated, and it is also unnecessary, since section 1.2002, by its express terms, applies to ‘all applicants’ for an instrument of authorization from the Commission, and to spectrum lessees, whether or not the certification has been incorporated into the application form and even if there is no form”).

³⁶⁵ See Crime Control Act of 1990, Pub. L. 101–647, 104 Stat. 4789 (1990); see 47 CFR §§ 1.2001–1.2002.

³⁶⁶ 47 CFR § 63.19(c).

³⁶⁷ *Amendments To Harmonize and Streamline Part 20 of the Commission’s Rules Concerning Requirements for Licensees To Overcome a CMRS Presumption*, Report and Order, 32 FCC Rcd 10731, 10731–32, paras. 1–3 (2017) (*Part 20 Report and Order*); *Amendments To Harmonize and Streamline Part 20 of the Commission’s Rules Concerning Requirements for Licensees To Overcome a CMRS Presumption*, Erratum, 33 FCC Rcd 1924 (2018) (*Part 20 Order Erratum*).

³⁶⁸ 47 CFR § 20.3 (“Definitions”); see generally *Part 20 Report and Order*; *Part 20 Order Erratum*.

correction to section 63.24(e)(1) of the Commission's rules by removing the word "shall," which was previously included in the rule in error. Section 63.24(e)(1) states, "[i]n the case of an assignment or transfer of control shall of an international section 214 authorization that is not pro forma, the proposed assignee or transferee must apply to the Commission for authority prior to consummation of the proposed assignment or transfer of control."³⁶⁹

166. *Transfers of Control.* We propose to make an administrative correction to section 63.24(c) of the Commission's rules. We also propose to move existing notes into regulatory text as necessary to conform with the Office of Federal Register requirements. This may entail the creation of new subsections. Section 63.24(c) describes what constitutes a transfer of control and states, in part, "[i]n all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis with reference to the factors listed in Note to paragraph (c)."³⁷⁰ We propose to amend the reference to Note to paragraph (c) given that section 63.24 no longer contains a Note to paragraph (c). Specifically, we propose to change the citation to paragraph (d) and thus replace the reference to "Note to paragraph (c)" with a reference to what is currently reflected as "Note 1 to paragraph (d)." This reference to Note 1 to paragraph (d) would be consistent with a similar reference set forth in section 63.24(d) of the rules, which describes what constitutes a *pro forma* assignment or transfer of control and includes the statement, "[w]hether there has been a change in the actual controlling party must be determined on a case-by-case basis with reference to the factors listed in Note 1 to this paragraph (d)."³⁷¹ Note 1 to paragraph (d) states, "[b]ecause the issue of control inherently involves issues of fact, it must be determined on a case-by-case basis and may vary with the circumstances presented by each case. The factors relevant to a determination of control in addition to equity ownership include, but are not limited to the following: power to constitute or appoint more than fifty percent of the board of directors or partnership management committee; authority to appoint, promote, demote and fire senior executives that control the day-to-day activities of the licensee; ability to play an integral role in major management decisions of the licensee; authority to pay financial obligations, including expenses arising out of operations; ability to receive monies and profits from the facility's operations; and unfettered use of all facilities and equipment."³⁷² As discussed below, and reflected in Appendix A, we propose to further convert Notes into respective subsections. We seek comment on these proposed amendments to section 63.24(c) of the rules.

167. *Section 63.24(f).* Consistent with the proposal in this Notice, we propose to make conforming edits to section 63.24(f) to state that a single notification may be filed for an assignment or transfer of control of more than one authorization if each authorization is identified by the file number under which it was granted,³⁷³ subject to our proposed requirement that each authorization holder may hold only one authorization except in certain limited circumstances.³⁷⁴

168. *Section 63.18(q).* We propose to amend the current section 63.18(q) to clarify that an application must include any other information that "the Commission or Commission staff have advised will" be necessary to enable the Commission to act on the application. Section 63.18(q) states, "[a]ny other information that may be necessary to enable the Commission to act on the application."³⁷⁵

169. *Section 63.21(g).* We propose to amend section 63.21(g) of the rules to state that the Commission reserves the right to review a carrier's authorization "at any time" and to impose additional

³⁶⁹ 47 CFR § 63.24(e)(1).

³⁷⁰ *Id.* § 63.24(c).

³⁷¹ *Id.* § 63.24(d).

³⁷² *Id.* § 63.24(d), Note 1 to paragraph (d).

³⁷³ *Id.* § 63.24(f).

³⁷⁴ *See supra* Section IV.F.1.

³⁷⁵ 47 CFR § 63.18(q).

requirements on U.S. international carriers “where national security, law enforcement, foreign policy, trade policy, and/or other public interest concerns are raised by the U.S. international carrier’s international section 214 authority.” Section 63.21 states, “[t]he Commission reserves the right to review a carrier’s authorization, and, if warranted, impose additional requirements on U.S. international carriers in circumstances where it appears that harm to competition is occurring on one or more U.S. international routes.”³⁷⁶

170. *Other Administrative Changes.* Throughout Appendix A, we have proposed various ministerial, non-substantive changes not individually discussed in this Notice. These changes include, among other things, the conversion of Notes into respective subsections for consistency with the Office of Federal Register requirements; the inclusion of references to a successor system in relation to ICFS; and corrections to errors in spelling.

171. *Conforming Changes.* We propose to adopt or seek comment on conforming changes to rules that were adopted in the *Executive Branch Process Reform Order* if the Commission adopts the rule changes proposed in this Notice.³⁷⁷

- *Section 63.12(c).* The *Executive Branch Process Reform Order* amends section 63.12(c) of the rules by adding a new subsection (c)(3), which provides that the streamlining processing procedures provided by section 63.12(a) and (b) shall not apply where “[a]n individual or entity that is not a U.S. citizen holds a ten percent or greater direct or indirect equity or voting interest, or a controlling interest, in any applicant.”³⁷⁸ We seek comment on further amending section 63.12(c) by changing “ten percent or greater” to “five percent or greater,” consistent with our request for comment on changing the ownership reporting threshold for international section 214 applications from 10% to 5%.³⁷⁹
- *Section 63.18(p).* The *Executive Branch Process Reform Order* amends section 63.18 of the rules by adding a new section 63.18(p), which require that “[e]ach applicant for which an individual or entity that is not a U.S. citizen holds a ten percent or greater direct or indirect equity or voting interest, or a controlling interest, in the applicant, must submit”: (1) responses to standard questions, prior to or at the same time the applicant files its application with the Commission, pursuant to Part 1, Subpart CC, directly to the Committee, and (2) a complete and unredacted copy of its FCC application(s) to the Committee within three (3) business days of filing it with the Commission.³⁸⁰ We seek comment on further amending section 63.18(p) by changing “ten percent or greater” to “five percent or greater,” consistent with our request for comment on changing the ownership reporting threshold for international section 214 applications from 10% to 5%.³⁸¹
- *Section 1.40001(a)(1).* The *Executive Branch Process Reform Order* adds a new section 1.40001(a)(1), which provides that “[t]he Commission will generally refer to the executive branch applications filed for an international section 214 authorization and submarine cable landing license as well as an application to assign, transfer control of, or modify those authorizations and licenses where the applicant has reportable foreign ownership . . . pursuant

³⁷⁶ *Id.* § 63.21(g).

³⁷⁷ Some of the rule changes adopted in the *Executive Branch Process Reform Order* have not gone into effect yet.

³⁷⁸ See *Order Erratum*, 35 FCC Rcd at 13173, para. 10; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985, Appx. B, para. 10.

³⁷⁹ See *supra* Section IV.E.1.

³⁸⁰ See *Order Erratum*, 35 FCC Rcd at 13174, para. 11; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10987, Appx. B, para. 11.

³⁸¹ See *supra* Section IV.E.1.

to §§ 1.767, 63.18 and 63.24 of this chapter, and 1.5000 through 1.5004.”³⁸² We propose to amend section 1.40001(a)(1) by adding applications to renew international section 214 authority where the applicant has reportable foreign ownership to the types of applications that the Commission will generally refer to the Executive Branch. We also propose to amend section 1.40001(a)(1) to include that the Commission will generally refer applications for renewal of cable landing licenses.

- We further propose, to the extent the Commission adopts a periodic review process, to amend the foregoing section to state that periodic review process submissions where the filer has reportable foreign ownership generally will be referred to the Executive Branch, unless the only reportable foreign ownership is through wholly owned intermediate holding companies and the ultimate ownership and control is held by U.S. citizens or entities.³⁸³
- *Section 1.40001(a)(2)(ii).* The *Executive Branch Process Reform Order* adds a new section 1.40001(a)(2)(ii), which provides that the Commission will generally exclude from referral to the Executive Branch, when the applicant makes a specific showing in its application, “[a]pplications filed pursuant to §§ 1.767 and 63.18 and 63.24 of this chapter if the applicant has reportable foreign ownership and petitions filed pursuant to §§ 1.5000 through 1.5004 where the only reportable foreign ownership is through wholly owned intermediate holding companies and the ultimate ownership and control is held by U.S. citizens or entities.”³⁸⁴ We propose to amend section 1.40001(a)(2)(ii) by adding a reference to section 63.27 where we propose to codify the renewal requirements adopted in this proceeding.
- *Section 1.40001(a)(2)(iii).* The *Executive Branch Process Reform Order* adds a new section 1.40001(a)(2)(iii), which provides that when the applicant makes a specific showing in its application, the Commission will generally exclude from referral to the Executive Branch “[a]pplications filed pursuant to §§ 63.18 and 63.24 of this chapter where the applicant has an existing international section 214 authorization that is conditioned on compliance with an agreement with an executive branch agency concerning national security and/or law enforcement, there are no new reportable foreign owners of the applicant since the effective date of the agreement, and the applicant agrees to continue to comply with the terms of that agreement.”³⁸⁵ We propose to amend the new section 1.40001(a)(2)(iii) by adding a reference to section 63.27 where we propose to codify the renewal application requirements adopted in this proceeding. We note, however, that all applications filed pursuant to sections 63.18 and 63.24 and the new renewal rules will be subject to a new ownership reporting threshold of 5%, if adopted, upon the effective date of the proposed rules.
- *Section 1.40001(a)(2)(iv).* The *Executive Branch Process Reform Order* adds a new section 1.40001(a)(2)(iv), which provides that when the applicant makes a specific showing in its application, the Commission will generally exclude from referral to the Executive Branch “[a]pplications filed pursuant to §§ 63.18 and 63.24 of this chapter where the applicant was reviewed by the executive branch within 18 months of the filing of the application and the executive branch had not previously requested that the Commission condition the applicant’s international section 214 authorization on compliance with an agreement with an executive branch agency concerning national security and/or law enforcement and there are no new

³⁸² 47 CFR § 1.40001(a)(1); *Order Erratum*, 35 FCC Rcd at 13168-69, para. 7; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10977-78, Appx. B, para. 7.

³⁸³ See *infra* note 384.

³⁸⁴ *Order Erratum*, 35 FCC Rcd at 13168-69, para. 7; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10977-78, Appx. B, para. 7.

³⁸⁵ *Order Erratum*, 35 FCC Rcd at 13168-69, para. 7; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10977-78, Appx. B, para. 7.

reportable foreign owners of the applicant since that review.”³⁸⁶ We propose to amend the new section 1.40001(a)(2)(iv) by adding a reference to section 63.27 where we propose to codify the renewal application requirements adopted in this proceeding.

- *Section 1.40001(d).* The *Executive Branch Process Reform Order* adds a new section 1.40001(d), which provides that “[a]s used in this subpart, ‘reportable foreign ownership’ for applications filed pursuant to §§ 1.767 and 63.18 and 63.24 of this chapter means any foreign owner of the applicant that must be disclosed in the application pursuant to § 63.18(h)”³⁸⁷ We propose to amend section 1.40001(d) by adding a reference to section 63.27 where we propose to codify the renewal requirements adopted in this proceeding, including a reference to the provision, if adopted, that would require renewal applicants to disclose individuals or entities with a 5% or greater direct and/or indirect equity and/or voting interest in the applicant. We also seek comment on amending section 1.40001(d) to distinguish between “reportable foreign ownership” as it would be applied to international section 214 applications under the new reporting threshold, if adopted, and submarine cable landing license applications.
- We also propose conforming changes to section 63.18(h)(1), as adopted in the *Executive Branch Process Reform Order*, which requires, “[t]he name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those entities (to the nearest one percent). Where no individual or entity directly or indirectly owns ten percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, a statement to that effect.”³⁸⁸ We propose to include the word “individuals and” in the first sentence to state, “the percentage of equity and/or voting interest owned by each of those individuals and entities” for consistency within that subsection.

172. *Submarine Cable Reportable Ownership.* We note that the Commission’s rule regarding the ownership information required in submarine cable landing license applications refers to the requirement set out in section 63.18(h).³⁸⁹ We seek comment on changing the requirement in section 63.18(h) to disclose individuals or entities with a 5% or greater direct and/or indirect equity and/or voting interest in the applicant. This Notice does not address the Commission’s cable landing license rules. We seek comment on amending section 1.767(a)(8)(i) of the rules to remove the reference to section 63.18(h) and retain the current 10% reporting threshold for submarine cable landing license applications.³⁹⁰ We seek comment on incorporating into section 1.767(a)(8)(i) the language that is reflected in section 63.18(h)(1)-(3) as adopted in the *Executive Branch Process Reform Order* with an administrative change discussed above.³⁹¹

173. Consistent with this approach, we also seek comment on amending section 1.40001(d),

³⁸⁶ *Order Erratum*, 35 FCC Rcd at 13168-69, para. 7; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10977-79, Appx. B, para. 7.

³⁸⁷ 47 CFR § 1.40001(d); *Order Erratum*, 35 FCC Rcd at 13168-69, para. 7; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10977-79, Appx. B, para. 7.

³⁸⁸ *Order Erratum*, 35 FCC Rcd at 13173, para. 11; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985-86, Appx. B, para. 11.

³⁸⁹ See 47 CFR § 1.767(a)(8)(i).

³⁹⁰ We refer in this paragraph to “submarine cable landing license applications” to include applications for a new cable landing license or modification, assignment, transfer of control, or renewal of a cable landing license, and notifications of *pro forma* assignment or transfer of control of a cable landing license.

³⁹¹ See *infra* Appx. A; *Order Erratum*, 35 FCC Rcd at 13173-74, para. 11; *Executive Branch Process Reform Order*, 35 FCC Rcd at 10985-87, Appx. B, para. 11; 47 CFR § 63.18(h)(1)-(3); see *supra* para. 171.

which provides that, “[a]s used in this subpart, ‘reportable foreign ownership’ for applications filed pursuant to §§ 1.767 and 63.18 and 63.24 of this chapter means any foreign owner of the applicant that must be disclosed in the application pursuant to § 63.18(h)”³⁹² Specifically, we seek comment on removing the reference to section 1.767 in association with section 63.18(h), and including a separate statement that “reportable foreign ownership” for applications filed pursuant to section 1.767 means any foreign owner of the applicant that must be disclosed in the application pursuant to section 1.767(a)(8)(i).

G. Costs and Benefits

174. We seek comment on the potential benefits and costs of the proposals addressed in this Notice. The rule changes identified in the Notice would advance U.S. national security, law enforcement, foreign policy, and trade policy interests. As discussed above, we propose to adopt a 10-year renewal requirement for all international section 214 authorization holders or, in the alternative, adopt a periodic review process.³⁹³ We propose or seek comment on other improvements to the Commission’s rules applicable to applications for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority.³⁹⁴ We also propose other changes to Parts 1 and 63 of the Commission’s rules³⁹⁵ that include requiring applicants to: (1) provide information about their current and/or expected future services and geographic markets; (2) identify the facilities that they use and/or will use to provide services under their international section 214 authority from the United States into Canada and/or Mexico; (3) certify in their application that they will undertake to implement and adhere to baseline cybersecurity standards based on universally recognized standards; (4) hold only one international section 214 authorization except in certain limited circumstances; and (5) provide updated information every three years.³⁹⁶ We expect that the resulting changes would improve the Commission’s oversight of international section 214 authorizations and ensure that a carrier’s authorization continues to serve the public interest, as the Act intended. While we tentatively find that a renewal process is a critical component of protecting U.S. national security, law enforcement, foreign policy, and trade policy interests against evolving threats, we acknowledge that such a renewal process or other proposals in the Notice may create economic burdens for international section 214 authorization holders.

175. We recognize that the benefits of protecting U.S. national security, law enforcement, foreign policy, and trade policy interests are difficult to quantify in monetary terms. The difficulty in quantifying these benefits does not, however, diminish their importance. We believe that a formalized system of periodically reassessing international section 214 authorizations would better ensure that international section 214 authorizations, once granted, continue to serve the public interest. These benefits include improved consistency in the Commission’s consideration of evolving public interest risks, completeness of the Commission’s information regarding international section 214 authorization holders, and timely Commission attention to issues that warrant heightened scrutiny. Additional benefits include more consistent and complete referral of relevant evolving issues to the Executive Branch agencies, including the Committee, for their review and ultimately, improved protection of U.S. telecommunications infrastructure.³⁹⁷ These benefits cannot be achieved with *ad hoc* reviews alone.

³⁹² 47 CFR § 1.40001(d).

³⁹³ See *supra* Section IV.B.4.

³⁹⁴ See *supra* Sections IV.D-F.

³⁹⁵ See *supra* Sections IV.D-F.

³⁹⁶ See *supra* Sections IV.E-F.

³⁹⁷ For reference, the digital economy accounted for \$3.31 trillion of the U.S. economy in 2021, and so preventing a disruption of even 0.000001 (a millionth) of that amount annually would mean that benefits outweigh costs by a wide margin. See Tina Highfill & Christopher Surfield, Bureau of Economic Analysis, U.S. Department of Commerce, *New and Revised Statistics of the U.S. Digital Economy, 2005-2020* (May 2022), <https://www.bea.gov/system/files/2022->

(continued....)

Thus, adopting a periodic and systemized review of international section 214 authorizations is necessary to help ensure that the Commission and the Executive Branch agencies have the necessary information to address evolving national security, law enforcement, foreign policy, and/or trade policy risks on a continuing basis.

176. In addition to the benefits to national security, law enforcement, foreign policy, and trade policy interests, we tentatively find that our proposed rule changes would provide clear regulatory guidance, which generally benefits the efficient operation of markets. For example, it is important that we have accurate and timely records about all authorization holders, including which authorization holders are active and which no longer exist or utilize their international section 214 authority. In this regard, we propose to amend section 63.19 of the Commission's rules to require all authorization holders that permanently discontinue service provided pursuant to their international section 214 authority, to file a notification of the discontinuance and surrender the authorization.³⁹⁸ This information would help the Commission to better understand the size, scope, and structure of this market, all of which provide valuable input for the public interest considerations of the regulatory process. Further, the ongoing reporting requirements that we propose or seek comment on with respect to ownership and other information every three years would be beneficial, as it is possible that certain foreign-owned applicants or other applicants might pose national security, law enforcement, foreign policy, trade policy, and/or competition concerns.³⁹⁹

177. Thus, the benefits of our proposed rule changes include significant contributions to U.S. national security, law enforcement, foreign policy, and trade policy interests, better protection of U.S. telecommunications and sensitive U.S. customer information, as well as administrative efficiencies that improve the regulatory process and safeguard against financial or other manipulation of competitive markets. While it is difficult to quantify these economic benefits, we believe the benefits are far greater than the costs of the proposed renewal process and other proposed rules discussed in the Notice.

178. Our estimate of costs includes all expected ongoing costs that would be incurred as a result of the rules proposed above.⁴⁰⁰ Our estimate of costs is intentionally focused on the higher end of potential outcomes, thus making an overestimate likely. By taking this approach, we can have additional confidence that the costs of the rules being proposed would be less than the benefits as outlined above. We estimate that the annual aggregate cost of the proposed rules described above could vary, depending on parameters established such as frequency of renewal, filing fees charged, and other factors, but these costs should not exceed approximately \$2,555,000 annually for each of the first 10 years, and approximately \$1,946,000 for each year thereafter. We tentatively conclude that the benefits of establishing the proposed renewal process—which include providing the Commission with critical information that allows it to carry out its role in protecting the nation's telecommunications infrastructure from national security, law enforcement, foreign policy, and trade policy threats—will be well in excess of these costs.

179. We base our cost estimate on the Commission's records, as described above, that indicate there are nearly 7,400 international section 214 authorizations, held by approximately 7,000 international

[05/New%20and%20Revised%20Statistics%20of%20the%20U.S.%20Digital%20Economy%202005-2020.pdf](#). See also *Protecting Against National Security Threats Order*, 34 FCC Rcd at 11465, para. 109, *aff'd*, *Huawei Technologies USA v. FCC*, 2 F.4th 421.

³⁹⁸ See *supra* Section IV.F.3.

³⁹⁹ See *supra* Section IV.F.4; *Foreign Participation Order*, 12 FCC Rcd at 23897-98, 23910-11, 23913-15, 23918-21, paras. 11, 13, 45-46, 51-53, 59-66.

⁴⁰⁰ See *supra* Section IV. We note that this estimate does not include the one-time foreign ownership information collection, as established by the Order herein. See *supra* Section III. That one-time collection is not a rule, and it will not impose ongoing costs.

section 214 authorization holders.⁴⁰¹ We estimate that the number of active international section 214 authorization holders is approximately 1,500—or roughly a fifth of the approximately 7,000 international section 214 authorization holders listed in ICFS.⁴⁰² For purposes of our analysis here, we assume that 1,500 international section 214 authorization holders would be impacted by the proposed rules. We further assume that out of approximately 1,500 international section 214 authorization holders, 375 authorization holders have reportable foreign ownership as discussed herein.⁴⁰³

180. Our cost estimate assumes that approximately 1,500 authorization holders will undergo the renewal process as described above, each falling into one of multiple groups, over 10 years, resulting, for example, in an average of 150 authorization holders filing renewal applications each year for the first 10 years.⁴⁰⁴ We estimate the costs to authorization holders related to applying for renewal of international section 214 authority, would include tasks such as review by legal and support staff of the authorization holder's ownership, current and/or expected future services and geographic markets, compliance with cybersecurity standards, and review of any cross border facilities. We note that the amount of work associated with preparing an initial renewal application likely will be greater than the work associated with preparing a subsequent renewal application following the initial 10-year timeframe, given that much of the information already will have been collected by the authorization holder. Additionally, the authorization holder would be required to provide the Commission with updated information every three years.⁴⁰⁵ We estimate that the preparation of the initial renewal application by each authorization holder will require 20 hours of work by attorneys and 20 hours of work by support staff, at a cost of \$6,800 per initial renewal application.⁴⁰⁶ To this cost, we add the \$875 administrative fee charged for renewal to obtain a total estimate of this burden at \$7,675 per renewal application (i.e., the first time an authorization holder must apply for renewal of its international section 214 authority). We then multiply the sum by 150 to produce a total estimate of approximately \$1,152,000 per year for the first 10-year period over

⁴⁰¹ See *supra* para. 11.

⁴⁰² See *supra* para. 12.

⁴⁰³ See *supra* para. 64.

⁴⁰⁴ See *supra* Section IV.C.1.

⁴⁰⁵ Our cost estimates for both renewal applications prepared in the initial 10-year timeframe and for future renewal applications are based on the rules proposed in the Notice. We recognize, however, that the information that authorization holders are required to provide could change in a future order adopted in this proceeding, such that these costs are subject to change.

⁴⁰⁶ Our cost data on wages for attorneys are based on the Commission's estimates of labor costs as represented in previous Paperwork Reduction Act (PRA) statements. *International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25, and 1.1311*, OMB Control No. 3060-0686 Paperwork Reduction Act (PRA) Supporting Statement at 13 (Mar. 25, 2021), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202103-3060-012 (March 2021 Supporting Statement); *International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25, and 1.1311*, OMB Control No. 3060-0686 Paperwork Reduction Act (PRA) Supporting Statement at 14 (Nov. 28, 2017), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201711-3060-029 (November 2017 Supporting Statement). Consistent with the Commission's calculations in the PRA statements, we estimate the median hourly wage for attorneys as \$300 for outside counsel. *Id.* We assume that this wage reasonably represents an average for all attorney labor, across a range of authorization holders with different sizes and business models, used to comply with the rules proposed in the Notice. Also, consistent with the Commission's calculations in PRA statements, we estimate the median hourly wage for support staff (paralegals and legal assistants) as \$40. *Id.* This signifies that, 20 hours of work by attorneys would cost \$6,000.00 and 20 hours of work by support staff would cost \$800.00, for a total of \$6,800.00 per initial renewal application.

which approximately 1,500 authorization holders will undergo the renewal process.⁴⁰⁷

181. We assume that after an authorization holder prepares and submits an initial renewal application, upon grant of such application, subsequent preparation of renewal applications (i.e., following the initial 10-year timeframe) will be less financially burdensome. We estimate the tasks related to subsequent renewal applications represent eight hours of work by attorneys and eight hours by support staff per renewal application, for a cost of \$2,720 per renewal application.⁴⁰⁸ To this cost, we add the \$875 administrative fee, to obtain a total estimate of this burden for ongoing renewal applications at \$3,595. We then multiply the sum by 150 to produce a total estimate of approximately \$540,000 per year after the first 10 years.⁴⁰⁹

182. We further assume that the Commission will receive applications for new international section 214 authorizations on an ongoing basis.⁴¹⁰ Based on applications filed within the last three years, we estimate that on average approximately 35 new applicants per year will seek a new international section 214 authorization.⁴¹¹ We note that these entities will incur costs that are identical to the costs associated with an initial renewal application as described above excluding the \$875 administrative fee.⁴¹² We estimate the aggregate total cost for these 35 new applicants in a given year at \$238,000 per year.⁴¹³ As above, we assume that subsequent preparation of renewal applications (i.e., following the initial 10-year timeframe) will be less financially burdensome for these new applicants at renewal. We estimate the aggregate total cost for these 35 new applicants at renewal for each year after the first 10 years to be \$126,000 per year.⁴¹⁴

183. Based on applications filed within the last three years, we estimate that on average approximately 150 applications per year will be filed for modification, assignment, or transfer of control

⁴⁰⁷ Specifically, $\$6,800.00 + \$875.00 = \$7,675.00$ per authorization holder. With 150 authorization holders filing renewal applications each year, we estimate $\$7,675.00 \times 150 = \$1,151,250.00$, which we round up to \$1,152,000.00 to avoid giving the false impression of precision.

⁴⁰⁸ Specifically, we estimate eight hours of attorney labor at \$2,400 (8 x \$300) and eight hours of support staff labor at \$320 (8 x \$40), and the sum of this combined labor is \$2,720.00.

⁴⁰⁹ The estimated annual cost of 150 renewal applications at this point, after the initial 10-year period, would be \$539,250 ($\$3,595 \times 150$), which we round up to \$540,000 to avoid giving the false impression of precision.

⁴¹⁰ We expect that the costs associated with other proposed rules—such as allowing an authorization holder to hold only one international section 214 authorization except in certain limited circumstances, requiring an authorization holder to commence service within one year following the grant, requiring an authorization holder that permanently discontinues service provided pursuant to its international section 214 authority to file a notification of the discontinuance and surrender the authorization, and requiring an authorization holder to identify in its application any ISPCs that it holds and whether the ISPC will be subject to the assignment or transfer of control—are *de minimis* and not separately calculated here. See *supra* Section IV.F. We seek comment on this assessment.

⁴¹¹ These estimates are based on the Commission's records as of April 14, 2023. FCC, *MyIBFS*, <https://licensing.fcc.gov/myibfs/welcome.do>.

⁴¹² Applicants for new international section 214 authorizations are already subject to the \$875 fee, which is not subject to change as a result of the rules being proposed herein.

⁴¹³ As described above, the estimated cost to the authorization holder for preparing an initial renewal application is \$6,800 ($\$7,675 - \$875$). Assuming 35 new applicants file applications for a new international section 214 authorization each year, $\$6,800.00 \times 35 = \$238,000$.

⁴¹⁴ As described above, the estimated cost to the authorization holder for subsequent renewal application is \$3,595, which includes the proposed \$875 fee. Accounting for 35 new applicants yields, $\$3,595.00 \times 35 = \$125,825.00$, which we round up to \$126,000 to avoid giving the false impression of precision. We note that whereas the application fee is not new, in this Notice, we propose all future applicants to subsequently apply for renewal of their international section 214 authority on a 10-year basis necessitating future payment of the \$875 application fee.

of an international section 214 authorization.⁴¹⁵ We assume that these applicants will incur the less burdensome cost that follows the initial 10-year timeframe excluding the \$875 administrative fee.⁴¹⁶ We estimate the aggregate total cost for these 150 applications in a given year at \$408,000 per year.⁴¹⁷

184. We similarly estimate the number of authorization holders that will need to report cross border facilities pursuant to the ongoing three-year reporting requirement.⁴¹⁸ We expect that 10% of all authorization holders (out of approximately 1,500 authorization holders) have cross border facilities, which represents 150 authorization holders, and must report cross border facilities information every three years. We note that this would involve an ongoing reporting requirement every three years, and we assume an average of 50 authorization holders would file cross border facilities information. We estimate the collection of this information consists of three hours of attorney and three hours of support staff time at a cost of approximately \$1,100 per authorization holder. We expect that the effort to comply with this reporting requirement will be low because we are requiring authorization holders to report only information that they routinely have. We calculate that 50 authorization holders, with a cost of \$1,100 per filing, will incur approximately \$55,000 in total costs related to reporting cross border facilities information in a given reporting year.⁴¹⁹

185. In addition to the tasks described above, we estimate that authorization holders and new applicants for international section 214 authority will pay an additional cost associated with our proposal to certify compliance to baseline cybersecurity standards.⁴²⁰ Previously, the Commission had estimated a cost of drafting a cybersecurity risk management plan and submitting a certification as \$820, and we propose to use this estimate here for individual authorization holders and new applicants for international section 214 authority.⁴²¹ We seek comment on this estimate. We assume that during the initial 10-year

⁴¹⁵ These estimates are based on the Commission's records as of April 14, 2023. FCC, *MyIBFS*, <https://licensing.fcc.gov/myibfs/welcome.do>.

⁴¹⁶ For the initial 10-year period, our reasoning is as follows: any applicant for a modification, assignment, or transfer of control of an international section 214 authorization that has already submitted a renewal application should find it less financially burdensome to provide additional information for the aforementioned applications pursuant to the rules that we propose. Any applicant for a modification, assignment, or transfer of control of an international section 214 authorization that had not yet submitted a renewal application would find doing so more burdensome (with burdens consisting of 20 hours of work each by attorneys and support staff, as discussed above), but would then face a lighter burden (consisting of 8 hours of work each by attorneys and support staff) following an initial renewal application. Because we have already assumed that an applicant would face the higher burden in preparing an initial renewal application, we assume that an applicant would face a lighter burden when applying for a modification, assignment, or transfer of control of the international section 214 authorization thereafter. Additionally, because the fee that must be paid by applicants for a modification, assignment, or transfer of control of an international section 214 authorization, is not subject to change, we exclude it from our calculations.

⁴¹⁷ Specifically, at \$2,720 (\$3,595 - \$875) per filing, we estimate \$408,000 (\$2,720 x 150) total annual cost related to applications for modification, assignment, or transfer of control.

⁴¹⁸ The other ongoing three-year proposed reporting requirements, such as providing updated information concerning services and geographic markets, certifying compliance with cybersecurity standards, and certifying compliance with the Commission's rules and regulations, the Act, and other laws as well as the Commission's character qualifications, are *de minimis* and not calculated here. See *supra* Section IV.F.4. We seek comment on this assessment.

⁴¹⁹ Specifically, at \$1,100 per filing, we estimate \$55,000 (\$1,100 x 50) total annual cost related to cross border filings.

⁴²⁰ See *supra* at para. 122.

⁴²¹ Specifically, the Commission estimated that compliance would take 10 hours of labor from a General and Operations Manager compensated at \$82 per hour (\$820 = \$82 x 10). *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System; Wireless Emergency Alerts; Protecting the Nation's Communications Systems from Cybersecurity Threats*, PS Docket Nos. 15-94, 15-91, 22-329, Notice of Proposed Rulemaking, FCC 22-82, at para. 32 (rel. Oct. 27, 2022).

timeframe, each year, 150 authorization holders will certify compliance as part of initially undertaking the renewal process. Additionally, 35 new applicants for international section 214 authority will need to certify compliance each year, including beyond the initial 10-year timeframe. As such, we calculate a total annual cost of \$152,000 for the initial 10-year timeframe and annual costs \$29,000 thereafter.⁴²²

186. In this Notice, we also seek comment on whether an authorization holder should provide updated information in the proposed ongoing three-year reports concerning those that hold 5% or greater direct and indirect equity and/or voting interests, or a controlling interest, in the authorization holder. Were we to adopt this approach, we also provide an estimate of the costs associated with filing this information every three years. If adopted, these ongoing reports will provide updates to ownership information that would need to be provided in a renewal application that is filed every 10 years, which should be simple to provide in most cases. We therefore assume a relatively light burden for compliance at three hours of attorney time and three hours of support staff time, or approximately \$1,100 per authorization holder. With 1,500 estimated authorization holders filing every three years, we assume one third of this total, or 500, will file each year. We therefore estimate \$550,000 in annual costs for all authorization holders to comply with the ongoing ownership reporting requirements.⁴²³

187. Combining the estimated costs of these additional filings on an annual basis, for the initial 10-year timeframe, we add \$55,000 for authorization holders with cross border facilities to report the requested information; \$152,000 for authorization holders and new applicants to certify compliance to basic cybersecurity standards; \$550,000 for all authorization holders to comply with any ongoing reporting requirements related to ownership information; \$238,000 for new applications for international section 214 authority filed by new applicants; and \$408,000 for applications for modification, assignment, or transfer of control of international section 214 authority for a sum of \$1,403,000. In subsequent years, we estimate that these additional costs will become \$1,406,000.⁴²⁴ We add these sums to, respectively, the estimated costs for preparing renewal applications, which we estimate to be \$1,152,000 annually for the initial 10-year period, and \$540,000 annually for subsequent renewal applications. Therefore, to summarize our estimate of total costs, we expect the initial costs to be \$2,555,000 annually for the first 10 years, and we expect costs to be \$1,946,000 annually for subsequent years.⁴²⁵

188. We seek comment on all these estimates. We also seek comment on the costs that could also impose potential burdens on authorization holders.⁴²⁶ Do our assumptions represent a reasonable estimate of total costs of the proposals in the Notice? Do our assumptions represent a reasonable estimate of the number of attorney and non-attorney labor hours needed to meet the requirements of the proposed

⁴²² For the initial 10-year timeframe, this consists of, each year, 150 authorization holders certifying compliance together with their initial renewal application and 35 new applicants certifying compliance together with their initial application each facing a cost of \$820 ($\$152,000 \approx \$820 \times (150 + 35)$). After the initial 10-year timeframe, new applicants will pay the cost of \$820 for a total of \$28,700, which we round to \$29,000. For subsequent renewal applications and for applications for modification, assignment, or transfer of control of an international section 214 authorization, we subsume the cost of cybersecurity certification in our total annual estimates above (\$540,000 per year for subsequent renewal applications and \$408,000 per year for applications for modification, assignment, or transfer of control).

⁴²³ Specifically, with three hours of attorney time and three hours of staff times estimated as \$1,100, as noted above, we estimate the total cost for 500 authorization holders at \$550,000 ($\$1,100 \times 500$).

⁴²⁴ Specifically, the cost of certifying compliance falls from \$152,000 per year to \$29,000 per year, but there is an additional \$126,000 annual cost associated with new applicants from the initial 10-year timeframe subsequently submitting renewal applications thereafter. In other words, the annual cost rises by $\$3,000 = \$126,000 - (\$152,000 - \$29,000) = \$1,406,000 - \$1,403,000$.

⁴²⁵ For the first 10 years, we estimate total costs as \$2,555,000 ($\$1,152,000 + \$1,403,000$) annually and for subsequent years we estimate total costs as \$1,946,000 ($\$540,000 + \$1,406,000$) annually.

⁴²⁶ For example, we seek comment on the costs and benefits of requiring all applicants, including those without reportable foreign ownership, to provide information on foreign-owned MNSPs. *See supra* Section IV.E.3.

rules? Are there other potential burdens or costs imposed by the proposed rules that we have not captured here? Is the likely number of new applicants for an international section 214 authorization in this market accurate? How would an alternative, periodic review approach, in lieu of a renewal framework, affect our projected costs and benefits? Are there other approaches that would use alternative means to provide the same benefits, in terms of advancing national security, law enforcement, and other interests, at lower costs? If so, what are those means of obtaining the same benefits and what are the expected costs? Any suggestions for alternative approaches should include clear explanations of the cost estimates, as well as estimates as to whether the benefits under any proposed alternatives would increase or decrease compared to the benefits described above.

H. Digital Equity and Inclusion

189. Finally, the Commission, as part of its continuing effort to advance digital equity for all,⁴²⁷ including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations⁴²⁸ and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

I. Conclusion

190. Our action today is intended to protect the nation's telecommunications infrastructure from threats in an evolving national security and law enforcement landscape by proposing to establish a 10-year renewal scheme or, in the alternative, a periodic review process for all international section 214 authorization holders. We tentatively find that the rules proposed in the Notice will improve the Commission's oversight of authorization holders while also providing regulatory certainty to authorization holders. Importantly, we believe that changed circumstances mandate that the Commission adopt a renewal process to ensure that an international section 214 authorization continues to serve the public interest in an ever-evolving national security and law enforcement environment.⁴²⁹

V. PROCEDURAL ISSUES

191. *Ex Parte Rules.* This proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁴³⁰ 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made

⁴²⁷ Section 1 of the Communications Act of 1934 as amended provides that the FCC "regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex." 47 U.S.C. § 151.

⁴²⁸ The term "equity" is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. See Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

⁴²⁹ See *supra* para. 1.

⁴³⁰ 47 CFR § 1.1200 *et seq.*

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 rule 1.1206(b). In proceedings governed by rule 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.

192. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),⁴³¹ requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."⁴³² Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy changes in this Notice of Proposed Rulemaking on small entities. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. Comments must be filed by the deadlines for comments on the Notice indicated on the first page of this document and must have a separate and distinct heading designating them as responses to IRFA. Because the Order does not adopt a rule and therefore does not require notice and comment, no Final Regulatory Flexibility Analysis is required.⁴³³

193. *Final Paperwork Reduction Act Analysis.* This document may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. All such new or modified information collection requirements will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) and (j) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. 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 consider how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In the Order, we have assessed the effects of requiring international section 214 authorization holders to identify reportable foreign ownership and to certify as to the accuracy of the information provided and find that they would have information about their ownership available in the ordinary course of business, for instance, for purposes of compliance with the Commission's rules. Further, although we do not have an estimated number of authorization holders that will need to obtain an FRN number or to file a surrender letter, the burdens are also low. For instance, obtaining an FRN for this purpose entails only a minimal burden.⁴³⁴ Therefore, we anticipate that the new collection will not be unduly burdensome.⁴³⁵

194. *Initial Paperwork Reduction Act Analysis.* This Notice of Proposed Rulemaking may contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on any information collection requirements contained in this document, as required by the Paperwork

⁴³¹ *See* 5 U.S.C. § 603.

⁴³² *See id.* § 605(b).

⁴³³ 5 U.S.C. § 604(a).

⁴³⁴ *See* FCC Supporting Statement for Collection 3060-0918, https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202002-3060-019.

⁴³⁵ *See* Appx. B (Initial Regulatory Flexibility Analysis).

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.

195. *Filing of Comments and Reply Comments.* Pursuant to sections 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 the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998). All comments and reply comments must be filed in IB Docket No. 23-119. Comments and reply comments must also be filed in MD Docket No. 23-134 if they address application fees.⁴³⁶

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent 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.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE Washington, DC 20554
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.⁴³⁷ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

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

197. *Additional Information.* For further information regarding Notice of Proposed Rulemaking, please contact Gabrielle Kim, Attorney Advisor, Telecommunications and Analysis Division, Office of International Affairs, at Gabrielle.Kim@fcc.gov or 202-418-0730.

VI. ORDERING CLAUSES

198. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 214, 218, 219, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 214, 218, 219, and 403, this Order IS HEREBY ADOPTED.

199. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), 201, 214, 218, 219,

⁴³⁶ See *supra* para. 86. The public draft of the item released on March 30, 2023, identified MD Docket No. 20-270 as one of the docket numbers. We have created a new docket number, MD Docket No. 23-134, associated with this proceeding instead of MD Docket No. 20-270. We will make available in MD Docket No. 23-134 copies of any comments that were previously filed in MD Docket No. 20-270 in response to the public draft to the extent the comments address application fees.

⁴³⁷ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

403, and 413 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 201, 214, 218, 219, 403, and 413, this Notice of Proposed Rulemaking IS HEREBY ADOPTED.

200. **IT IS FURTHER ORDERED** that this Order SHALL BE EFFECTIVE after the Office of Management and Budget completes review of any information collection requirements that the Office of International Affairs determines are required under the Paperwork Reduction Act.

201. **IT IS FURTHER ORDERED** that the Office of International Affairs shall conduct the information collection required by the Order, including the creation of any information collection forms or other instrument, and shall publish notice of the effective date of the information collection required by the Order and the filing deadline in the Federal Register. The filing deadline shall be no fewer than 30 days following the effective date of this Order. The Office of International Affairs shall announce the effective date and the filing deadline for the requirements in this Order by subsequent Public Notice.

202. **IT IS FURTHER ORDERED** that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**Proposed Rules**

Parts 1 and 63 of the Commission rules are amended as follows:

PART 1 – PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

2. Amend § 1.763(b) to read as follows:

§ 1.763 Construction, extension, acquisition or operation of lines.

(a) * * *

(b) In cases under this section requiring a certificate, applicants shall provide notice to and file a copy of the application with the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points), and the Governor of each State involved. Hearing is held if the Secretary of Defense, the Secretary of State, or the Governor of each State desires to be heard or if the Commission determines that a hearing should be held. The applicants must also file copies of applications for certificates with the regulatory agencies of the States involved.

3. Amend § 1.767 by revising paragraph (a)(8)(i) to read as follows:

§ 1.767 Cable landing licenses.

(a) * * *

(8) * * *

(i) The name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns 10 percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those individuals or entities (to the nearest 1 percent). Where no individual or entity directly or indirectly owns 10 percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, a statement to that effect.

(A)(1) Calculation of equity interests held indirectly in the carrier. Equity interests that are held by an individual or entity indirectly through one or more intervening entities shall be calculated by successive multiplication of the equity percentages for each link in the vertical ownership chain, regardless of whether any particular link in the chain represents a controlling interest in the company positioned in the next lower tier. Example: Assume that an entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a non-controlling 40 percent equity and voting interest in the carrier. The entity's equity interest in the carrier would be calculated by multiplying the individual's equity interest in Corporation A by that entity's equity interest in the carrier. The entity's equity interest in the carrier would be calculated as 12 percent ($30\% \times 40\% = 12\%$). The result would be the same even if Corporation A held a de facto controlling interest in the carrier.

(A)(2) Calculation of voting interests held indirectly in the carrier. Voting interests that are held through one or more intervening entities shall be calculated by successive multiplication of the voting percentages for each link in the vertical ownership chain, except that wherever the voting interest for any link in the chain is equal to or exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest. A general partner shall be deemed to hold the same voting interest as the partnership holds in the company situated in the next lower tier of the vertical ownership chain. A partner of a limited partnership (other than a general partner) shall be deemed to hold a voting interest in the partnership that is equal to the partner's equity interest. Example: Assume that an entity holds a non-controlling 30 percent equity and voting interest in Corporation A which, in turn, holds a controlling 70 percent equity and voting interest in the carrier. Because Corporation A's 70 percent voting interest in the carrier constitutes a controlling interest, it is treated as a 100 percent interest. The entity's 30 percent voting interest in Corporation A would flow through in its entirety to the carrier and thus be calculated as 30 percent ($30\% \times 100\% = 30\%$).

(B) An ownership diagram that illustrates the applicant's vertical ownership structure, including the direct and indirect ownership (equity and voting) interests held by the individuals and entities named in response to paragraph (a)(8)(i) of this section. Every individual or entity with ownership shall be depicted and all controlling interests must be identified. The ownership diagram shall include both the pre-transaction and post-transaction ownership of the authorization holder.

(C) The applicant shall also identify any interlocking directorates with a foreign carrier.

(D) The information and certifications required in § 63.18(o), (p), and (q) of this chapter.

* * * * *

4. Amend § 1.40001 by revising paragraphs (a) and (d) to read as follows:

§ 1.40001 Executive branch review of applications, petitions, other filings, and existing authorizations or licenses with reportable foreign ownership.

(a) * * *

(1) The Commission will generally refer to the executive branch:

(i) an application for a new international section 214 authorization as well as an application to modify, assign, transfer control of, or renew those authorizations where the applicant has reportable foreign ownership pursuant to §§ 63.18, 63.24, and 63.27 of this chapter.

(ii) an application for a new international section 214 authorization as well as an application to modify, assign, transfer control of, or renew those authorizations where the applicant with or without reportable foreign ownership certifies that it uses and/or will use facilities to provide services under its international section 214 authority from the United States into Canada and/or Mexico.

(iii) an application for a new submarine cable landing license as well as an application to modify, assign, transfer control of, or renew those licenses where the applicant has reportable foreign ownership pursuant to § 1.767 of this chapter.

(iv) petitions for section 310(b) foreign ownership rulings for broadcast, common carrier wireless, and common carrier satellite earth station licenses pursuant to §§ 1.5000 through 1.5004.

(2) * * *

(i) * * *

(ii) Applications filed pursuant to §§ 1.767, 63.18, 63.24, and 63.27 of this chapter if the applicant has reportable foreign ownership and petitions filed pursuant to §§ 1.5000 through 1.5004 where the only reportable foreign ownership is through wholly owned intermediate holding companies and the ultimate ownership and control is held by U.S. citizens or entities;

(iii) Applications filed pursuant to §§ 63.18, 63.24, and 63.27 of this chapter where the applicant has an existing international section 214 authorization that is conditioned on compliance with an agreement with an executive branch agency concerning national security and/or law enforcement, there are no new reportable foreign owners of the applicant since the effective date of the agreement, and the applicant agrees to continue to comply with the terms of that agreement; and

(iv) Applications filed pursuant to §§ 63.18, 63.24, and 63.27 of this chapter where the applicant was reviewed by the executive branch within 18 months of the filing of the application and the executive branch had not previously requested that the Commission condition the applicant's international section 214 authorization on compliance with an agreement with an executive branch agency concerning national security and/or law enforcement and there are no new reportable foreign owners of the applicant since that review.

(3) * * *

(b) * * *

(c) * * *

(d) As used in this subpart, "reportable foreign ownership" for applications filed pursuant to §§ 63.18 and 63.24 and 63.27 of this chapter means any foreign owner of the applicant that must be disclosed in the application pursuant to § 63.18(h); for applications filed pursuant to § 1.767 "reportable foreign ownership" means any foreign owner of the applicant that must be disclosed in the application pursuant to § 1.767(a)(8)(i); and for petitions filed pursuant to §§ 1.5000 through 1.5004 "reportable foreign ownership" means foreign disclosable interest holders pursuant to § 1.5001(e) and (f).

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

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

Authority: 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, 571, unless otherwise noted.

6. Amend § 63.12 by revising paragraph (c)(3) to read as follows:

§ 63.12 Processing of international Section 214 applications.

* * * * *

(c) * * *

(3) An individual or entity that is not a U.S. citizen holds a 5 percent or greater direct or indirect equity or voting interest, or a controlling interest, in any applicant; or

* * * * *

7. Amend § 63.18 by revising paragraphs (h), (k), (o), (p), (s), and (t), redesignating paragraphs (r), (s), and (t) as (w), (x), and (y), and adding new paragraphs (r), (s), (t), (u), and (v) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(h)(1) The name, address, citizenship, and principal businesses of any individual or entity that directly or indirectly owns 5 percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, and the percentage of equity and/or voting interest owned by each of those individuals and entities (to the nearest 1 percent). Where no individual or entity directly or indirectly owns 5 percent or more of the equity interests and/or voting interests, or a controlling interest, of the applicant, a statement to that effect.

* * * * *

(k) For any country that the applicant has listed in response to paragraph (j) of this section that is not a member of the World Trade Organization, the applicant shall make a demonstration as to whether the foreign carrier has market power, or lacks market power, with reference to the criteria in § 63.10(a).

(1) Under § 63.10(a), the Commission presumes, subject to rebuttal, that a foreign carrier lacks market power in a particular foreign country if the applicant demonstrates that the foreign carrier lacks 50 percent market share in international transport facilities or services, including cable landing station access and backhaul facilities, intercity facilities or services, and local access facilities or services on the foreign end of a particular route.

(2) [Reserved]

* * * * *

(o) A certification pursuant to §§ 1.2001 through 1.2002 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. § 862.

(p) Each applicant for which an individual or entity that is not a U.S. citizen holds a 5 percent or greater direct or indirect equity or voting interest, or a controlling interest, in the applicant, must submit:

* * * * *

(r) Each applicant shall provide the following information with respect to services it expects to provide using the international section 214 authority:

(1) Identification and description of the specific services that the applicant will provide using the international section 214 authority;

(2) Types of customers that will be served;

(3) Whether the services will be provided through the facilities for which the applicant has an ownership, indefeasible-right-of use or leasehold interest or through the resale of other companies' services; and

(4) Identification of where the applicant in the future expects to market, offer, and/or provide services using the particular international section 214 authority, such as a U.S. state or territory and/or U.S.-international route or globally.

(s) Each applicant shall provide the following information concerning facilities crossing the U.S.-Mexico and U.S.-Canada borders (cross border facilities) that it will use or lease:

(1) Location of each cross border facility (street address and coordinates);

(2) Name, street address, email address, and telephone number of the owners of each cross border facility, including the Government, State, or Territory under the laws of which the facility owner is organized;

(3) Identification of the equipment to be used in the cross border facilities, including equipment used for transmission, as well as servers and other equipment used for storage of information and signaling in support of telecommunications;

(4) Identification of all IP prefixes and autonomous system domain numbers used by the facilities that have been acquired from the American Registry for Internet Numbers (ARIN); and

(5) Identification of any services that will be provided by an applicant through these facilities using the international section 214 authority.

(t) Each applicant shall certify that it will undertake to implement and adhere to baseline cybersecurity standards based on universally recognized standards such as those provided by the Department of Homeland Security's Cybersecurity & Infrastructure Security Agency (CISA) or the Department of Commerce's National Institute of Standards and Technology (NIST).

(u) Each applicant shall make the following certifications with respect to its regulatory compliance:

(1) Whether or not the applicant is in compliance with the Commission's rules and regulations, the Communications Act, and other laws;

(2) Whether or not the applicant has violated the Communications Act, Commission rules, or U.S. antitrust or other competition laws, has engaged in fraudulent conduct before another government agency, has been convicted of a felony, or has engaged in other non-FCC misconduct the Commission has found to be relevant in assessing the character qualifications of a licensee or authorization holder.

(v) Each applicant shall comply with the requirement of § 1.763 to give notice and file a copy of the application with the Secretary of Defense, the Secretary of State, the Governor of each State involved, and the regulatory agencies of the States involved. Each applicant shall certify such service on a service list attached to its application for international section 214 authority or other filing with the Commission.

(w) If the applicant desires streamlined processing pursuant to § 63.12, a statement of how the application qualifies for streamlined processing.

(x) Any other information that the Commission or Commission staff have advised will be necessary to enable the Commission to act on the application.

(y) Subject to the availability of electronic forms, all applications described in this section must be filed electronically through the International Communications Filing System (ICFS) or its successor system. A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.1000 through 1.10018 of this chapter and the ICFS homepage at <https://www.fcc.gov/icfs>. See also §§ 63.20 and 63.53.

8. Amend § 63.19 by revising paragraphs (a), (c), and (d), redesignating paragraph (d) as paragraph (g), and adding new paragraphs (d) and (e) and (f) to read as follows:

§ 63.19 Special procedures for discontinuances of international services.

(a) With the exception of those international carriers described in paragraph (b) of this section, any international carrier that seeks to discontinue, reduce, or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.602:

(1) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment at least 30 days prior to its planned action. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. For purposes of this section, notice by email constitutes notice in writing. Notice shall include the following information:

(i) Name and address of carrier;

(ii) Date of planned service discontinuance, reduction, or impairment;

(iii) Points of geographic areas of service affected (inside of the United States and U.S.-international routes);

(iv) Brief description of type of service(s) affected; and

(v) Brief explanation as to whether the service(s) will be discontinued, reduced, or impaired.

(2) If an international section 214 authorization holder uses email to provide notice to affected customers, it must comply with the following requirements in addition to the requirements generally applicable to the notice:

(i) The carrier must have previously obtained express, verifiable, prior approval from customers to send notices via email regarding their service in general, or planned discontinuance, reduction, or impairment in particular;

(ii) The carrier must ensure that the subject line of the message clearly and accurately identifies the subject matter of the email; and

(iii) Any email notice returned to the carrier as undeliverable will not constitute the provision of notice to the customer.

(3) The international section 214 authorization holder shall file with this Commission a copy of the notification on the date on which notice has been given to all affected customers. The

notification shall be filed electronically through the International Communications Filing System (ICFS), or its successor system, in the file number associated with the carrier's international section 214 authorization. The authorization holder shall also provide the following information to the Commission in the same filing that includes a copy of the notification:

- (i) Identification of the geographic areas of the planned discontinuance, reduction or impairment and the authorization(s) pursuant to which the carrier provides service;
- (ii) Brief description of the dates and methods of notice to all affected customers;
- (iii) Whether or not the authorization holder is surrendering any International Signaling Point Codes (ISPCs); and
- (iv) Any other information that the Commission may require.

* * * * *

(c) Commercial Mobile Radio Service (CMRS) carriers, as defined in § 20.3 of this chapter, are not subject to the provisions of paragraphs (a) and (b) of this section.

(d) For purposes of this section, a period of three consecutive months during which an international section 214 authorization holder does not provide any service under its international section 214 authority is referred to as permanent discontinuance of service.

(1) An international section 214 authorization holder that permanently discontinues service under its international section 214 authority shall surrender the international section 214 authorization.

(2) An international section 214 authorization holder with existing customers shall comply with the requirements of § 63.19(a) to notify all affected customers prior to the planned discontinuance. If a carrier will discontinue part but not all of its U.S.-international services (for example, by discontinuing service only on a particular U.S.-international route) and will continue to provide other U.S.-international service(s) under its international section 214 authority, it shall comply with the requirements of § 63.19(a) to notify affected customers prior to discontinuance of those services.

(3) An international section 214 authorization holder that has permanently discontinued service shall file a notification with the Commission through the International Communications Filing System (ICFS), or its successor system, in the file number associated with the carrier's international section 214 authorization within 30 days after the discontinuance. The notification shall contain the following information:

- (i) the name, address, and telephone number of the authorization holder;
- (ii) the initial date as of when the authorization holder did not provide service under its international section 214 authority;
- (iii) a statement as to whether any customers were affected, and if so, whether the authorization holder complied with section 63.19(a) of the Commission's rules;
- (iv) whether or not the carrier is also surrendering any International Signaling Point Codes (ISPCs); and
- (v) a request to surrender the authorization.

(e) Even if an international section 214 authorization holder fails to file a notification of discontinuance and surrender its international section 214 authorization, the authorization shall be cancelled if the Commission determines that the authorization holder has permanently discontinued service under its international section 214 authority. Upon determination that an authorization holder has permanently discontinued service under its international section 214 authority:

(1) The Office of International Affairs shall release an informative public notice announcing the proposed cancellation of the authorization;

(2) The authorization holder shall have 30 days to respond and explain why the authorization should not be cancelled; and

(3) If the authorization holder does not respond, the authorization shall be automatically cancelled at the end of the 30-day period.

(f) An international section 214 authorization holder whose international section 214 authorization is cancelled pursuant to paragraph (e) of this section may file an application for a new international 214 authorization in accordance with the Commission's rules.

(g) Subject to the availability of electronic forms, all filings described in this section must be filed electronically through the International Communications Filing System (ICFS) or its successor system. A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see part 1, §§ 1.1000 through 1.10018 of this chapter and the ICFS homepage at <https://www.fcc.gov/icfs>. See also §§ 63.20 and 63.53.

9. Amend § 63.21 by revising paragraph (g) and (j), redesignating paragraphs (a) through (j) as paragraphs (d) through (m), and adding new paragraphs (a), (b), and (c) to read as follows:

§ 63.21 Conditions applicable to all international Section 214 authorizations.

* * * * *

(a) An international section 214 authorization will have a term not to exceed 10 years from the date of grant or renewal. A carrier's international section 214 authority may be renewed for additional periods not to exceed 10 years upon proper application to the Commission pursuant to § 63.27 of this chapter, subject to the Commission's grant of the renewal application. The Commission reserves the discretion to shorten the renewal timeframe on a case-by-case basis where the Commission deems it appropriate to require an international section 214 authorization holder to seek renewal of its international section 214 authority sooner than a 10 year period, or to adopt conditions on renewal where the Commission determines that renewal of the carrier's international section 214 authority otherwise would not be in the public interest.

(b) An international section 214 authorization holder shall hold only one international section 214 authorization except in certain limited circumstances. An authorization holder that holds more than one authorization shall surrender the excess authorization(s) except in certain limited circumstances where a carrier may need more than one authorization for different authority and conditions, such as:

(1) Authority for overseas cable construction for a common carrier submarine cable; or

(2) The carrier is affiliated with a foreign carrier with market power on a U.S.-international route;

or

(3) Other limited circumstance as approved by the Commission, or the Office of International Affairs.

(c) An international section 214 authorization holder shall commence service under its international section 214 authority within one year following the grant.

(1) An authorization holder shall file a notification with the Commission through the International Communications Filing System (ICFS), or its successor system, within 30 days of the date when it begins to offer service but in no case later than one year following the grant of international section 214 authority. The commencement of service notification shall include:

(i) A certification by an officer or other authorized representative of the authorization holder that the authorization holder has met the commencement of service requirement;

(ii) The date that the authorization holder commenced service;

(iii) A certification that the information is true and accurate upon penalty of perjury; and

(iv) The name, title, address, telephone number, and association with the authorization holder of the officer or other authorized representative who executed the certifications.

(2) An authorization holder may obtain a waiver of the one-year time period if it can show good cause why it is unable to commence service within one year following the grant of its authorization and identify an alternative reasonable timeframe when it can commence service

(3) If an authorization holder does not notify the Commission of the commencement of service or file a request for a waiver within one year following the grant of international section 214 authority, the authorization shall be cancelled.

* * * * *

(j) The Commission reserves the right to review a carrier's authorization at any time, and, if warranted, impose additional requirements on U.S. international carriers in circumstances where it appears that harm to competition is occurring on one or more U.S. international routes or where national security, law enforcement, foreign policy, trade policy, and/or other public interest concerns are raised by the U.S. international carrier's international section 214 authority.

* * * * *

(m) Subject to the availability of electronic forms, all notifications and other filings described in this section must be filed electronically through the International Communications Filing System (ICFS) or its successor system. A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.1000 through 1.10018 of this chapter and the ICFS homepage at <https://www.fcc.gov/icfs>. See also §§ 63.20 and 63.53.

10. Amend § 63.24 by revising paragraphs (b), (c), (d), (e), (f), and (h), redesignating paragraphs (g) and (h) as paragraphs (h) and (i), and adding new paragraph (g) to read as follows:

§ 63.24 Assignments and transfers of control.

* * * * *

(b) * * *

(1) The sale of a customer base, or a portion of a customer base, by a carrier to another carrier, is a sale of assets and shall be treated as an assignment, which requires prior Commission approval under this section.

(2) [Reserved]

(c) **Transfers of control.** For purposes of this section, a transfer of control is a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder. A change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. A change from 50 percent or more ownership to less than 50 percent ownership shall always be considered a transfer of control. In all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis with reference to the factors listed in paragraph (d)(1) of this section.

(d) **Pro forma assignments and transfers of control.** Transfers of control or assignments that do not result in a change in the actual controlling party are considered non-substantial, or “pro forma.” Whether there has been a change in the actual controlling party must be determined on a case-by-case basis with reference to the factors listed in paragraph (d)(1) of this section. The types of transactions listed in paragraph (d)(2) of this section shall be considered presumptively pro forma and prior approval from the Commission need not be sought.

(1) Because the issue of control inherently involves issues of fact, it must be determined on a case-by-case basis and may vary with the circumstances presented by each case. The factors relevant to a determination of control in addition to equity ownership include, but are not limited to the following: power to constitute or appoint more than 50 percent of the board of directors or partnership management committee; authority to appoint, promote, demote and fire senior executives that control the day-to-day activities of the licensee; ability to play an integral role in major management decisions of the licensee; authority to pay financial obligations, including expenses arising out of operations; ability to receive monies and profits from the facility's operations; and unfettered use of all facilities and equipment.

(2) If a transaction is one of the types listed further, the transaction is presumptively pro forma and prior approval need not be sought. In all other cases, the relevant determination shall be made on a case-by-case basis. Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests; Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests; Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one; Corporate reorganization that involves no substantial change in the beneficial ownership of the corporation (including re-incorporation in a different jurisdiction or change in form of the business entity); Assignment or transfer from a corporation to a wholly owned direct or indirect subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or Assignment of less than a controlling interest in a partnership.

(e) * * *

(1) In the case of an assignment or transfer of control of an international section 214 authorization that is not pro forma, the proposed assignee or transferee must apply to the Commission for authority prior to consummation of the proposed assignment or transfer of control.

(2) The application shall include:

- (i) The information requested in paragraphs (a) through (d) of § 63.18 for both the transferor/assignor and the transferee/assignee;
- (ii) The information requested in paragraphs (h) through (q) and (w) of § 63.18 is required only for the transferee/assignee;
- (iii) The ownership diagram required under § 63.18(h)(2) shall include both the pre-transaction and post-transaction ownership of the authorization holder. The applicant shall include a narrative describing the means by which the proposed transfer or assignment will take place; and
- (iv) The information requested in paragraphs (r) through (v) of § 63.18 is required for the authorization holder whose authorization is subject to the proposed transfer of control or assignment.

* * * * *

(f) *Notifications for non-substantial or “pro forma” transactions.*

(1) * * *

(2) * * *

- (i) The information requested in paragraphs (a) through (d) and (h) of § 63.18 for the transferee/assignee;
 - (ii) The ownership diagram required under § 63.18(h)(2) shall include both the pre-transaction and post-transaction ownership of the authorization holder;
 - (iii) A certification that the transfer of control or assignment was pro forma and that, together with all previous pro forma transactions, does not result in a change in the actual controlling party; and
 - (iv) The information requested in paragraphs (r) through (v) of § 63.18 for the authorization holder whose authorization is subject to the transfer of control or assignment.
- (3) Subject to § 63.21(b), a single notification may be filed for an assignment or transfer of control of more than one authorization if each authorization is identified by the file number under which it was granted.

* * * * *

(g) ***International signaling point codes (ISPCs).*** An international section 214 authorization holder seeking to assign or transfer control of its international section 214 authorization must identify in the application any ISPCs that it holds, and state whether the ISPC will be subject to the assignment or transfer of control.

* * * * *

(i) ***Electronic filing.*** Subject to the availability of electronic forms, all applications and notifications described in this section must be filed electronically through the International Communications Filing System (ICFS) or its successor system. A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.10000 through 1.10018 of this chapter and the ICFS homepage at <https://www.fcc.gov/icfs>. See also §§ 63.20 and 63.53.

11. Add a new § 63.26 to read as follows:

§ 63.26 Renewal of International Section 214 Authority

(a) ***Renewal timeframe.*** Each international section 214 authorization shall be subject to a renewal timeframe not to exceed 10 years from the date of the grant of international section 214 authority or modification, assignment, transfer of control, or renewal of the international section 214 authority. The Commission reserves its discretion to shorten the renewal timeframe on a case-by-case basis where the Commission deems it appropriate to require the international section 214 authorization holder to seek renewal of its international section 214 authority sooner than otherwise would be required, or to adopt conditions on the renewal of the international section 214 authority where the Commission determines that renewal otherwise would not be in the public interest.

(b) ***Filing requirements.*** Any party granted authority pursuant to section 214 of the Communications Act of 1934, as amended, to construct a new line, or acquire or operate any line, or engage in transmission over or by means of such additional line for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request renewal of the authority by formal application. The application for renewal of international section 214 authority shall contain the information required by § 63.27.

(c) ***Streamlined renewal processing procedures.*** A complete application seeking renewal of international section 214 authority shall be granted by the Commission 14 days after the date of public notice listing the application as accepted for filing if:

(1) the Commission does not refer the application to the executive branch agencies because the applicant does not have reportable foreign ownership and the application does not raise other national security, law enforcement, or other considerations warranting executive branch review;

(2) the application does not raise other public interest considerations, including regulatory compliance;

(3) the executive branch agencies do not separately request during the comment period that the Commission defer action and remove the application from streamlined processing; and

(4) no objections to the application are timely raised by an opposing party.

(d) ***Authorizations pending renewal.*** An applicant that has timely applied for renewal of its international section 214 authorization may continue providing service(s) under its international section 214 authority while its renewal application is pending review.

(e) ***Referral of applications to the executive branch agencies.***

(1) The Commission will refer to the executive branch agencies an application for renewal of international section 214 authority where the applicant has reportable foreign ownership, consistent with § 1.40002 of this chapter.

(2) The Commission will also refer to the executive branch agencies the following applications for renewal of international section 214 authority, irrespective of whether the applicant has reportable foreign ownership:

- (i) Renewal application where an applicant discloses that it uses and/or will use a foreign-owned managed network service provider;
 - (ii) Renewal application where an applicant discloses it has cross border facilities; and
 - (iii) Renewal application where an applicant certifies that it uses equipment or services identified on the Commission's "Covered List" of equipment and services deemed pursuant to the Secure and Trusted Communications Networks Act to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.
- (f) **Expiration and Cancellation of Authorization.** If an authorization holder fails to timely file an application for renewal of its international section 214 authority, the international section 214 authorization shall expire and be cancelled by operation of law. Authority is delegated to the Office of International Affairs to provide notice in advance of the renewal deadline.
- (g) **New Application.** An international section 214 authorization holder whose international section 214 authorization is cancelled for failure to timely file a renewal application may file an application for a new international 214 authorization in accordance with the Commission's rules.

12. Add a new § 63.27 to read as follows:

§ 63.27 Applications for Renewal of International Section 214 Authority

An application for renewal of international section 214 authority shall include information demonstrating how the grant of the application will serve the public interest, convenience, and necessity. The application shall include the following information:

- (a) The information requested in paragraphs (a) through (d), (h) through (k), and (m) through (v) of § 63.18;
- (b) One or more of the following statements, as pertinent:
 - (1) **Global facilities-based authority.** If applying for renewal of authority to operate as a facilities-based international common carrier subject to § 63.22, the applicant shall:
 - (i) State that it is requesting renewal of section 214 authority to operate as a facilities-based carrier pursuant to § 63.27(b)(1) of the Commission's rules;
 - (ii) List any countries for which the applicant does not request renewal of section 214 authority under this paragraph (see § 63.22(a)); and
 - (iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.22.
 - (2) **Global Resale Authority.** If applying for renewal of authority to resell the international services of authorized common carriers subject to § 63.23, the applicant shall:
 - (i) State that it is requesting renewal of section 214 authority to operate as a resale carrier pursuant to § 63.27(b)(2) of the Commission's rules;
 - (ii) List any countries for which the applicant does not request renewal of section 214 authority

under this paragraph (see § 63.23(a) of this part); and

(iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.23 of this part.

(3) **Other authorizations.** If applying for renewal of authority to acquire operate facilities or to provide services not covered by paragraphs (e)(1) and (e)(2) of this section, the applicant shall provide a description of the facilities and services for which it seeks renewal of authority. The applicant shall certify that it will comply with the terms and conditions contained in § 63.21 and § 63.22 and/or § 63.23, as appropriate. Such description also shall include any additional information the Commission shall have specified previously in an order, public notice or other official action as necessary for authorization. The applicant shall also state whether it has separately filed an application for international section 214 authority to acquire facilities or to provide new services not covered by §§ 63.18(e)(1), 63.18(e)(2), 63.27(e)(1), and 63.27(e)(2) nor covered by the previous grant of authority under § 63.18(e)(3) and explain whether the applicant is seeking approval to hold more than one authorization pursuant to the exception in § 63.21(b)(iii).

(c) An applicant shall apply for renewal of any or all of the authority provided for in paragraph (e) of this section in the same renewal application. The applicant may want to file separate applications for renewal of those services not subject to streamlined processing under § 63.12.

(d) Where the applicant is seeking renewal of facilities-based authority under paragraph (e)(3) of this section, a statement whether an authorization of the facilities is categorically excluded as defined by § 1.1306 of this chapter. If answered affirmatively, an environmental assessment as described in § 1.1311 of this chapter need not be filed with the application.

(e) An applicant must certify whether or not it discontinued service provided pursuant to its international section 214 authority for three consecutive months at any time during the preceding renewal timeframe.

(f) Any other information that the Commission or Commission staff have advised will be necessary to enable the Commission to act on the application.

(g) Subject to the availability of electronic forms, all applications described in this section must be filed electronically through the International Communications Filing System (ICFS) or its successor system. A list of forms that are available for electronic filing can be found on the ICFS homepage. For information on electronic filing requirements, see §§ 1.1000 through 1.10018 of this chapter and the ICFS homepage at <https://www.fcc.gov/icfs>. See also §§ 63.20 and 63.53.

13. Add a new § 63.28 to read as follows:

§ 63.28 Ongoing Reporting Requirements for International Section 214 Authorization Holders

(a) Each international section 214 authorization holder shall provide updated ownership information and other information to the Commission:

(1) Every three years following the date of the initial grant of an application to renew the international section 214 authority.

(2) Prior to an initial grant of an application to renew an authorization holder's international section 214 authority, the reporting requirement pursuant to this section shall commence three years following the date that the Commission grants an application for international section 214 authority or modification, assignment, or transfer of control of international section 214 authority.

(3) An authorization holder shall file a report every three years based on the date of the initial grant of its renewal application, until and unless the Commission grants a subsequent application for modification, assignment, transfer of control, or renewal of the international section 214 authority as filed by the authorization holder, at which point the three-year reporting cycle shall commence anew as of the date of the new grant.

(b) Each authorization holder shall include the following information in the report. The report must contain information that is current as of thirty (30) days prior to the date of the submission.

(1) The information requested in paragraphs (h) and (r) through (u) of § 63.18;

(2) Whether or not the authorization holder has discontinued service provided pursuant to its international section 214 authority as of the most recent renewal process or the most recent report.

(c) Each authorization holder shall submit its report through the International Communications Filing System (ICFS), or its successor system, in the file number associated with its international section 214 authorization.

(d) An authorization holder that has reportable foreign ownership pursuant to § 63.18(h) as of thirty (30) days prior to the date of the submission must also file a copy of the report directly with the Committee.

(e) Failure to submit timely, consistent, accurate, and complete information shall constitute grounds for enforcement action against the authorization holder, up to and including cancellation or revocation of the international section 214 authorization.

14. Add a new § 63.29 to read as follows:

§ 63.29 Cross Border International Telecommunications Facilities.

Initial Information Collection. For purposes of the initial information collection, each international section 214 authorization holder shall report the information required in § 63.18(s) sixty (60) days after the effective date established by the Office of International Affairs following i) the completion of review by the Office of Management and Budget or ii) a determination by the Office of International Affairs that such review is not required. The Office of International Affairs shall revise this paragraph accordingly.

15. Add a new § 63.30 to read as follows:

§ 63.30 Failure to Comply with One-Time Information Collection

(a) ***Automatic Cancellation of International Section 214 Authorization.*** An international section 214 authorization will be automatically cancelled upon the authorization holder's failure to file the information required by the Order adopted in FCC 23-28 within thirty (30) days after the date of publication in the Federal Register of a notice identifying the authorization holder as among the international section 214 authorization holders that failed to file the required information by the filing deadline.

(b) **Office of Management and Budget Review.** The information required by the Order adopted in FCC 23-28 shall not be required until the Office of International Affairs announces the completion of review by the Office of Management and Budget and the required compliance date and revises this section accordingly.

(c) **New Application.** An international section 214 authorization holder whose international section 214 authorization is cancelled for failure to timely file the information required by the Order adopted in FCC 23-28, may file an application for a new international 214 authorization in accordance with the Commission's rules.

(d) **Reinstatement Nunc Pro Tunc.** An international section 214 authorization holder whose international section 214 authorization is cancelled for failure to timely file the information required by the Order adopted in FCC 23-28 may file a petition for reinstatement *nunc pro tunc* of the international section 214 authorization. A petition for reinstatement will be considered if:

- (1) it is filed within six months after the date of publication in the Federal Register of a notice identifying international section 214 authorization holders that failed to file the required information by the deadline described in in paragraph (a) of this section;
- (2) it demonstrates that the authorization holder is currently in operation and has customers; and
- (3) demonstrates good cause for the failure to timely file the information.

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (Notice). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided in paragraph 195 of the item. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the Notice and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

2. In the Notice, we take another important step to protect the nation's telecommunications infrastructure from threats in an evolving national security and law enforcement landscape by proposing comprehensive changes to the Commission's rules that allow carriers to provide international telecommunications service pursuant to section 214 of the Communications Act of 1934, as amended (Act).⁴ The overarching objective of this proceeding is to adopt rule changes that will enable the Commission, in close collaboration with relevant Executive Branch agencies, to better protect telecommunications services and infrastructure in the United States in light of evolving national security, law enforcement, foreign policy, and trade policy risks.⁵ By this Notice, we propose rules that would require carriers to renew, every 10 years, their international section 214 authority.⁶ In the alternative, we seek comment on adopting rules that would require all international section 214 authorization holders to periodically update information enabling the Commission to review the public interest and national security implications of those authorizations based on that updated information.⁷ Through these proposals, we seek to ensure that the Commission is exercising appropriate oversight of international section 214 authorization holders to safeguard U.S. telecommunications networks.

3. In 2020, the report of the United States Senate Committee on Homeland Security and Government Affairs, Permanent Subcommittee on Investigations (PSI Report) recommended the periodic review and renewal of foreign carriers' international section 214 authorizations to ensure that the Commission and the Executive Branch account for evolving national security, law enforcement, foreign policy, and trade risks.⁸ In particular, the PSI Report highlighted the national security concerns associated with Chinese state-owned carriers operating in the United States.⁹ The Commission has taken concrete

¹ See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. § 603(a).

³ *Id.*

⁴ See Notice at para. 1.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ PSI Report at 9, 12-13; *id.* at 12 ("Congress should require the periodic review and renewal of foreign carriers' authorizations to provide international telecommunications services.").

⁹ See *id.* at 1 ("U.S. government officials have warned that Chinese state-owned carriers are 'subject to exploitation, influence, and control by the Chinese government' and can be used in the Chinese government's cyber and economic espionage efforts targeted at the United States.").

action to address those risks.¹⁰ Now, based in part on the PSI Report recommendation, we propose several changes to strengthen the Commission's oversight of international section 214 authorizations and ensure that a carrier's authorization continues to serve the public interest, as the Act intended.

4. *Executive Summary of the Proposed Rules.* To establish an effective and expeditious process for the renewal or, in the alternative, periodic review of international section 214 authorizations, in this Notice, we propose and seek comment on the following issues:

- *Renewal of International Section 214 Authority.* We propose to adopt a 10-year renewal requirement for all international section 214 authorization holders. In the alternative, we seek comment on adopting a periodic review process.
 - We propose to adopt a process that establishes a system of priorities for renewal applications according to the existence and nature of reportable foreign ownership and the likelihood that the applications will raise national security, law enforcement, foreign policy, or trade policy concerns.
 - Consistent with Commission practice, we will continue to coordinate with the Executive Branch agencies for assessment of any national security, law enforcement, foreign policy, and trade policy concerns.
 - To minimize administrative burdens, we propose to adopt streamlined and simplified procedures for renewal applications that do not have reportable foreign ownership.
 - We propose, as a baseline, to apply to renewal applications the same rules applicable to initial applications for international section 214 authority and thus harmonize the application requirements.¹¹
- *Proposed Rules Applicable to All Applicants.* In addition, to continue to address evolving national security, law enforcement, foreign policy, and/or trade policy risks, we propose or seek comment on other improvements to the Commission's rules applicable to applications for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority.
 - *Five (5) Percent Threshold for Reportable Ownership Interests.* We seek comment on whether to adopt a new ownership reporting threshold that would require disclosure of 5% or greater direct and indirect equity and/or voting interests.
 - *Services and Geographic Markets.* We propose to adopt rules requiring applicants to provide information about their current and/or expected future services and geographic markets.
 - *Foreign-Owned Managed Network Service Providers (MNSPs).* We propose to require all applicants to provide information on foreign-owned MNSPs.
 - *Cross Border Facilities Information.* We propose to require applicants to identify the facilities that they use and/or will use to provide services under their international section 214 authority from the United States into Canada and/or Mexico and to provide updated information on a periodic basis.
 - *Facilities Certifications.*
 - *Facilities Cybersecurity Certification.* We propose to require applicants to certify in their application that they will undertake to implement and adhere

¹⁰ *China Telecom Americas Order on Revocation and Termination, aff'd, China Telecom (Americas) Corp. v. FCC; China Unicom Americas Order on Revocation; Pacific Networks/ComNet Order on Revocation and Termination.*

¹¹ See Notice at para. 4.

to baseline cybersecurity standards based on universally recognized standards.

- *Facilities “Covered List” Certification.* We propose to require applicants to certify in their application whether or not they use equipment or services identified in the Commission’s “Covered List” of equipment and services deemed pursuant to the Secure and Trusted Communications Networks Act to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.¹²
- *Other Changes to Parts 1 and 63 of the Commission’s Rules.* To further ensure that carriers’ use of their international section 214 authority is consistent with the public interest, we propose and seek comment on modifications to Part 1 and 63 rules.
 - *Permissible Number of Authorizations.* We propose to adopt a rule that would allow an authorization holder to hold only one international section 214 authorization except in certain limited circumstances.
 - *Commence Service Within One Year.* We propose to adopt a rule requiring an international section 214 authorization holder to commence service under its international section 214 authority within one year following the grant.
 - *Changes to the Discontinuance Rule.* We propose to amend section 63.19 of the Commission’s rules to require all authorization holders that permanently discontinue service provided pursuant to their international section 214 authority, to file a notification of the discontinuance and surrender the authorization.
 - *Ongoing Reporting Requirements.* We propose to require authorization holders to provide updated ownership information, cross border facilities information, and other information every three years.
 - *International Signaling Point Codes (ISPCs).* We propose to adopt a rule requiring applicants seeking to assign or transfer control of their international section 214 authorization to identify in their applications any ISPCs that they hold and whether the ISPC will be subject to the assignment or transfer of control.
 - *Administrative Modifications.* We propose to adopt other administrative corrections to Parts 1 and 63 of the Commission’s rules.¹³

B. Legal Basis

5. The proposed action is authorized under sections 4(i), 4(j), 201, 214, 403, and 413 of the Communications Act as amended, 47 U.S.C. §§ 154(i), 154(j), 201, 214, 403, and 413.

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

6. 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, if adopted.¹⁴ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁵ In addition, the term “small business” has the

¹² See *id.*

¹³ *Id.*

¹⁴ 5 U.S.C. § 603(b)(3).

¹⁵ 5 U.S.C. § 601(6).

same meaning as the term “small business concern” under the Small Business Act.¹⁶ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹⁷

7. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.¹⁸ Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services.¹⁹ By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.²⁰ Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.²¹

8. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.²² U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.²³ Of this number, 2,964 firms operated with fewer than 250 employees.²⁴ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were engaged in the provision of fixed local services.²⁵ Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees.²⁶ Consequently, using the SBA’s small business size standard, most of these providers can be considered small entities.

¹⁶ 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.”

¹⁷ 15 U.S.C. § 632.

¹⁸ See U.S. Census Bureau, *2017 NAICS Definition, “517311 Wired Telecommunications Carriers,”* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

²² See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

²³ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePrevie w=false>.

²⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

²⁵ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/pub/ld.lic/attachments/DOC-379181A1.pdf>.

²⁶ *Id.*

9. *Competitive Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.²⁷ Wired Telecommunications Carriers²⁸ is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.²⁹ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.³⁰ Of this number, 2,964 firms operated with fewer than 250 employees.³¹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 3,956 providers that reported they were competitive local exchange service providers.³² Of these providers, the Commission estimates that 3,808 providers have 1,500 or fewer employees.³³ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

10. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers³⁴ is the closest industry with a SBA small business size standard.³⁵ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.³⁶ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.³⁷ Of this number, 2,964 firms operated with fewer than 250 employees.³⁸ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 151 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 131 providers have 1,500 or

²⁷ Competitive Local Exchange Service Providers include the following types of providers: Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

²⁸ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

²⁹ See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

³⁰ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

³¹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

³² Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

³³ *Id.*

³⁴ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

³⁵ See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

³⁶ *Id.*

³⁷ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

³⁸ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

fewer employees.³⁹ Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

11. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. Telecommunications Resellers⁴⁰ is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁴¹ Mobile virtual network operators (MVNOs) are included in this industry.⁴² The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁴³ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁴⁴ Of that number, 1,375 firms operated with fewer than 250 employees.⁴⁵ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 58 providers that reported they were engaged in the provision of payphone services.⁴⁶ Of these providers, the Commission estimates that 57 providers have 1,500 or fewer employees.⁴⁷ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

12. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard.⁴⁸ The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households.⁴⁹ Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁵⁰ Mobile virtual network operators (MVNOs) are

³⁹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁴⁰ See U.S. Census Bureau, *2017 NAICS Definition*, "517911 Telecommunications Resellers," <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁴¹ *Id.*

⁴² *Id.*

⁴³ See 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

⁴⁴ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁴⁵ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁴⁶ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁴⁷ *Id.*

⁴⁸ See U.S. Census Bureau, *2017 NAICS Definition*, "517911 Telecommunications Resellers," <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁴⁹ *Id.*

⁵⁰ *Id.*

included in this industry.⁵¹ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁵² U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁵³ Of that number, 1,375 firms operated with fewer than 250 employees.⁵⁴ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 293 providers that reported they were engaged in the provision of local resale services.⁵⁵ Of these providers, the Commission estimates that 289 providers have 1,500 or fewer employees.⁵⁶ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

13. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers⁵⁷ is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁵⁸ Mobile virtual network operators (MVNOs) are included in this industry.⁵⁹ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁶⁰ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁶¹ Of that number, 1,375 firms operated with fewer than 250 employees.⁶² Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 518 providers that reported they were engaged in the provision of toll services.⁶³ Of these providers, the Commission estimates that

⁵¹ *Id.*

⁵² See 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

⁵³ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁵⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁵⁵ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/publd.lic/attachments/DOC-379181A1.pdf>.

⁵⁶ *Id.*

⁵⁷ See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ See 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

⁶¹ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁶² *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁶³ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/publd.lic/attachments/DOC-379181A1.pdf>.

495 providers have 1,500 or fewer employees.⁶⁴ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

14. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers⁶⁵ is the closest industry with a SBA small business size standard.⁶⁶ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.⁶⁷ U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.⁶⁸ Of this number, 2,964 firms operated with fewer than 250 employees.⁶⁹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 115 providers that reported they were engaged in the provision of other toll services.⁷⁰ Of these providers, the Commission estimates that 113 providers have 1,500 or fewer employees.⁷¹ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

15. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.⁷² Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.⁷³ The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.⁷⁴ U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.⁷⁵ Of that number, 2,837 firms employed fewer than 250 employees.⁷⁶ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of

⁶⁴ *Id.*

⁶⁵ See U.S. Census Bureau, 2017 NAICS Definition, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁶⁶ See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

⁶⁷ *Id.*

⁶⁸ See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁶⁹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁷⁰ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁷¹ *Id.*

⁷² See U.S. Census Bureau, 2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

⁷³ *Id.*

⁷⁴ See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

⁷⁵ See U.S. Census Bureau, 2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁷⁶ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

wireless services.⁷⁷ Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.⁷⁸ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.⁷⁹ This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.⁸⁰ Providers of Internet services (e.g. dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.⁸¹ The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.⁸² U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.⁸³ Of those firms, 1,039 had revenue of less than \$25 million.⁸⁴ Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

17. The Notice is intended to adopt rules that will further our goal of ensuring that the Commission continually accounts for evolving public interest considerations associated with international section 214 authorizations following an initial grant of the authority. *First*, we propose to cancel the authorizations of those authorization holders that fail to respond to the one-time collection required by the *Order*. *Second*, we propose to implement a formalized renewal framework for the Commission's reassessment of all authorizations or, in the alternative, seek comment on a periodic review process of such authorizations. *Third*, we propose to adopt a 10-year renewal requirement for international section 214 authorization holders that prioritizes renewal applications with foreign ownership to take into account national security, law enforcement, foreign policy, and trade policy concerns. *Fourth*, we propose new application rules to capture critical information from applicants and require additional certifications. *Fifth*, to further ensure that carriers' use of their international section 214 authority is in the public interest, we propose and seek comment on modifications to related Parts 1 and 63 rules. *Finally*, to further ensure that carriers' use of their international section 214 authority is in the public interest, we

⁷⁷ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁷⁸ *Id.*

⁷⁹ See U.S. Census Bureau, *2017 NAICS Definition*, "517919 All Other Telecommunications," <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

⁸³ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

⁸⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

propose and seek comment on modifications to other Part 63 rules.

18. Given the increasing concerns about ensuring the security and integrity of U.S. telecommunications infrastructure, we propose or seek comment on new requirements that we anticipate will help us to acquire critical information from applicants including additional certifications to create accountability for applicants and to improve the reliability of the information that they provide. We propose to apply the requirements applicable to initial applications for international section 214 authority to the proposed rules for renewal applications and thus harmonize the application requirements. We propose or seek comment on adopting new application requirements to improve the Commission's assessment of evolving national security, law enforcement, foreign policy, and/or trade policy risks following a grant of international section 214 authority. We seek comment on whether to adopt a new 5% ownership reporting threshold for all initial applications for international section 214 authority and applications for modification, assignment, transfer of control, and renewal of international section 214 authority. We also propose to require each applicant to provide information about its services, geographic markets, and facilities crossing the United States' borders with Canada and Mexico (cross border facilities), and certify that their facilities-based equipment meets certain requirements. We propose to require all applicants to provide information on foreign-owned MNSPs. We propose to require applicants to certify in their application whether or not they use equipment or services identified in the Commission's "Covered List" of equipment and services deemed pursuant to the Secure and Trusted Communications Networks Act to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.⁸⁵ We propose that all applicants seeking international section 214 authority or modification, assignment, transfer of control, or renewal of international section 214 authority must certify in the applications whether or not they are in compliance with the Commission's rules and regulations, the Act, and other laws. We tentatively conclude that these requirements that we propose or seek comment on are important and necessary for informing the Commission's evaluation of an applicant's request for international section 214 authority and would serve the public interest given evolving risks identified by the Commission and the Executive Branch.

19. We propose additional changes to the Commission's rules concerning international section 214 authorizations to ensure that the Commission has current and accurate information about which authorization holders are providing service under their international section 214 authority. We propose to adopt a rule that would allow an authorization holder to hold only one international section 214 authorization except in certain limited circumstances. We propose to adopt a rule requiring an international section 214 authorization holder to commence service(s) within one year following the grant. We propose to amend section 63.19 of the Commission's rules to require that all authorization holders that permanently discontinue service provided pursuant to their international section 214 authority, to file with the Commission a notification of the discontinuance and surrender the authorization. We propose to require authorization holders to provide updated ownership, cross border facilities information, and other information every three years. We propose to adopt a rule requiring applicants seeking to assign or transfer control of their international section 214 authorization to identify in their applications any ISPCs that they hold and whether the ISPC will be subject to the assignment or transfer of control.

20. We are especially interested in estimates that address alternative means to provide the same benefits, in terms of advancing national security, law enforcement, foreign policy, and trade policy interests, at lower costs. We invite comment on the costs and burdens of the proposals in the Notice, including for small entities. We expect the information we receive in comments including, where requested, cost and benefit analyses, to help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result if the proposals and associated requirements discussed in the Notice are adopted.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities and

⁸⁵ See Notice at para. 4.

Significant Alternatives Considered

21. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such 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 such small entities.”

22. The Notice seeks comment from all interested parties on the proposals and what potential burdens, if any, would be imposed on applicants and authorization holders, including small entities. We seek comment on whether there are compliance costs and other burdens we should consider, particularly for small entities. For example, each authorization holder will require 20 hours of work by attorneys and 20 hours of work by support staff, at a cost of \$6,800 per authorization for renewal.⁸⁶ The Commission also concludes that the \$875 administrative fee charged for renewal to obtain a total estimate of this burden at \$7,675 per authorization (for the first time an authorization holder must file for renewal). The Notice specifically seeks comment on whether the proposed certification requirement concerning implementation and adherence to baseline cybersecurity standards should take into account the size of the applicant and its operations. Ultimately the Commission multiplies the sum by 150 to produce a total estimate of approximately \$1,152,000 per year for the first ten years.⁸⁷ The Notice seeks comment, for example, whether the Commission should allow large facilities-based providers and small resellers to certify adherence to different baseline security standards. Small entities are encouraged to bring to the Commission’s attention any specific concerns they may have with the proposals outlined in the Notice.

23. To assist in the Commission’s evaluation of the economic impact on small entities, as a result of actions that have been proposed in the Notice, and to better explore options and alternatives, the Commission has sought comment from the parties.⁸⁸ In particular, the Commission seeks comment on whether any of the burdens associated the filing, recordkeeping and reporting requirements described above can be minimized for small entities. Additionally, the Commission seeks comment on whether any of the costs associated with our proposed requirements can be alleviated for small entities. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments filed in response to the Notice.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

24. None.

⁸⁶ Our cost data on wages for attorneys comes from the Commission’s estimates of labor costs as represented in PRA statements. Consistent with the Commission’s calculations in PRA statements, we estimate the median hourly wage for attorneys as \$300 for outside counsel. We assume that this wage reasonably represents an average for all attorney labor, across a range of authorization holders with different sizes and business models, used to comply with the rules proposed in the *Notice*. Also, consistent with the Commission’s calculations in PRA statements, we estimate the median hourly wage for support staff (paralegals and legal assistants) as \$40. This means that, 20 hours of work by attorneys would cost \$6,000.00 and 20 hours of work by support staff would cost \$800.00, for a total of \$6,800.00 per initial renewal application. See *Notice*, Section IV.G.

⁸⁷ Specifically, $\$6,800 + \$875.00 = \$7,675$ per authorization holder. With 150 authorization holders filing renewal applications each year, we estimate $\$7,675 \times 150 = \$1,151,250$, which we round up to \$1,152,000.00 to avoid giving the false impression of precision.

⁸⁸ See *supra* Section IV.

**STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL**

Re: *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks*, IB Docket No. 23-119; *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 23-134, Order and Notice of Proposed Rulemaking (April 20, 2023).

The first duty of the public servant is public safety. At the Federal Communications Commission, that means that we have an obligation to help ensure the safety of our Nation's communications networks. This responsibility never ends because the threats to network security are always evolving. It is vitally important that the agency's policies keep pace. That sounds simple, but in practice it is not always easy. This is especially true when it comes to licensing, where historically our practice has been to freeze national security and law enforcement assessments on the day a license is granted.

Nearly three years ago the United States Senate Committee on Homeland Security and Government Affairs Permanent Subcommittee on Investigations released a report on threats to United States networks from Chinese government-owned carriers. In it, they highlighted how the grant of authority to operate international communications in the United States is typically a one-and-done activity. In other words, once a Commission license is granted, little is done to revisit the authority and safeguard our networks against evolving threats over time.

Today there is nothing in our rules that requires the Commission to generally reassess a foreign carrier's authorization to provide service. This is in stark contrast to most other authorizations granted by the agency that must be considered on a periodic basis. That is why the Subcommittee recommended requiring some form of regular review of Section 214 authorizations to account for evolving national security risks.

This was a good idea then and it is a good idea now. So today we launch a rulemaking to explore this concept along with other improvements to our Section 214 rules. I believe we can modernize our process to address these concerns while ensuring that we honor the expectations of Section 214 license holders so that the United States remains a safe and attractive place to do business. This rulemaking sets us on that path.

This is just the latest step in our comprehensive approach to addressing network security in a modern way. It is fundamentally a strategy to *deter, defend, and develop*: deter bad actors, defend against untrusted vendors, and develop a market for trustworthy innovation. By doing this, we are working to help improve communications security at home and shine as an example for the rest of the world. That's why it's fitting that this is the first effort from our newly-established Office of International Affairs.

Thank you to those at the agency who worked on this rulemaking, including Denise Coca, Kate Collins, Ghalia Estaiteyeh, Francis Gutierrez, Desiree Hanssen, Karen Johnson, Gabrielle Kim, David Krech, Arthur Lechtman, Ron Marcelo, Sumita Mukhoty, Kathryn O'Brien, Tom Sullivan, Svantje Swider, and Michele Wu-Bailey from the Office of International Affairs; Adrienne McNeil and Troy Tanner from the Space Bureau; Justin Cain, Kenneth Carlberg, Shawn Cochran, Michael Connelly, Kurian Jacob, Deb Jordan, Lauren Kravetz, Haille Laws, Nicole McGinnis, Zenji Nakazawa, Erika Olsen, Austin Randazzo, Jim Schlichting, Chris Smeenck, and James Wiley from the Public Safety and Homeland Security Bureau; Pam Arluk, Matthew G. Baker, Michele Berlove, Elizabeth Drogula, Jodie Griffin, Trent Harkrader, Heather Hendrickson, Melissa Droller Kirkel, Jodie May, Jordan Marie Reth, Rodney McDonald, Conor O'Donovan, and Terri Natoli from the Wireline Competition Bureau; Kim Cook, Hunter Deeley, Loyaan Egal, Georgina Feigen, Pamela Gallant, Pam Kane, Kalun Lee, Jeremy Marcus,

Ryan McDonald, and Victoria Randazzo from the Enforcement Bureau; Andrew Manley, Alexander Sanjenis, and Holly Saurer from the Media Bureau; Garnet Hanly, Kari Hicks, Ethan Jeans, Joyce Jones, Paul Malmud, Roger Noel, Thomas Reed, Jennifer Salhus, Blaise Scinto, and Joel Taubenblatt from the Wireless Telecommunications Bureau; Peter Alexander, Chelsea Fallon, Catherine Mataves, Giulia McHenry, Steven Rosenberg, Donald Stockdale, Emily Talaga, and Aleks Yankelevich from the Office of Economics and Analytics; Regina Brown and Roland Helvajian of the Office of the Managing Director; Cara Grayer and Joy Ragsdale from the Office of Communications Business Opportunities; and Jim Bird, Sarah Citrin, Matthew Dunne, Michele Ellison, Andrea Kearney, Andrea Kelly, Doug Klein, David Konczal, Jacob Lewis, Marcus Maher, Wisam Naoum, Scott Noveck, Bill Richardson, Joel Rabinovitz, Royce Sherlock, Jeffrey Steinberg, and Elliot Tarloff from the Office of General Counsel.

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks*, IB Docket No. 23-119; *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 23-134, Order and Notice of Proposed Rulemaking (April 20, 2023).

The growth and importance of international telecommunications cannot be overstated. Our seas are crisscrossed with subsea cables sharing data and information among nations throughout the world. Many offer service across our borders with Canada and Mexico, and thousands of providers have filed for Commission approval to offer U.S.-international telecommunications services. This growth has led to tangible benefits to the United States and its people. However, consistent with an ever-evolving national security landscape and increased threat profile from adversarial countries, we must also be mindful of our obligation to protect the United States and its people from threats from international providers. To highlight the risk and need to act, recently I authored an [op-ed](#) with Senator Gary Peters on the need to protect our communications infrastructure from threats in our networks.

We've previously taken important steps to revoke and reject some international section 214 authorizations and applications. These actions only further highlighted the need for the Commission to take a fresh look at its international 214 rules. I think this item hits the right balance.

First, it's overdue for the Commission to update our records regarding international 214 authorization holders, including whether those authorized are actually providing service. We must also understand who owns the carriers that have international 214 authorizations. I strongly believe in data-driven policy. This one-time information collection is appropriately designed to provide the data necessary to move forward.

Second, we absolutely should be considering either a renewal or periodic review process for these authorizations, consistent with our rules for other Commission licenses and authorizations. In doing so, we should be collecting proper information that will allow the FCC and our national security colleagues to determine whether an international 214 authorization continues to serve the public interest or poses a national security risk. As national security officials would say, we must ensure that we control "the haystack." We must be on top of the data, including its collection, so that we can start to begin to identify any potential needles.

Third, I strongly believe, consistent with my past efforts to require similar cybersecurity and risk management baseline requirements for providers participating in the Universal Service Fund and Emergency Alert System participants, that requiring baseline cybersecurity requirements for all providers is important. The proposal in this item balances the need to ensure that communications infrastructure is protected without being overly prescriptive in proposing one particular pathway to do so.

Fourth, we already require providers of advanced communications services to report on whether they have purchased, rented, leased, or otherwise obtained communications equipment or services listed on our Covered List. There's no reason why applicants seeking to provide international services should not have to identify whether or not they do the same. The equipment and services on the Covered List have been deemed to pose an unacceptable risk to the national security of the United States. We need to know when they are deployed for services entering the country.

Last, we propose to collect cross-border facilities information. This would lead to a much more complete understanding of the infrastructure that reaches our soil, as well as the related issues that I have frequently spoken about, including data centers and other services that allow access to U.S. communications and the personal information of American citizens.

I look forward to reviewing the record that develops, and on engaging with stakeholders to ensure that any rules find the proper balance between protecting our infrastructure and supporting continued growth and innovation. I am particularly heartened to see that the Department of Justice, Department of Defense, and Department of Homeland Security strongly support the FCC's effort,¹ and I will continue to work with our government partners to mitigate risks from international 214 authorizations. This item strikes a careful balance of proposing rules necessary to fulfill our statutory obligations, while right-sizing the burden to industry as much as possible. I thank the Chairwoman for her leadership, and my colleagues for supporting my edits to the item in achieving that goal.

I'm confident that these proposals will help ensure that no needle falls through the haystack, and that all Americans are more secure. I thank the Commission staff that worked on this item, and strongly support it.

¹ Letter from Devin A. DeBaker, Chief, Foreign Investment Review Section, National Security Division, Department of Justice, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 23-119 (Apr. 12, 2023).

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of	)	
	)	
	)	
22 Applicants for Rural Digital Opportunity Fund	)	File No. [Provided in Appendix A]
in Default	)	FRN No. [Provided in Appendix A]
	)	
	)	
	)	NAL/Acct. No. [Provided in Appendix A]

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: April 27, 2023

Released: May 1, 2023

By the Commission: Commissioner Starks issuing a statement.

I. INTRODUCTION

1. In this Notice of Apparent Liability (NAL), the Federal Communications Commission (FCC or Commission) identifies 22 Rural Digital Opportunity Fund (RDOF) Phase I Auction (Auction 904) applicants that apparently defaulted on their bids for support between May 3, 2022, and December 16, 2022, in apparent violation of section 1.21004(a) of the Commission's rules.¹ As detailed below, each applicant defaulted on its respective bid for support by withdrawing its application with respect to certain areas, or by its failure to meet deadlines and requirements to which it agreed when it participated in

¹ 47 CFR § 1.21004(a). This NAL addresses Auction 904 defaults determined by the Commission between May 3, 2022 and December 16, 2022. *See Rural Digital Opportunity Fund Support for 2,061 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-483, Attach. B: Bids in Default (WCB/OEA May 3, 2022) (*May 3, 2022 Default Public Notice*); *Rural Digital Opportunity Fund Support for 88 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-581 (WCB/OEA May 25, 2022) (*May 25, 2022 Default Public Notice*); *Rural Digital Opportunity Fund Support Authorized for 513 Winning Bids; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-634, Attach. B: Bids in Default (WCB/OEA June 14, 2022) (*June 2022 Default Public Notice*); *Rural Digital Opportunity Fund Support for 80 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-848, Attach. B: Bids in Default (WCB/OEA Aug. 10, 2022) (*August 10, 2022 Default Public Notice*); *FCC Announces Nearly \$800 Million For Broadband Through The Rural Digital Opportunity Fund*, DA 22-911, Attach. B: Bids in Default (*August 31, 2022 Public Default Notice*); *Rural Digital Opportunity Fund Support Authorized for 1,865 Winning Bids; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-1086 (WCB/OEA Oct. 12, 2022) (*October 2022 Default Public Notice*); *Rural Digital Opportunity Fund Support Authorized for 497 Winning Bids; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-1181 (WCB/OEA Nov. 10, 2022) (*November 2022 Default Public Notice*); *Rural Digital Opportunity Fund Support for 1,764 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-1321, Attach. B: Bids in Default (WCB/OEA Dec. 16, 2022) (*December 2022 Default Public Notice*). Auction 904 defaults determined by the Commission after December 16, 2022, and those defaults identified between May 3, 2022, and December 16, 2022, that were not waived or included in this NAL, will be addressed in a future enforcement action.

Auction 904. This NAL relates only to those areas, deadlines, and requirements for which the Commission did not determine, in a prior release, that waiver was appropriate. By defaulting on their bids, these applicants hindered the disbursement of Universal Service Fund (USF) support that could have otherwise been expended for the advancement of broadband access across primarily rural areas in the United States.

2. The objective of Auction 904 was to facilitate the provision of broadband service to Americans in wholly unserved areas.² The Commission took steps to protect the integrity, mission, and functionality of Auction 904 by advising auction participants to adhere strictly to all auction requirements and by providing for forfeitures for violations of those rules.³ In light of the applicants' defaults spanning 2,994 Census Block Groups (CBGs), this item proposes forfeitures as described herein for each of the 22 Auction 904 defaulters. As such, the forfeitures assessed here total \$8,778,527.39.

II. BACKGROUND

3. The Commission conducted competitive bidding for Auction 904 between the dates of October 29, 2020, and November 25, 2020, to assign USF support to winning bidders seeking to serve eligible areas.⁴ Auction 904 made available up to \$16 billion in financial support over the span of 10 years to winning bidders that deploy high-speed broadband and voice services to eligible areas.⁵ The Commission used a multi-round, reverse auction to determine winning bids,⁶ and established clear filing deadlines for companies applying for support.⁷

4. The Commission explicitly warned Auction 904 applicants that failure to conform to the auction's deadlines and procedures would produce consequences, including but not limited to forfeiture penalties for default.⁸ Companies interested in bidding in Auction 904 were required to file an FCC Form 183 (Short-Form Application) no later than July 15, 2020.⁹ This Short-Form Application was the first phase of a two-phase application process in Auction 904.¹⁰ Bidders were required to provide information in the Short-Form Application that demonstrated their baseline legal, financial, and technical capabilities in order to establish eligibility to participate in a Commission auction for USF support.¹¹ The second application phase required bidders or their assignees to file an FCC Form 683 (Long-Form Application),

² *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, 688-89, paras. 5-6 (2020) (*Rural Digital Opportunity Fund Order*).

³ See, e.g., *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722, 735, paras. 80, 114.

⁴ See *Rural Digital Opportunity Fund Phase I Auction Scheduled For October 29, 2020; Notice and Filing Requirements and Other Procedures For Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6079, para. 1 (2020) (*Auction 904 Procedures Public Notice*).

⁵ See *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6069, paras. 1-2.

⁶ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 688, para. 5.

⁷ See *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6082, paras. 12-13.

⁸ See, e.g., *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 114 (explaining that a winning bidder will be "considered in default and will be subject to forfeiture if it fails to timely file a Long-Form Application, fails to meet the document submission deadlines outlined above, is found ineligible or unqualified to receive support, or otherwise defaults on its bid or is disqualified for any reason prior to the authorization of support" and "subject to forfeiture" for the default).

⁹ See *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6082, para. 12.

¹⁰ *Id.* at 6088, para. 27.

¹¹ *Id.*

which the Commission reviewed to “determine if the application should be authorized to receive support for winning bids.”¹² The Long-Form Application was due no later than January 29, 2021.¹³

5. The minimum geographic areas established by the Commission for bidding in Auction 904 were CBGs that contained one or more eligible census blocks, identified in a list released by the Commission’s Wireline Competition Bureau (WCB) and the Office of Economics and Analytics (OEA), in coordination with the Rural Broadband Auctions Task Force (RBATF), in October 2020.¹⁴ Auction 904 included nearly 787,000 eligible census blocks, located in nearly 62,000 CBGs.¹⁵ WCB and OEA identified 386 applicants that were qualified to bid for support in those CBGs on October 13, 2020, and declared that bidding would start on October 29, 2020.¹⁶

6. On December 7, 2020, the RBATF, WCB, and OEA released a Public Notice announcing the 180 winning bidders, who won approximately \$9.23 billion in support over a 10-year period, geographically spanning approximately 99 percent of the eligible CBGs.¹⁷ Winning bidders were required to file a Long-Form Application, which the Commission reviewed to “determine if the application should be authorized to receive support for winning bids.”¹⁸ As noted above, the Long-Form Application was due no later than January 29, 2021.¹⁹ Winning bidders were also given until December 22, 2020, to assign any or all of their winning bids to related entities.²⁰ A winning bidder that assigned a winning bid to a related entity was required to certify and acknowledge in its application that it would inform each related entity “of its filing obligation and cause each entity to submit a timely” Long-Form Application, and that the winning bidder would be “at risk for default” if any related entity did not “submit a timely” Long-Form Application.²¹

7. All applicants had to submit additional information to their Long-Form Applications by certain deadlines. By February 15, 2021, an applicant was required to upload to its Long-Form Application a detailed technology and system design description and a letter from a qualified bank committing to issue an irrevocable stand-by letter of credit meeting the Commission’s requirements.²² Moreover, by June 7, 2021, an applicant was required to submit with its Long-Form Application certain documentation demonstrating that it had been designated as an eligible telecommunications carrier in

¹² See *id.*

¹³ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., 35 FCC Rcd 13888, para. 2 (WCB/OEA 2020) (*Winning Bidders Public Notice*).

¹⁴ See *Wireline Competition Bureau and Office of Economics and Analytics Release Final List and Map of Eligible Areas for the Rural Digital Opportunity Fund Phase I Auction (Auction 904)*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 11283 (WCB/OEA 2020) (*Eligible Census Block List Public Notice*), maps available at <https://www.fcc.gov/auction/904>.

¹⁵ See *Eligible Census Block List Public Notice*, 35 FCC Rcd at 11283, maps available at <https://www.fcc.gov/auction/904>.

¹⁶ See *386 Applicants Qualified to Bid In the Rural Digital Opportunity Fund Phase I Auction (Auction 904); Bidding to Begin on October 29, 2020*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 11356, 11356, paras. 1-2 (WCB/OEA 2020) (*Qualified Bidders Public Notice*).

¹⁷ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13888, para. 1.

¹⁸ See *id.* at 13891, para. 14; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6165, para. 293.

¹⁹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13888, para. 2.

²⁰ See *id.*

²¹ See *supra* note 18.

²² 47 CFR § 54.804(b)(2)(iv), (3); *Winning Bidders Public Notice*, 35 FCC Rcd at 13893-94.

each of the geographic areas for which it sought to be authorized for Auction 904 support.²³ Additionally, if an applicant or a related entity had not filed audited financial statements with the relevant Short-Form Application, the applicant was required by June 7, 2021, to upload to its Long-Form Application financial statements from the prior fiscal year that were audited by an independent certified public accountant.²⁴

8. On July 26, 2021, the RBATF, WCB, and OEA sent a letter to certain long-form applicants identifying census blocks where there were concerns about whether funding those areas would be the best use of limited universal service funds.²⁵

9. In response to the letter, some applicants informed the Commission that they wished to default on the census blocks identified by the Commission. WCB, in conjunction with RBATF and OEA, found good cause to waive the forfeiture penalties that would be otherwise associated with the default on the specific census blocks that were identified in the letter, i.e., “letter-identified census blocks.”²⁶ The July letter identified only urban census blocks as areas of concern.²⁷ WCB, in conjunction with RBATF and OEA, also found good cause to waive the forfeiture penalties for specific non-urban census blocks that were similar to the urban blocks identified in the July letter.²⁸ For simplicity, we refer to these census blocks and the letter-identified census blocks collectively as “waiver census blocks.”

10. Appendix A, below, sets forth the relevant, unique facts pertaining to each entity identified in the caption of this item, and describes with specificity each entity’s conduct in relation to Auction 904.²⁹ This includes such facts as the dates of their Short- and Long-Form Application filings and any default-related correspondence between the entity and the Commission. WCB referred the entities listed in Appendix A to the Enforcement Bureau (EB) on May 3, 2022; May 25, 2022; June 14, 2022; August 10, 2022; August 31, 2022; October 12, 2022; November 10, 2022, and December 16, 2022.³⁰ Appendix B, below, identifies the specific CBGs in default that were subject to forfeiture and the attendant assigned USF support. Appendix C, below, identifies mailing addresses for the entities.

²³ 47 CFR § 54.804(b)(5); *Winning Bidders Public Notice*, 35 FCC Rcd at 13894. Only eligible telecommunications carriers designated pursuant to 47 U.S.C. § 214(e) “shall be eligible to receive specific Federal universal service support.” 47 U.S.C. § 254(e).

²⁴ 47 CFR § 54.804(b)(4); *Winning Bidders Public Notice*, 35 FCC Rcd at 13894-95.

²⁵ See “Letters to Long-Form Applicants about Identified Census Blocks,” <https://www.fcc.gov/auction/904/releases/Identified-Census-Block-Letter>.

²⁶ *Rural Digital Opportunity Fund Support Authorized for 2,008 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, DA 21-1560, at 9 (WCB/OEA Dec. 14, 2021) (*Fourth Auction 904 Authorization Public Notice*). WCB, in conjunction with the RBATF and OEA, waived the Commission’s rules to the extent they define a default with respect to any area covered by a winning bid as a default on that entire winning bid, effectively permitting applicants to default only on the letter-identified census blocks within a CBG and to become authorized in the remaining eligible census blocks within that CBG. *Id.* at 6-7.

²⁷ *Identified Census Block Letter* at 1, n.4.

²⁸ *Rural Digital Opportunity Fund Support Authorized for 1,345 Winning Bids*, AU Docket No. 20-34, et al., Public Notice, DA 22-402, at 6, n.38 (WCB/OEA Apr. 15, 2022) (*Eighth Auction 904 Authorization Public Notice*).

²⁹ In the *Ninth Auction 904 Ready to Authorize Public Notice*, WCB, in conjunction with the RBATF and OEA, dismissed petitions filed by applicants seeking waiver of the default forfeiture and other non-compliance measures filed. WCB, in conjunction with RBATF and OEA, also denied petitions from applicants requesting waiver of the default penalty framework to be relieved from the obligation of all winning bidders (or their assignees) to apply for Auction 904 support. *Rural Digital Opportunity Fund Support for 2,061 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-483, at 5, n.51 (WCB/OEA May 3, 2022).

³⁰ See *May 3, 2022 Default Public Notice*, 3, Attach. B: Bids in Default; *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default; *June 2022 Default Public Notice*, Attach. B: Bids in Default; *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 31, 2022 Default Public Notice*, Attach. B: Bids in Default,

(continued...)

III. DISCUSSION

11. The Commission established unambiguous requirements that each Auction 904 bidder must meet and warned participants that failure to meet such requirements would result in consequences:

Any Auction 904 winning bidder or long-form applicant will be subject to a forfeiture in the event of a default before it is authorized to begin receiving support. A winning bidder or long-form applicant will be considered in default and will be subject to forfeiture if it fails to timely file a long-form application, fails to meet the document submission deadlines, is found ineligible or unqualified to receive Rural Digital Opportunity Fund support by the Bureau on delegated authority, and/or otherwise defaults on its winning bids or is disqualified for any reason prior to the authorization of support. Any such determination by the Bureau shall be final, and a winning bidder or long-form applicant shall have no opportunity to cure through additional submissions, negotiations, or otherwise. Agreeing to such payment in the event of a default is a condition for participating in bidding in Auction 904.³¹

Because each entity listed in Appendix A failed to meet at least one of these requirements, we find that these 22 entities apparently willfully violated the Commission's rules and orders governing Auction 904.

12. By withdrawing an application for support or missing a Long-Form Application deadline, a bidder defaults on its winning bids for Auction 904 in apparent violation of section 1.21004(a) of the Commission's rules and the requirements established specifically for Auction 904.³² Under the rules in effect at the time Auction 904 was conducted, a winning bidder of a Commission auction that, *for any reason*, is not subsequently authorized to receive support has defaulted on its bid and is liable for a default payment.³³ A bidder notifying the Commission of its intent to default because of logistical and/or financial hardships as the basis for its withdrawal does not absolve the bidder from default. In general, for Auction 904, the Commission determined that a defaulting bidder would be subject to a forfeiture payment under section 503 of the Communications Act of 1934, as amended (the Act),³⁴ in lieu of a default payment.³⁵ The forfeiture penalties for default were clearly stated in both the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice* before bidding ever began.³⁶

13. Under section 503(b)(1) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.³⁷ In order to impose such a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received by the person against whom the notice has been issued or be sent to the last known address of the person by certified mail, and the person must have an opportunity to show, in writing, within a reasonable amount of time, why no such forfeiture penalty should be imposed.³⁸ The Commission will

October 2022 Default Public Notice, Attach. B: Bids in Default; *November 2022 Default Public Notice*, Attach. B: Bids in Default; *December 2022 Default Public Notice*, Attach. B: Bids in Default.

³¹ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

³² 47 CFR § 1.21004(a); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 114; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

³³ 47 CFR § 1.21004(a), (b); *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

³⁴ 47 U.S.C. § 503.

³⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 114 & n.314.

³⁶ *Id.* at 735-36, paras. 115, 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

³⁷ See 47 U.S.C. § 503(b)(1)(B); 47 CFR § 1.80(a)(2).

³⁸ See 47 U.S.C. § 503(b)(4); 47 CFR § 1.80(f).

then issue a forfeiture if it finds, by a preponderance of the evidence, that the person has willfully or repeatedly violated the Act or a Commission rule.³⁹

14. The Commission's *Forfeiture Policy Statement*⁴⁰ specifies that the Commission shall impose a forfeiture based upon consideration of the factors enumerated in section 503(b)(2)(E) of the Act, i.e., "the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."⁴¹ Moreover, section 312(f)(1) of the Act defines willful as "the conscious and deliberate commission or omission of such act, *irrespective of any intent* to violate . . . any rule or regulation of the Commission"⁴²

15. Each applicant agreed, prior to participating in Auction 904, to be subject to a forfeiture in the event of default, or upon its failure to satisfy the requirements of the *Auction 904 Procedures Public Notice*.⁴³ Additionally, each applicant was cautioned to craft its plans carefully to meet all auction requirements and to prepare for any complications that could occur.⁴⁴ In considering these factors, as well as the section 1.21004 rule establishing liability for payment in the event of default and the procedures established for Auction 904 and the *Forfeiture Policy Statement*, a forfeiture is warranted against each entity cited in Appendix A for its apparent willful violations of section 1.21004(a) of the Commission's rules and the procedures established for Auction 904.

16. In Auction 904, the Commission established a base forfeiture of \$3,000 per violation in the event of an auction default for each geographic unit subject to a bid.⁴⁵ Consistent with the approach taken in previous universal service support auctions, the Commission deemed a \$3,000 base forfeiture appropriate, explaining that \$3,000 is equivalent to the base forfeiture usually imposed for failing to file required forms or information with the Commission.⁴⁶ To prevent the base forfeiture amount from being disproportionate to the amount of a winning bidder's bid, however, the Commission limits the total base forfeiture for Auction 904 to 15 percent of the bidder's total assigned support for the CBGs in which it is defaulting.⁴⁷ The Commission regarded 15 percent of the total bid amount as not unduly punitive, while

³⁹ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, para. 4 (2002) (forfeiture paid).

⁴⁰ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17100-101, para. 27 (1997), *recons. denied* 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*); 47 CFR § 1.80(b).

⁴¹ 47 U.S.C. § 503(b)(2)(E); see also 47 CFR § 1.80(b)(10); *Forfeiture Policy Statement*, 12 FCC Rcd at 17100-101, para. 27.

⁴² 47 U.S.C. § 312(f)(1) (emphasis added). The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the section 503(b) context. See, e.g., *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

⁴³ *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 321.

⁴⁴ See, e.g., *id.* at 6125-27, paras. 128-134.

⁴⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, para. 115. In other words, there is a separate violation for each CBG assigned in a bid. *Id.*; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁴⁶ *Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments*, WC Docket Nos. 10-90 and 14-58, Report & Order & Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6000-6001, para. 144 (2016).

⁴⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117. This would occur in situations where the dollar amount associated with the bid is low. For example, assume Bidder A bids to serve 100 CBGs for \$100,000 over the support term. We may impose a total base forfeiture of \$15,000 (15 percent of \$100,000) because otherwise the base forfeiture would be \$300,000 (\$3,000 x 100 CBGs), three times the entire bid amount. In

(continued...)

providing sufficient incentive for auction participants to inform themselves diligently of the obligations associated with participation in the auction.⁴⁸ This constituted an increase from the five percent base forfeiture cap adopted for the Connect America Phase II Auction (Auction 903),⁴⁹ in order to satisfy commenters who worried that the total forfeitures for defaults lacked a sufficient deterrent effect.⁵⁰

17. Furthermore, an applicant that failed to submit audited financial statements to the Commission as required by the applicable deadline during the Long-Form Application process is subject to an additional \$50,000 base forfeiture, if the applicant or a related entity did not submit audited financial statements with the Short-Form Application.⁵¹ This \$50,000 base forfeiture is not limited to 15 percent of the bidder's total assigned support.⁵² Unlike the penalties assigned for default, forfeitures assessed for failing to submit audited financials are not tethered to the bidder's amount of assigned support in a specific location. The omission of the audited financial information is instead a violation affecting the trustworthiness of the applicant.⁵³ Indeed, the separate base \$50,000 forfeiture was adopted to "create an incentive" for winning bidders to "actually go out and obtain those financial statements" and to disincentivize their gaming the auctions process.⁵⁴

18. WCB's decision, in coordination with the RBATF and OEA, to waive forfeiture penalties for defaulting on the waiver census blocks has the following impact on the calculation of the total base forfeiture.⁵⁵ If an applicant defaulted on a CBG for which all the eligible census blocks are waiver census blocks, that CBG is not subject to the \$3,000 base forfeiture. Similarly, if an applicant defaulted on only the letter-identified census blocks within a CBG but is pursuing support in the remaining eligible census blocks covered by that CBG, based on the scope of the waiver the CBG is not subject to the \$3,000 base

contrast, if Bidder B bids to serve 50 CBGs for \$1,000,000 over the support term, we may impose a total base forfeiture of \$150,000 (\$3,000 x 50 CBGs), which is 15 percent of the total bid. *See id.* at 736, para. 117 & n.322.

⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁴⁹ *Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, AU Docket No. 17-182, WC Docket No. 10-90, 33 FCC Rcd 1428, (2018) (Auction 903).

⁵⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, paras. 116-117.

⁵¹ *Id.* at 722-23, para. 80 ("We will require each applicant that has certified that it has at least two years of operational experience to submit financial statements that have been audited by an independent certified public accountant from the prior fiscal year. . . . Applicants that certify that they have at least two years of operational experience and fail to submit audited financial statements as required, will be subject to the same base forfeiture of \$50,000 that we adopted for the CAF Phase II auction."); *Winning Bidders Public Notice*, 35 FCC Rcd at 13894.

⁵² *Cf. ClearSKY Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 36 FCC Rcd 4121, 4127 (EB 2021) (imposing a \$50,000 base forfeiture for failure to submitted audited financials in addition to a forfeiture of \$6,370.71 for bid defaults for nine CBGs, which was capped at five percent of the bidder's total assigned support for the nine CBGs in Auction 903, and noting that "[u]nlike the penalties assigned for default, the size of this [\$50,000] forfeiture is not connected to the bidder's total amount of assigned support").

⁵³ *See Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 723, n.225 (explaining that the unique requirement for bidders to submit audited financials is tethered to a desire for the Commission to gain insight into the long-term financial health of applicants).

⁵⁴ *See Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments*, WC Docket Nos. 10-90, 14-58, and 14-259, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5984-85, paras. 104-105 (2016) (explaining the original rationale for adopting the \$50,000 forfeiture in Auction 903, which was later re-adopted into Auction 904).

⁵⁵ Fourth Auction 904 Authorization Public Notice at 9; Eighth Auction 904 Authorization Public Notice at 6, n.38.

forfeiture.⁵⁶ In contrast, if an applicant defaulted on a CBG that contains both waiver census blocks and non-waiver eligible census blocks, the CBG is subject to the \$3,000 base forfeiture.⁵⁷ However, when calculating the 15 percent cap on the base forfeiture for such CBGs, the defaulted support subject to forfeiture is calculated by subtracting the support associated with the waiver census blocks from the total support associated with the CBG so that only the support associated with the non-waiver eligible census blocks within the CBG remains. The 15 percent forfeiture cap is then determined by calculating 15 percent of an applicant's defaulted support subject to forfeiture.⁵⁸

19. As seen in Appendix A, this item proposes a cumulative forfeiture of \$8,778,527.39 apportioned amongst the 22 defaulting Auction 904 applicants. Appendix A explains in specific detail the proposed amount applied to each defaulter, and the relevant factual background pertaining to its individual circumstances of default. In accordance with the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice*, none of the proposed base default forfeitures exceed 15 percent of any single bidder's total bid amount for CBGs subject to forfeiture.⁵⁹

20. Finally, after considering all the circumstances presented in the instant case, we conclude that a departure from the base forfeiture is not warranted for any of the Auction 904 applicants identified in Appendix A. For Auction 904 defaults, the Commission allows adjustment of the total base forfeiture, upward or downward, based on the criteria set forth in section 503(b)(2)(E) of the Act, notwithstanding the 15 percent limitation on base forfeitures as discussed above.⁶⁰ However, on balance, we find that there are no other factors present in the instant case that justify a departure from the established base forfeiture for any of the defaulters identified in Appendix A. Accordingly, we find the proposed forfeiture amounts listed in the Appendix A are appropriate here.⁶¹

IV. ORDERING CLAUSES

21. **ACCORDINGLY, IT IS ORDERED**, pursuant to section 503(b) of the Communications Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, that all entities identified in the Appendix A are hereby **NOTIFIED** of their **APPARENT LIABILITY FOR FORFEITURE** in the amount specified in the Appendix A for their apparently willful violations of section 1.21004(a) of the Commission's rules, 47 CFR § 1.21004(a), and the orders specifically prescribing procedures for Auction 904 (the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice*).

⁵⁶ See also *id.* at 6-7 (permitting applicants to partially default on a CBG by defaulting on letter-identified census blocks within the CBG and becoming authorized on the remaining eligible census blocks within the CBG).

⁵⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 & n.322.

⁵⁸ We used the same methodology for calculating the base forfeiture for an applicant that defaulted in only some of the eligible census blocks within a CBG when WCB waived for that applicant the requirement that a default encompass the entire winning bid, but did not waive forfeiture penalties for the defaulted census blocks. See *August 10, 2022 Default Public Notice* at 9-10. For this applicant, the defaulted support subject to forfeiture is calculated by subtracting the support associated with the applicant's authorized eligible census blocks from the total support associated with the CBG, so that only the support associated with the applicant's defaulted eligible census blocks within the CBG remains.

⁵⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, para. 322.

⁶⁰ See 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(10), note to paragraph (b)(10); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, paras. 116-17.

⁶¹ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

22. **IT IS FURTHER ORDERED**, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, that within thirty (30) calendar days of the release date of this Notice, each recipient of this Notice of Apparent Liability **SHALL PAY** the full amount of the proposed forfeiture identified with respect to such recipient in Appendix A or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 25 below.

23. In order for each defaulter to pay the proposed forfeiture, it shall notify Pamela Gallant at Pamela.Gallant@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, and Georgina Feigen at Georgina.Feigen@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/core/userLogin.do>. Upon payment, each defaulter shall send electronic notification of payment to the Enforcement Bureau of the Federal Communications Commission at EnforcementBureauHD@fcc.gov, Pamela Gallant at Pamela.Gallant@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, and Georgina Feigen at Georgina.Feigen@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/core/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:⁶²

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159⁶³ or printed CORES form⁶⁴ must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).⁶⁵ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/core/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/core/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing

⁶² For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

⁶³ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

⁶⁴ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/core/userLogin.do>.

⁶⁵ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

24. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.⁶⁶ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

25. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(f)(3) of the rules.⁶⁷ The written statement must be mailed to Pamela Gallant, Acting Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, and must include the NAL account number referenced in the caption. The statement must also be e-mailed to the Enforcement Bureau at EnforcementBureauIHD@fcc.gov, Pamela Gallant at Pamela.Gallant@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, and Georgina Feigen at Georgina.Feigen@fcc.gov. Until further notice, the Commission will not accept any hand or messenger delivered filings.

26. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status.⁶⁸ Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.⁶⁹

⁶⁶ See 47 CFR § 1.1914.

⁶⁷ *Id.* §§ 1.16, 1.80(f)(3).

⁶⁸ 47 U.S.C. § 503(b)(2)(E).

⁶⁹ See, e.g., *Ocean Adrian Hinson, Surry County, North Carolina*, Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18–21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860–62, paras. 21–25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678–79, paras. 44–45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903–904, paras. 32–33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

27. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by certified mail, return receipt requested to each entity at the address listed in Appendix C below.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

The apparent violations identified in this Appendix generally arise from the applicant submitting a Long-Form Application but subsequently withdrawing its application by notifying the Commission of its intent to default on one or more CBGs. To the extent that an entry below involves a different fact pattern, the relevant facts are described in the entry. Unless otherwise specially stated below, all of the fact patterns described in this Appendix represent apparent violations of section 1.21004(a) of the Commission's rules and the requirements established specifically for Auction 904 in the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice*.¹

1. **AB Indiana, LLC (AB Indiana); FRN: 0021994686; File No.: EB-IHD-23-00034737; NAL/Acct No.: 202332080009.** AB Indiana is a fixed wireless broadband provider headquartered in Hunt Valley, Maryland.² AB Indiana timely submitted its Short-Form Application to participate in Auction 904³ and was a successful bidder.⁴ WCB declared AB Indiana to be in default on August 10, 2022, and referred the company to EB for enforcement action, after AB Indiana failed to timely complete its Long-Form Application when it failed to submit appropriate documentation verifying its eligible telecommunications carrier designation in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁵ The Commission finds that AB Indiana apparently committed one violation by defaulting on one CBG subject to forfeiture, which places the company's base default forfeiture at \$3,000.00.⁶ The Commission further finds that AB Indiana apparently committed a separate violation when it failed to file audited financial paperwork with WCB during the Long-Form Application process, which subjects AB Indiana to an additional \$50,000.00 base forfeiture.⁷ AB Indiana's total

¹ 47 CFR § 1.21004(a); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, paras. 114-15; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, paras. 321-22.

² See Maryland Secretary of State, *Business Entity Search: AB Indiana, LLC*, <https://egov.maryland.gov/businessexpress/entitysearch> (last visited Nov. 16, 2022).

³ See AB Indiana, Auction 904 FCC Form 175 Application, File No. 0009148967 (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/detail_ownership_frb.htm?searchLevel=B&application_id=12169028&file_num=0009148967&version=2&PStart=1&auction_id=904&all_ind=N&FrbId=191292.

⁴ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888, 13904, Attach. A: Winning Bidder Summary (WCB/OEA 2020) (*Winning Bidders Public Notice*).

⁵ 47 CFR § 54.804(b)(5); *August 10, 2022 Default Public Notice*, at 8, n.63 & Attach. B: Bids in Default.

⁶ See *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, 735-36, para. 115 (2020) (*Rural Digital Opportunity Fund Order*).

⁷ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722-23, para. 80. On June 4, 2021, AB Indiana requested a waiver of the requirement to file audited financial statements by June 7, 2021. AB Indiana Request for Waiver (filed June 4, 2021) (AB Indiana Petition). WCB dismissed that request as moot on July 26, 2021. See *Rural Digital Opportunity Fund (Auction 904); Rural Digital Opportunity Fund*, AU Docket No. 20-34 et al., Order, 36 FCC Rcd 11564, 11564 n.1 (WCB 2021). In light of the proposed forfeiture, we no longer consider the request to be moot and now deny the requested waiver. Generally, the Commission's rules may be waived for good cause shown. 47 CFR § 1.3. Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest. See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), *cert. denied*, 93 S. Ct. 461 (1972)). AB Indiana provided no explanation for its delay in obtaining audited financial statements, and thus has presented no special circumstances warranting a waiver. See AB Indiana Petition at 1 (noting only that it was "requesting an extension to provide audited financials," and that it had "engaged [its] Certified Public Accountant and hope[d] to provide such documents in a timely [manner].") Compare *Rural Digital Opportunity Fund Support for 2,072 Winning Bids Ready to Be Authorized; Bid Defaults*

(continued...)

assigned support for the CBG in default subject to forfeiture amounted to \$614,532.50, thereby capping the maximum possible default forfeiture at \$92,179.88, which is 15% of AB Indiana's defaulted support subject to forfeiture in Auction 904.⁸ The \$3,000.00 base default forfeiture is below the 15% cap established in the *Rural Digital Opportunity Fund Order*.⁹ Combining the audited financials forfeiture of \$50,000.00 with the \$3,000.00 default forfeiture, the Commission finds that the total forfeiture of \$53,000.00 against AB Indiana is appropriate here.

2. Cable One VoIP, LLC (Cable One); FRN: 0007690258; File No.: EB-IHD-23-00034738; NAL/Acct No.: 202332080022. Cable One is an interconnected VoIP provider located in Phoenix, Arizona.¹⁰ Cable One is owned by Cable One, Inc., which was a member of the Wisper-CABO 904 Consortium (Wisper-CABO).¹¹ Wisper-CABO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹² In turn, Wisper-CABO assigned 153 CBGs to Cable One.¹³ On August 16 and August 24, 2021, Cable One notified the Commission of its intent to default on 113 CBGs subject to forfeiture.¹⁴ WCB declared Cable One to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁵ The Commission finds that Cable One apparently committed 113 violations by defaulting on 113 CBGs subject to forfeiture, which places the company's base forfeiture at \$339,000.00.¹⁶ Cable One's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$308,580.20, thereby capping the maximum possible forfeiture at \$46,287.03, which is 15% of Cable One's defaulted support subject to forfeiture in Auction 904.¹⁷ Because the base forfeiture exceeds the 15% cap established in the *Rural Digital Opportunity Fund*

Announced, AU Docket No. 20-34 et al., Public Notice, DA 22-911, at 5-6 (WCB Aug. 31, 2022) (finding good cause to waive the audited financial statements deadline where the applicant "faced unforeseeable, pandemic-created obstacles in hiring staff that were qualified to help complete the audit").

⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice*, at 8, n.63, Attach. B: Bids in Default (describing the total amount of AB Indiana's won support that is in default for the identified CBGs).

⁹ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁰ See Arizona Corporation Commission, *Entity Search: Cable One VoIP, LLC*, <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=R19740953> (last visited Nov. 16, 2022).

¹¹ See Wisper-CABO 904 Consortium, Auction 904 FCC Form 175 Application, File No. 0009149272 (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12176125&file_num=0009149272&version=2&PStart=1&auction_id=904.

¹² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13932-33, Attach. A: Winning Bidder Summary.

¹³ See *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁴ See E-mail from Patrick Caron, General Counsel, Cable One, Inc. to Auction904@fcc.gov, Federal Communications Commission (Aug. 16, 2021, 18:35 EDT); E-mail from Patrick Caron, General Counsel, Cable One, Inc. to Auction904@fcc.gov, Federal Communications Commission (Aug. 24, 2021, 13:28 EDT); CableOne VoIP LLC Petition for a Waiver, AU Docket No. 20-34 et al. (filed Aug. 24, 2021); CableOne VoIP LLC Amended Petition for Waiver, AU Docket No. 20-34 et al. (filed May 11, 2022).

¹⁵ See *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁶ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁷ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Cable One's won support that is in default for the identified CBGs).

Order,¹⁸ the Commission finds that the forfeiture amount of \$46,287.03 against Cable One is appropriate here.

3. **Cal.net, Inc. (Cal.net); FRN: 0020855656; File No.: EB-IHD-23-00034739; NAL/Acct No.: 202332080005.** Cal.net, located in Shingle Springs, CA, offers broadband internet options for rural and urban communities.¹⁹ Cal.net timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.²⁰ WCB declared Cal.net to be in default on October 12, 2022, and referred the company to EB for enforcement action, after Cal.net missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.²¹ The Commission finds that Cal.net apparently committed 180 violations by defaulting on 180 CBGs subject to forfeiture, which places the company's base forfeiture at \$540,000.00.²² Cal.net's total assigned support for the CBGs in default subject to forfeiture amounted to \$27,174,275.40, thereby capping the maximum possible forfeiture at \$4,076,141.13, which is 15% of Cal.net's defaulted support subject to forfeiture in Auction 904.²³ Because the base forfeiture does not exceed the 15% cap established by the *Rural Digital Opportunity Fund Order*,²⁴ the Commission finds the forfeiture amount of \$540,000.00 against Cal.net is appropriate here.

4. **California Internet, L.P. dba GeoLinks (California Internet); FRN: 0023707953; File No.: EB-IHD-23-00034740; NAL/Acct No.: 202332080006.** California Internet is a competitive local exchange carrier (CLEC) and fiber internet provider headquartered in Camarillo, CA.²⁵ California Internet timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.²⁶ WCB declared California Internet to be in default on October 12, 2022, and referred the company to EB for enforcement action, after California Internet missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.²⁷ The Commission finds that California Internet apparently committed 1,025 violations by defaulting on 1,025 CBGs subject to forfeiture, which places the company's base forfeiture at \$3,075,000.00.²⁸ California Internet's total assigned support for the CBGs in default subject to forfeiture amounted to \$129,659,238.20, thereby capping the maximum possible forfeiture at \$19,448,885.73, which is 15% of

¹⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁹ See Cal.net, *About Us*, <https://www.cal.net/about-us/> (last visited Jan. 5, 2023).

²⁰ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13906, Attach. A: Winning Bidder Summary.

²¹ 47 CFR § 54.804(b)(5); *October 2022 Default Public Notice* at 9, n.57, Attach. B: Bids in Default.

²² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

²³ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *October 2022 Default Public Notice* Attach. B: Bids in Default (describing the total amount of Cal.net's won support in default for the identified CBGs).

²⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

²⁵ See Geolinks, *About*, <https://geolinks.com/innovative-telecom-solutions/> (last visited Jan. 5, 2023).

²⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13906-907, Attach. A: Winning Bidder Summary.

²⁷ 47 CFR § 54.804(b)(5); *October 2022 Default Public Notice* at 9, n.57, Attach. B: Bids in Default. California Internet also received a partial waiver for an additional two bid defaults because those defaults stemmed from interagency coordination pursuant to the Broadband Interagency Coordination Act of 2020. See *August 31, 2022 Public Default Notice*, at 7, n.49; E-mail from Ryan Adams, President and COO, California Internet, L.P., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (August 27, 2022, 2:23 EDT).

²⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

California Internet's defaulted support subject to forfeiture in Auction 904.²⁹ Because the base forfeiture does not exceed the 15% cap established by the *Rural Digital Opportunity Fund Order*,³⁰ the Commission finds the forfeiture amount of \$3,075,000.00 against California Internet is appropriate here.

5. **Cebridge Telecom ID, LLC (Cebridge); FRN 0016746802; File No.: EB-IHD-23-00034741; NAL/Acct No.: 202332080018.** Cebridge is a wholly owned subsidiary of Altice USA, Inc. (Altice),³¹ which offers broadband internet service spanning 21 states.³² Altice submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.³³ In turn, Altice assigned bids covering two CBGs to Cebridge.³⁴ On August 30, 2021, on behalf of its subsidiaries, Altice notified the Commission of Cebridge's intent to default on two CBGs subject to forfeiture.³⁵ WCB declared Cebridge to be in default on May 3, 2022, and referred the company to EB for enforcement action.³⁶ The Commission finds that Cebridge apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.³⁷ Cebridge's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$8,240.00, thereby capping the maximum possible forfeiture at \$1,236.00, which is 15% of Cebridge's defaulted support subject to forfeiture in Auction 904.³⁸ Because the base forfeiture exceeds the 15% cap established in the *Rural Digital Opportunity Fund Order*,³⁹ the Commission finds that the forfeiture amount of \$1,236.00 against Cebridge is appropriate here.

6. **Charter Fiberlink – Missouri, LLC (CF Missouri); FRN: 0005793922; File No.: EB-IHD-23-00034742; NAL/Acct No.: 202332080023.** CF Missouri is a limited liability company formed in Delaware.⁴⁰ CF Missouri and CCO Holdings, LLC (CCO) are subsidiaries of Charter Communications, Inc. (Charter).⁴¹ CCO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁴² In turn, CCO assigned CF Missouri 276 CBGs.⁴³ In a series

²⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *October 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of California Internet's won support that is in default for the identified CBGs).

³⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

³¹ See Altice USA, Inc., Auction 904 FCC Form 175 Application, File No. 0009149206 (filed Oct. 20, 2020); https://auctionfiling.fcc.gov/form175/search175/detail_ownership_frb.htm?searchLevel=B&application_id=12170697&file_num=0009149206&version=2&PStart=1&auction_id=904&all_ind=N&FrbId=1083356.

³² Altice, *About*, <https://www.alticeusa.com/about> (last visited Jan. 5, 2023).

³³ See *Winning Bidders Public Notice*, 35 FCC Red at 13904, Attach. A: Winning Bidder Summary.

³⁴ *417 Long-Form Applicants Public Notice*, 36 FCC Red at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

³⁵ See E-mail from Cristina Chou, Vice President, Federal Affairs, Altice USA, to Auction904@fcc.gov, Federal Communications Commission (Aug. 30, 2021, 13:54 EDT).

³⁶ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

³⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 735-36, para. 115.

³⁸ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (showing the total amount of Cebridge's won support in default for the identified CBGs).

³⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

⁴⁰ United States Securities and Exchange Commission, *Form 10-K*, Exhibit 21-1, <https://ir.charter.com/static-files/63606f63-1b11-4d60-91a0-5395f1552592> (last visited Nov. 16, 2022).

⁴¹ *Id.*

⁴² See *Winning Bidders Public Notice*, 35 FCC Red at 13907-08, Attach. A: Winning Bidder Summary.

of e-mails on behalf of its subsidiaries, Charter notified the Commission of their intent to default on certain winning bids, including two CBGs subject to forfeiture assigned to CF Missouri.⁴⁴ WCB declared CF Missouri to be in default on May 3, 2022, and referred the company to EB for enforcement action.⁴⁵ The Commission finds that CF Missouri apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁴⁶ CF Missouri's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$126,249.50, thereby capping the maximum possible forfeiture at \$18,937.42, which is 15% of CF Missouri's defaulted support subject to forfeiture in Auction 904.⁴⁷ Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,⁴⁸ the Commission finds the forfeiture amount of \$6,000.00 against CF Missouri appropriate here.

7. **Conexon Connect, LLC (Conexon Connect) (Conexon); FRN: 0029721511; File No.: EB-IHD-23-00034743; NAL/Acct No.: 202332080021.** Conexon Connect is a subsidiary of Conexon LLC based in Kansas City, Missouri that works with rural electric cooperatives to bring fiber internet to their communities.⁴⁹ Conexon Connect was a member of the Rural Electric Cooperative Consortium (RECC).⁵⁰ RECC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁵¹ In turn, RECC assigned bids covering 1,156 CBGs to Conexon Connect.⁵² On May 3, 2022, WCB declared Conexon Connect to be in default in eight CBGs along with certain other census blocks, and referred the company to EB for enforcement action, after Conexon Connect missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁵³ On May 26, 2022, Conexon Connect notified the Commission of its intent to default on an additional 35 CBGs subject to forfeiture.⁵⁴ WCB declared Conexon Connect to be in

⁴³ 417 Long-Form Applicants Public Notice, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁴⁴ See, e.g., E-mail from Maureen A. O'Connell, Vice President, Regulatory Affairs, Charter Communications, to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (Mar. 20, 2022, 16:13 EDT) (summarizing the intended defaults for the applicants assigned winning bids by CCO); see *May 3, 2022 Default Public Notice*, at 6, n.44.

⁴⁵ May 3, 2022 Default Public Notice, at 6, n.44.

⁴⁶ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁴⁷ See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures).

⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁴⁹ Conexon, Home, <https://conexon.us> (last visited Nov. 16, 2022).

⁵⁰ Rural Electric Cooperative Consortium, Auction 904 FCC Form 175 Application, File No. 0009148768, at Attach. 2, p. 13 (filed July 14, 2020); https://auctionnextfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12165528&file_num=0009148768&version=2&PStart=1&auction_id=904.

⁵¹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13925-26, Attach. A: Winning Bidder Summary.

⁵² 417 Long-Form Applicants Public Notice, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁵³ 47 CFR § 54.804(b)(5); *May 3, 2022 Default Public Notice*, DA 22-483, at 7-8, Attach. B: Bids in Default.

⁵⁴ Letter from Todd B. Lantor, Counsel to Conexon Connect, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 26, 2022). These CBGs included some census blocks that WCB had previously announced as defaulted. *May 3, 2022 Default Public Notice*, DA22-483, at 7-8.

default for the 35 CBGs on June 14, 2022, and referred the company to EB for enforcement action.⁵⁵ The Commission finds that Conexon Connect apparently committed 43 violations by defaulting on 43 CBGs subject to forfeiture which places the company's base forfeiture at \$129,000.00.⁵⁶ Conexon Connect's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$36,127,642.00, thereby capping the maximum possible forfeiture at \$5,419,146.30, which is 15% of Conexon Connect's defaulted support subject to forfeiture in Auction 904.⁵⁷ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁵⁸ the Commission finds that the forfeiture amount of \$129,000.00 against Conexon Connect is appropriate here.

8. **Connect Everyone, LLC (Connect Everyone); FRN: 0029746260; File No.: EB-IHD-23-00034744; NAL/Acct No.: 202332080007.** Connect Everyone is a wholly owned subsidiary of Starry, Inc., which offers high speed fixed wireless internet service.⁵⁹ Connect Everyone submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁶⁰ On September 15, 2022 and October 12, 2022, Connect Everyone notified the Commission of its intent to default on 1,282 CBGs subject to forfeiture.⁶¹ WCB declared Connect Everyone to be in default on October 12, 2022, and referred the company to EB for enforcement action.⁶² The Commission finds that Connect Everyone apparently committed 1,282 violations by defaulting on 1,282 CBGs subject to forfeiture, which places the company's base forfeiture at \$3,846,000.00.⁶³ Connect Everyone's total assigned support for the CBGs in default subject to forfeiture amounted to \$245,241,987.90, thereby capping the maximum possible forfeiture at \$36,786,298.18, which is 15% of Connect Everyone's defaulted support subject to forfeiture in Auction 904.⁶⁴ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁶⁵ the Commission finds that the forfeiture amount of \$3,846,000.00 against Connect Everyone is appropriate here.

⁵⁵ *June 2022 Default Public Notice*, Attach. B: Bids in Default.

⁵⁶ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁵⁷ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default; *June 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Conexon Connect's won support that is in default for the identified CBGs).

⁵⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁵⁹ Starry, Inc., Home, <https://starry.com/> (last visited Nov. 16, 2022).

⁶⁰ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

⁶¹ See Letter from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 15, 2022); Letter from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 16, 2022). Connect Everyone also received a partial waiver for an additional six bid defaults because those defaults stemmed from interagency coordination pursuant to the Broadband Interagency Coordination Act of 2020. See *August 31, 2022 Public Default Notice*, at 7, n.49; E-mail from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Auction904@fcc.gov, Federal Communications Commission (August 29, 2022, 21:58 EDT).

⁶² *October 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default.

⁶³ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁶⁴ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *October 2022 Default Public Notice*, Attach. B: Bids in Default, *May 25, 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default (describing the total amount of Connect Everyone's won support that is in default for the identified CBGs).

⁶⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

9. **E Fiber San Juan (E San Juan); FRN: 0030298442; File No.: EB-IHD-23-00034745; NAL/Acct No.: 202332080011.** E San Juan is a local exchange carrier located in Orangeville, Utah.⁶⁶ E San Juan is a wholly owned subsidiary of Emery Telephone (Emery).⁶⁷ Emery timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁶⁸ In turn, Emery assigned bids covering three CBGs to E San Juan.⁶⁹ On June 13, 2022, E San Juan notified the Commission of its intent to default in certain census blocks within one CBG subject to forfeiture.⁷⁰ WCB declared E San Juan to be in default on August 10, 2022, and referred the company to EB for enforcement action.⁷¹ The Commission finds that E San Juan apparently committed one violation by defaulting on one CBG subject to forfeiture, which places the company's base forfeiture at \$3,000.00.⁷² E San Juan's total assigned support for the assigned CBG in default subject to forfeiture amounted to \$582,313.50 for the defaulted census blocks,⁷³ thereby capping the maximum possible forfeiture at \$87,347.02, which is 15% of E San Juan's defaulted support subject to forfeiture in Auction 904.⁷⁴ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁷⁵ the Commission finds that the forfeiture amount of \$3,000.00 against E San Juan is appropriate here.

10. **Farmers Mutual Cooperative Telephone Company (FMCTC); FRN: 0004776464; File No.: EB-IHD-23-00034746; NAL/Acct No.: 202332080016.** FMCTC, located in Fruitland, Idaho, offers residential and business options for internet, phone, voice, and business services.⁷⁶ FMCTC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁷⁷ WCB declared FMCTC to be in default on May 25, 2022, and referred the company to EB for enforcement action, after FMCTC failed to upload required information and documentation to its Long-Form

⁶⁶ See Emery Telephone dba Emery Telcom, Auction 904 FCC Form 175 Application, File No. 0009147474, (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12165535&file_num=0009147474&version=2&PStart=1&auction_id=904.

⁶⁷ Petition of E Fiber Moab, LLC and E Fiber San Juan, LLC for a Waiver of Section 54.804(b)(5) of the Commission's Rules, AU Docket No. 20-34 et al., Petition for Waiver at 1 (filed June 2, 2021).

⁶⁸ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

⁶⁹ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁷⁰ Letter from Brock Johansen, Chief Executive Officer, E San Juan Fiber, LLC, to Trent Harkrader, Chief, Wireline Competition Bureau, Federal Communications Commission (June 13, 2022).

⁷¹ *August 10, 2022 Default Public Notice* at 9-10. For E San Juan, WCB waived on its own motion the requirement that a default encompass an entire CBG, but did not waive the forfeiture for the defaulting census blocks. *Id.* at 10.

⁷² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁷³ The \$582,313.50 does not include the census blocks within the CBG where E San Juan was later authorized for support. *August 10, 2022 Default Public Notice*, at 10; *Rural Digital Opportunity Fund Support Authorized for 49 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, DA 22-944, Attach. A: Authorized Long-Form Applicants and Winning Bids (WCB/OEA Sept. 13, 2022).

⁷⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice*, at 9-10 (describing the total amount of E San Juan's won support that is in default for the identified CBG).

⁷⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁷⁶ See Farmers Mutual Cooperative Telephone Company, Home, <https://fmtc.com> (last visited Nov. 16, 2022).

⁷⁷ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

Application by a stated deadline.⁷⁸ The Commission finds that FMCTC apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁷⁹ FMCTC's total assigned support for the CBGs in default subject to forfeiture amounted to \$12,447.00, thereby capping the maximum possible forfeiture at \$1,867.05, which is 15% of FMCTC's defaulted support subject to forfeiture in Auction 904.⁸⁰ Because the base forfeiture exceeds the 15% cap established by the *Rural Digital Opportunity Fund Order*,⁸¹ the Commission finds the forfeiture amount of \$1,867.05 against FMCTC is appropriate here.

11. **Fond du Lac Communications Inc. (Fond du Lac); FRN: 0029745213; File No.: EB-IHD-23-00034747; NAL/Acct No.: 202332080010.** Fond du Lac provides fiber internet and telephone services to individuals living on the Fond du Lac reservation.⁸² Fond du Lac timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁸³ WCB declared Fond du Lac to be in default on August 10, 2022, and referred the company to EB for enforcement action, after Fond du Lac missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁸⁴ The Commission finds that Fond du Lac apparently committed four violations by defaulting on four CBGs subject to forfeiture, which places the company's base forfeiture at \$12,000.00.⁸⁵ Fond du Lac's total assigned support for the CBGs in default subject to forfeiture amounted to \$934,066.30, thereby capping the maximum possible forfeiture at \$140,109.94, which is 15% of Fond du Lac's defaulted support subject to forfeiture in Auction 904.⁸⁶ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁸⁷ the Commission finds that the forfeiture amount of \$12,000.00 against Fond du Lac is appropriate here.

12. **GigaBeam Networks, LLC (GigaBeam); FRN: 0018473223; File No.: EB-IHD-23-00034748; NAL/Acct No.: 202332080015.** GigaBeam offers broadband internet services throughout southern West Virginia and southwestern Virginia.⁸⁸ GigaBeam timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁸⁹ On May 13, 2022, GigaBeam

⁷⁸ 47 CFR § 1.21004(b) ("The Commission may dismiss a winning bidder's application with prejudice for . . . failure of the winning bidder to respond substantially within the time period specified in official correspondence or requests for additional information . . ."); 47 CFR § 54.804(b)(2)(vi), (b)(3) (requiring a Long-Form applicant to submit a project funding description meeting certain requirements and a letter from a qualified bank committing to issue an irrevocable standby letter of credit); *May 25, 2022 Default Public Notice*, at 5, n.22, Attach. B: Bids in Default.

⁷⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁸⁰ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice* at 8, n.22, *see also* Attach. B: Bids in Default (describing the total amount of Farmers Mutual Cooperative's won support that is in default for the identified CBGS).

⁸¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁸² Fond du Lac, *About Us*, <https://www.aaniin.net/aboutus.html> (last visited Nov. 16, 2022).

⁸³ *See Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

⁸⁴ 47 CFR § 54.804(b)(5); *August 10, 2022 Default Public Notice* at 5, n.63, Attach. B: Bids in Default.

⁸⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁸⁶ *See id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice* at 5, n.63, *see also* Attach. B: Bids in Default (describing the total amount of Fond du Lac's won support that is in default for the identified CBGS).

⁸⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁸⁸ GigaBeam, *Home*, <https://www.gigabeam.net/> (last visited Nov. 16, 2022).

⁸⁹ *See Winning Bidders Public Notice*, 35 FCC Rcd at 13915, Attach. A: Winning Bidder Summary.

notified the Commission of its intent to default on two CBGs subject to forfeiture.⁹⁰ WCB declared GigaBeam to be in default on May 25, 2022, and referred the company to EB for enforcement action.⁹¹ The Commission finds that GigaBeam apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁹² GigaBeam's total assigned support for the CBGs in default subject to forfeiture amounted to \$92,328.40, thereby capping the maximum possible forfeiture at \$13,849.26, which is 15% of GigaBeam's defaulted support subject to forfeiture in Auction 904.⁹³ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*, the Commission finds that the forfeiture amount of \$6,000.00 against GigaBeam appropriate here.

13. **Mercury Wireless Indiana, LLC (Mercury IN); FRN: 0025151754; File No.: EB-IHD-23-00034749; NAL/Acct No.: 202332080025.** Mercury IN is a wholly owned subsidiary of Mercury Broadband, LLC f/k/a Mercury Wireless, Inc. (Mercury),⁹⁴ a fixed wireless broadband provider located in Kansas City, MO.⁹⁵ Mercury submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁹⁶ In turn, Mercury assigned bids covering 1,501 CBGs to Mercury IN.⁹⁷ On August 10, 2021, Mercury IN notified the Commission of its intent to default on 115 CBGs subject to forfeiture.⁹⁸ WCB declared Mercury IN to be in default on May 3, 2022, and referred the company to EB for enforcement action.⁹⁹ The Commission finds that Mercury IN apparently committed 115 violations by defaulting on 115 CBGs subject to forfeiture, which places the company's base forfeiture at \$345,000.00.¹⁰⁰ Mercury IN's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$4,768,591.60, thereby capping the maximum possible forfeiture at \$715,288.74, which is 15% of Mercury IN's defaulted support subject to forfeiture in Auction 904.¹⁰¹ Because the base

⁹⁰ See E-mail from Michael Clemons, Chief Executive Officer, GigaBeam Networks, LLC, to Heidi Lankau, Attorney Advisor, Telecommunications Policy Access Division, Federal Communications Commission (May 13, 2022, 13:49 EDT).

⁹¹ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

⁹² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁹³ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of GigaBeam's won support that is in default for the identified CBGs).

⁹⁴ See Mercury Wireless, Inc., Auction 904 FCC Form 175 Application, File No. 0009149636 (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_ownership.htm?searchLevel=B&application_id=12168219&file_num=0009149636&version=2&PStart=1&auction_id=904.

⁹⁵ Mercury, *About Us*, <https://mercurybroadband.com/about-us/https://starry.com/> (last visited Jan. 5, 2023).

⁹⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

⁹⁷ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁹⁸ See E-mail from Virginia D. Hiner, Counsel to Mercury Broadband, LLC, to Auction904@fcc.gov, Federal Communications Commission (Aug. 10, 2021, 14:34 EDT) (attaching Letter from Garrett R. Wiseman, Chief Executive Officer, Mercury Broadband, LLC, to Kris Monteith, Chief, Wireline Competition Bureau, Federal Communications Commission et al. (Aug. 4, 2021)).

⁹⁹ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁰⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁰¹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Mercury IN's won support that is in default for the identified CBGs).

forfeiture does not exceed the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁰² the Commission finds that the forfeiture amount of \$345,000.00 against Mercury IN is appropriate here.

14. **Mercury Wireless Kansas, LLC (Mercury KS); FRN: 0024930141; File No.: EB-IHD-23-00034750; NAL/Acct No.: 202332080017.** Mercury KS is a wholly owned subsidiary of Mercury Broadband, LLC f/k/a Mercury Wireless, Inc. (Mercury),¹⁰³ a fixed wireless broadband provider located in Kansas City, MO.¹⁰⁴ Mercury submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁰⁵ In turn, Mercury assigned bids covering 238 CBGs to Mercury KS.¹⁰⁶ On August 10, 2021, Mercury KS notified the Commission of its intent to default on 32 CBGs subject to forfeiture.¹⁰⁷ WCB declared Mercury KS to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁰⁸ The Commission finds that Mercury KS apparently committed 32 violations by defaulting on 32 CBGs subject to forfeiture, which places the company's base forfeiture at \$96,000.00.¹⁰⁹ Mercury KS's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$1,228,636.60, thereby capping the maximum possible forfeiture at \$184,295.49, which is 15% of Mercury KS's defaulted support subject to forfeiture in Auction 904.¹¹⁰ Because the base forfeiture does not exceed the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹¹¹ the Commission finds that the forfeiture amount of \$96,000.00 against Mercury KS is appropriate here.

15. **Monster Broadband, Inc. (Monster Broadband); FRN: 0019499375; File No.: EB-IHD-23-00034751; NAL/Acct No.: 202332080008.** Monster Broadband is a fixed wireless internet service provider that serves Tennessee.¹¹² Monster Broadband participated in Auction 904 as a member of the NexTier Consortium (NexTier).¹¹³ NexTier timely submitted its Short-Form Application to

¹⁰² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁰³ See Mercury Wireless, Inc., Auction 904 FCC Form 175 Application, File No. 0009149636 (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_ownership.htm?searchLevel=B&application_id=12168219&file_num=0009149636&version=2&PStart=1&auction_id=904.

¹⁰⁴ Mercury, *About Us*, <https://mercurybroadband.com/about-us/https://starry.com/> (last visited Jan. 5, 2023).

¹⁰⁵ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

¹⁰⁶ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁰⁷ See E-mail from Virginia D. Hiner, Counsel to Mercury Broadband, LLC, to Auction904@fcc.gov, Federal Communications Commission (Aug. 10, 2021, 14:34 EDT) (attaching Letter from Garrett R. Wiseman, Chief Executive Officer, Mercury Broadband, LLC, to Kris Monteith, Chief, Wireline Competition Bureau, Federal Communications Commission et al. (Aug. 4, 2021)).

¹⁰⁸ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁰⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹¹⁰ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Mercury KS's won support that is in default for the identified CBGs).

¹¹¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹¹² Monster Broadband, *About Us*, <https://www.monsterbroadband.com/index.php/why-monster/about-monster-broadband> (last Nov. 16, 2022).

¹¹³ See NexTier Consortium, Auction 904 FCC Form 175 Application, File No. 0009149839, at Ownership (filed Sept. 23, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12180976&file_num=0009149839&version=2&PStart=1&auction_id=904.

participate in Auction 904 and was a successful bidder.¹¹⁴ In turn, NexTier assigned 64 CBGs to Monster Broadband.¹¹⁵ On August 24, 2022, Monster Broadband notified the Commission of its intent to default on 64 CBGs subject to forfeiture.¹¹⁶ WCB declared Monster Broadband to be in default on August 31, 2022, and referred the company to EB for enforcement action.¹¹⁷ The Commission finds that Monster Broadband apparently committed 64 violations by defaulting on 64 CBGs subject to forfeiture, which places the company's base forfeiture at \$192,000.00.¹¹⁸ Monster Broadband's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$5,379,245.50, thereby capping the maximum possible forfeiture at \$806,886.82, which is 15% of Monster Broadband's defaulted support subject to forfeiture in Auction 904.¹¹⁹ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹²⁰ the Commission finds that a forfeiture of \$192,000.00 against Monster Broadband is appropriate here.

16. **Newport Utilities d/b/a NU Connect (Newport Utilities); FRN: 0027152438; File No.: EB-IHD-23-00034752; NAL/Acct No.: 202332080014.** Newport Utilities, headquartered in Newport, Tennessee provides voice and internet services.¹²¹ Newport Utilities timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹²² On May 17, 2022, Newport Utilities notified the Commission of its intent to default on five CBGs subject to forfeiture.¹²³ WCB declared Newport Utilities to be in default on May 25, 2022, and referred the company to EB for enforcement action.¹²⁴ The Commission finds that Newport Utilities apparently committed five violations by defaulting on five CBGs subject to forfeiture, which places the company's base forfeiture at \$15,000.00.¹²⁵ Newport Utilities' total assigned support for the CBGs in default subject to forfeiture amounted to \$87,582.10, thereby capping the maximum possible forfeiture at \$13,137.31, which is 15% of Newport Utilities' defaulted support subject to forfeiture in Auction 904.¹²⁶ Because the base forfeiture exceeds the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹²⁷ the

¹¹⁴ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13920, Attach. A: Winning Bidder Summary.

¹¹⁵ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹¹⁶ E-mail from Steve Baker, Co-owner, Monster Broadband, Inc., to Auction904@fcc.gov, Federal Communications Commission (Aug. 24, 2022, 11:03 EDT).

¹¹⁷ *August 31, 2022 Public Default Notice*, at 6, n.47, Attach. B: Bids in Default.

¹¹⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹¹⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default (describing the total amount of Monster Broadband's won support that is in default for the identified CBGs).

¹²⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹²¹ Newport Utilities, Home, <https://newportutilities.com/> (last visited Nov. 16, 2022).

¹²² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13920, Attach. A: Winning Bidder Summary.

¹²³ See E-mail from Chris Calhoun, Vice President, Operations and Technology, Newport Utilities, to Heidi Lankau, Attorney Advisor, Wireline Competition Bureau, Federal Communications Commission (May 17, 2022, 16:05 EDT).

¹²⁴ *May 25, 2022 Default Public Notice*, at 4, n.23, Attach. B: Bids in Default.

¹²⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹²⁶ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Newport Utilities' won support that is in default for the identified CBGs).

¹²⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

Commission finds the forfeiture amount of \$13,137.31 against Newport Utilities is appropriate here.

17. **RHMD LLC (RHMD); FRN: 0021036439; File No.: EB-IHD-23-00034753; NAL/Acct No.: 202332080020.** RHMD is a South Carolina company that provides voice and broadband services.¹²⁸ RHMD timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹²⁹ WCB declared RHMD to be in default on May 3, 2022, and referred the company to EB for enforcement action, after RHMD missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.¹³⁰ The Commission finds that RHMD apparently committed 69 violations by defaulting on 69 CBGs subject to forfeiture, which places the company's base forfeiture at \$207,000.00.¹³¹ RHMD's total assigned support for the CBGs in default subject to forfeiture amounted to \$15,981,706.90, thereby capping the maximum possible forfeiture at \$2,397,256.03, which is 15% of RHMD's defaulted support subject to forfeiture in Auction 904.¹³² Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹³³ the Commission finds that the forfeiture amount of \$207,000.00 against RHMD is appropriate here.

18. **Shenandoah Cable Television, LLC (Shenandoah Cable); FRN: 0021657853; File No.: EB-IHD-23-00034754; NAL/Acct No.: 202332080024.** Shenandoah Cable is a subsidiary of Shenandoah Telecommunications Company located in Edinburg, Virginia.¹³⁴ Shenandoah Cable provides both voice and broadband services,¹³⁵ and timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹³⁶ On November 15, 2021 and April 20, 2022, Shenandoah Cable notified the Commission of its intent to default on 10 CBGs subject to forfeiture.¹³⁷ WCB declared Shenandoah Cable to be in default for eight CBGs on May 3, 2022, and referred the company to EB for enforcement action.¹³⁸ On June 21, 2022, Shenandoah Cable notified the Commission of its intent to default on two more CBGs subject to forfeiture.¹³⁹ WCB declared Shenandoah Cable to be in default for the remaining CBGs on August 10, 2022, August 31, 2022, and November 10, 2022, and referred the

¹²⁸ RHMD, *About*, <https://www.rh-md.com>; see also South Carolina Secretary of State: *Business Entities Online: Business Name Search: RHMD, LLC*, <https://businessfilings.sc.gov/BusinessFiling/Entity/Search> (last visited Nov. 16, 2022).

¹²⁹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13924, Attach. A: Winning Bidder Summary.

¹³⁰ 47 CFR § 54.804(b)(5); *May 3, 2022 Default Public Notice* at 6, n.44, Attach. B: Bids in Default.

¹³¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹³² See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of RHMD's won support that is in default for the identified CBGs).

¹³³ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹³⁴ United States Securities and Exchange Commission, *Form 10-K*, Business, p. 12, <https://investor.shentel.com/static-files/3498fbb5-b7dc-43a1-acde-c4238fc542a2> (last visited Nov. 16, 2022).

¹³⁵ See Shenandoah Cable, Auction 904 Form 175 Application, File No. 0009149943 (filed July 15, 2020) https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12171025&file_num=0009149943&version=2&PStart=1&auction_id=904.

¹³⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13926, Attach. A: Winning Bidder Summary.

¹³⁷ See Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed Nov. 15, 2021); Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed Apr. 20, 2022).

¹³⁸ See *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹³⁹ See Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed June 21, 2022).

company to EB for enforcement action.¹⁴⁰ The Commission finds that Shenandoah Cable apparently committed 12 violations by defaulting on 12 CBGs subject to forfeiture, which places the company's base forfeiture at \$36,000.00.¹⁴¹ Shenandoah Cable's total assigned support for the CBGs in default subject to forfeiture amounted to \$3,812,575.60, thereby capping the maximum possible forfeiture at \$571,886.34, which is 15% of Shenandoah Cable's defaulted support subject to forfeiture in Auction 904.¹⁴² Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹⁴³ the Commission finds the forfeiture amount of \$36,000.00 against Shenandoah Cable is appropriate here.

19. **Terral Telephone Company (Terral); FRN: 0004320412; File No.: EB-IHD-23-00034755; NAL/Acct No.: 202332080013.** Terral is a South Carolina company that provides voice and broadband services.¹⁴⁴ Terral timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁴⁵ On May 12, 2022, Terral notified the Commission of its intent to default on 11 CBGs subject to forfeiture.¹⁴⁶ WCB declared Terral to be in default on May 25, 2022, and referred the company to EB for enforcement action.¹⁴⁷ The Commission finds that Terral apparently committed 11 violations by defaulting on 11 CBGs subject to forfeiture, which places the company's base forfeiture at \$33,000.00.¹⁴⁸ Terral's total assigned support for the CBGs in default subject to forfeiture amounted to \$632,991.90, thereby capping the maximum possible forfeiture at \$94,948.78, which is 15% of Terral's defaulted support subject to forfeiture in Auction 904.¹⁴⁹ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁵⁰ the Commission finds that the forfeiture amount of \$33,000.00 against Terral is appropriate here.

20. **Time Warner Cable Information Services (Massachusetts), LLC (TWC Massachusetts); FRN: 0013182712; File No.: EB-IHD-23-00034756; NAL/Acct No.: 202332080019.** TWC Massachusetts is a limited liability company formed in Delaware and a subsidiary of Charter.¹⁵¹

¹⁴⁰ See *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; see also *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default; see also *November 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default.

¹⁴¹ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁴² See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default; *Nov. 10, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Shenandoah Cable's won support that is in default for the identified CBGs).

¹⁴³ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁴⁴ See Terral Telephone Company, Auction 904 FCC Form 175 Application, File No. 0009150076, at Applicant Info (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12189335&file_num=0009150076&version=2&PStart=1&auction_id=904 (RHMD Short-Form Filing).

¹⁴⁵ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13929, Attach. A: Winning Bidder Summary.

¹⁴⁶ See Letter from Chad Seagress, President, Terral Telephone Company, to Trent Harkrader, Chief, Wireline Competition Bureau, Federal Communications Commission (May 12, 2022).

¹⁴⁷ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁴⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Terral's won support that is in default for the identified CBGs).

¹⁵⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁵¹ United States Securities and Exchange Commission, *Form 10-K*, Exhibit 21-1, <https://ir.charter.com/static-files/63606f63-1b11-4d60-91a0-5395f1552592> (last visited Nov. 16, 2022).

Charter participated in Auction 904 through another subsidiary called CCO.¹⁵² CCO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁵³ In turn, CCO assigned TWC Massachusetts 42 of its CBGs.¹⁵⁴ In a series of e-mails, Charter notified the Commission on behalf of its subsidiaries of its intent to default on CBGs, including two of TWC Massachusetts' assigned CBGs subject to forfeiture.¹⁵⁵ WCB declared TWC Massachusetts to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁵⁶ The Commission finds that TWC Massachusetts apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.¹⁵⁷ TWC Massachusetts' total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$1,104,815.00, thereby capping the maximum possible forfeiture at \$165,722.25, which is 15% of TWC Massachusetts' defaulted support subject to forfeiture in Auction 904.¹⁵⁸ Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹⁵⁹ the Commission finds the forfeiture amount of \$6,000.00 against TWC Massachusetts is appropriate here.

21. **Trailwave Fiber, Inc. (Trailwave); FRN: 0022716385; File No.: EB-IHD-23-00034757; NAL/Acct No.: 202332080012.** Trailwave is a broadband internet service provider located in Georgia.¹⁶⁰ Trailwave is a wholly owned subsidiary of Habersham Electric Membership Cooperation.¹⁶¹ Trailwave was a member of the NRTC Phase 1 RDOF Consortium (NRTC).¹⁶² NRTC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁶³ In turn, NRTC assigned 13 CBGs to Trailwave.¹⁶⁴ On May 25, 2022, Trailwave notified the Commission of its intent to default on 13 CBGs subject to forfeiture.¹⁶⁵ WCB declared Trailwave to be in default on May 25, 2022,

¹⁵² *Id.*

¹⁵³ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13907-08, Attach. A: Winning Bidder Summary.

¹⁵⁴ Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁵⁵ See, e.g., *Charter Summary Default E-mail; May 3, 2022 Default Public Notice*, at 6, n.44.

¹⁵⁶ *May 3, 2022 Default Public Notice*, at 6-7, n.44, Attach. B: Bids in Default.

¹⁵⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁵⁸ See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of TWC Massachusetts' won support that is in default for the identified CBGs).

¹⁵⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁶⁰ Trailwave, *Trailwave Plans*, <https://www.habershamemc.com/trailwave/pricing/#residential-plans> (last visited Nov. 16, 2022).

¹⁶¹ Trailwave, *Home*, <https://www.habershamemc.com/trailwave/> (last visited Nov. 16, 2022).

¹⁶² NRTC Phase 1 RDOF Consortium, Auction 904 FCC Form 175 Application, File No. 0009146856, at Consortium Members Attach., p. 11 (filed July 13, 2020); https://auctionfiling.fcc.gov/form175/search175/attachment_view.htm?searchLevel=B&application_id=12165439&file_num=0009146856&version=2&PStart=1&auction_id=904&attachment_id=20947677.

¹⁶³ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13921, Attach. A: Winning Bidder Summary.

¹⁶⁴ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁶⁵ E-mail from Casey Lide, Counsel to Trailwave Fiber, Inc., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (May 25, 2022, 9:51 EDT); Letter from Casey Lide, (continued...)

and referred the company to EB for enforcement action.¹⁶⁶ The Commission finds that Trailwave apparently committed 13 violations by defaulting on 13 CBGs subject to forfeiture, which places the company's base forfeiture at \$39,000.00.¹⁶⁷ Trailwave's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$396,415.90, thereby capping the maximum possible forfeiture at \$59,462.38, which is 15% of Trailwave's defaulted support subject to forfeiture in Auction 904.¹⁶⁸ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁶⁹ the Commission finds that the forfeiture amount of \$39,000.00 against Trailwave is appropriate here.

22. **Xiber LLC (Xiber); FRN 0025619222; File No.: EB-IHD-23-00034758; NAL/Acct No.: 202332080004.** Xiber is a fixed wireless broadband provider located in Indianapolis, Indiana.¹⁷⁰ Xiber is a majority owned subsidiary of Hawaii Dialogix Telecom LLC (HDT).¹⁷¹ HDT timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁷² In turn, HDT assigned bids covering 14 CBGs to Xiber.¹⁷³ WCB declared Xiber to be in default on December 16, 2022, and referred the company to EB for enforcement action, after Xiber missed the deadlines for submitting audited financial statements and a letter from a qualified bank committing to issue an irrevocable stand-by letter of credit meeting the Commission's requirements.¹⁷⁴ The Commission finds that Xiber apparently committed 14 violations by defaulting on 14 CBGs subject to forfeiture, which places the company's base forfeiture at \$42,000.00.¹⁷⁵ The Commission further finds that Xiber apparently committed a separate violation when it failed to file audited financial paperwork with WCB during the Long-Form Application process, which subjects Xiber to an additional \$50,000.00 base forfeiture.¹⁷⁶ Xiber's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$5,449,918.00, thereby capping the maximum possible default forfeiture at \$817,487.70, which is 15% of Xiber's defaulted support subject to forfeiture in Auction 904.¹⁷⁷ The base default forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*, at

Counsel to Trailwave Fiber, Inc., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (May 26, 2022).

¹⁶⁶ May 25, 2022 Default Public Notice, Attach. B: Bids in Default.

¹⁶⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁶⁸ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). May 25, 2022 Default Public Notice, Attach. B: Bids in Default (describing the total amount of Trailwave's won support that is in default for the identified CBGs).

¹⁶⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁷⁰ See Xiber, *About Us*, <https://xiber.com/about/> (last visited Jan. 4, 2023).

¹⁷¹ See Hawaii Dialogix Telecom LLC, Auction 904 FCC Form 175 Application, File No. 0009149368, (filed Oct. 28, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12170893&file_num=0009149368&version=2&PStart=1&auction_id=904.

¹⁷² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

¹⁷³ 417 Long-Form Applicants Public Notice, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Jan. 4, 2023); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁷⁴ 47 CFR §§ 54.804(b)(3), (b)(4); December Default Public Notice, at 5, n.26, Attach. B: Bids in Default.

¹⁷⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁷⁶ *Id.* at 722-23, para. 80.

¹⁷⁷ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also December Default Public Notice, Attach. B: Bids in Default (describing the total amount of Xiber's won support in default for the identified CBGs).

\$42,000.00.¹⁷⁸ Combining the audited financials forfeiture of \$50,000.00 with the default forfeiture of \$42,000.00, the Commission finds that the total forfeiture of \$92,000.00 against Xiber is appropriate here.

¹⁷⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

APPENDIX B

[SPREADSHEET OF CBGS]

APPENDIX C

[SPREADSHEET OF ADDRESSES]

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *In the Matter of 22 Applicants for Rural Digital Opportunity Fund in Default*, Notice of Apparent Liability for Forfeiture.

Today, we adopt the second RDOF default Notice of Apparent Liability in a year, bringing the total number of RDOF applicants that we have proposed to fine for defaulting on their bids to 95. When we originally adopted the Rural Digital Opportunity Fund in 2020, I wrote that we must “create real accountability for companies that receive subsidies” and that there were “warning signs that we should not ignore.”¹ When applicants fail to live up to their obligations in a broadband deployment program, it is a setback for all of us. Defaulting applicants pay a fine, but rural communities that have already waited too long for broadband pay a larger toll. I’m glad that we are holding these companies accountable through our enforcement rules, and hope that these communities will be served by forthcoming broadband deployment programs.

¹ *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, Statement of Commissioner Geoffrey Starks (2020).

APPENDIX A

The apparent violations identified in this Appendix generally arise from the applicant submitting a Long-Form Application but subsequently withdrawing its application by notifying the Commission of its intent to default on one or more CBGs. To the extent that an entry below involves a different fact pattern, the relevant facts are described in the entry. Unless otherwise specially stated below, all of the fact patterns described in this Appendix represent apparent violations of section 1.21004(a) of the Commission's rules and the requirements established specifically for Auction 904 in the *Rural Digital Opportunity Fund Order* and the *Auction 904 Procedures Public Notice*.¹

1. **AB Indiana, LLC (AB Indiana); FRN: 0021994686; File No.: EB-IHD-23-00034737; NAL/Acct No.: 202332080009.** AB Indiana is a fixed wireless broadband provider headquartered in Hunt Valley, Maryland.² AB Indiana timely submitted its Short-Form Application to participate in Auction 904³ and was a successful bidder.⁴ WCB declared AB Indiana to be in default on August 10, 2022, and referred the company to EB for enforcement action, after AB Indiana failed to timely complete its Long-Form Application when it failed to submit appropriate documentation verifying its eligible telecommunications carrier designation in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁵ The Commission finds that AB Indiana apparently committed one violation by defaulting on one CBG subject to forfeiture, which places the company's base default forfeiture at \$3,000.00.⁶ The Commission further finds that AB Indiana apparently committed a separate violation when it failed to file audited financial paperwork with WCB during the Long-Form Application process, which subjects AB Indiana to an additional \$50,000.00 base forfeiture.⁷ AB Indiana's total

¹ 47 CFR § 1.21004(a); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735, paras. 114-15; *Auction 904 Procedures Public Notice*, 35 FCC Rcd at 6178, paras. 321-22.

² See Maryland Secretary of State, *Business Entity Search: AB Indiana, LLC*, <https://egov.maryland.gov/businessexpress/entitysearch> (last visited Nov. 16, 2022).

³ See AB Indiana, Auction 904 FCC Form 175 Application, File No. 0009148967 (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/detail_ownership_frb.htm?searchLevel=B&application_id=12169028&file_num=0009148967&version=2&PStart=1&auction_id=904&all_ind=N&FrbId=191292.

⁴ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888, 13904, Attach. A: Winning Bidder Summary (WCB/OEA 2020) (*Winning Bidders Public Notice*).

⁵ 47 CFR § 54.804(b)(5); *August 10, 2022 Default Public Notice*, at 8, n.63 & Attach. B: Bids in Default.

⁶ See *Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686, 735-36, para. 115 (2020) (*Rural Digital Opportunity Fund Order*).

⁷ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 722-23, para. 80. On June 4, 2021, AB Indiana requested a waiver of the requirement to file audited financial statements by June 7, 2021. AB Indiana Request for Waiver (filed June 4, 2021) (AB Indiana Petition). WCB dismissed that request as moot on July 26, 2021. See *Rural Digital Opportunity Fund (Auction 904); Rural Digital Opportunity Fund*, AU Docket No. 20-34 et al., Order, 36 FCC Rcd 11564, 11564 n.1 (WCB 2021). In light of the proposed forfeiture, we no longer consider the request to be moot and now deny the requested waiver. Generally, the Commission's rules may be waived for good cause shown. 47 CFR § 1.3. Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest. See *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), cert. denied, 93 S. Ct. 461 (1972)). AB Indiana provided no explanation for its delay in obtaining audited financial statements, and thus has presented no special circumstances warranting a waiver. See AB Indiana Petition at 1 (noting only that it was "requesting an extension to provide audited financials," and that it had "engaged [its] Certified Public Accountant and hope[d] to provide such documents in a timely [manner].") Compare *Rural Digital Opportunity Fund Support for 2,072 Winning Bids Ready to Be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-911, at 5-6 (WCB Aug. 31, 2022) (finding good

(continued...)

assigned support for the CBG in default subject to forfeiture amounted to \$614,532.50, thereby capping the maximum possible default forfeiture at \$92,179.88, which is 15% of AB Indiana's defaulted support subject to forfeiture in Auction 904.⁸ The \$3,000.00 base default forfeiture is below the 15% cap established in the *Rural Digital Opportunity Fund Order*.⁹ Combining the audited financials forfeiture of \$50,000.00 with the \$3,000.00 default forfeiture, the Commission finds that the total forfeiture of \$53,000.00 against AB Indiana is appropriate here.

2. **Cable One VoIP, LLC (Cable One); FRN: 0024177222; File No.: EB-IHD-23-00034738; NAL/Acct No.: 202332080022.** Cable One is an interconnected VoIP provider located in Phoenix, Arizona.¹⁰ Cable One is owned by Cable One, Inc., which was a member of the Wisper-CABO 904 Consortium (Wisper-CABO).¹¹ Wisper-CABO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹² In turn, Wisper-CABO assigned 153 CBGs to Cable One.¹³ On August 16 and August 24, 2021, Cable One notified the Commission of its intent to default on 113 CBGs subject to forfeiture.¹⁴ WCB declared Cable One to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁵ The Commission finds that Cable One apparently committed 113 violations by defaulting on 113 CBGs subject to forfeiture, which places the company's base forfeiture at \$339,000.00.¹⁶ Cable One's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$308,580.20, thereby capping the maximum possible forfeiture at \$46,287.03, which is 15% of Cable One's defaulted support subject to forfeiture in Auction 904.¹⁷ Because the base forfeiture exceeds the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁸ the Commission finds that the forfeiture amount of \$46,287.03 against Cable One is appropriate here.

cause to waive the audited financial statements deadline where the applicant "faced unforeseeable, pandemic-created obstacles in hiring staff that were qualified to help complete the audit").

⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice*, at 8, n.63, Attach. B: Bids in Default (describing the total amount of AB Indiana's won support that is in default for the identified CBGs).

⁹ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁰ See Arizona Corporation Commission, *Entity Search: Cable One VoIP, LLC*, <https://ecorp.azcc.gov/BusinessSearch/BusinessInfo?entityNumber=R19740953> (last visited Nov. 16, 2022).

¹¹ See Wisper-CABO 904 Consortium, Auction 904 FCC Form 175 Application, File No. 0009149272 (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12176125&file_num=0009149272&version=2&PStart=1&auction_id=904.

¹² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13932-33, Attach. A: Winning Bidder Summary.

¹³ See *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁴ See E-mail from Patrick Caron, General Counsel, Cable One, Inc. to Auction904@fcc.gov, Federal Communications Commission (Aug. 16, 2021, 18:35 EDT); E-mail from Patrick Caron, General Counsel, Cable One, Inc. to Auction904@fcc.gov, Federal Communications Commission (Aug. 24, 2021, 13:28 EDT); CableOne VoIP LLC Petition for a Waiver, AU Docket No. 20-34 et al. (filed Aug. 24, 2021); CableOne VoIP LLC Amended Petition for Waiver, AU Docket No. 20-34 et al. (filed May 11, 2022).

¹⁵ See *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁶ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁷ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Cable One's won support that is in default for the identified CBGs).

¹⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

3. **Cal.net, Inc. (Cal.net); FRN: 0020855656; File No.: EB-IHD-23-00034739; NAL/Acct No.: 202332080005.** Cal.net, located in Shingle Springs, CA, offers broadband internet options for rural and urban communities.¹⁹ Cal.net timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.²⁰ WCB declared Cal.net to be in default on October 12, 2022, and referred the company to EB for enforcement action, after Cal.net missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.²¹ The Commission finds that Cal.net apparently committed 180 violations by defaulting on 180 CBGs subject to forfeiture, which places the company's base forfeiture at \$540,000.00.²² Cal.net's total assigned support for the CBGs in default subject to forfeiture amounted to \$27,174,275.40, thereby capping the maximum possible forfeiture at \$4,076,141.13, which is 15% of Cal.net's defaulted support subject to forfeiture in Auction 904.²³ Because the base forfeiture does not exceed the 15% cap established by the *Rural Digital Opportunity Fund Order*,²⁴ the Commission finds the forfeiture amount of \$540,000.00 against Cal.net is appropriate here.

4. **California Internet, L.P. dba GeoLinks (California Internet); FRN: 0023707953; File No.: EB-IHD-23-00034740; NAL/Acct No.: 202332080006.** California Internet is a competitive local exchange carrier (CLEC) and fiber internet provider headquartered in Camarillo, CA.²⁵ California Internet timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.²⁶ WCB declared California Internet to be in default on October 12, 2022, and referred the company to EB for enforcement action, after California Internet missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.²⁷ The Commission finds that California Internet apparently committed 1,025 violations by defaulting on 1,025 CBGs subject to forfeiture, which places the company's base forfeiture at \$3,075,000.00.²⁸ California Internet's total assigned support for the CBGs in default subject to forfeiture amounted to \$129,659,238.20, thereby capping the maximum possible forfeiture at \$19,448,885.73, which is 15% of California Internet's defaulted support subject to forfeiture in Auction 904.²⁹ Because the base forfeiture

¹⁹ See Cal.net, *About Us*, <https://www.cal.net/about-us/> (last visited Jan. 5, 2023).

²⁰ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13906, Attach. A: Winning Bidder Summary.

²¹ 47 CFR § 54.804(b)(5); *October 2022 Default Public Notice* at 9, n.57, Attach. B: Bids in Default.

²² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

²³ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *October 2022 Default Public Notice* Attach. B: Bids in Default (describing the total amount of Cal.net's won support in default for the identified CBGs).

²⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

²⁵ See Geolinks, *About*, <https://geolinks.com/innovative-telecom-solutions/> (last visited Jan. 5, 2023).

²⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13906-907, Attach. A: Winning Bidder Summary.

²⁷ 47 CFR § 54.804(b)(5); *October 2022 Default Public Notice* at 9, n.57, Attach. B: Bids in Default. California Internet also received a partial waiver for an additional two bid defaults because those defaults stemmed from interagency coordination pursuant to the Broadband Interagency Coordination Act of 2020. See *August 31, 2022 Public Default Notice*, at 7, n.49; E-mail from Ryan Adams, President and COO, California Internet, L.P., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (August 27, 2022, 2:23 EDT).

²⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

²⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *October 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of California Internet's won support that is in default for the identified CBGs).

does not exceed the 15% cap established by the *Rural Digital Opportunity Fund Order*,³⁰ the Commission finds the forfeiture amount of \$3,075,000.00 against California Internet is appropriate here.

5. **Cebridge Telecom ID, LLC (Cebridge); FRN 0016746802; File No.: EB-IHD-23-00034741; NAL/Acct No.: 202332080018.** Cebridge is a wholly owned subsidiary of Altice USA, Inc. (Altice),³¹ which offers broadband internet service spanning 21 states.³² Altice submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.³³ In turn, Altice assigned bids covering two CBGs to Cebridge.³⁴ On August 30, 2021, on behalf of its subsidiaries, Altice notified the Commission of Cebridge's intent to default on two CBGs subject to forfeiture.³⁵ WCB declared Cebridge to be in default on May 3, 2022, and referred the company to EB for enforcement action.³⁶ The Commission finds that Cebridge apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.³⁷ Cebridge's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$8,240.00, thereby capping the maximum possible forfeiture at \$1,236.00, which is 15% of Cebridge's defaulted support subject to forfeiture in Auction 904.³⁸ Because the base forfeiture exceeds the 15% cap established in the *Rural Digital Opportunity Fund Order*,³⁹ the Commission finds that the forfeiture amount of \$1,236.00 against Cebridge is appropriate here.

6. **Charter Fiberlink – Missouri, LLC (CF Missouri); FRN: 0005793922; File No.: EB-IHD-23-00034742; NAL/Acct No.: 202332080023.** CF Missouri is a limited liability company formed in Delaware.⁴⁰ CF Missouri and CCO Holdings, LLC (CCO) are subsidiaries of Charter Communications, Inc. (Charter).⁴¹ CCO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁴² In turn, CCO assigned CF Missouri 276 CBGs.⁴³ In a series of e-mails on behalf of its subsidiaries, Charter notified the Commission of their intent to default on

³⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

³¹ See Altice USA, Inc., Auction 904 FCC Form 175 Application, File No. 0009149206 (filed Oct. 20, 2020); https://auctionfiling.fcc.gov/form175/search175/detail_ownership_frb.htm?searchLevel=B&application_id=12170697&file_num=0009149206&version=2&PStart=1&auction_id=904&all_ind=N&FrbId=1083356.

³² Altice, *About*, <https://www.alticeusa.com/about> (last visited Jan. 5, 2023).

³³ See *Winning Bidders Public Notice*, 35 FCC Red at 13904, Attach. A: Winning Bidder Summary.

³⁴ *417 Long-Form Applicants Public Notice*, 36 FCC Red at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

³⁵ See E-mail from Cristina Chou, Vice President, Federal Affairs, Altice USA, to Auction904@fcc.gov, Federal Communications Commission (Aug. 30, 2021, 13:54 EDT).

³⁶ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

³⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 735-36, para. 115.

³⁸ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (showing the total amount of Cebridge's won support in default for the identified CBGs).

³⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Red at 736, para. 117.

⁴⁰ United States Securities and Exchange Commission, *Form 10-K*, Exhibit 21-1, <https://ir.charter.com/static-files/63606f63-1b11-4d60-91a0-5395f1552592> (last visited Nov. 16, 2022).

⁴¹ *Id.*

⁴² See *Winning Bidders Public Notice*, 35 FCC Red at 13907-08, Attach. A: Winning Bidder Summary.

⁴³ *417 Long-Form Applicants Public Notice*, 36 FCC Red at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

certain winning bids, including two CBGs subject to forfeiture assigned to CF Missouri.⁴⁴ WCB declared CF Missouri to be in default on May 3, 2022, and referred the company to EB for enforcement action.⁴⁵ The Commission finds that CF Missouri apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁴⁶ CF Missouri's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$126,249.50, thereby capping the maximum possible forfeiture at \$18,937.42, which is 15% of CF Missouri's defaulted support subject to forfeiture in Auction 904.⁴⁷ Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,⁴⁸ the Commission finds the forfeiture amount of \$6,000.00 against CF Missouri appropriate here.

7. **Conexon Connect, LLC (Conexon Connect) (Conexon); FRN: 0029721511; File No.: EB-IHD-23-00034743; NAL/Acct No.: 202332080021.** Conexon Connect is a subsidiary of Conexon LLC based in Kansas City, Missouri that works with rural electric cooperatives to bring fiber internet to their communities.⁴⁹ Conexon Connect was a member of the Rural Electric Cooperative Consortium (RECC).⁵⁰ RECC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁵¹ In turn, RECC assigned bids covering 1,156 CBGs to Conexon Connect.⁵² On May 3, 2022, WCB declared Conexon Connect to be in default in eight CBGs along with certain other census blocks, and referred the company to EB for enforcement action, after Conexon Connect missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁵³ On May 26, 2022, Conexon Connect notified the Commission of its intent to default on an additional 35 CBGs subject to forfeiture.⁵⁴ WCB declared Conexon Connect to be in default for the 35 CBGs on June 14, 2022, and referred the company to EB for enforcement action.⁵⁵ The Commission finds that Conexon Connect apparently committed 43 violations by defaulting on 43 CBGs subject to forfeiture which places the company's base forfeiture at \$129,000.00.⁵⁶ Conexon Connect's

⁴⁴ See, e.g., E-mail from Maureen A. O'Connell, Vice President, Regulatory Affairs, Charter Communications, to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (Mar. 20, 2022, 16:13 EDT) (summarizing the intended defaults for the applicants assigned winning bids by CCO); see *May 3, 2022 Default Public Notice*, at 6, n.44.

⁴⁵ *May 3, 2022 Default Public Notice*, at 6, n.44.

⁴⁶ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁴⁷ See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures).

⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁴⁹ Conexon, *Home*, <https://conexon.us> (last visited Nov. 16, 2022).

⁵⁰ Rural Electric Cooperative Consortium, Auction 904 FCC Form 175 Application, File No. 0009148768, at Attach. 2, p. 13 (filed July 14, 2020); https://auctionnextfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12165528&file_num=0009148768&version=2&PStart=1&auction_id=904.

⁵¹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13925-26, Attach. A: Winning Bidder Summary.

⁵² *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁵³ 47 CFR § 54.804(b)(5); *May 3, 2022 Default Public Notice*, DA 22-483, at 7-8, Attach. B: Bids in Default.

⁵⁴ Letter from Todd B. Lantor, Counsel to Conexon Connect, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 26, 2022). These CBGs included some census blocks that WCB had previously announced as defaulted. *May 3, 2022 Default Public Notice*, DA22-483, at 7-8.

⁵⁵ *June 2022 Default Public Notice*, Attach. B: Bids in Default.

⁵⁶ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$36,127,642.00, thereby capping the maximum possible forfeiture at \$5,419,146.30, which is 15% of Conexon Connect's defaulted support subject to forfeiture in Auction 904.⁵⁷ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁵⁸ the Commission finds that the forfeiture amount of \$129,000.00 against Conexon Connect is appropriate here.

8. **Connect Everyone, LLC (Connect Everyone); FRN: 0029746260; File No.: EB-IHD-23-00034744; NAL/Acct No.: 202332080007.** Connect Everyone is a wholly owned subsidiary of Starry, Inc., which offers high speed fixed wireless internet service.⁵⁹ Connect Everyone submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁶⁰ On September 15, 2022 and October 12, 2022, Connect Everyone notified the Commission of its intent to default on 1,282 CBGs subject to forfeiture.⁶¹ WCB declared Connect Everyone to be in default on October 12, 2022, and referred the company to EB for enforcement action.⁶² The Commission finds that Connect Everyone apparently committed 1,282 violations by defaulting on 1,282 CBGs subject to forfeiture, which places the company's base forfeiture at \$3,846,000.00.⁶³ Connect Everyone's total assigned support for the CBGs in default subject to forfeiture amounted to \$245,241,987.90, thereby capping the maximum possible forfeiture at \$36,786,298.18, which is 15% of Connect Everyone's defaulted support subject to forfeiture in Auction 904.⁶⁴ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁶⁵ the Commission finds that the forfeiture amount of \$3,846,000.00 against Connect Everyone is appropriate here.

9. **E Fiber San Juan (E San Juan); FRN: 0030298442; File No.: EB-IHD-23-00034745; NAL/Acct No.: 202332080011.** E San Juan is a local exchange carrier located in Orangeville, Utah.⁶⁶ E

⁵⁷ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default; *June 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Conexon Connect's won support that is in default for the identified CBGs).

⁵⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁵⁹ Starry, Inc., Home, <https://starry.com/> (last visited Nov. 16, 2022).

⁶⁰ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

⁶¹ See Letter from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Sept. 15, 2022); Letter from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Nov. 16, 2022). Connect Everyone also received a partial waiver for an additional six bid defaults because those defaults stemmed from interagency coordination pursuant to the Broadband Interagency Coordination Act of 2020. See *August 31, 2022 Public Default Notice*, at 7, n.49; E-mail from Brian Regan, Executive Vice President and Chief of Staff, Starry, Inc., to Auction904@fcc.gov, Federal Communications Commission (August 29, 2022, 21:58 EDT).

⁶² *October 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default.

⁶³ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁶⁴ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *October 2022 Default Public Notice*, Attach. B: Bids in Default, *May 25, 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default (describing the total amount of Connect Everyone's won support that is in default for the identified CBGs).

⁶⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁶⁶ See Emery Telephone dba Emery Telcom, Auction 904 FCC Form 175 Application, File No. 0009147474, (filed July 14, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12165535&file_num=0009147474&version=2&PStart=1&auction_id=904.

San Juan is a wholly owned subsidiary of Emery Telephone (Emery).⁶⁷ Emery timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁶⁸ In turn, Emery assigned bids covering three CBGs to E San Juan.⁶⁹ On June 13, 2022, E San Juan notified the Commission of its intent to default in certain census blocks within one CBG subject to forfeiture.⁷⁰ WCB declared E San Juan to be in default on August 10, 2022, and referred the company to EB for enforcement action.⁷¹ The Commission finds that E San Juan apparently committed one violation by defaulting on one CBG subject to forfeiture, which places the company's base forfeiture at \$3,000.00.⁷² E San Juan's total assigned support for the assigned CBG in default subject to forfeiture amounted to \$582,313.50 for the defaulted census blocks,⁷³ thereby capping the maximum possible forfeiture at \$87,347.02, which is 15% of E San Juan's defaulted support subject to forfeiture in Auction 904.⁷⁴ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁷⁵ the Commission finds that the forfeiture amount of \$3,000.00 against E San Juan is appropriate here.

10. **Farmers Mutual Cooperative Telephone Company (FMCTC); FRN: 0004776464; File No.: EB-IHD-23-00034746; NAL/Acct No.: 202332080016.** FMCTC, located in Fruitland, Idaho, offers residential and business options for internet, phone, voice, and business services.⁷⁶ FMCTC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁷⁷ WCB declared FMCTC to be in default on May 25, 2022, and referred the company to EB for enforcement action, after FMCTC failed to upload required information and documentation to its Long-Form Application by a stated deadline.⁷⁸ The Commission finds that FMCTC apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at

⁶⁷ Petition of E Fiber Moab, LLC and E Fiber San Juan, LLC for a Waiver of Section 54.804(b)(5) of the Commission's Rules, AU Docket No. 20-34 et al., Petition for Waiver at 1 (filed June 2, 2021).

⁶⁸ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

⁶⁹ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁷⁰ Letter from Brock Johansen, Chief Executive Officer, E San Juan Fiber, LLC, to Trent Harkrader, Chief, Wireline Competition Bureau, Federal Communications Commission (June 13, 2022).

⁷¹ *August 10, 2022 Default Public Notice* at 9-10. For E San Juan, WCB waived on its own motion the requirement that a default encompass an entire CBG, but did not waive the forfeiture for the defaulting census blocks. *Id.* at 10.

⁷² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁷³ The \$582,313.50 does not include the census blocks within the CBG where E San Juan was later authorized for support. *August 10, 2022 Default Public Notice*, at 10; *Rural Digital Opportunity Fund Support Authorized for 49 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, DA 22-944, Attach. A: Authorized Long-Form Applicants and Winning Bids (WCB/OEA Sept. 13, 2022).

⁷⁴ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice*, at 9-10 (describing the total amount of E San Juan's won support that is in default for the identified CBG).

⁷⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁷⁶ See *Farmers Mutual Cooperative Telephone Company, Home*, <https://fmtc.com> (last visited Nov. 16, 2022).

⁷⁷ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

⁷⁸ 47 CFR § 1.21004(b) ("The Commission may dismiss a winning bidder's application with prejudice for . . . failure of the winning bidder to respond substantially within the time period specified in official correspondence or requests for additional information . . ."); 47 CFR § 54.804(b)(2)(vi), (b)(3) (requiring a Long-Form applicant to submit a project funding description meeting certain requirements and a letter from a qualified bank committing to issue an irrevocable standby letter of credit); *May 25, 2022 Default Public Notice*, at 5, n.22, Attach. B: Bids in Default.

\$6,000.00.⁷⁹ FMCTC's total assigned support for the CBGs in default subject to forfeiture amounted to \$12,447.00, thereby capping the maximum possible forfeiture at \$1,867.05, which is 15% of FMCTC's defaulted support subject to forfeiture in Auction 904.⁸⁰ Because the base forfeiture exceeds the 15% cap established by the *Rural Digital Opportunity Fund Order*,⁸¹ the Commission finds the forfeiture amount of \$1,867.05 against FMCTC is appropriate here.

11. **Fond du Lac Communications Inc. (Fond du Lac); FRN: 0029221694; File No.: EB-IHD-23-00034747; NAL/Acct No.: 202332080010.** Fond du Lac provides fiber internet and telephone services to individuals living on the Fond du Lac reservation.⁸² Fond du Lac timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁸³ WCB declared Fond du Lac to be in default on August 10, 2022, and referred the company to EB for enforcement action, after Fond du Lac missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the geographic areas for which it sought to be authorized for Auction 904 support.⁸⁴ The Commission finds that Fond du Lac apparently committed four violations by defaulting on four CBGs subject to forfeiture, which places the company's base forfeiture at \$12,000.00.⁸⁵ Fond du Lac's total assigned support for the CBGs in default subject to forfeiture amounted to \$934,066.30, thereby capping the maximum possible forfeiture at \$140,109.94, which is 15% of Fond du Lac's defaulted support subject to forfeiture in Auction 904.⁸⁶ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,⁸⁷ the Commission finds that the forfeiture amount of \$12,000.00 against Fond du Lac is appropriate here.

12. **GigaBeam Networks, LLC (GigaBeam); FRN: 0018473223; File No.: EB-IHD-23-00034748; NAL/Acct No.: 202332080015.** GigaBeam offers broadband internet services throughout southern West Virginia and southwestern Virginia.⁸⁸ GigaBeam timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁸⁹ On May 13, 2022, GigaBeam notified the Commission of its intent to default on two CBGs subject to forfeiture.⁹⁰ WCB declared GigaBeam to be in default on May 25, 2022, and referred the company to EB for enforcement action.⁹¹ The Commission finds that GigaBeam apparently committed two violations by defaulting on two CBGs subject to forfeiture, which places the company's base forfeiture at \$6,000.00.⁹² GigaBeam's total

⁷⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁸⁰ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice* at 8, n.22, see also Attach. B: Bids in Default (describing the total amount of Farmers Mutual Cooperative's won support that is in default for the identified CBGs).

⁸¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁸² Fond du Lac, *About Us*, <https://www.aaniin.net/aboutus.html> (last visited Nov. 16, 2022).

⁸³ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

⁸⁴ 47 CFR § 54.804(b)(5); *August 10, 2022 Default Public Notice* at 5, n.63, Attach. B: Bids in Default.

⁸⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁸⁶ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *August 10, 2022 Default Public Notice* at 5, n.63, see also Attach. B: Bids in Default (describing the total amount of Fond du Lac's won support that is in default for the identified CBGs).

⁸⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

⁸⁸ GigaBeam, *Home*, <https://www.gigabeam.net/> (last visited Nov. 16, 2022).

⁸⁹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13915, Attach. A: Winning Bidder Summary.

⁹⁰ See E-mail from Michael Clemons, Chief Executive Officer, GigaBeam Networks, LLC, to Heidi Lankau, Attorney Advisor, Telecommunications Policy Access Division, Federal Communications Commission (May 13, 2022, 13:49 EDT).

⁹¹ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

assigned support for the CBGs in default subject to forfeiture amounted to \$92,328.40, thereby capping the maximum possible forfeiture at \$13,849.26, which is 15% of GigaBeam's defaulted support subject to forfeiture in Auction 904.⁹³ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*, the Commission finds that the forfeiture amount of \$6,000.00 against GigaBeam appropriate here.

13. **Mercury Wireless Indiana, LLC (Mercury IN); FRN: 0025151754; File No.: EB-IHD-23-00034749; NAL/Acct No.: 202332080025.** Mercury IN is a wholly owned subsidiary of Mercury Broadband, LLC f/k/a Mercury Wireless, Inc. (Mercury),⁹⁴ a fixed wireless broadband provider located in Kansas City, MO.⁹⁵ Mercury submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.⁹⁶ In turn, Mercury assigned bids covering 1,501 CBGs to Mercury IN.⁹⁷ On August 10, 2021, Mercury IN notified the Commission of its intent to default on 115 CBGs subject to forfeiture.⁹⁸ WCB declared Mercury IN to be in default on May 3, 2022, and referred the company to EB for enforcement action.⁹⁹ The Commission finds that Mercury IN apparently committed 115 violations by defaulting on 115 CBGs subject to forfeiture, which places the company's base forfeiture at \$345,000.00.¹⁰⁰ Mercury IN's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$4,768,591.60, thereby capping the maximum possible forfeiture at \$715,288.74, which is 15% of Mercury IN's defaulted support subject to forfeiture in Auction 904.¹⁰¹ Because the base forfeiture does not exceed the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁰² the Commission finds that the forfeiture amount of \$345,000.00 against Mercury IN is appropriate here.

14. **Mercury Wireless Kansas, LLC (Mercury KS); FRN: 0024930141; File No.: EB-IHD-23-00034750; NAL/Acct No.: 202332080017.** Mercury KS is a wholly owned subsidiary of Mercury Broadband, LLC f/k/a Mercury Wireless, Inc. (Mercury),¹⁰³ a fixed wireless broadband provider

⁹² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

⁹³ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of GigaBeam's won support that is in default for the identified CBGs).

⁹⁴ See Mercury Wireless, Inc., Auction 904 FCC Form 175 Application, File No. 0009149636 (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_ownership.htm?searchLevel=B&application_id=12168219&file_num=0009149636&version=2&PStart=1&auction_id=904.

⁹⁵ Mercury, *About Us*, <https://mercurybroadband.com/about-us/https://starry.com/> (last visited Jan. 5, 2023).

⁹⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

⁹⁷ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

⁹⁸ See E-mail from Virginia D. Hiner, Counsel to Mercury Broadband, LLC, to Auction904@fcc.gov, Federal Communications Commission (Aug. 10, 2021, 14:34 EDT) (attaching Letter from Garrett R. Wiseman, Chief Executive Officer, Mercury Broadband, LLC, to Kris Monteith, Chief, Wireline Competition Bureau, Federal Communications Commission et al. (Aug. 4, 2021)).

⁹⁹ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁰⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁰¹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Mercury IN's won support that is in default for the identified CBGs).

¹⁰² *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁰³ See Mercury Wireless, Inc., Auction 904 FCC Form 175 Application, File No. 0009149636 (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_ownership.htm?searchLevel=B&application_id=12168219&file_num=0009149636&version=2&PStart=1&auction_id=904.

located in Kansas City, MO.¹⁰⁴ Mercury submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁰⁵ In turn, Mercury assigned bids covering 238 CBGs to Mercury KS.¹⁰⁶ On August 10, 2021, Mercury KS notified the Commission of its intent to default on 32 CBGs subject to forfeiture.¹⁰⁷ WCB declared Mercury KS to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁰⁸ The Commission finds that Mercury KS apparently committed 32 violations by defaulting on 32 CBGs subject to forfeiture, which places the company's base forfeiture at \$96,000.00.¹⁰⁹ Mercury KS's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$1,228,636.60, thereby capping the maximum possible forfeiture at \$184,295.49, which is 15% of Mercury KS's defaulted support subject to forfeiture in Auction 904.¹¹⁰ Because the base forfeiture does not exceed the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹¹¹ the Commission finds that the forfeiture amount of \$96,000.00 against Mercury KS is appropriate here.

15. **Monster Broadband, Inc. (Monster Broadband); FRN: 0019499375; File No.: EB-IHD-23-00034751; NAL/Acct No.: 202332080008.** Monster Broadband is a fixed wireless internet service provider that serves Tennessee.¹¹² Monster Broadband participated in Auction 904 as a member of the NexTier Consortium (NexTier).¹¹³ NexTier timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹¹⁴ In turn, NexTier assigned 64 CBGs to Monster Broadband.¹¹⁵ On August 24, 2022, Monster Broadband notified the Commission of its intent to default on 64 CBGs subject to forfeiture.¹¹⁶ WCB declared Monster Broadband to be in default on August 31, 2022, and referred the company to EB for enforcement action.¹¹⁷ The Commission finds that Monster

¹⁰⁴ Mercury, *About Us*, <https://mercurybroadband.com/about-us/https://starry.com/> (last visited Jan. 5, 2023).

¹⁰⁵ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13919, Attach. A: Winning Bidder Summary.

¹⁰⁶ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁰⁷ See E-mail from Virginia D. Hiner, Counsel to Mercury Broadband, LLC, to Auction904@fcc.gov, Federal Communications Commission (Aug. 10, 2021, 14:34 EDT) (attaching Letter from Garrett R. Wiseman, Chief Executive Officer, Mercury Broadband, LLC, to Kris Monteith, Chief, Wireline Competition Bureau, Federal Communications Commission et al. (Aug. 4, 2021)).

¹⁰⁸ *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁰⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹¹⁰ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Mercury KS's won support that is in default for the identified CBGs).

¹¹¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹¹² Monster Broadband, *About Us*, <https://www.monsterbroadband.com/index.php/why-monster/about-monster-broadband> (last Nov. 16, 2022).

¹¹³ See NexTier Consortium, Auction 904 FCC Form 175 Application, File No. 0009149839, at Ownership (filed Sept. 23, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12180976&file_num=0009149839&version=2&PStart=1&auction_id=904.

¹¹⁴ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13920, Attach. A: Winning Bidder Summary.

¹¹⁵ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹¹⁶ E-mail from Steve Baker, Co-owner, Monster Broadband, Inc., to Auction904@fcc.gov, Federal Communications Commission (Aug. 24, 2022, 11:03 EDT).

¹¹⁷ *August 31, 2022 Public Default Notice*, at 6, n.47, Attach. B: Bids in Default.

Broadband apparently committed 64 violations by defaulting on 64 CBGs subject to forfeiture, which places the company's base forfeiture at \$192,000.00.¹¹⁸ Monster Broadband's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$5,379,245.50, thereby capping the maximum possible forfeiture at \$806,886.82, which is 15% of Monster Broadband's defaulted support subject to forfeiture in Auction 904.¹¹⁹ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹²⁰ the Commission finds that a forfeiture of \$192,000.00 against Monster Broadband is appropriate here.

16. **Newport Utilities d/b/a NU Connect (Newport Utilities); FRN: 0027152438; File No.: EB-IHD-23-00034752; NAL/Acct No.: 202332080014.** Newport Utilities, headquartered in Newport, Tennessee provides voice and internet services.¹²¹ Newport Utilities timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹²² On May 17, 2022, Newport Utilities notified the Commission of its intent to default on five CBGs subject to forfeiture.¹²³ WCB declared Newport Utilities to be in default on May 25, 2022, and referred the company to EB for enforcement action.¹²⁴ The Commission finds that Newport Utilities apparently committed five violations by defaulting on five CBGs subject to forfeiture, which places the company's base forfeiture at \$15,000.00.¹²⁵ Newport Utilities' total assigned support for the CBGs in default subject to forfeiture amounted to \$87,582.10, thereby capping the maximum possible forfeiture at \$13,137.31, which is 15% of Newport Utilities' defaulted support subject to forfeiture in Auction 904.¹²⁶ Because the base forfeiture exceeds the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹²⁷ the Commission finds the forfeiture amount of \$13,137.31 against Newport Utilities is appropriate here.

17. **RHMD LLC (RHMD); FRN: 0021036439; File No.: EB-IHD-23-00034753; NAL/Acct No.: 202332080020.** RHMD is a South Carolina company that provides voice and broadband services.¹²⁸ RHMD timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹²⁹ WCB declared RHMD to be in default on May 3, 2022, and referred the company to EB for enforcement action, after RHMD missed the deadline for demonstrating, with appropriate documentation, that it had been designated as an eligible telecommunications carrier in each of the

¹¹⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹¹⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default (describing the total amount of Monster Broadband's won support that is in default for the identified CBGs).

¹²⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹²¹ Newport Utilities, Home, <https://newportutilities.com/> (last visited Nov. 16, 2022).

¹²² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13920, Attach. A: Winning Bidder Summary.

¹²³ See E-mail from Chris Calhoun, Vice President, Operations and Technology, Newport Utilities, to Heidi Lankau, Attorney Advisor, Wireline Competition Bureau, Federal Communications Commission (May 17, 2022, 16:05 EDT).

¹²⁴ *May 25, 2022 Default Public Notice*, at 4, n.23, Attach. B: Bids in Default.

¹²⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹²⁶ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Newport Utilities' won support that is in default for the identified CBGs).

¹²⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹²⁸ RHMD, About, <https://www.rh-md.com/>; see also South Carolina Secretary of State: *Business Entities Online: Business Name Search: RHMD, LLC*, <https://businessfilings.sc.gov/BusinessFiling/Entity/Search> (last visited Nov. 16, 2022).

¹²⁹ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13924, Attach. A: Winning Bidder Summary.

geographic areas for which it sought to be authorized for Auction 904 support.¹³⁰ The Commission finds that RHMD apparently committed 69 violations by defaulting on 69 CBGs subject to forfeiture, which places the company's base forfeiture at \$207,000.00.¹³¹ RHMD's total assigned support for the CBGs in default subject to forfeiture amounted to \$15,981,706.90, thereby capping the maximum possible forfeiture at \$2,397,256.03, which is 15% of RHMD's defaulted support subject to forfeiture in Auction 904.¹³² Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹³³ the Commission finds that the forfeiture amount of \$207,000.00 against RHMD is appropriate here.

18. **Shenandoah Cable Television, LLC (Shenandoah Cable); FRN: 0021657853; File No.: EB-IHD-23-00034754; NAL/Acct No.: 202332080024.** Shenandoah Cable is a subsidiary of Shenandoah Telecommunications Company located in Edinburg, Virginia.¹³⁴ Shenandoah Cable provides both voice and broadband services,¹³⁵ and timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹³⁶ On November 15, 2021 and April 20, 2022, Shenandoah Cable notified the Commission of its intent to default on 10 CBGs subject to forfeiture.¹³⁷ WCB declared Shenandoah Cable to be in default for eight CBGs on May 3, 2022, and referred the company to EB for enforcement action.¹³⁸ On June 21, 2022, Shenandoah Cable notified the Commission of its intent to default on two more CBGs subject to forfeiture.¹³⁹ WCB declared Shenandoah Cable to be in default for the remaining CBGs on August 10, 2022, August 31, 2022, and November 10, 2022, and referred the company to EB for enforcement action.¹⁴⁰ The Commission finds that Shenandoah Cable apparently committed 12 violations by defaulting on 12 CBGs subject to forfeiture, which places the company's base forfeiture at \$36,000.00.¹⁴¹ Shenandoah Cable's total assigned support for the CBGs in default subject to forfeiture amounted to \$3,812,575.60, thereby capping the maximum possible forfeiture at \$571,886.34, which is 15% of Shenandoah Cable's defaulted support subject to forfeiture in Auction 904.¹⁴² Because

¹³⁰ 47 CFR § 54.804(b)(5); *May 3, 2022 Default Public Notice* at 6, n.44, Attach. B: Bids in Default.

¹³¹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹³² See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of RHMD's won support that is in default for the identified CBGs).

¹³³ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹³⁴ United States Securities and Exchange Commission, *Form 10-K*, Business, p. 12, <https://investor.shentel.com/static-files/3498fbb5-b7dc-43a1-acde-c4238fc542a2> (last visited Nov. 16, 2022).

¹³⁵ See Shenandoah Cable, Auction 904 Form 175 Application, File No. 0009149943 (filed July 15, 2020) https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12171025&file_num=0009149943&version=2&PStart=1&auction_id=904.

¹³⁶ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13926, Attach. A: Winning Bidder Summary.

¹³⁷ See Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed Nov. 15, 2021); Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed Apr. 20, 2022).

¹³⁸ See *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹³⁹ See Shenandoah Cable Television, LLC, AU Docket No. 20-34 et al., Petition for Waiver (filed June 21, 2022).

¹⁴⁰ See *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; see also *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default; see also *November 2022 Default Public Notice*, at 8, n.57, Attach. B: Bids in Default.

¹⁴¹ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁴² See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 10, 2022 Default Public Notice*, Attach. B: Bids in Default; *August 31, 2022 Public Default Notice*, Attach. B: Bids in Default; *Nov. 10, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Shenandoah Cable's won support that is in default for the identified CBGs).

the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹⁴³ the Commission finds the forfeiture amount of \$36,000.00 against Shenandoah Cable is appropriate here.

19. **Terral Telephone Company (Terral); FRN: 0004320412; File No.: EB-IHD-23-00034755; NAL/Acct No.: 202332080013.** Terral is a South Carolina company that provides voice and broadband services.¹⁴⁴ Terral timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁴⁵ On May 12, 2022, Terral notified the Commission of its intent to default on 11 CBGs subject to forfeiture.¹⁴⁶ WCB declared Terral to be in default on May 25, 2022, and referred the company to EB for enforcement action.¹⁴⁷ The Commission finds that Terral apparently committed 11 violations by defaulting on 11 CBGs subject to forfeiture, which places the company's base forfeiture at \$33,000.00.¹⁴⁸ Terral's total assigned support for the CBGs in default subject to forfeiture amounted to \$632,991.90, thereby capping the maximum possible forfeiture at \$94,948.78, which is 15% of Terral's defaulted support subject to forfeiture in Auction 904.¹⁴⁹ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁵⁰ the Commission finds that the forfeiture amount of \$33,000.00 against Terral is appropriate here.

20. **Time Warner Cable Information Services (Massachusetts), LLC (TWC Massachusetts); FRN: 0013182712; File No.: EB-IHD-23-00034756; NAL/Acct No.: 202332080019.** TWC Massachusetts is a limited liability company formed in Delaware and a subsidiary of Charter.¹⁵¹ Charter participated in Auction 904 through another subsidiary called CCO.¹⁵² CCO timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁵³ In turn, CCO assigned TWC Massachusetts 42 of its CBGs.¹⁵⁴ In a series of e-mails, Charter notified the Commission on behalf of its subsidiaries of its intent to default on CBGs, including two of TWC Massachusetts' assigned CBGs subject to forfeiture.¹⁵⁵ WCB declared TWC Massachusetts to be in default on May 3, 2022, and referred the company to EB for enforcement action.¹⁵⁶ The Commission finds that TWC Massachusetts apparently committed two violations by defaulting on two CBGs subject to forfeiture,

¹⁴³ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁴⁴ See Terral Telephone Company, Auction 904 FCC Form 175 Application, File No. 0009150076, at Applicant Info (filed July 15, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12189335&file_num=0009150076&version=2&PStart=1&auction_id=904 (RHMD Short-Form Filing).

¹⁴⁵ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13929, Attach. A: Winning Bidder Summary.

¹⁴⁶ See Letter from Chad Seagress, President, Terral Telephone Company, to Trent Harkrader, Chief, Wireline Competition Bureau, Federal Communications Commission (May 12, 2022).

¹⁴⁷ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁴⁸ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁴⁹ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Terral's won support that is in default for the identified CBGs).

¹⁵⁰ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁵¹ United States Securities and Exchange Commission, *Form 10-K*, Exhibit 21-1, <https://ir.charter.com/static-files/63606f63-1b11-4d60-91a0-5395f1552592> (last visited Nov. 16, 2022).

¹⁵² *Id.*

¹⁵³ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13907-08, Attach. A: Winning Bidder Summary.

¹⁵⁴ Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁵⁵ See, e.g., *Charter Summary Default E-mail*, *May 3, 2022 Default Public Notice*, at 6, n.44.

¹⁵⁶ *May 3, 2022 Default Public Notice*, at 6-7, n.44, Attach. B: Bids in Default.

which places the company's base forfeiture at \$6,000.00.¹⁵⁷ TWC Massachusetts' total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$1,104,815.00, thereby capping the maximum possible forfeiture at \$165,722.25, which is 15% of TWC Massachusetts' defaulted support subject to forfeiture in Auction 904.¹⁵⁸ Because the base forfeiture is less than the 15% cap established by the *Rural Digital Opportunity Fund Order*,¹⁵⁹ the Commission finds the forfeiture amount of \$6,000.00 against TWC Massachusetts is appropriate here.

21. **Trailwave Fiber, Inc. (Trailwave); FRN: 0022716385; File No.: EB-IHD-23-00034757; NAL/Acct No.: 202332080012.** Trailwave is a broadband internet service provider located in Georgia.¹⁶⁰ Trailwave is a wholly owned subsidiary of Habersham Electric Membership Cooperation.¹⁶¹ Trailwave was a member of the NRTC Phase 1 RDOF Consortium (NRTC).¹⁶² NRTC timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁶³ In turn, NRTC assigned 13 CBGs to Trailwave.¹⁶⁴ On May 25, 2022, Trailwave notified the Commission of its intent to default on 13 CBGs subject to forfeiture.¹⁶⁵ WCB declared Trailwave to be in default on May 25, 2022, and referred the company to EB for enforcement action.¹⁶⁶ The Commission finds that Trailwave apparently committed 13 violations by defaulting on 13 CBGs subject to forfeiture, which places the company's base forfeiture at \$39,000.00.¹⁶⁷ Trailwave's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$396,415.90, thereby capping the maximum possible forfeiture at \$59,462.38, which is 15% of Trailwave's defaulted support subject to forfeiture in Auction 904.¹⁶⁸ Because the base forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*,¹⁶⁹ the Commission finds that the forfeiture amount of \$39,000.00 against Trailwave is appropriate

¹⁵⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁵⁸ See *id.* at 736, para. 117 (establishing a 15% cap on forfeitures). *May 3, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of TWC Massachusetts' won support that is in default for the identified CBGs).

¹⁵⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

¹⁶⁰ Trailwave, *Trailwave Plans*, <https://www.habershamemc.com/trailwave/pricing/#residential-plans> (last visited Nov. 16, 2022).

¹⁶¹ Trailwave, *Home*, <https://www.habershamemc.com/trailwave/> (last visited Nov. 16, 2022).

¹⁶² NRTC Phase 1 RDOF Consortium, Auction 904 FCC Form 175 Application, File No. 0009146856, at Consortium Members Attach., p. 11 (filed July 13, 2020); https://auctionfiling.fcc.gov/form175/search175/attachment_view.htm?searchLevel=B&application_id=12165439&file_num=0009146856&version=2&PStart=1&auction_id=904&attachment_id=20947677.

¹⁶³ See *Winning Bidders Public Notice*, 35 FCC Rcd at 13921, Attach. A: Winning Bidder Summary.

¹⁶⁴ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Nov. 16, 2022); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁶⁵ E-mail from Casey Lide, Counsel to Trailwave Fiber, Inc., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (May 25, 2022, 9:51 EDT); Letter from Casey Lide, Counsel to Trailwave Fiber, Inc., to Michael Janson, Director, Rural Broadband Auctions Task Force, Federal Communications Commission (May 26, 2022).

¹⁶⁶ *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default.

¹⁶⁷ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁶⁸ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). *May 25, 2022 Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Trailwave's won support that is in default for the identified CBGs).

¹⁶⁹ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

here.

22. **Xiber LLC (Xiber); FRN 0025619222; File No.: EB-IHD-23-00034758; NAL/Acct No.: 202332080004.** Xiber is a fixed wireless broadband provider located in Indianapolis, Indiana.¹⁷⁰ Xiber is a majority owned subsidiary of Hawaii Dialogix Telecom LLC (HDT).¹⁷¹ HDT timely submitted its Short-Form Application to participate in Auction 904 and was a successful bidder.¹⁷² In turn, HDT assigned bids covering 14 CBGs to Xiber.¹⁷³ WCB declared Xiber to be in default on December 16, 2022, and referred the company to EB for enforcement action, after Xiber missed the deadlines for submitting audited financial statements and a letter from a qualified bank committing to issue an irrevocable stand-by letter of credit meeting the Commission's requirements.¹⁷⁴ The Commission finds that Xiber apparently committed 14 violations by defaulting on 14 CBGs subject to forfeiture, which places the company's base forfeiture at \$42,000.00.¹⁷⁵ The Commission further finds that Xiber apparently committed a separate violation when it failed to file audited financial paperwork with WCB during the Long-Form Application process, which subjects Xiber to an additional \$50,000.00 base forfeiture.¹⁷⁶ Xiber's total assigned support for the assigned CBGs in default subject to forfeiture amounted to \$5,449,918.00, thereby capping the maximum possible default forfeiture at \$817,487.70, which is 15% of Xiber's defaulted support subject to forfeiture in Auction 904.¹⁷⁷ The base default forfeiture is less than the 15% cap established in the *Rural Digital Opportunity Fund Order*, at \$42,000.00.¹⁷⁸ Combining the audited financials forfeiture of \$50,000.00 with the default forfeiture of \$42,000.00, the Commission finds that the total forfeiture of \$92,000.00 against Xiber is appropriate here.

¹⁷⁰ See Xiber, *About Us*, <https://xiber.com/about/> (last visited Jan. 4, 2023).

¹⁷¹ See Hawaii Dialogix Telecom LLC, Auction 904 FCC Form 175 Application, File No. 0009149368, (filed Oct. 28, 2020); https://auctionfiling.fcc.gov/form175/search175/results_detail_appInfo.htm?searchLevel=B&application_id=12170893&file_num=0009149368&version=2&PStart=1&auction_id=904.

¹⁷² See *Winning Bidders Public Notice*, 35 FCC Rcd at 13914, Attach. A: Winning Bidder Summary.

¹⁷³ *417 Long-Form Applicants Public Notice*, 36 FCC Rcd at 4140; Long-Form Applicants Spreadsheet as of 2/22/2022, <https://www.fcc.gov/auction/904/round-results> (last visited Jan. 4, 2023); FCC Auction Bidding System Public Reporting System, <https://auctiondata.fcc.gov/public/projects/auction904>.

¹⁷⁴ 47 CFR §§ 54.804(b)(3), (b)(4); *December Default Public Notice*, at 5, n.26, Attach. B: Bids in Default.

¹⁷⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 735-36, para. 115.

¹⁷⁶ *Id.* at 722-23, para. 80.

¹⁷⁷ See *id.* at 736, para. 117 (establishing the 15% cap on forfeitures). See also *December Default Public Notice*, Attach. B: Bids in Default (describing the total amount of Xiber's won support in default for the identified CBGs).

¹⁷⁸ See *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 736, para. 117.

Appendix B

Defaulted Census Block Groups Subject to Forfeiture

Applicant	FRN	Bidder Name	Bidder FRN	State Name	CBG GEOID
AB Indiana LLC	0021994686	AB Indiana LLC	0021994686	Florida	120210112021
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040070010003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040099612012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040179601002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040179613001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040179617002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040179625003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040250006061
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040250006072
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040250010011
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040250010012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040250010014
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arizona	040250010022
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arkansas	050910204003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arkansas	050910205002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Arkansas	050910207021
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010001003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010002023
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010008051
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010009004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010021001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010102012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010102251
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010103211
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160010103311
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050003001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050003003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050004001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050007001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050007002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050008001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050010003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050011021
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050014001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050015001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050015002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050016011
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050016012

Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160050016032
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160699604004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Idaho	160759604003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Iowa	191930001004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Iowa	191930010001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Iowa	191930014003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Iowa	191930015001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Iowa	191930020007
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Iowa	191930021013
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Louisiana	220170254052
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Louisiana	220319504001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Louisiana	220319505002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Louisiana	220350001002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Louisiana	220659604002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Louisiana	220730106033
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Louisiana	221190313004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Minnesota	270270201003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Minnesota	270270203004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Nebraska	310430101004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Nebraska	311199607003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Nebraska	311199608012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Nebraska	311199608022
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Nebraska	311199609005
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050002014
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050003004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050004001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050004004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050005001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050008002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050009002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050010011
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050010012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050010021
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350050011013
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350430107034
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350430107181
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	New Mexico	350430107203
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170002022
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170005011
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170006003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170009012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170101091

Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170102013
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170102033
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170103034
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	North Dakota	380170103071
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480370101004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480370105003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480370108002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480370109012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480370109013
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480370110004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480396621003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480396624002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	480396625002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481350007004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481350019001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481350025012
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481350028025
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481810006001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481810009022
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481830002003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481830013001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481830013004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481830013005
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	481830015003
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	483217302015
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	483217303014
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	483217306002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	483217306005
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	484817403001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	484817404001
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	484817404004
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Texas	484817404006
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Washington	530039606002
Cable One VoIP LLC	0024177222	Wisper-CABO 904 Consortium	0029745213	Washington	530039606004
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060090005041
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060133040021
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060133040052
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060170306022
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060190019003
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060190059061
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060190059122
Cal.net, Inc.	0020855656	Cal.net, Inc.	0020855656	California	060190061005

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California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061110076072
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061110076122
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061110076132
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061110076141
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061110076142
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061110084021
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061110085003
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130101021
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130105051
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130105081
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130105092
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130106073
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130106082
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130108001
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130108003
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130111031
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130112051
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130112061
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130113003
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130115001
California Internet, L.P. dba GeoLinks	0023707953	California Internet, L.P. dba GeoLinks	0023707953	California	061130115005
Cebridge Telecom ID, LLC	0016746802	Altice USA, Inc.	0025637406	Idaho	160499602002
Cebridge Telecom ID, LLC	0016746802	Altice USA, Inc.	0025637406	Idaho	160799604001
Charter Fiberlink - Missouri, LLC	0005793922	CCO Holdings, LLC	0014939466	Missouri	291399703002
Charter Fiberlink - Missouri, LLC	0005793922	CCO Holdings, LLC	0014939466	Missouri	292198202021
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080079404001
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080079404002
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080079742001
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080079743001
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080079743002
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080079744001
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080079744002
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679403001
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679403003
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679404001
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679404002
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679404003
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679706001
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679706002
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679706003
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679706004
Conexon Connect LLC	0029721511	Rural Electric Cooperative Consortium	0029719259	Colorado	080679706005

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Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Ohio	391559333024
	0029746260	Connect Everyone LLC	0029746260	Ohio	391570203002
	0029746260	Connect Everyone LLC	0029746260	Ohio	391570204001
	0029746260	Connect Everyone LLC	0029746260	Ohio	391570204002
	0029746260	Connect Everyone LLC	0029746260	Ohio	391590506022
	0029746260	Connect Everyone LLC	0029746260	Ohio	391590507001
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	0029746260	Connect Everyone LLC	0029746260	Ohio	391650302001
	0029746260	Connect Everyone LLC	0029746260	Ohio	391650323003
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	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010301022
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010302001
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010302002
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010303001
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	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010304002
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010306002
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	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010313001
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010314011
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420010316003
Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410101001
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410102012
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410102041
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410106004
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410107003
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410109001
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410110021
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410113021
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410113033
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410113041
Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410113053
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410114001
	0029746260	Connect Everyone LLC	0029746260	Pennsylvania	420410116013

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Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Virginia	518100460102
Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Virginia	518100462041
Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Virginia	518100462073
Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Virginia	518100462201
Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Virginia	518303702001
Connect Everyone LLC	0029746260	Connect Everyone LLC	0029746260	Virginia	518303703001
E FIBER SAN JUAN, LLC	0030298442	Emery Telephone dba Emery Telcom	0001607340	Utah	490379782001
Farmers Mutual Cooperative Telephone Company	0004776464	Farmers Mutual Cooperative Telephone Company	0004776464	Iowa	191659604001
Farmers Mutual Cooperative Telephone Company	0004776464	Farmers Mutual Cooperative Telephone Company	0004776464	Iowa	191659604003
Fond du Lac Communications Inc	0029221694	Fond du Lac Communications Inc	0029221694	Minnesota	270179400001
Fond du Lac Communications Inc	0029221694	Fond du Lac Communications Inc	0029221694	Minnesota	270179400002
Fond du Lac Communications Inc	0029221694	Fond du Lac Communications Inc	0029221694	Minnesota	270179400003
Fond du Lac Communications Inc	0029221694	Fond du Lac Communications Inc	0029221694	Minnesota	271370112003
GigaBeam Networks, LLC	0018473223	GigaBeam Networks, LLC	0018473223	West Virginia	540459561021
GigaBeam Networks, LLC	0018473223	GigaBeam Networks, LLC	0018473223	West Virginia	540459564002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180139748001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180190508041
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180190510002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180279545002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180479698001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180610605003
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180779662002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180779662003
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180799606003
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180939507002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	180939507004
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181019501001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181095106003
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181095106004
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181095110001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181095110002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181095110003
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181199555001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181199557002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181439667001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181439671002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Indiana	181759677004
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	390030114001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	390030114002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	390099727004
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	390110401001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	390130103001

Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	391570216001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	391570217001
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	391639531002
Mercury Wireless Indiana, LLC.	0025151754	Mercury Wireless, Inc.	0018603027	Ohio	391670216002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Illinois	170039577001
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Illinois	170679540002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Illinois	171279701002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Illinois	171279701003
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Illinois	171990214003
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Kansas	200410841003
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Kansas	200410845003
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Kansas	201610013021
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Kansas	201610013023
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290030101004
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290190018053
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290190019024
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290210027002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290370608003
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290370611003
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290459502002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290470216001
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290470216004
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290854703001
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290854703002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290854705002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290950139012
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	290950140022
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	291019601001
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	291070906021
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	291119704002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	291594804001
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	291618905002
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	291618907001
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	291679601001
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	292214604003
Mercury Wireless Kansas, LLC.	0024930141	Mercury Wireless, Inc.	0018603027	Missouri	292214604004
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	470519601001
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	470519601002
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	470519601003
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	470519602011
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	470519602012
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	470519602013

Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471039755003
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471039756011
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471039756012
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471039756021
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471039757001
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471039757002
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471279301001
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471279301002
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471279302001
Monster Broadband	0019499375	NexTier Consortium	0029756582	Tennessee	471279302002
Monster Broadband	0019499375	NexTier Consortium	0029756582	Texas	481599501001
Monster Broadband	0019499375	NexTier Consortium	0029756582	Texas	481599503002
Monster Broadband	0019499375	NexTier Consortium	0029756582	Texas	484679502001
Monster Broadband	0019499375	NexTier Consortium	0029756582	Texas	484999502003
Monster Broadband	0019499375	NexTier Consortium	0029756582	Texas	484999503021
Monster Broadband	0019499375	NexTier Consortium	0029756582	Texas	484999505002
Newport Utilities	0027152438	Newport Utilities	0027152438	Tennessee	470299202002
Newport Utilities	0027152438	Newport Utilities	0027152438	Tennessee	470299202003
Newport Utilities	0027152438	Newport Utilities	0027152438	Tennessee	470299205014
Newport Utilities	0027152438	Newport Utilities	0027152438	Tennessee	470299207002
Newport Utilities	0027152438	Newport Utilities	0027152438	Tennessee	470299801001
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130019503003
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130019503004
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339501001
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339501002
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339502001
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339502002
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339504001
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339504003
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339505001
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339505002
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339505003
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339507001
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339507002
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339507003
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339509001
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	130339509002
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	131530201052
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	131530201061
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	131530201081
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	131530201082
RHMD, LLC	0021036439	RHMD, LLC	0021036439	Georgia	131530201083

RHMD, LLC	0021036439 RHMD, LLC	0021036439 Georgia	131639603001
RHMD, LLC	0021036439 RHMD, LLC	0021036439 Georgia	131639603002
RHMD, LLC	0021036439 RHMD, LLC	0021036439 Georgia	131639603003
RHMD, LLC	0021036439 RHMD, LLC	0021036439 Georgia	131639603004
RHMD, LLC	0021036439 RHMD, LLC	0021036439 Georgia	131639603005
RHMD, LLC	0021036439 RHMD, LLC	0021036439 Georgia	131639603006
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	510619307031
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	510619307041
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	510690503001
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	510690504003
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	510690506001
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	511139302001
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	511371101022
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	511371101041
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	511579502003
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	511650107001
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 Virginia	511650109001
Shenandoah Cable Television, LLC	0021657853 Shenandoah Cable Television, LLC	0021657853 West Virginia	540190210002
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400510007002
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400510007004
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400510007005
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400510007006
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400673717001
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400673718001
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400673718002
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	400673718003
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	401370008001
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	401370010001
Terral Telephone Company	0004320412 Terral Telephone Company	0004320412 Oklahoma	401370011002
Time Warner Cable Information Services (Massachuse	0013182712 CCO Holdings, LLC	0014939466 Massachusetts	250110401001
Time Warner Cable Information Services (Massachuse	0013182712 CCO Holdings, LLC	0014939466 Massachusetts	250110401004
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	131370001002
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	131370002012
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	131370002023
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	131370005001
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	131390002012
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	131879601012
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	132419703013
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	133119502011
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	133119502013
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	133119502022
Trailwave Fiber Inc.	0022716385 NRTC Phase I RDOF Consortium	0018539916 Georgia	133119502032

Trailwave Fiber Inc.	0022716385	NRTC Phase I RDOF Consortium	0018539916	Georgia	133119503001
Trailwave Fiber Inc.	0022716385	NRTC Phase I RDOF Consortium	0018539916	Georgia	133119503002
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	170259719002
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	170318388002
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	170370018001
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	170370018002
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	170438416051
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	170519510002
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	171830103001
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	171939582002
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	171939582003
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	171939583001
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	171939584001
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Illinois	171978839031
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Michigan	261251401001
Xiber LLC	0025619222	Hawaii Dialogix Telecom LLC	0023933112	Ohio	390650005003

Appendix C

Applicant Name	Contact Name	Address	City	State	Zip Code
AB Indiana LLC	James Connor	17 Hunt Valley View Terrace	Phoenix	MD	21131
Cable One VoIP LLC	Patrick N. Caron	210 E Earle Drive	Phoenix	AZ	85012-2626
Cal.net, Inc.	Kenneth E. Garnett	4101 Wild Chaparral Drive	Shingle Springs	CA	95682
California Internet, L.P., dba GeoLinks	Ryan Adams	251 Camarillo Ranch Road	Camarillo	CA	93012
Cebridge Telecom ID, LLC	Nicole Henderson	18 Brooklyn Ave.	Roosevelt	NY	11575
Charter Fiberlink - Missouri, LLC	Maureen O'Connell	601 Massachusetts Ave. NW, Suite 400W	Washington	DC	20001
Conexon Connect LLC	Todd B. Lantor	Lukas, LaFuria, Gutierrez & Sachs, LLP, 8300 Greensboro Drive, Suite 1200	Tysons	VA	22102
Connect Everyone LLC	Brian Regan	38 Chauncy Street, 2nd Floor	Boston	MA	2111
E FIBER SAN JUAN, LLC	Jake Frandsen	445 EAST SR 29	ORANGEVILLE	UT	84537-0629
Farmers Mutual Cooperative Telephone Company	Thomas Conry	801 19th St	Harlan	IA	51537
Fond du Lac Communications Inc	Brian Hood	1720 Big Lake Rd	Cloquet	MN	55720
GigaBeam Networks, LLC	Michael Clemmons	601 Virginia Avenue	Bluefield	VA	24605
Mercury Wireless Indiana, LLC	Matthew G. Sams	1100 Walnut St., Suite 2050	Kansas City	MO	64106
Mercury Wireless Kansas, LLC	Matthew G. Sams	1100 Walnut St., Suite 2050	Kansas City	MO	64106
Monster Broadband	Charles Johnston	Monster Broadband, 1105 Dinah Shore Blvd	Winchester	TN	37398-1105
Newport Utilities	Christopher Calhoun	170 Cope Blvd	Newport	TN	37821
RHMD, LLC	David Funderburk	3780 Old Norcross Road, Ste 103 Box 108	Duluth	GA	30096
Shenandoah Cable Television, LLC	Daniel J. Meenan	500 Shenel Way	Edinburg	VA	22824
Terral Telephone Company	Chad J. Segress	14101 Wireless Way Suite A110	Oklahoma City	OK	73134-2514
Time Warner Cable Information Services (Massachuse	Maureen O'Connell	601 Massachusetts Ave. NW, Suite 400W	Washington	DC	20001
Trailwave Fiber Inc.	Glenn T. Purrell Jr	6135 State Hwy. 115 W	Clarksville	GA	30523
Xiber LLC	Stephen Hon	3500 DePauw Blvd., STE 1042	Indianapolis	IN	46268

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of	)	
	)	
Review of the Commission's Assessment and Collection of Regulatory Fees	)	MD Docket No. 22-301
	)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2023	)	MD Docket No. 23-159
	)	

REPORT AND ORDER AND NOTICE OF PROPOSED RULEMAKING

Adopted: May 12, 2023

Released: May 15, 2023

Comment Date: June 14, 2023

Reply Comment Date: June 29, 2023

By the Commission:

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I. INTRODUCTION

1. The proposals that we announce in this Notice of Proposed Rulemaking (NPRM) today seek to ensure that our assessment and collection of our annual regulatory fees is more closely aligned with the burden of the work being performed by Commission employees for each regulatory fee category. To address longstanding concerns of some stakeholders, we have undertaken a high-level, yet comprehensive, staff analysis of the work being performed by Commission employees to determine if identifiable full time equivalent (FTE)¹ time is related to the oversight and regulation of fee payors such that it should be taken into consideration in applying our fee methodology. Based on this review, we are proposing to increase the number of Commission employees that are allocated as direct FTEs to the licensing bureaus by almost nineteen percent. We make these proposals in our annual regulatory fee NPRM consistent with our long standing regulatory fee methodology and we tentatively conclude that our determinations are reasonably accurate for fiscal year 2023. Our proposals today should better reflect the burdens that certain segments of the telecommunications industry impose on the Commission and our workforce and at the same time better allow us to assess and collect regulatory fees to cover the costs of meeting those obligations.

2. For fiscal year (FY) 2023, the Commission is required to collect \$390,192,000 in regulatory fees, pursuant to sections 9 and 9A of the Communications Act of 1934, as amended (Communications Act or Act),² and the Commission's FY 2023 Appropriations Act.³ In this annual NPRM, we seek comment on the Commission's proposed methodology and regulatory fees for FY 2023, as set forth in Appendices B and C.⁴ Based on the record received in response to the Notice of Inquiry (NOI) in MD Docket No. 22-301,⁵ and after a review of the work being conducted by Commission

¹ One FTE, a "Full Time Equivalent" or "Full Time Employee," 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. See generally Executive Office of the President, Office of Management and Budget, Circular No. A-11, Preparation, Submission, and Execution of the Budget (August 2022), <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>. See section 85.5(c) for a detailed explanation of how FTEs are calculated. Thus, in the fee proceeding when we state the 1.5 FTEs work on a particular subject matter, that might mean three individuals spend 50% of their time on that area. Moreover, in this NPRM when we discuss FTEs and any change in allocation, it is solely for regulatory fee purposes and does not reflect proposals of the change of personnel in the various organizational work units.

² 47 U.S.C. § 159 (requiring the Commission to assess and collect regulatory fees to recover the costs of carrying out its activities in the total amounts provided for in Appropriations Acts).

³ Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Division E—Financial Services and General Government Appropriations Act, 2023 (FY 2023 Consolidated Appropriations Act). The total offsetting collection for FY 2023 has increased by \$8,242,000, or 2.16%, from the FY 2022 appropriated level.

⁴ FY 2023 started on October 1, 2022, and ends on September 30, 2023. The proposed regulatory fee schedule for FY 2023 is set forth in Appendices B and C. For comparison purposes, the FY 2022 regulatory fee schedule is provided in Appendix H.

⁵ The Commission's NOI was attached to the *FY 2022 Report and Order, Assessment and Collection of Regulatory Fees for FY 2022*, MD Docket Nos. 22-223, 22-301, Report and Order and Notice of Inquiry, 2022 WL 4079045 (continued....)

employees, we seek comment on a proposal to treat certain FTEs from the Office of General Counsel, the Office of Economics and Analytics, and the Public Safety and Homeland Security Bureau that have previously been considered indirect FTEs as direct FTEs for the purpose of calculating regulatory fees. Specifically, where we are able to determine that time is being spent on work that is directly related to the oversight and regulation of regulatory fee payors in a core bureau⁶ and that such determination is reasonably accurate for the fiscal year, we propose to reallocate the FTE burden of such work as direct to the relevant core bureau(s).

3. We also seek comment on several additional regulatory fee issues, including: (i) the calculation of television and radio broadcaster regulatory fees, including the modification of the existing grid by adding a new tier for AM and FM radio stations; (ii) defining the category of operations for on-orbit servicing (OOS) and rendezvous and proximity operations (RPO) for regulatory fee purposes, including whether a separate regulatory fee category is necessary, and how to apply regulatory fees to OOS and RPO spacecraft specifically operating near the geostationary satellite orbit arc, including the two licensed OOS and RPO spacecraft that remain operational in FY 2023; (iii) evaluating how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility; (iv) considering whether to continue in FY 2023 several of the temporary measures we implemented in FYs 2020 through 2022;⁷ and (v) whether to permit regulatory fee payors to prepay their regulatory fees in installments. In the attached Report and Order, we codify several of the temporary measures implemented in prior fiscal years to simplify the filing process for fee payors seeking regulatory fee relief.

II. BACKGROUND

4. Congress requires the Commission to assess and collect regulatory fees each year in an amount that can reasonably be expected to equal the amount of its annual salaries and expenses (S&E)

(Continued from previous page)

(2022) [add FCC Rcd cite if published prior to release] (*FY 2022 Report and Order*). Three parties filed comments and six parties filed replies. The list of commenters to the NOI is attached in Appendix A.

⁶ The phrase “core bureaus” was first adopted in the *FY 2012 Regulatory Fee Reform NPRM* where the Commission explained that, under (prior) section 9(b)(1)(A) of the Communications Act, the Commission was instructed to calculate the regulatory fees by determining the FTEs performing the activities enumerated in section 9(a)(1) of the Communications Act within the Private Radio Bureau, Mass Media Bureau, and Common Carrier Bureau, and other offices of the Commission; those bureaus subsequently were renamed as the Wireless Telecommunications Bureau, Media Bureau, and Wireline Competition Bureau, and a new International Bureau had been formed. See *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, MD Docket No. 12-20, Notice of Proposed Rulemaking, 27 FCC Rcd 8460, para. 5 & n.5 (2012) (*FY 2012 Regulatory Fee Reform NPRM*). The Commission explained that “[f]or simplicity and ease of reference, in this Notice we will refer to these four bureaus as the ‘core’ bureaus or the ‘core licensing’ bureaus.” *Id.* See also *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8193-94, paras. 9-10 (2019) (*FY 2019 Report and Order*). Effective April 10, 2023, we have a new Space Bureau and an Office of International Affairs replacing the International Bureau. See *Establishment of the Space Bureau and the Office of International Affairs and Reorganization of the Consumer and Governmental Affairs Bureau and the Office of the Managing Director*, MD Docket No. 23-12, Order, FCC 23-1 (rel. Jan. 9, 2023) (*Space Bureau Order*). As the International Bureau existed for most of FY 2023, we are using that term in this proceeding, instead of Space Bureau and/or Office of International Affairs.

⁷ A National Emergency concerning COVID-19 was originally declared on March 13, 2020, by Presidential Proclamation No. 9994, Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 FR 15337 (2020). It has been extended on multiple occasions, most recently on February 10, 2023. Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic, 88 FR 9385 (2023). A resolution terminating the national emergency based on the powers granted in the National Emergencies Act was signed by President Biden on April 10, 2023. See H.J. Res. 7, 118th Congress (2023-2024) [Public Law No: 118-3](https://www.congress.gov/bills/118th-congress/house-joint-resolution/7), (Apr. 10, 2023) available at <https://www.congress.gov/bills/118th-congress/house-joint-resolution/7>.

appropriation.⁸ Thus, the Commission has no discretion regarding the total amount to be collected in any given fiscal year. Regulatory fees cover direct costs, such as salaries and expenses; indirect costs, such as overhead functions, including functions required by federal agencies in general and not specifically related to the Communications Act; statutorily required tasks that do not directly equate with oversight and regulation of a particular regulatee, but instead benefit the Commission and the industry as a whole; and support costs such as rent, utilities, and equipment.⁹ Regulatory fees also cover the costs incurred in oversight and regulation of entities that are statutorily exempt from paying regulatory fees (i.e., governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations),¹⁰ entities that are exempt from payment of regulatory fees because their total assessed annual regulatory fees fall below the annual de minimis threshold,¹¹ and entities whose regulatory fees are waived.¹² Pursuant to section 9(d) of the Communications Act, the Commission's methodology for assessing regulatory fees must "reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities."¹³ For FY 2023, the Commission must recover \$390,192,000 as set forth in the FY 2023 Consolidated Appropriations Act.¹⁴

5. In section 9 of the Communications Act, Congress prescribed a method of collecting an amount equal to the full S&E appropriation by keying the regulatory fee assessment to FTE burden.¹⁵ As a result, the fee assigned to each regulatory fee category relates to the FTE burden associated with their oversight and regulation by the relevant core bureaus.¹⁶ Because the total amount the Commission must collect in an offsetting collection generally changes each fiscal year, payors' regulatory fees will also typically change each fiscal year as a mathematical consequence of the changes in the total amount to be collected,¹⁷ the number of Commission FTEs, and projected unit estimates for each regulatory fee category.¹⁸ Beyond those changed collection requirements, in considering changes, additions, or deletions

⁸ 47 U.S.C. § 159(a), (b). The regulatory fee collection is guided by both the statutory authority in sections 6 and 9 of the Communications Act, 47 U.S.C. §§ 156, 159, and the explicit language of each fiscal year's S&E appropriation directing the amount to be collected as an offsetting collection.

⁹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, MD Docket No. 21-190, Report and Order and Notice of Proposed Rulemaking, 36 FCC Rcd 12900, 12991, para. 2 (2021) (*FY 2021 Report and Order*).

¹⁰ 47 U.S.C. § 159(e)(1); 47 CFR § 1.1162.

¹¹ 47 U.S.C. § 159(e)(2).

¹² 47 U.S.C. § 159(d); 47 CFR § 1.1166.

¹³ 47 U.S.C. § 159(d).

¹⁴ See FY 2023 Consolidated Appropriations Act; 47 U.S.C. § 159.

¹⁵ See 47 U.S.C. § 159(d).

¹⁶ *Id.* See also *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, MD Docket No. 19-105, Notice of Proposed Rulemaking, 34 FCC Rcd 3272, 3275-77, paras. 6-10 (2019) (*FY 2019 NPRM*).

¹⁷ As indicated above, the offsetting collection for FY 2023 has increased by \$8,242,000, or 2.16%, from the FY 2022 appropriated level.

¹⁸ Section 9(c)(1)(B) of the Communications Act contemplates such changes to the fee schedule necessary to result in the collection of the amount required by subsection 159(b). 47 U.S.C. § 159(c)(1)(B). For example, if the number of units in a regulatory fee category increases, the amount due per unit may decrease, depending on other factors. Such changes under section 9(c) of the Communications Act fall under the section 9A(b)(1) Congressional notification requirements. 47 U.S.C. §§ 159A(b)(1), 159(c).

to the regulatory fee schedule the Commission focuses on direct FTE cost burden related to the regulatory fee category at issue within each core bureau.¹⁹

6. In accordance with the statute, each year, in an annual fee proceeding, the Commission proposes adjustments to the prior fee schedule under section 9(c) to “(A) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and (B) result in the collection of the amount required” by the Commission’s annual appropriation.²⁰ Such changes are rarely the subject of dispute and are usually addressed in the more ministerial changes to the fee schedule. The Commission will also propose amendments to the fee schedule under section 9(d) “if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s activities.”²¹ Challenges to the Commission’s allocation of FTEs are not uncommon.

7. The Commission has explained²² that, consistent with its statutory directive, it bases regulatory fees on the direct FTEs in core bureaus.²³ The Commission has stated that, given the Communication Act’s explicit language that fees must reflect FTEs, the FTE counts are by far the most administrable starting point for regulatory fee allocations.²⁴ The Commission does not assign direct FTEs within a bureau to specific fee categories by rote or at random, but rather in a manner that reflects the time spent by FTEs on a regulatory fee category, which is in itself a reflection of “benefit” to the fee category.²⁵ Thus, the Commission has explained it continues to apportion regulatory fees across fee

¹⁹ See *FY 2021 Report and Order*, 36 FCC Rcd at 12999, para. 17. Changes under section 9(d) of the Communications Act fall under the section 9A(b)(2) 90-day notification to Congress. 47 U.S.C. §§ 159A(b)(2), 159(d).

²⁰ 47 U.S.C. § 159(c). For example, if the number of units in a regulatory fee category increases, the amount due per unit may decrease. This would also include proportionate increases in a given fee category to reflect an overall increase in the annual FY appropriation. It is rare, however, for the Commission to solely propose adjustments under section 9(c).

²¹ 47 U.S.C. § 159(d).

²² Most recently, the Commission explained that the methodology for implementing the regulatory fee authority essentially remains unchanged by the RAY BAUM’S Act. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 1084, Division P – RAY BAUM’S Act of 2018, Title I, § 103 (2018) (RAY BAUM’S Act). In our FY 2019 regulatory fee proceeding, we analyzed the changes to our statutory regulatory fee authority, sought comment on the changes and determined that “the fee assessment structure dictated by the statute fundamentally remains unchanged. Or, in other words, because the new section 9 of the Communications Act closely aligns to how the Commission assessed and collected fees under the prior section 9 of the Communications Act, we will hew closely to our prior methodology in assessing FY 2019 regulatory fees.” *FY 2019 Report and Order*, 34 FCC Rcd at 8192-93, paras. 7-8; *FY 2019 NPRM*, 34 FCC Rcd at 3275-77, paras. 6-10.

²³ *FY 2019 Report and Order*, 34 FCC Rcd at 8193, para. 8. As such, our prior decisions to add to, delete from, or amend the regulatory fee schedule are instructive of the detailed analysis that generally accompanies a change to the FTE allocation as direct or indirect, the attribution of FTEs to a fee category, and the allocation of fees within a category based on the unit measure adopted.

²⁴ *FY 2019 Report and Order*, 34 FCC Rcd at 8193, para. 8.

²⁵ The Commission has stated that “Section 9 is clear, however, that regulatory fee assessments are based on the burden imposed on the Commission, not benefits realized by regulatees.” *Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712, 15719, para. 19 (2007).

categories based on the number of direct FTEs in each core bureau and the proportionate number of indirect FTEs and to take into account factors that are reasonably related to the payor's benefits.²⁶

8. *Full Time Equivalent (FTE) Allocation and Fee Calculation.* The Commission allocates FTEs according to the nature of the work performed by its different organizational units. If the work performed by a group or office is directly related to our oversight and regulation of a regulatory fee category or categories in one of the four core licensing bureaus, then such FTEs are counted as a direct FTE.²⁷ If the work cannot be allocated to one of the bureau's designated fee categories, the work performed is counted as an indirect FTE.²⁸ Under this framework, the Commission, therefore, has historically assessed the allocation of FTEs by first determining the number of direct FTEs, those non-auctions FTEs that work in each of the Commission's core bureaus (i.e., the Wireless Telecommunications Bureau, the Media Bureau, part of the Wireline Competition Bureau, and part of the International Bureau), and then attributing all other non-auction FTEs outside the core bureaus and other Commission costs as indirect.²⁹ Regulatory fees are initially apportioned across the regulatory fee categories based on the number of direct FTEs in each core bureau whose time is focused on a particular industry segment and then is adjusted "to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities."³⁰

²⁶ *FY 2019 Report and Order*, 34 FCC Rcd at 8193, para. 9. What this means in practice is that we allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau (with indirect FTEs allocated in proportion to the direct FTEs). Those proportions are then subdivided within each core bureau into fee categories among the regulatees served by the core bureau. Finally, within each regulatory fee category, the amount to be collected is divided by a unit that allocates the regulatory fee payor's proportionate share based on an objective measure. *Id.*

²⁷ See, e.g., *FY 2019 Report and Order*, 34 FCC Rcd at 8195, para. 14 ("we have long relied on direct FTE allocations because the Commission has found those allocations best reflect the 'benefits provided to the payor of the fee by the Commission's activities' — in the case of broadcast licensees, the work the Media Bureau does to grant licenses and oversee and regulate their operations."); *FY 2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8461, para. 8; *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, MD Docket No. 14-92, Report and Order, 29 FCC Rcd 10767, 10768, para. 2 (2014) (*FY 2014 Report and Order*) (explaining the reliance on direct FTEs for purposes of determining regulatory fee calculations).

²⁸ See *FY 2021 Report and Order*, 36 FCC Rcd at 30001, para. 22.

²⁹ See *FY 2019 Report and Order*, 34 FCC Rcd at 8193, paras. 8-9 (finding that, given "the Act's requirement that fees must 'reflect' FTEs before adjusting fees to take into account other factors" ... "FTE counts [are] by far the most administrable starting point for regulatory fee allocations" and indicating that the first step in apportioning regulatory fees is to allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau (with indirect FTEs allocated in proportion to the direct FTEs)); *FY 2021 Report and Order*, 36 FCC Rcd at 12991-92, para 3; *FY 2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8460, para. 5 & n.5; *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, Report and Order, 27 FCC Rcd 8390, 8392, paras. 4-5 (2012) (*FY 2012 Report and Order*). Other factors the Commission takes into consideration include the annual appropriation and the projected unit estimates.

³⁰ See, e.g., *FY 2019 Report and Order*, 34 FCC Rcd 8189, 8195, para. 14 ("we have long relied on direct FTE allocations because the Commission has found those allocations best reflect the 'benefits provided to the payor of the fee by the Commission's activities'—in the case of broadcast licensees, the work the Media Bureau does to grant licenses and oversee and regulate their operations."); *2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8461, para. 8 ("The Commission allocates FTEs according to the nature of the employees' work. If the work performed by an employee can be assigned to a regulatory fee category in one of the four core licensing bureaus—Wireless Telecommunications, Media, Wireline Competition, and International—that employee's time is counted as a direct FTE. If the work cannot be assigned to one of the bureau's designated fee categories, the employee's time is counted as an indirect FTE."); *FY 2014 Report and Order*, 29 FCC Rcd at 10768, para. 2 (explaining the reliance on direct FTEs for purposes of determining regulatory fee calculations).

9. The FTE time devoted to developing and implementing the Commission's spectrum auctions is not included in the calculation of regulatory fees and is not offset by the collection of regulatory fees. Instead, such FTE time is offset by the auction proceeds that the Commission is permitted to retain pursuant to section 309(j)(8)(B) of the Communications Act and the Commission's annual appropriation.³¹ Thus, spectrum auctions FTEs are not included in the calculation of regulatory fees and the Commission's methodology excludes all spectrum auction-related FTEs and their overhead from the regulatory fee calculations.³² To the extent that FTEs within core bureaus spend a portion of their time on auctions issues and a portion of their time on appropriated issues, their time is split and only the non-auctions portion of their time is reflected in the relevant core bureau's FTE count.³³

10. Early in each fiscal year, the Commission receives FTE data from its Human Resources Management office and identifies FTEs at the core bureau level (i.e., direct FTEs), which is then used to determine the FTE allocations for the four core bureaus. This FTE data is then validated through consultation with the bureaus and offices and apportioned to the various fee categories within each core bureau based on FTE time spent on each fee category. After the number of direct FTEs is determined for each core bureau of the Commission, the direct FTE numbers are used to calculate the percentage of the total amount of regulatory fees to be collected for a given fiscal year.³⁴ We allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau, with indirect FTEs allocated in proportion to the direct FTEs within each core bureau. Those proportions are then subdivided within each core bureau into fee categories among the regulatees served by the core bureau. Finally, within each regulatory fee category the amount to be collected is divided by a unit that allocates the regulatee's proportionate share based on an objective measure.

11. In prior regulatory fee proceedings, the Commission has categorized the FTEs in the Enforcement Bureau, Consumer and Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairwoman's and Commissioners' Offices, Office of the Managing Director, Office of General Counsel, Office of Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Workplace Diversity, Office of Media Relations, Office of Economics and Analytics, and Office of Administrative Law Judges, along with some FTEs in the Wireline Competition Bureau and the International Bureau as indirect for regulatory fee purposes.³⁵ Unlike the work of direct FTEs, the work of indirect FTEs in the non-core

³¹ 47 U.S.C. § 309(j)(8)(B) (providing that "the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection."). Each year, Congress provides a cap on such offsetting collection. FY 2023 Consolidated Appropriations Act (providing a cap of \$132,231,000 for FY 2023). We are referring to spectrum auctions FTEs when we use the terms "auctions FTEs" and "non-auctions FTEs."

³² FY 2019 NPRM, 34 FCC Rcd at 3276-77, para. 10.

³³ FY 2021 Report and Order, 36 FCC Rcd at 12999-13000, para. 20.

³⁴ The percentage for each core bureau is the number of direct non-auction FTEs within the core bureau divided by the total number of direct non-auction FTEs.

³⁵ The Commission has previously reallocated FTEs in the International Bureau and the Wireline Competition Bureau from direct to indirect for regulatory fee purposes, due to the nature of their work assignments. For example, in 2013, the Commission allocated as indirect all but 28 International Bureau FTEs. *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Report and Order, 28 FCC Rcd 12351, 12355-356, para. 14 (2013) (FY 2013 Report and Order). Subsequently, in the FY 2015 Report and Order, the Commission reallocated, for regulatory fee purposes, four International Bureau FTEs working on market access requests for non-U.S. licensed space stations as indirect. *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, 10278, para. 24 (2015) (FY 2015 Report and Order). Those four indirect FTEs have since been reallocated as direct. *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, 4991, para. 33 (2020) (FY 2020 NPRM), *affirmed*, *Telesat Canada, et al. v. FCC*, 999 F.3d 707 (D.C. Cir. 2021) (*Telesat*). In 2017, the Commission reallocated as indirect, for regulatory fee purposes, 38 FTEs in the Wireline

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bureaus and offices is not focused on the oversight and regulation of a specific category of regulatory fee payors, but instead benefits the Commission, the telecommunications industry, and the public as a whole.³⁶ The Commission's high percentage of indirect FTEs demonstrates that many of our activities and costs are not limited to a particular fee category.³⁷

12. *Adjustments and Amendments to Regulatory Fee Schedule.* Each year the Commission issues a Notice of Proposed Rulemaking to seek comment on its methodology for assessing regulatory fees and the proposed regulatory fees for the fiscal year. Pursuant to section 9A(b)(1) of the Act, the Commission must notify Congress immediately upon adoption of any adjustment.³⁸

13. In addition to annual regulatory fee adjustments discussed above, pursuant to section 9(d) of the Act, the Commission considers the adoption of a new regulatory fee category or a change in an existing regulatory fee category only when it develops sufficient basis for making the change, and works to ensure that all changes serve the goal of ensuring that the Commission's assessment of regulatory fees is fair, administrable, and sustainable.³⁹ Pursuant to section 9A(b)(2) of the Act, the Commission must notify Congress at least 90 days prior to making effective any amendments to the regulatory fee schedule.⁴⁰

14. The Commission has adopted new regulatory fee categories and new methodologies for calculating regulatory fees when there is a sufficient basis for doing so under the relevant statutory provisions and precedent, and based on the record.⁴¹ Most recently, in 2020, the Commission included

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Competition Bureau who work on non-high cost programs of the Universal Service Fund. *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057, 7061-64, paras. 10-15 (2017) (*FY 2017 Report and Order*).

³⁶ See *FY 2021 Report and Order*, 36 FCC Rcd at 30001, para 22.

³⁷ *Id.* at 12991-92, para 8; *FY 2013 Report and Order*, 28 FCC Rcd at 12357, para. 17.

³⁸ 47 U.S.C. § 159(A)(b)(1).

³⁹ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 28 FCC Rcd 7790, 7798-7807, paras. 17-40 (2013) (*FY 2013 NPRM*); *FY 2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8464-65, paras. 14-16. The concept of administrability includes the difficulty in collecting regulatory fees under a system that could have unpredictable dramatic shifts in assessed fees in certain categories from year to year. In adopting our fee schedule, we are also mindful of other general limits of fee authority. See *National Cable Television Ass'n v. United States*, 415 U.S. 336, 340-41 (1974) (construing Independent Offices Appropriations Act) (IOAA)); see also *National Cable Television Ass'n v. FCC*, 554 F.2d 1094, 1106 & n.42 (D.C. Cir. 1976). We are mindful that IOAA no longer applies to the Commission. See House of Representatives Report No. 99-453 (1985) at page 433 (noting the significance of *National Cable* and explaining that IOAA no longer applies to the Commission with the passage of other specific fee authority, application fees, in COBRA-85). We, nevertheless, are cognizant of broader legal issues raised by user fee and/or regulatory fee precedent.

⁴⁰ 47 U.S.C. § 159(A)(b)(2).

⁴¹ For example, in 2009, after reviewing the issue and industry proposals for several years, the Commission adopted a new methodology for assessing submarine cable regulatory fees based on a consensus proposal made by a large group of submarine cable operators. *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208 (2009) (*Submarine Cable Order*). As another example, in 2015, after reviewing the issue over several years, the Commission added Direct Broadcast Satellite (DBS) as a subcategory of the cable television and Internet Protocol television (IPTV) fee category to the regulatory fee schedule, based on the oversight and regulation of this industry by Media Bureau FTEs. *FY 2015 Report and Order*, 30 FCC Rcd at 10276-77, paras. 19-20 (adding DBS as a regulatory fee category, based on Media Bureau FTEs); *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, MD Docket No. 15-121, Notice of Proposed Rulemaking, 30 FCC Rcd 5354, 5358, para. 9 (2015) (*FY 2015 NPRM*); *FY 2013 NPRM*, 28 FCC Rcd at 7810-11, paras. 50-52 (seeking comment on whether to adopt a new fee category for DBS, based on Media Bureau FTEs). In the *FY 2021*

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non-U.S. licensed space stations with U.S. market access grants in the existing “Space Stations” fee category.⁴² The Commission concluded that assessing the same regulatory fees on non-U.S. licensed space stations with U.S. market access as assessed on U.S. licensed space stations would better reflect the benefits received by these operators, i.e., the adjudicatory, enforcement, regulatory, and international coordination activities by the Commission’s FTEs in the International Bureau.⁴³

15. In this NPRM, we are not proposing adjustments to our regulatory fee categories or methodologies such that our actions require 90 days’ notice to Congress. Instead, in response to concerns expressed in the NOI record, we have undertaken a fresh, high level evaluation of the work of indirect FTEs. As more fully explained below, where we can determine that the work of a historically indirect FTE is directly related to our oversight and regulation of a regulatory fee payor, and we are confident that such determination is reasonably accurate for the fiscal year, we propose to consider the FTE burden of such work as direct to the relevant core bureau(s), and accordingly reallocate such indirect FTEs as direct, solely for the purposes of calculating regulatory fees.

III. DISCUSSION

A. Report And Order

16. Today, we codify several of the temporary measures the Commission implemented in the last three fiscal years to permanently simplify and streamline the process for filing waiver, deferral, reduction and installment payment requests for regulatory fees. Specifically, we revise sections 1.1166 and 1.1914⁴⁴ of the Commission’s regulations as follows: (i) parties seeking multiple forms of regulatory fee relief, including installment payment of their regulatory fees, may file a single pleading in which all requested relief is included; (ii) parties must submit their requests electronically to regfeerelief@fcc.gov; and (iii) parties seeking only installment payment relief to pay debt owed to the Commission, including regulatory fee debt, must submit such requests in writing, electronically to regfeerelief@fcc.gov.⁴⁵

17. The Commission received many more requests for waiver, reduction, deferral, and installment payment relief in FYs 2020, 2021, and 2022 than it had received in previous years. As in other years, many of the requests were submitted by regulatory fee payors without the assistance of

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Report and Order, the Commission placed all DBS, cable television, and IPTV providers in the same fee category at the same per subscriber regulatory fee. *FY 2021 Report and Order*, 36 FCC Rcd at 13004-13005, para. 28.

⁴² *FY 2020 NPRM*, 35 FCC Rcd at 4979-91, paras. 7-34.

⁴³ *Id.* at 4980-81, paras. 10-11. On appeal, the D.C. Circuit upheld the Commission’s decision in *Telesat*, noting that “[i]t is undeniable that foreign satellites and their operators do benefit from the Commission’s regulation in much the same way as their U.S.-licensed counterparts” and the Commission “reviews petitions for market access by foreign-licensed satellites to ensure legal and compliance with this carefully coordinated system” for all U.S. market participants. In particular, the D.C. Circuit noted that the Commission “devotes significant resources” to processing petitions from non-U.S. licensed space stations to access the U.S. market; that non-U.S. licensed space stations “benefit from the Commission’s oversight and regulation in the same manner” as U.S. licensed space stations; and that processing a petition from a non-U.S. licensed space station operator “requires evaluation of the same legal and technical information as required of U.S. licensed applicants.” *Telesat*, 999 F.3d at 710-712.

⁴⁴ 47 CFR §§ 1.1166 and 1.1914.

⁴⁵ Both rules, as revised, may require Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1995 (PRA), and will not become effective until any such review is complete. We anticipate that OMB may complete review of revised section 1.1166 pursuant to its non-substantive change process within a short period after release of the Report and Order. We anticipate that any OMB review of revised section 1.1914 may not be completed in time for parties seeking installment payment relief pursuant to section 1.1914 in the upcoming regulatory fee season to rely on the revised rule’s streamlined filing instruction. Therefore, in paragraph 90 of the NPRM, we propose to continue the streamlined filing instructions for installment payment requests as a temporary measure until the revisions to section 1.1914 of our regulations become effective.

counsel. We have found that the procedural flexibility used during this time has eased the Commission's administrative burden and thereby reduced administrative expenses of collection. The Commission's procedures for processing paper filings involve numerous steps before the pleadings reach the Office of Managing Director (OMD) for consideration. Electronic submission of consolidated pleadings to a single, dedicated email address managed by OMD greatly simplified the intake process for both fee payors and Commission staff, ensuring more rapid disposition of requests. Accordingly, the Commission has determined to codify the above-described filing requirement modifications adopted as temporary measures in FYs 2020, 2021, and 2022⁴⁶ by amending sections 1.1166 and 1.1914 of its rules as provided in Appendix K. These rules relate to the form and number of pleadings filed to support a request for fee relief and the mechanics of filing a request for relief. We make these changes without notice and comment because they are rules of agency organization, procedure, or practice exempt from the general notice-and-comment requirements of the Administrative Procedure Act (APA).⁴⁷

B. Notice of Proposed Rulemaking

18. In this NPRM, we propose and seek comment on regulatory fees for FY 2023 as set forth in Appendices B and C.⁴⁸ In particular, and as fully discussed below, we seek comment on our proposal to reallocate a limited number of indirect FTEs within the Office of Economics and Analysis (OEA), the Office of General Counsel (OGC), and the Public Safety and Homeland Security Bureau (PSHSB) as direct FTEs and to incorporate them into the count of FTEs of the relevant core bureau, solely for the purposes of calculating regulatory fees for FY 2023.

19. We also seek comment on several additional regulatory fee issues, including: (i) the calculation of television and radio broadcaster regulatory fees, including the modification of the existing grid by adding a new tier for AM and FM radio stations; (ii) defining the category of operations for OOS and RPO for regulatory fee purposes, including whether a separate regulatory fee category is necessary, and how to apply regulatory fees to OOS and RPO spacecraft specifically operating near the geostationary satellite orbit arc, including the two licensed OOS and RPO spacecraft that remain operational in FY 2023; (iii) evaluating how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility; (iv) considering whether to continue in FY 2023 several of the temporary measures we implemented in FYs 2020 through 2022; and (v) whether to permit regulatory fee payors to prepay their regulatory fees in installments.

1. Assessment of Regulatory Fees

a. Methodology for Assessing Regulatory Fees

20. Congress has required us to collect \$390,192,000 in regulatory fees for FY 2023.⁴⁹ Section 9 of the Communications Act requires us to set regulatory fees to "reflect the full-time equivalent number of employees within the bureaus and offices of the Commission adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities."⁵⁰ Our first step in establishing our regulatory fee schedule is to take into consideration the adjustments necessitated by the more discernable changes from the prior year regulatory fee proceeding, e.g., changes in the (i) FY appropriation, (ii) FTE levels, and (iii) relevant unit measures for each regulatory fee category. Such adjustments are often considered ministerial. Our second step is a more

⁴⁶ *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Further Notice of Proposed Rulemaking, 36 FCC Rcd 1731, 1760-61, paras. 80-81 (2020) (*FY 2020 Report and Order*); *FY 2021 Report and Order*, 36 FCC Rcd 13024-25, para. 70; *FY 2022 Report and Order*, 2022 WL 4079045, para. 105.

⁴⁷ 5 U.S.C. § 553(b)(A).

⁴⁸ See Appendices B and C.

⁴⁹ FY 2023 Consolidated Appropriations Act.

⁵⁰ 47 U.S.C. § 159(d).

substantive review where we look to the core bureaus within the Commission in order to identify the number of direct non-auction FTEs in each core bureau.⁵¹ Once the direct FTEs are identified, we then allocate fees to specific fee categories within each core bureau. These proportional calculations allocate all Commission non-auction related costs across all fee categories.

21. For FY 2023, in response to the comments we received to our NOI, we propose to employ the same methodology, but, in addition to looking at the current allocation of direct FTEs within the core bureaus, we propose to rely on and include a high level analysis of the work of our indirect FTEs in non-core bureaus and offices and, where we can determine with reasonable accuracy for the fiscal year that such work is being spent on the regulation and oversight of a regulatory fee payor, we propose to reallocate the burden of that work as direct to a core bureau, solely for regulatory fee purposes.⁵² As described in more detail below, we propose that approximately 63 indirect FTEs should be reallocated as direct FTEs to a core bureau, for regulatory fee purposes, based on our evaluation of the burden of their work. Some of the reallocations we are proposing are of FTE time that had previously been reassigned from direct to indirect as the result of a Commission reorganization. As a result of taking this fresh, high level evaluation of the work of our indirect FTEs we found that even though the physical location of certain FTEs moved from a core bureau to an indirect bureau or office, the burden of their FTE work remained focused directly on the oversight and regulation of specific regulatory fee payors in a core bureau(s). Insofar as we are confident this determination is reasonably accurate for the fiscal year, we find that reallocating certain indirect FTEs for regulatory fee purposes in the manner that we are proposing is consistent with section 9 of the Communications Act, which requires us to base our methodology on the number of FTEs in calculating regulatory fees.⁵³ We seek comment on this proposal and on the schedule of FY 2023 regulatory fees as set forth in Appendices B and C.⁵⁴ Any proposals or comments requesting a change or modification to our proposed methodology and regulatory fees for FY 2023 should include a thorough analysis showing a sufficient basis for making the change and provide alternative options for the Commission to meet its statutory obligation to collect the full amount of the appropriation by the end of the fiscal year. Commenters should also indicate how such proposed alternative options are fair, administrable, and sustainable.

b. Reallocation, for Regulatory Fee Purposes, of Certain Indirect FTEs as Direct FTEs

22. Broadcasters and satellite operators commenting in response to our NOI have argued that the methodology used to proportionally assign indirect FTEs is inequitable.⁵⁵ We disagree. Non-core bureaus and offices handle a variety of issues and generally most indirect FTE time is devoted to many matters including services that are not specifically correlated with one of the core bureaus or one category of regulatory fee payors.⁵⁶ Further, because Commission attorneys, engineers, analysts, and other staff work on a variety of issues during a single fiscal year, a snapshot of indirect FTE assignments in a

⁵¹ The remaining non-auction FTEs and other Commission costs are considered indirect and are not part of the fee calculation.

⁵² This effort was aided by employing economists and other specialists from our Office of Economics and Analytics.

⁵³ 47 U.S.C. § 159(d).

⁵⁴ See Appendices B and C.

⁵⁵ See, e.g., NAB NOI Comments at 3 (MD Docket No. 22-301) (arguing that the Commission should reform its methodology to ensure that the fees broadcasters pay bear a meaningful relationship to the work performed by Commission FTEs to benefit or regulate the broadcast industry); SIA NOI Comments at 2 (MD Docket No. 22-301) (contending that satellite companies pay millions of dollars per year for indirect costs that may not properly reflect the benefits provided to satellite regulatees).

⁵⁶ *FY 2019 Report and Order*, 34 FCC Rcd at 8196, para. 18 (citing *FY 2015 Report and Order*, 30 FCC Rcd at 10275, para. 17).

division in any bureau or office, for example, may misrepresent the work being done a short time later, and, if allocated as direct FTEs, could result in an inaccurate FTE count and fee calculation for a core bureau.⁵⁷ In light of the issues raised by the commenters to the NOI, however, and as noted above, we have undertaken a high level evaluation of the work performed by the Commission's indirect FTEs.⁵⁸ As a result, we now propose to reallocate certain indirect FTEs as direct FTEs and incorporate them into the count of FTEs of the relevant core bureau solely for purposes of calculating regulatory fees for FY 2023. This proposal would result in changes in the percentages of direct FTEs in the core bureaus. We seek comment on this proposal.

23. According to information provided by our Human Resources Management office, there currently are 339.25 direct non-auctions FTEs for FY 2023 that are distributed among the core bureaus. Today we propose to reallocate 63 indirect FTEs from OEA, OGC, and PSHSB and add those FTEs as direct to a relevant core bureau solely for the purposes of collecting regulatory fees, which would result in a revised total of 402.25 direct non-auctions FTEs. Our calculations of direct FTEs under our proposal, which are more fully detailed below, would be as follows: International Bureau (31), Wireless Telecommunications Bureau (98), Wireline Competition Bureau (143.25), and Media Bureau (130). Based on these proposed reallocations and after adjustments are made to these direct FTE counts to implement Commission precedent, we would collect approximately \$30.16 million (7.73%) in fees from the International Bureau regulatory fee payors; \$95.36 million (24.44%) in fees from the Wireless Telecommunications Bureau regulatory fee payors; \$139.42 million (35.73%) in fees from Wireline Competition Bureau regulatory fee payors; and \$125.25 million (32.10%) in fees from Media Bureau regulatory fee payors.

⁵⁷ *FY 2019 Report and Order*, 34 FCC Rcd at 8196, para. 18.

⁵⁸ We reiterate that when we discuss FTEs, we are not referring to any particular employee at the Commission but rather an amount of work performed annually by a full time employee. In undertaking this exercise, because we were reviewing the amount of work performed by various groups within bureaus and offices, we applied conservative estimates to our proposed reallocations so as not to imply a false sense of precision in the proposed reallocation. Specifically, where the amount of work under consideration equaled .5 FTE or less, we rounded down to the nearest whole FTE and only proposed our reallocations in one full FTE increments.

**CORE BUREAU FTE PERCENTAGES WITH AND WITHOUT PROPOSED INDIRECT FTE
REALLOCATIONS**

Core Bureau	2022 FTE%	2022 Amount (Millions)	2023 FTE % Without Indirect FTE Reallocations	2023 Amount Without Indirect FTE Reallocations (Millions)	2023 Proposed FTE % With Certain Indirect FTE Reallocations	2023 Proposed Amount With Certain Indirect FTE Reallocations (Millions)
		FY 2022 Appropriation was \$381.95		FY 2023 Appropriation is \$390.192		FY 2023 Appropriation is \$390.192
Wireline Bureau	33.94%	\$129.62	35.57%	\$138.79	35.73%	\$139.42
Media Bureau		\$137.89	33.96	\$132.52	32.10	\$125.25
Media Bureau subcategory Broadcasters	16.25%	\$62.07	15.28%	\$59.65	14.27%	\$55.68
Media Bureau subcategory Cable	19.85%	\$75.82	18.68%	\$72.87	17.83%	\$69.57
Wireless Bureau	21.4%	\$81.74	22.19%	\$86.56	24.44%	\$95.36
International Bureau	8.56%	\$32.70	8.28%	\$32.32	7.73%	\$30.16

24. After our analysis of the work performed in our non-core bureaus and offices, we reaffirm that, in general, the vast majority of the FTE burden of work is properly considered indirect. In evaluating indirect FTE time, we are mindful that any changes we adopt must serve the goal of ensuring that the Commission's assessment of regulatory fees is fair, administrable, and sustainable.⁵⁹ We also recognize that allocating regulatory fees is not and cannot be an exact science.⁶⁰ We continue to conclude the Commission's indirect FTE time is devoted to a variety of issues, including matters that are either not directly allocable or not associated with a regulatory fee payor, and therefore should continue to be considered indirect and allocated in a proportional manner across all fee categories.⁶¹ As the Commission

⁵⁹ *FY 2013 NPRM*, 28 FCC Rcd at 7798-7807, paras. 17-40 (); *FY 2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8464-65, paras. 14-16. The concept of administrability includes the difficulty in collecting regulatory fees under a system that could have unpredictable dramatic shifts in assessed fees in certain categories from year to year.

⁶⁰ See *FY 2017 Report and Order*, 32 FCC Rcd at 7064, para. 14. The agency is not required to calculate its costs with "scientific precision." *Central & Southern Motor Freight Tariff Ass'n v. United States*, 777 F.2d 722, 736 (D.C. Cir. 1985). Reasonable approximations will suffice. *Id.*; *Mississippi Power & Light*, 601 F.2d at 232; *National Cable Television Ass'n v. FCC*, 554 F.2d 1094, 1105 (D.C. Cir. 1976); 36 Comp. Gen. 75 (1956).

⁶¹ For example, the Consumer Inquiries and Complaints Division in the Consumer and Governmental Affairs Bureau processes informal consumer inquiries and complaints. The division receives, reviews and analyzes informal consumer complaints and responses to informal consumer complaints; maintains a system of records for the tracking and maintenance of informal consumer complaints; and coordinates with other bureaus and offices to
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explained in the *FY 2019 Report and Order*, by analyzing indirect FTE time in order to try to associate it with a core bureau in one given period of time, and ignoring the understanding of management regarding ongoing and future work, we risk proffering FTE allocations that are not accurate for the entire year.⁶² We are also aware that in the non-core bureaus and offices much of the work that could be assigned to a single category of regulatory fee payors is likely to be interspersed with the work that Commission staff does on behalf of many entities that do not pay regulatory fees, e.g., governmental entities, non-profit organizations, work that does not equate with any specific regulatory fee category,⁶³ and regulatees that have an exemption.⁶⁴

25. Nevertheless, the Commission has previously evaluated whether certain FTEs should be reallocated, for regulatory fee purposes, from direct to indirect,⁶⁵ from indirect to direct,⁶⁶ or from one core bureau to another⁶⁷ based on the nature of the work. Insofar as the regulatory fees are based on FTE time associated with the oversight and regulation of regulatory fee payors, we only propose to reallocate indirect FTEs to a core bureau for regulatory fee purposes where we have determined that such FTE work is primarily in furtherance of the oversight and regulation of that industry and is reasonably accurate for the fiscal year. After taking a closer look at FTE time in several non-core bureaus and offices, we now conclude that we can reasonably identify instances within OEA, OGC, and PSHSB, where it is appropriate to consider the FTE burden of such work as directly devoted to the oversight and regulation of certain industries such that the FTE time should be reallocated as direct for the relevant core bureau(s).

26. After our review of the work within the Commission's bureaus and offices, we recognize that experts in the non-core bureaus and offices engage in measurable work associated with the oversight and regulation of regulatory fee payors. We will continue to be mindful of these findings in coming years while also relying upon the expertise of the bureau or office management to evaluate the overall nature of the work of each organizational unit, the FTE levels committed to the different types of work, and the level of FTE support, if any, primarily associated with the oversight and regulation of regulatory fee payors. In gathering this high level data for this proposal, we directed non-core bureaus and offices to evaluate if measurable FTE time for fiscal year 2023 is primarily spent on the regulation and oversight of

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ensure that consumers are provided with accurate, up-to-date information. The division shares informal consumer complaint data internally to inform policy and potential enforcement and externally to inform the public can relate to all the industries regulated by the Commission. See FCC, Consumer and Governmental Affairs Bureau, <https://www.fcc.gov/general/consumer-and-governmental-affairs-bureau> (last visited Dec. 27, 2022). Based on our analysis, the FTE time in that division is devoted to consumer complaints covering many industries, as well as analysis and coordination, and those FTEs are appropriately considered indirect. Even if this could be considered the oversight and regulation of a regulated industry, any attempt to categorize those FTEs based on the particular complaints filed in a snapshot of time would be unlikely to be accurate a short time later.

⁶² *FY 2019 Report and Order*, 34 FCC Rcd at 8196, para. 18.

⁶³ For example, for many reasons, we do not have a regulatory fee category for the use of spectrum on an unlicensed basis.

⁶⁴ *Id.* (citing 47 U.S.C. § 159(e)).

⁶⁵ See, e.g., *FY 2017 Report and Order*, 32 FCC Rcd at 7061-64, paras. 10-15 (reallocating, for regulatory fee purposes, direct FTEs devoted to non-high cost universal service fund issues as indirect); *FY 2015 Report and Order*, 30 FCC Rcd 10268, 10278, para. 24 (reallocating, for regulatory fee purposes, four International Bureau FTEs working on market access requests for non-U.S. licensed space stations as indirect).

⁶⁶ Subsequently in 2020, the Commission reallocated, for regulatory fee purposes, four International Bureau FTEs working on market access requests for non-U.S. licensed space stations back to direct from indirect. *FY 2020 NPRM*, 35 FCC Rcd 4976, 4991, para. 33

⁶⁷ *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057, 7064-65, paras. 16-17 (2017) (*FY 2017 Report and Order*) (reallocating, for regulatory fee purposes, FTEs devoted to numbering issues from the Wireline Competition Bureau to the Wireless Telecommunications Bureau).

an industry subject to regulatory fees.⁶⁸ Our objective was to rigorously address the concerns that certain fee payors have expressed regarding the number of indirect FTEs. We have satisfied our goal and seek comment on our tentative conclusion and the factors we employed in reaching these proposed reallocations for regulatory fee purposes. We further recognize that these proposed reallocations for calculating regulatory fees may require the Commission to continue to assess certain indirect FTEs annually, in addition to the annual calculation of direct FTEs in core bureaus.

27. *Office of Economics and Analytics (OEA)*. During an agency reorganization, the Commission reassigned staff from several bureaus and offices to the new OEA, effective December 11, 2018.⁶⁹ After the reorganization, the Commission concluded that it was appropriate for the non-auctions FTEs in OEA to be considered indirect FTEs because the work of its FTEs would benefit the Commission and the telecommunications industry and would not specifically focused on the regulatory fee payors.⁷⁰ In creating OEA, the Commission reassigned 95 FTEs (of which 64 were not auctions-funded) as OEA FTEs.⁷¹

28. OEA is responsible for expanding and strengthening the use of economic analysis in Commission policy making, for enhancing the development and use of auctions,⁷² and for implementing consistent and effective agency-wide data practices and policies.⁷³ Specifically, OEA (a) provides economic analysis, including cost-benefit analysis, for rulemakings, transactions, adjudications, and other Commission actions; (b) manages Commission auctions in support of and in coordination with other bureaus and offices; (c) develops policies and strategies to help manage Commission data resources and establish best practices for data use throughout the Commission in coordination with other bureaus and offices; and (d) conducts long-term research on ways to improve the Commission's policies and processes in each of these areas. Notably, OEA collaborates with and advises other bureaus and offices in the areas of economic and data analysis and with respect to the analysis of benefits, costs, and regulatory impacts of Commission policies, rules, and proposals. As part of this collaboration, OEA reviews all rulemakings prepared by those bureaus and offices, all other Commission-level items that contain economic or data analysis, and similar items that the bureaus or offices release on delegated authority.

29. NAB contends that we should consider treating the FTEs that were reorganized to OEA from direct bureaus as direct FTEs.⁷⁴ We disagree that all such FTEs should be reallocated to direct.

⁶⁸ In determining whether to accept the recommendations of division management to reallocate an indirect FTE as direct to a core bureau, Commission staff excluded any FTE time from a working group that was not the equivalent of at least one full FTE, concluding that by definition less than a full FTE demonstrated that the work being done was appropriately considered indirect and not primarily related to a regulatory fee category.

⁶⁹ The Commission reassigned staff to the OEA, effective December 11, 2018, resulting in the reassignment of 95 FTEs (of which 64 were not auctions-funded) as indirect FTEs. *See Establishment of the Office of Economics and Analytics*, Order, 33 FCC Rcd 1539 (2018); FCC Opens Office of Economics And Analytics, Federal Communications Commission News Release, Dec. 11, 2018, <https://www.fcc.gov/document/fcc-opens-office-economics-and-analytics>. This reassignment resulted in a reduction in direct FTEs in the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Media Bureau. That same year, the Commission reassigned Equal Employment Opportunity enforcement staff from the Media Bureau to the Enforcement Bureau, effective March 15, 2019, resulting in a reduction of seven direct FTEs in the Media Bureau. *See Transfer of EEO Audit and Enforcement Responsibilities to Enforcement Bureau*, Public Notice, 34 FCC Rcd 1370 (EB 2019).

⁷⁰ *FY 2019 Report and Order*, 34 FCC Rcd at 8194, para. 11 & n.41.

⁷¹ At the time of the reorganization creating the OEA, of the non-auctions FTEs, 8.5 were from the Wireless Telecommunications Bureau, 22.2 from the Wireline Competition Bureau, and 8.9 from the Media Bureau. *FY 2019 Report and Order*, 34 FCC Rcd at 8194, para. 11.

⁷² We do not include auctions-funded OEA FTEs for regulatory fee purposes.

⁷³ 47 CFR §§ 0.271 (OEA delegated) 0.21 (OES function).

⁷⁴ NAB NOI Comments at 10-11 (MD Docket No. 22-301).

However, based on our experience over the approximately four years that OEA has been in existence, we have observed that certain bureaus tend to generate more numerous and more complex economic and data issues for OEA to analyze as well as more documents for release that require OEA review and expertise. As a result, OEA has necessarily devoted more time to and developed greater expertise in certain areas under the purview of a specific bureau. In light of that understanding, for FY 2023, we find that there is measurable work done by OEA that is being done directly in furtherance of the oversight and regulation of regulatory fee payors in certain industry segments. We recognize that we previously rejected suggestions related to reallocating OEA FTEs.⁷⁵ Our proposals, however, are based on a current, deeper analysis of FTE work. Based on this analysis, we propose to reallocate a certain number of OEA's FTEs as direct for regulatory fee purposes, and include those FTEs in the count of a core bureau. We seek comment on this general proposal.

30. Specifically, we propose to allocate a certain number of OEA FTEs as direct to reflect the work by OEA on wireline matters related to universal service fund issues in high-cost areas; competition and interconnection; the setting of rates for calls from incarcerated persons; the establishment of a national suicide hotline; and efforts to protect privacy. Based on our review, because this FTE work is being done directly in furtherance of the oversight and regulation of Wireline Competition Bureau regulatory fee payors, we propose that the burden of the work of 13 OEA FTEs should be reallocated as direct FTEs to the Wireline Competition Bureau for purposes of our regulatory fee calculation. Similarly, our analysis shows that OEA non-auctions FTE's work with the Wireless Telecommunications Bureau addresses various wireless and spectrum issues, such as mergers, transactions, and acquisitions, spectrum licensing, mobile spectrum holdings policies, and deployment in rural areas and on tribal lands. Because this work is being done directly in furtherance of the oversight and regulation of Wireless Telecommunications Bureau regulatory fee payors, we propose that the burden of the work of eight OEA FTEs should be reallocated as direct FTEs to the Wireless Telecommunications Bureau, for purposes of our regulatory fee calculation. OEA FTEs' work with the Media Bureau relates to broadcast and cable issues, including ownership regulation, next generation standards,⁷⁶ content source disclosures, program carriage and retransmission, and rates and billing practices. We find that after analysis, because their work is being done directly in furtherance of the oversight and regulation of Media Bureau regulatory fee payors, the burden of the work of seven OEA FTEs should be reallocated as direct FTEs to the Media Bureau, proportionally among the Media Bureau regulatory fee categories, for purposes of our regulatory fee calculation. OEA's work with the International Bureau addresses national security, mergers and acquisitions, undersea cables, and satellite issues and we find that, because their work is being done directly in furtherance of the oversight and regulation of International Bureau regulatory fee payors, the burden of the work of two OEA FTEs should be reallocated as direct FTEs to the International Bureau, proportionally among the International Bureau regulatory fee categories, for purposes of our regulatory fee calculation.

31. Notably, our analysis reveals that after the Commission's creation of OEA, given the amount of economic analysis and data issues being generated by the core bureaus, the work and expertise of certain of OEA's FTEs remained focused on the oversight and regulation of certain regulatory fee payors in a manner that was consistent with the work they were doing in their previous core bureau, which further supports our proposal to reallocate the burden of the work of certain of OEA's FTEs as direct for regulatory fee purposes. We seek comment on our proposal to reallocate a total of 30 OEA FTEs as direct FTEs to the core bureaus as follows: 13 FTEs to the Wireline Competition Bureau, eight

⁷⁵ *FY 2022 Report and Order*, at para 74.

⁷⁶ TV broadcasters' NEXTGEN TV, also known as ATSC 3.0, NEXTGEN TV is based on Internet Protocol (IP), such as online video or streaming services, and uses web languages for interactivity. See NAB, *Unleashing the Next Generation of Broadcast Innovation, What is Next Generation TV?*, <https://www.nab.org/innovation/nextGenTV.asp> (last visited Jan. 20, 2023).

FTEs to the Wireless Telecommunications Bureau, seven FTEs to the Media Bureau, and two FTEs to the International Bureau, for regulatory fee purposes.

32. *Office of General Counsel (OGC)*. In the context of the Commission's annual regulatory fee proceeding, the work of the OGC, as represented by FTE allocations, has been considered to be indirect.⁷⁷ As we explain below, on review, we believe that certain aspects of OGC's work are sufficiently linked to the oversight and regulation of individual regulatory fee categories that the associated FTEs could properly be considered direct FTEs for such regulatory fee categories.

33. OGC serves as the chief legal advisor to the Commission and its various bureaus and offices.⁷⁸ In that capacity OGC's responsibilities are generally described as interpreting new and existing statutes and executive orders as they pertain to the Commission's exercise of its Communications Act authority and other authorities, as well as performing such functions involving implementation of such statutes and executive orders as may be assigned to it by the Commission. OGC advises the Commission in the preparation and revision of our rules, recommends decisions in adjudicatory matters before the Commission, assists the Commission in its decision-making capacity and performs a variety of legal functions regarding internal and other administrative matters. OGC also advises and represents the Commission in matters of litigation. These roles are divided between the Administrative Law Division and the Litigation Division and are overseen by the General Counsel (GC) and the GC's Front Office.

34. The Administrative Law Division provides legal advice to the Commission concerning a wide array of substantive areas of the law necessary to the functioning of any federal agency.⁷⁹ Such work benefits the work of the Commission as a whole and is not specific to any particular regulatory fee category. As such, the FTE burden associated with such work properly remains allocated as indirect. In contrast, it is possible to allocate some of the work of the Administrative Law Division in reviewing Commission rules, proposed rules, and adjudicatory orders, as well as providing extensive advice on the Commission's authority under the Communications Act, including the exercise of delegated authority by the bureaus and offices, to the core bureaus and offices that develop the underlying orders and seek the advice of OGC. Where this work is directly related to our oversight and regulation of specific regulatory fee payor categories, we propose allocating the FTE burden of such work as direct to the relevant bureau(s). Thus, we propose as follows for FY 2023: one OGC FTE would be reallocated as direct to the Wireline Competition Bureau;⁸⁰ two OGC FTEs would be reallocated as direct to the Wireless Telecommunications Bureau; one OGC FTE would be reallocated as direct to the Media Bureau, proportionally among the Media Bureau fee categories; and one OGC FTE would be reallocated as direct to the International Bureau, proportionally among the International Bureau fee categories. We seek comment on this proposal.

35. The Litigation Division represents the Commission in a wide variety of court cases⁸¹ covering actions that most federal agencies are subject to (e.g., personnel, Federal Tort Claims Act,

⁷⁷ *FY 2022 Report and Order*, para 6 and 20 (noting the FTE allocation of OGC).

⁷⁸ 47 CFR § 0.41 (OGC FUNCTIONS); § 0.251 (OGC DELEGATION).

⁷⁹ Such areas of the law include the Freedom of Information Act, the Privacy Act, the Regulatory Flexibility Act, the Paperwork Reduction Act of 1995, the Government in the Sunshine Act, the Congressional Review Act of 1996, and the statutes and rules governing ethics, personnel, procurement, and fiscal law.

⁸⁰ Below, we seek comment on allocating as indirect certain Wireline Competition Bureau FTE time on the non-high cost Universal Service Fund programs, the Affordable Connectivity Program, the Emergency Connectivity Fund, the COVID-19 Telehealth Program, and the Secure and Trusted Communications Networks Reimbursement Programs. Consistent with this proposal, we do not propose to reallocate OGC FTE time on these programs as direct.

⁸¹ OGC represents the Commission in Federal courts of appeals when parties challenge Commission actions, and, in conjunction with the United States Department of Justice and United States Attorney's offices, represents the Commission in litigation in Federal district courts. In addition, Litigation Division attorneys work with the Office of (continued....)

Freedom of Information Act, False Claims Act, and contract actions and disputes) in addition to challenges regarding the Commission's exercise of our Communications Act authority. As we explain below, after careful consideration, we do not propose any FTE changes for the Litigation Division. The level of effort to support litigation that is unrelated to our Communications Act authority is generally not tied to oversight and regulation of any regulatory fee category. Thus, the FTE burden remains appropriately considered as indirect. The FTE burden associated with litigation that directly touches on our Communications Act authority should also remain as indirect. We make this determination for a variety of reasons. Primarily, it is not possible to determine with any level of consistency year to year whether the FTE work in support of litigation matters benefits a particular regulatory fee category.⁸² This is particularly true because the essential issue in dispute when a matter moves to litigation may touch on issues of broader concern than any one regulatory fee group, or conversely be so procedural as to be effectively generic to all federal agency action.⁸³ Moreover, at its core, the FTE work defending the Commission's expert authority in implementing the Communications Act is the epitome of work that benefits the agency as a whole and we do not believe it would be fair for any one regulatory fee group to shoulder the FTE burden of such work.

36. *Public Safety and Homeland Security Bureau (PSHSB)*. PSHSB advises and coordinates within the Commission on all matters pertaining to public safety, homeland security, national security, cybersecurity, emergency management and preparedness, disaster management, and related matters.⁸⁴ The bureau leads initiatives that strengthen public safety and emergency response capabilities enabling the Commission to assist the public, first responders, law enforcement, hospitals, the communications industry and all levels of government in times of emergency.

37. PSHSB is organized into three divisions: the Policy and Licensing Division, the Operations and Emergency Management Division, and the Cybersecurity and Communications Reliability Division. After assessing the work performed in these three divisions, in instances where we are able to determine that the work being performed is directly related to the oversight and regulation of regulatory fee payors in a core bureau, we are proposing to consider the FTE burden of such work as direct to the relevant core bureau(s). We seek comment on this proposal for each PSHSB division below.

38. The Policy and Licensing Division develops and administers rules, regulations, and policies to support public safety entities, including law enforcement, fire and emergency medical first responders, Public Safety Answering Points, and emergency operations organizations. The division handles licensing of public safety frequencies, including modifications, renewals and adjudications, in frequencies below 470 MHz, and in 470-512 MHz, 700 MHz, 800 MHz, 4.9 GHz and 5.9 GHz under part 90 of the Commission's rules, and the microwave bands under part 101; 911/Enhanced 911/Next Generation 911; Communications Assistance for Law Enforcement Act; the Emergency Alert System; operability and interoperability for public safety communications and the First Responder Network Authority; and intra- and interagency coordination on spectrum management.

39. After analyzing at a high level data regarding the FTE work in the Policy and Licensing Division, we find that, because the burden of the work of 14 of the FTEs in this division is directly in furtherance of the oversight and regulation of regulatory fee payors of a core bureau, we propose that it is

(Continued from previous page) _____
the Solicitor General of the United States in representing the Commission in actions in the United States Supreme Court.

⁸² Because most litigation is defensive it is inherently more difficult to predict the level of effort and fee categories that might be implicated each year. This would make predictive analysis more time consuming and subjective and also make such direct FTE allocations potentially less administrable.

⁸³ For example, litigation can frequently turn on procedural issues such as the timeliness of when an argument was raised, or an exception to the Administrative Procedure Act.

⁸⁴ 47 CFR § 0.191 (PSHSB functions); 0.392 (PSHSB delegation).

appropriate to consider such work as direct to the relevant bureau, for regulatory fee purposes. Specifically, of the 14 FTEs we have identified, there are two FTEs that could be reallocated as direct FTEs to the Wireline Competition Bureau, eight FTEs that could be reallocated as direct FTEs to the Wireless Telecommunications Bureau, and four FTEs that could be reallocated as direct FTEs to the Media Bureau.

40. With regard to the two FTEs we propose to consider as direct to the Wireline Competition Bureau, and the eight FTEs that we propose to consider as direct to the Wireless Telecommunications Bureau, we propose these reallocations for regulatory fee purposes because the burden of the work performed on 911 policy, covering issues such as 911 location accuracy, and the transition to Next Generation 911,⁸⁵ as well as clarifying provider obligations and acting on waiver and other provider-specific requests, directly furthers the oversight and regulation of regulatory fee payors of the Wireline Competition Bureau and the Wireless Telecommunications Bureau. Similarly, with regard to the four FTEs we propose to consider as direct to the Media Bureau, we propose these reallocations for regulatory fee purposes, proportionally among the fee categories in the Media Bureau, because the FTE burden of the work on the Emergency Alert System, developing and maintaining the operational rules that apply to EAS participants, facilitating interactions between EAS participants and alert originators, reviewing State EAS Plans, and acting on waiver and similar requests directly furthers the oversight and regulation of the regulatory payors of the Media Bureau. We seek comment on this proposal.

41. The Operations and Emergency Management Division (OEMD) ensures the readiness of the Federal Communications Commission to respond to threats and emergencies; conducts and coordinates risk and incident management activities; and supports public safety and events of national security significance. Division staff recommend, develop, and implement emergency plans, policies, and preparedness programs covering reporting and situational awareness of communications status during times of emergency; Commission functions during emergency conditions; and the provision of service by communications service providers during emergency conditions.

42. The division staff provide legal guidance and perform technical operations in support of interagency Federal, State, Local, Tribal, and Territorial (SLTT) government national security and public safety risk and incident management efforts. In addition, the division provides situational awareness to FCC and federal government leadership regarding national security risks and makes recommendations to help manage those risks; manages the FCC Continuity Programs to ensure the Commission's ability to perform the functions vital to an enduring government and the availability of nationwide and international communications under all conditions; and assesses and evaluates the status of communications services and infrastructure through Over-The-Air observations and analysis by its Spectrum Monitoring and Analysis Response Team. The division also coordinates with the U.S. Department of Homeland Security on critical national security and emergency preparedness priority communications programs, such as Telecommunication Service Priority Program, Government Emergency Telecommunications Service, and Wireless Priority Service.

43. After analyzing at a high level data regarding the FTE work in OEMD, we find that the work of five of the FTEs in this division is directly in furtherance of the oversight and regulation of regulatory fee payors of a core bureau. We propose to consider the FTE burden of such work as direct to the relevant bureau for regulatory fee purposes. Specifically, of the five FTEs we have identified there are two FTEs that could be reallocated as direct FTEs to the Wireline Competition Bureau, two FTEs that could be reallocated as direct FTEs to the Wireless Telecommunications Bureau, and one FTE that could be reallocated as a direct FTE to the Media Bureau, proportionally among the fee categories in the Media

⁸⁵ Next Generation 911 enhances emergency number services and allows digital information (e.g., voice, photos, videos, text messages) to flow from the public, through the 911 network, and to first responders. It will also enable 911 call centers to transfer 911 calls to other call centers. See U.S. Department of Commerce, National Telecommunications and Information Administration, *Next Generation 911*, <https://ntia.gov/category/next-generation-911> (last visited Feb. 3, 2023).

Bureau.

44. With regard to the two FTEs we propose to consider as direct to the Wireline Competition Bureau, we propose these reallocations for regulatory fee purposes because the burden of the work performed is directly related to the oversight and regulation of wireline regulatory fee payors. This division, in performance of its risk assessment responsibilities, surveys the status of wireline service and infrastructure following major disasters, emergencies, or events of a national security or law enforcement nature and facilitates restoration through coordination with other federal and SLTT entities and private sector companies. In addition, the division administers legal oversight and review of the Commission's Local Number Portability Act (LNPA) activities. Similarly, we propose allocating two FTEs as direct to the Wireless Telecommunications Bureau, for regulatory fee purpose, because the burden of the work performed is directly related to the oversight and regulation of wireless regulatory fee payors based on the same functions described above, with respect to wireline regulatory fee payors.

45. In addition, the work done by one FTE in OEMD directly supports the oversight and regulation of regulatory fee payors of the Media Bureau by conducting site surveys of media broadcast transmitters to determine potential issues of interference, and by deploying personnel to disaster areas to perform spectrum scans before and after disasters to ascertain the operational status of broadcast stations and assist those that are not operational. Deploying personnel to disaster areas primarily supports the oversight and regulation of the regulatory fee payors of all three bureaus by, among other things, providing direct assistance to providers in disaster areas with issues such as obtaining access to facility sites and procurement of fuel for generators. Based on this analysis, we propose to reallocate, for regulatory fee purposes, one FTEs as a direct FTEs to be included in the count of the Media Bureau, proportionally among the fee categories in that bureau. We seek comment on this proposal.

46. The Communications and Crisis Management Center (FCC Operations Center), which is part of OEMD, maintains a 24/7 staff at FCC Headquarters. Its responsibilities include: monitoring the status of communications and engaging in real-time with emergency operations centers and PSAPs in the event of outages or disasters; resolving consumer complaints; supporting the Commission's enforcement activities; granting special temporary authority to Commission licensees after hours; and maintaining the Commission's primary classified environment and the required support systems.

47. The Operations Center is available 24/7 to field requests from all regulatees for assistance and to grant special temporary authority outside of normal business hours. Operations Center staff routinely field calls regarding consumer complaints of communications outages and interference or requests for information on the provision of wireless and wireline communications services in specific regions of the Nation. In response to these communications, Operations Center staff will coordinate solutions across Commission Bureaus and Offices, SLTT stakeholder entities, and private sector companies. After analyzing at a high level data regarding the FTE work performed in the Operations Center, we find that, the work of three of the FTEs of the Operations Center is directly in furtherance of the oversight and regulation of regulatory fee payors of a core bureau. We propose to consider such work as direct to the relevant bureau for regulatory fee purposes. Specifically, we propose that one FTE could be reallocated for regulatory fee purposes as a direct FTE of the Wireline Competition Bureau, one FTE could be reallocated for regulatory fee purposes as a direct FTE to the Wireless Telecommunications Bureau, and one FTE could be reallocated for regulatory fee purposes as direct to the Media Bureau, proportionally among the fee categories in that bureau. We seek comment on this proposal.

48. The Cybersecurity and Communications Reliability Division helps ensure that the nation's communications networks are reliable and secure so that the public can communicate, especially during emergencies. This division identifies and promotes network improvements through analysis and investigation of significant communications outages, providing situational awareness of the status of communications infrastructure during times of emergency, administering the Commission's primary advisory committee on communications security and reliability, and rulemakings. Focus areas include emergency communications, such as 911 and wireless emergency alerting, network performance during disasters, and major network outages and threats. This division monitors and analyzes communications

network outages to identify trends, assess actions the FCC can take to help prevent and mitigate outages, and where necessary, assist response and recovery activities.

49. The division provides oversight and regulation of the regulatory payors by, among other things, providing situational awareness of the status of communications infrastructure and coordinating requests for assistance during times of emergency. We find, after analyzing the burden of the work done in this division, there are four FTEs that could be reallocated, for regulatory fee purposes, as direct FTEs to the Wireline Competition Bureau because the work being done on wireline network outage reporting, in routine and disaster environments, as well as outages and notifications impacting the 911 and 933 systems, is directly in furtherance of the oversight and regulation of wireline regulatory fee payors. We also find that two FTEs can be reallocated, for regulatory fee purposes, to the Wireless Telecommunications Bureau because the work of FTEs being done to administer the Mandatory Disaster Response Initiative to ensure providers of commercial mobile services engage in mutual aid activities during times of emergency, the work of its Federal Advisory Committee on standards and best practices related to 5G deployment, and the work to develop and implement performance standards and accuracy for wireless emergency alerting is directly in furtherance of the oversight and regulation of wireless regulatory fee payors. Finally, the division supports the security of services provided across platforms, in the Commission's Alerting Security docket, and Federal Advisory Committee work on 911 standards and alerting standards, as well as network and supply chain security.

50. In sum, because we are able to determine that some of the work being performed by certain FTEs in PSHSB is directly related to the oversight and regulation of regulatory fee payors in a core bureau, we propose to consider the FTE burden of such work as direct to the relevant bureau(s). Specifically, we propose to reassign a total of nine FTEs as direct FTEs to the Wireline Competition Bureau, 13 FTEs as direct FTEs to the Wireless Telecommunications Bureau, and six FTEs as direct FTEs to the Media Bureau. The reassignment, for regulatory fee purposes, to the Media Bureau would be proportional among the fee categories in the bureau. This is a total of 28 Public Safety and Homeland Security Bureau FTEs reallocated, as direct FTEs, for regulatory fee purposes, in the core bureaus.

51. *Conclusion of the Proposal to Reallocate Certain Indirect FTEs from OEA, OGC, and PSHSB as Direct FTEs to a Relevant Core Bureau.* As represented above, FTE time associated with the proposed reallocations for regulatory fee purposes would be added to the relevant core bureau. Such a reallocation for regulatory fee purposes would result in increasing the number of direct FTEs in a core bureau and reducing the total number of indirect FTEs within the Commission. Because our underlying methodology for calculating regulatory fees does not change, we conclude that our fee regulatory fee calculation continues to be consistent with section 9 of the Communications Act, which requires us to base our methodology on the number of FTEs in calculating regulatory fees.⁸⁶ We seek comment on this conclusion.

52. We are mindful that our treatment of FTEs as direct or indirect can change over time based on our evaluation of the FTE burden associated with the Commission's work assignments and the ebbs and flows within industry segments and needs of specific regulatory fee payors. We also emphasize that our proposals to reallocate certain FTEs from indirect to direct proposes a modest change to the percentages of direct FTEs allocated to the core bureaus. This analysis assures us that the Commission's general methodology for establishing regulatory fees has been appropriate. Based on our careful consideration of the record, we seek comment on whether we should, based on a high level evaluation of data gathered by Commission staff as described above, calculate regulatory fees for FY 2023 based on the proposed reallocations, and whether doing so is appropriate and consistent with section 9 of the Communications Act. The table below shows the proposed reallocations of a total of 63 FTEs to each of the core bureaus, as discussed above. Such reallocations, for regulatory fee purposes, would be proportionally distributed within the core bureau. We seek comment on these reallocations.

⁸⁶ *Id.*

Core Bureau	# of Direct FTEs Without Indirect FTE Reassignments	Percentage	# of Direct FTEs With Indirect FTE Reassignments⁸⁷	Percentage
International Bureau	28	8.28%	+2 from OEA + 1 from OGC Total additional FTEs, +3	7.73%
Wireless Telecommunications Bureau	75	22.19%	+8 from OEA +2 from OGC +13 from PSHSB Total additional FTEs +23	24.44%
Wireline Competition Bureau	120.25	35.57%	+13 from OEA +1 from OGC +9 from PSHSB Total additional FTEs +23	35.73%
Media Bureau	116	33.96%	+7 from OEA +1 from OGC +6 from PSHSB Total additional FTEs +14	32.10%

53. As reflected in the table above, our proposals to reallocate 63 indirect FTEs as direct for regulatory fee purposes will result in a nearly 19% increase in our overall direct FTE count. We make these proposals consistent with our long standing regulatory fee methodology and conclude that our determinations are reasonably accurate for fiscal year 2023. In sum, based on our staff analysis of the activities of the Commission, we tentatively conclude that our proposals for FTE reallocation better reflect the burdens that certain segments of the telecommunications industry impose on the Commission and our workforce, and will allow us to continue to assess and collect regulatory fees to cover the costs of meeting those obligations. We seek comment on our proposals and this tentative conclusion.

54. Our proposals today to reallocate, for regulatory fee purposes, certain indirect FTEs to direct FTEs in a core bureau recognizes and responds to commenters concerns that some work being done in non-core bureaus and offices is done in furtherance of the oversight and regulation of specific regulatory fee payors. We are nonetheless mindful of the fact that FTEs' work in OEA, OGC, and

⁸⁷ See *supra* fn. 67.

PSHSB can change from year to year and we want to avoid any unplanned shifts in regulatory fees on an annual basis that would undermine the goals of having a fair, administrable, and sustainable program. In evaluating our proposals, we therefore ask commenters to speak to whether the potentially fluctuating nature of this information on an annual basis will negatively impact their ability to predict what their regulatory fee obligations will be each year. Specifically, we seek comment on depth of analysis we should engage in and the frequency of such analysis when making FTE allocation proposals.

2. Treatment of Non-High Cost Universal Service Fund FTEs as Indirect

55. In 2017, the Commission decided to assign as indirect, for regulatory fee purposes, 38 FTEs in the Wireline Competition Bureau who worked on non-high cost programs of the Universal Service Fund.⁸⁸ This reallocation was based on the Commission's conclusion that due to changes over time in the universal service fund regulatory landscape, it was no longer appropriate to consider all FTE time spent working on non-high cost universal service issues as Wireline Competition Bureau direct FTEs.⁸⁹ In the non-high cost programs, funding eligibility is based on the beneficiary, i.e., a school, a library, a low-income individual or family, or a healthcare provider.⁹⁰ While initial programs were focused on wireline services, as the Commission's non-high cost programs have evolved, other providers, like wireless carriers and broadband providers, are also participating in the programs. Additionally, satellite operators, Wi-Fi network installers, and fiber builders may all receive universal service funding through the Commission's non-high cost programs.⁹¹ As Interstate Telecommunications Service Providers (ITSPs) are no longer the sole contributors or beneficiaries of the non-high cost Universal Service Fund programs, the Commission concluded that reallocating the Wireline Competition Bureau FTEs devoted to non-high cost Universal Service Fund programs as indirect FTEs was more consistent with how FTEs working for programs that benefit consumers and the American public are treated elsewhere in the Commission.⁹²

56. The Commission explained that such FTE time should be considered indirect because it is not focused specifically on regulatory fee payors of any core bureau. Instead it covers all program participants. In reaching this conclusion, the Commission reasoned that the FTE time devoted to the non-high cost Universal Service Fund issues is not oversight and regulation of a particular category of fee payors as is the case for ITSPs and CMRS providers, but instead is the oversight of several programs with a wide array of beneficiaries and participants. The Commission determined that FTE time spent on non-high cost Universal Service Fund issues is indirect because it would be "impossible to determine the precise costs attributable to FTEs and the precise benefits flowing from Commission regulation to any one regulatee, let alone a particular cross-section of regulatees or even an entire industry – not to mention the complications associated with regulatees statutorily exempt from paying regulatory fees (such as governmental licensees) and with beneficiaries (such as schools and libraries) that are not regulatees, all of whom nonetheless create costs that must be covered."⁹³

57. In FY 2022, broadcasters raised concerns about the inclusion of payment for these indirect FTEs in their regulatory fees.⁹⁴ The Commission took a closer look at the FTE burden associated

⁸⁸ *FY 2017 Report and Order*, 32 FCC Rcd at 7061-64, paras. 10-15.

⁸⁹ *Id.*

⁹⁰ *FY 2017 NPRM*, 32 FCC Rcd at 4530, para. 10.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.* at 4531, para. 14.

⁹⁴ See Comments of the National Association of Broadcasters, Assessment and Collection of Regulatory Fees for Fiscal Year 2022, MD Docket No. 22-223, at 11-13 (filed July 5, 2022); Reply Comments of the National Association of Broadcasters, Assessment and Collection of Regulatory Fees for Fiscal Year 2022, MD Docket No. (continued....)

with these non-high cost Universal Service Fund issues and determined that broadcasters should be excluded from the costs associated with these indirect FTEs.⁹⁵ Based on this determination, the costs associated with these indirect FTEs in FY 2022 was apportioned among all other regulatory fee payors. Broadcasters have argued that these indirect FTEs should be treated as direct and allocated across other fee payors but have not identified a methodology for reallocating the FTE burden associated with these programs to the core bureau.⁹⁶ For FY 2023, we tentatively conclude that the Commission's FY 2022 reasoning remains sound and the indirect FTE burden associated with these non-high cost Universal Service Fund programs should not be apportioned to broadcasters.⁹⁷ We seek comment on this tentative conclusion. We ask any commenters asserting that these indirect FTEs should be reassigned as direct FTEs to a core bureau to provide an explanation of how these FTEs provide a direct benefit to other fee payors.

58. Additionally, our analysis of the FTE burden associated with these non-high cost Universal Service Fund programs reveals that we need to adjust downward the number of indirect FTEs working on the non-high cost Universal Service Fund programs from 38 FTEs in FY 2022 to 23.75 indirect FTEs for FY 2023, a decrease of 14.25 indirect FTEs. We seek comment on allocating, for regulatory fee purposes, these 23.75 Wireline Competition Bureau FTEs as indirect for FY 2023.

3. Other FTE Allocations

59. In conducting our high-level review of FTE time within the various bureaus and offices within the Commission in response to commenters' concerns, we tentatively conclude that FTE time within the International Bureau, the Office of Engineering and Technology, the Enforcement Bureau, and the Consumer and Governmental Affairs Bureau, is appropriately designated as either indirect or direct. We seek comment on these tentative conclusions and our allocation analysis, as discussed below, for each bureau and office.

60. *International Bureau.*⁹⁸ The International Bureau had 81 FTEs as of October 1, 2022, and similar to last year, we propose the same allocation of those 81 FTEs to be 28 direct FTEs and 53 indirect FTEs for purposes of regulatory fees (prior to adding three FTEs that we are proposing to reallocate for regulatory fee purposes).⁹⁹ In 2013, the Commission concluded that the number of direct FTEs engaged in the regulation and oversight of International Bureau licensees should be 28.¹⁰⁰ The

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22-223, at 7-10 (filed July 18, 2022); Letter from the National Association of Broadcasters to Marlene H. Dortch, Secretary, FCC, MD Docket No. 22-223 (filed July 27, 2022).

⁹⁵ Specifically, in the *FY 2022 Report and Order* we excluded "Media Services" licensees from recovery of the funds associated with the 38 indirect FTEs who work on non-high cost Universal Service Fund issues. *FY 2022 Report and Order*, __ FCC Rcd at __, para. 71.

⁹⁶ See *supra* n.102.

⁹⁷ NAB contends that Commission FTEs time devoted to Universal Service Fund issues should be considered direct FTEs and we should distribute such FTEs as direct FTEs for regulatory fee purposes among those fee categories that benefit from the Commission's USF activities. NAB NOI Comments at 15-22 (MD Docket No. 22-301).

⁹⁸ This discussion of International Bureau FTEs refers to FTEs located in the bureau formerly known as the International Bureau (now, Space Bureau and Office of International Affairs) and does not address the FTEs we are proposing to reallocate proportionally from OEA, OGC, and PSHSB.

⁹⁹ See *FY 2022 Report and Order*, paras. 20-21 (IB allocated 28 direct FTEs and 52 indirect FTEs for FY 2022).

¹⁰⁰ In 2012, a report on the Commission's regulatory fee program issued by the Government Accountability Office provided support for a fundamental reevaluation of how to align regulatory fees more closely with regulatory costs. GAO, Federal Communications Commission, "Regulatory Fee Process Needs to be Updated," Aug. 2012, GAO-12-686. Subsequently, the Commission allocated as indirect all but 28 International Bureau FTEs. *FY 2013 Report and Order*, 28 FCC Rcd at 12355-56, paras. 13-14. In the *FY 2015 Report and Order*, the Commission reassigned, for regulatory fee purposes, four International Bureau direct FTEs working on market access requests for non-U.S.

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Commission reviewed the number of FTEs in the International Bureau each year as part of the annual regulatory fee process, including last year, and found that that number still accurately reflects the number of direct FTEs engaged in the regulation and oversight of International Bureau licensees. Between the Telecommunications and Analysis Division (TAD) and the Satellite Division there are 27 FTEs, and one FTE in the Office of the Bureau Chief (IBFO), that are allocated as direct FTEs. All FTEs in the Global Strategy and Negotiation Division (GSN) are considered indirect FTEs.

61. We have taken a closer look at the indirect FTE time in the International Bureau, which is primarily in GSN.¹⁰¹ GSN staff represent the Commission in international conferences, meetings, and negotiations, draft written contributions including proposed USA and regional positions, and coordinate Commission preparation for such conferences, meetings, and negotiations with other Bureaus and Offices, and government agencies, as appropriate. In addition, GSN manages Commission participation in the fellowship telecommunication training program for foreign officials offered through the U.S. Telecommunications Training Institute (USTTI)¹⁰² as well as the Commission's International Visitors Program.¹⁰³ Under the leadership of the Department of State, staff participate in various international and regional organizations such as the International Telecommunication Union (ITU),¹⁰⁴ the International Maritime Organization, the International Civil Aeronautics Organization, the Organization for Economic Cooperation and Development (OECD), the Asia Pacific Economic Cooperation, and the Inter-American Telecommunication Commission. The ITU has three sectors, radiocommunications (ITU-R), telecommunications standardization (ITU-T), and telecommunications development (ITU-D). GSN staff cover all three sectors, with ITU-R work focused on spectrum allocations and related international regulations governing spectrum use, ITU-T work focused on international standards setting issues, numbering, and related policy issues, and ITU-D work focused on capacity building and digital inclusion. GSN also coordinates cross-border issues with Mexico and Canada that involve a wide range of services, such as maritime, aeronautical, mobile and fixed satellite, broadcasting, mobile, and terrestrial wireless services. In addition, GSN's functions include international broadcasting station licensing and coordination of frequencies for International Broadcast licenses at the ITU.¹⁰⁵ GSN's multilateral and

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licensed space stations as indirect. *FY 2015 Report and Order*, 30 FCC Rcd at 10278, para. 24. Those four FTEs have since been reclassified as direct. *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, 4991, para. 33 (2020) (*FY 2020 NPRM*), *affirmed*, *Telesat Canada, et al. v. FCC*, 999 F.3d 707 (D.C. Cir. 2021) (*Telsat*).

¹⁰¹ The Global Strategy and Negotiation Division has three branches (1) Cross Border Negotiations & Treaty Compliance Branch; (2) International Radiocommunications Branch; and (3) Multilateral & Regional Affairs Branch.

¹⁰² See United States Telecommunications Training Institute, *Global Growth Through Communications Sharing*, available at <https://ustti.org/> (last visited Feb. 15, 2023).

¹⁰³ The International Visitors Program enables foreign delegations to interact in informal discussions with FCC personnel who provide legal, technical, and economic perspectives on a wide range of communications issues. FCC, International, *International Visitors Program*, available at <https://www.fcc.gov/general/international-visitors-program> (last visited Feb. 15, 2023).

¹⁰⁴ The ITU is an agency of the United Nations responsible for matters related to information and communication technologies. See International Telecommunication Union, About ITU, <https://www.itu.int/en/Pages/default.aspx> (last visited Dec. 27, 2022).

¹⁰⁵ In FY 2009, the Commission eliminated two International Bureau fee categories: International Public Fixed Radio and International High Frequency (HF) Broadcast Stations. *Assessment and Collection of Regulatory Fees for Fiscal Year 2009*, *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket Nos. 08-65, 09-65, Notice of Proposed Rulemaking and Order, 24 FCC 5966, 5967, paras. 2-4 (2009) (*FY 2009 NPRM*). The Commission observed that there was only one licensee in the International Public Fixed Radio category, it did not expect any additional licensees or applications, and eliminating the fee category would reduce the Commission's administrative burden. *FY 2009 NPRM*, 24 FCC Rcd at 5967, para. 3. In the International High Frequency Broadcast Stations category there were only 25 licensed stations of which most were tax-exempt, and only two

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bilateral international work ultimately benefits all fee payors by maintaining and advancing the United States' global leadership and interests, which encompasses, among others, U.S. trade, foreign policy, and national security interests. Insofar as the work of GSN does not benefit a specific fee payor, but rather the government as whole, we continue to conclude the work of its FTEs is appropriately categorized as indirect.

62. In the IBFO and in the IB divisions, a number of FTEs support the various bureau functions involving management and administrative support, such as IT issues, international travels, and other administrative activities. In the IBFO, approximately one FTE can be attributed to overseeing the Satellite Division's activities that directly benefit space and earth stations. Some work in the IBFO and TAD involve coordinating with Executive Branch agencies on issues involving foreign ownership, national security, law enforcement, and cyber security. Most FTE work in the IBFO supports all regulatory fee payors and also supports GSN work. For that reason, we conclude that they should continue to be considered indirect. In addition, not all the Satellite Division work can be attributed directly to a particular category of regulatory fee payor. For example, a number of space related activities indirectly benefit the existing fee categories, including space stations, commercial mobile services, and earth stations. For example, the Satellite Division coordinates with the National Aeronautics and Space Administration (NASA),¹⁰⁶ Federal Aviation Administration (FAA),¹⁰⁷ National Oceanic and Atmospheric Administration (NOAA),¹⁰⁸ State Department¹⁰⁹ on space sustainability, planetary protections, and on leading space innovation. Lastly, the Satellite Division works closely with GSN staff, to help cover certain ITU World Radiocommunications Conference (WRC) agenda items.¹¹⁰ Based on our review of the FTEs in the International Bureau, we find that the allocation of direct and indirect FTEs should remain the same for FY 2023, i.e., 28 direct and 53 indirect FTEs.¹¹¹ We seek comment on this tentative conclusion.

63. Further, we note that, on January 9, 2023, the Commission adopted the *Space Bureau Order*, which among other things, reorganized the International Bureau by establishing a new Space Bureau and a new Office of International Affairs.¹¹² This reorganization became effective on April 10,

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entities made payments, totaling \$1,720. *FY 2009 NPRM*, 24 FCC Rcd at 5967, para. 4. The Commission eliminated this category from the schedule of regulatory fees in order to reduce the administrative burden on the Commission in assessing this fee category. *Id.*

¹⁰⁶ NASA is an independent agency of the U.S. federal government responsible for the civil space program, aeronautics research, and space research. See NASA, *About NASA*, <https://www.nasa.gov/about/index.html> (last visited Dec. 27, 2022).

¹⁰⁷ The FAA, part of the U.S. Department of Transportation, regulates civil aviation. See Federal Aviation Administration, <https://www.faa.gov/> (last visited Dec. 27, 2022).

¹⁰⁸ NOAA, part of U.S. Department of Commerce, holds key leadership roles in shaping international ocean, fisheries, climate, space and weather policies. <https://www.noaa.gov/> (last visited Dec. 27, 2022).

¹⁰⁹ U.S. Department of State, <https://www.state.gov/> (last visited Dec. 27, 2022).

¹¹⁰ See <https://www.itu.int/en/ITU-R/Conferences/WRC/Pages/default.aspx> (last visited May 9, 2023). WRCs are held every three to four years. It is the job of WRC to review, and, if necessary, revise the Radio Regulations, the international treaty governing the use of the radio-frequency spectrum and satellite orbits. The Radio Regulations facilitate equitable access to and rational use of the natural resources of the radio-frequency spectrum and geostationary satellite orbits. They also ensure the availability of the frequencies provided for distress and safety purposes and assist in the prevention and resolution of cases of harmful interference between the radio services of different administrations. Further, the regulations facilitate the efficient and effective operation of all radiocommunication services and, where necessary, regulate new applications of radiocommunication technology. <https://www.itu.int/hub/publication/r-reg-rr-2020/>.

¹¹¹ See para. 8, *supra*.

¹¹² *Space Bureau Order*, FCC 23-1 (rel. Jan. 9, 2023).

2023.¹¹³ At this time, however, we are not proposing to reallocate any FTEs on the basis of this reorganization. Other than the reallocations we have proposed herein for regulatory fee purposes, the number of direct FTEs working on oversight and regulation of the International Bureau regulatory fee payors therefore remains unchanged for FY 2023. We will revisit the FTE allocations for the Space Bureau, as we do for all the Commission's bureaus and offices, in FY 2024.

64. *Office of Engineering and Technology.* The Office of Engineering and Technology provides engineering and technical expertise to the agency and supports each of the agency's four core bureaus. Part of that office's role is to participate in matters "not within the jurisdiction of any single bureau" or "affecting more than one bureau."¹¹⁴ More specifically, the Office of Engineering and Technology manages the spectrum and maintains the U.S. Table of Frequency Allocations, manages the experimental licensing and equipment authorization programs, regulates the operation of devices on an unlicensed basis, and conducts engineering and technical studies. Each of these functions is broadly applicable and benefits multiple industry sectors, including the broadcasting industry. For example, work in overseeing the equipment authorization program benefits multiple industry sectors partly because many devices that require authorization, including some broadcast receiving equipment (e.g., smart TVs), operate on several spectrum bands under rules for both licensed services and unlicensed operations.

65. NAB contends that broadcasters' regulatory fees should not include the indirect FTEs in the Office of Engineering and Technology because that office is focused on the use of spectrum on an unlicensed basis, evaluating new radio frequency (RF) devices, and managing the equipment authorization program.¹¹⁵ According to NAB, these issues have very little to do with broadcasters.¹¹⁶ In the *FY 2021 Report and Order*, we rejected commenters' proposals that would effectively treat the Office of Engineering and Technology as a core bureau making FTEs who work in that office direct FTEs.¹¹⁷ At that time, we found that the Office of Engineering and Technology provides engineering and technical expertise to the agency as a whole and supports each of the agency's four core bureaus and for that reason the FTEs were appropriately assigned as indirect.

66. We have taken a closer look at the FTE time in this office and we again conclude that the FTEs in Office of Engineering and Technology are appropriately considered indirect. Our analysis shows that a significant amount of FTE time is devoted to equipment authorization. FTE work in equipment

¹¹³ *Establishment of the Space Bureau and the Office of International Affairs and Reorganization of the Consumer and Governmental Affairs Bureau and the Office of the Managing Director*, 88 Fed. Reg. 21424 (Apr. 10, 2023).

¹¹⁴ 47 CFR § 0.31(g). Section 0.31 of the Commission's rules provides the functions of the Office of Engineering and Technology and section 0.241 provides the delegated authority. 47 CFR §§ 0.31 and 241.

¹¹⁵ NAB NOI Comments at 10 (MD Docket No. 22-301).

¹¹⁶ NAB NOI Comments at 10 (MD Docket No. 22-301). As we explained in the *FY 2021 Report and Order*, much of OET's work benefits not only Media Bureau regulatory fee payors, but broadcasters in particular. *FY 2021 Report and Order*, 36 FCC Rcd at 13001, para. 23 & n.65. For example, OET's work to make spectrum available on an unlicensed basis for new and emerging technologies and that such unlicensed use does not cause harmful interference benefits multiple industry sectors, including the broadcasting industry. *Id.* OET's work in overseeing the equipment authorization program benefits multiple industry sectors; there is no separate process for devices capable of operating wholly or partly under the Commission's device rule, as many devices, including some broadcast receiving equipment (e.g., smart TVs) operate on several spectrum bands under rules for both licensed services and unlicensed operations. *Id.*

¹¹⁷ *FY 2021 Report and Order*, 36 FCC Rcd at 13000, para. 21. NAB contended that the Commission should require users of spectrum on an unlicensed basis and/or equipment manufacturers to pay regulatory fees to support the Office of Engineering and Technology's work on the management of spectrum for use on an unlicensed basis and authorization of equipment. *Id.* We disagreed and declined to adopt NAB's proposal to create one or more new regulatory fee payor categories consisting of users of spectrum on an unlicensed basis and/or equipment manufacturers, which under our current methodology would effectively transform the office into a "core bureau" and reassign the FTEs into direct FTEs. *Id.*

authorization involves not only RF testing of various equipment that uses spectrum on both a licensed and unlicensed basis,¹¹⁸ but also such functions as management of the equipment authorization system, coordination with Telecommunications Certification Bodies, and rulemaking activities such as updating testing and laboratory certification standards. FTE time to manage the U.S. Table of Frequency Allocations includes activities such as rulemaking and coordination with other federal and international entities, which impacts virtually all spectrum use, including both licensed and experimental use. The work of OET FTEs therefore benefit the work of the Commission as a whole and is not specific to any particular regulatory fee category. As such, the FTE burden associated with such work properly remains allocated as indirect. Other FTE time in OET is spread out among multiple core bureaus within the Commission and its regulatees.¹¹⁹ For example, users of spectrum on an unlicensed basis includes virtually every American consumer and business, and management of the U.S. Table of Frequency Allocations has the potential to impact every spectrum user, either directly with regard to primary or secondary use, or indirectly such as with regard to emissions from adjacent spectrum bands. Accordingly, we seek comment on our tentative conclusion to continue to assign all of the FTEs in the Office of Engineering and Technology as indirect and to apportion them across the core bureaus.

67. *Enforcement Bureau.* NAB contends that the Enforcement Bureau's Fraud Division, Market Disputes Resolution Division, and Telecommunications Consumers Division¹²⁰ all perform work that benefit broadband service providers,¹²¹ cable operators, and telecommunications carriers and broadcasters should not be responsible for these indirect FTEs and they should instead be characterized as direct to certain core bureaus.¹²² We have closely analyzed the FTE time in the Enforcement Bureau, not

¹¹⁸ In addition, some devices that use spectrum on a licensed basis, such as cell phones, also use spectrum on an unlicensed basis.

¹¹⁹ *FY 2022 Report and Order* at para. 80.

¹²⁰ The Telecommunications Consumers Division focuses on protecting consumers from fraudulent, misleading, and other harmful practices involving telecommunications, including (1) high-volume robocalls, by investigating and penalizing robocallers, working with industry partners to stop the calls, and working with federal and local authorities to share information about robocallers to aid in enforcement efforts; (2) investigating the practices of companies engaged in various telecommunications-related activities, including common carriers, manufacturers of telecommunications equipment, telemarketers, and other companies utilizing telecommunications equipment for unsolicited advertisements; (3) resolving formal complaints brought by consumers, including those involving the accessibility of telecommunications services and equipment to persons with disabilities; and (4) consulting with internal and external organizations to ensure that Commission rules provide the maximum protection for consumers. FCC, Enforcement, Enforcement Overview, https://www.fcc.gov/sites/default/files/public_enforcement_overview.pdf (last visited May 9, 2023).

¹²¹ We do not have a regulatory fee category for broadband service providers. Although NAB contends that broadcasters do not benefit from broadband services, NAB NOI Comments at 9 (MD Docket No. 22-301), we note that TV broadcasters' NEXTGEN TV, also known as ATSC 3.0, is based on Internet Protocol (IP), like online video or streaming services, and uses web languages for interactivity. See NAB, *Unleashing the Next Generation of Broadcast Innovation, What is Next Generation TV?*, <https://www.nab.org/innovation/nextGenTV.asp> (last visited Jan. 20, 2023). At least one large broadcaster has announced that it provides broadband services. Sinclair Broadcast Group's One Media 3.0 and its D.C. station WIAV-CD deliver EduCast, a broadcast Internet product for K-12 and college learners without broadband Internet services at home. Jon Lafayette, *Broadcasting and Cable, "NextGen TV Being Used To Deliver Remote Learning in Washington, D.C.,"* (Aug. 16, 2021), <https://www.nexttv.com/news/nextgen-tv-being-used-to-deliver-remote-learning-in-washington-dc> (explaining that a receiver connects to a TV antenna that receives the broadcast signal digital content it carries and establishes a Wi-Fi hotspot in the home that students connect to with their tablet, laptop, or smartphone). Broadband Internet access services are offered through various technical means and by widely differing entities and to distinct user groups, e.g., wireless service providers, wireline service providers (including VoIP), cable operators, and satellite operators, to consumers and businesses, on both a retail and a wholesale basis. This service is not only offered by different types of providers, but is also delivered to end users in different ways.

¹²² NAB NOI Comments at 9 (MD Docket No. 22-301).

just the divisions NAB selected, and we tentatively conclude that this bureau should continue to be treated as indirect because, as we discuss below, the Enforcement Bureau FTEs enforce the Communications Act and the Commission's rules. The FTE oversight function is focused on the integrity of Commission's rules and ensuring the implementation of the Commission's Act. FTE time devoted to enforcement of the Commission's rules is the epitome of work that benefits the agency as a whole and the American public and we do not believe it would be fair for any one regulatory fee group of payors to shoulder the FTE burden of such work.

68. We disagree with NAB's argument that the FTEs in the Fraud Division should be direct FTEs. This division has primary responsibility for investigating and enforcing the violations of the Communications Act and the Commission's rules and investigates alleged fraudulent receipt of federal funds from the Commission's federal financial aid programs. The division also coordinates with other offices and bureaus within the Commission and with the Office of Inspector General, and other federal and state agencies to maximize enforcement efforts.¹²³ These issues handled by the Fraud Division are not tied to the oversight and regulation of particular regulatory fee categories. Investigations of fraud may involve voice service providers, but may also focus on entities that are not regulatory fee payors. We seek comment on our tentative conclusion to keep these FTEs as indirect.

69. We disagree with NAB's argument that the FTEs in the Telecommunications Consumers Division should be reassigned as direct. The FTE time devoted to protecting consumers from robocalls is not solely focused on Commission regulatory fee payors, but includes the entities initiating the robocalls and coordination with other agencies. The wireline and wireless voice service providers (regulatory fee payors) are generally not the bad actors targeted in these investigations; although we have recently adopted rules regarding voice service providers that carry illegal robocall traffic.¹²⁴ This division conducts investigations of a variety of entities including regulatory fee payors and non-payors. Further, this division investigates manufacturers of equipment as well as telemarketers for practices that harm consumers. Thus, despite NAB's assertion, FTE time in this division is not only focused on regulatory fee payors of the core bureaus but includes non-payors. We seek comment on keeping these FTEs as indirect.

70. In addition to the divisions listed by NAB, we have closely looked at the remaining Enforcement Bureau divisions and we also find that the FTEs are properly assigned as indirect. The Market Disputes Resolution Division handles all formal complaints against common carriers and pole attachment complaints, and this includes entities that use poles that are not regulatory fee payors, such as utilities. The Market Disputes Resolution Division provides an avenue for such parties, not limited to regulatory fee payors, to resolve complaints. We seek comment on maintaining these FTEs as indirect.

71. The Spectrum Enforcement Division conducts investigations and takes enforcement actions against complaints primarily involving wireless equipment matters, such as electronic devices that are advertised, sold, or operated without proper authorization under the Commission's technical rules, e.g., unauthorized drone accessories that could interfere with aviation frequencies. Other investigations involve entities that operate unauthorized wireless services, such as unauthorized satellite transmissions

¹²³ See FCC, Enforcement, Enforcement Overview, https://www.fcc.gov/sites/default/files/public_enforcement_overview.pdf (last visited May 9, 2023).

¹²⁴ See, e.g., *Advanced Methods to Target and Eliminate Illegal Robocalls*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order in CG Docket No. 19-59, Fifth Report and Order in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59 & Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, FCC 22-37 (rel. May 20, 2022) (among other things, requiring gateway providers to develop and submit traffic mitigation plans to the Robocall Mitigation Database; requiring gateway providers to apply STIR/SHAKEN caller ID authentication to all unauthenticated foreign-originated Session Initiation Protocol calls with U.S. North American Numbering Plan numbers; and requiring gateway providers to respond to traceback requests in 24 hours, block calls where it is clear they are conduits for illegal traffic, and implement "know your upstream provider" obligations).

or unlicensed wireless data networks, which could jeopardize government operations and authorized commercial wireless operations. This division also focuses on public safety and technical issues such as jamming devices that threaten cellular networks and GPS, 911 system failures, and other equipment requirements, including labeling requirements and user manual disclosures for radiofrequency devices. The Spectrum Enforcement Division also investigates licensees that fail to comply with the terms of their licenses and widespread interference matters. In addition, this division provides engineering and technical support to the Enforcement Bureau. FTE time in this division is not solely focused on regulatory fee payors of the core bureaus. For all of these reasons, we find that these FTEs should remain indirect. We seek comment on maintaining these FTEs as indirect.

72. Similarly, we find that the Investigations and Hearings Division FTEs should remain indirect. This division conducts investigations and takes appropriate enforcement action against broadcast licensees, cable operators, DBS operators, wireless licensees, and telecommunications carriers for violations of the Communications Act and Commission rules; oversees the Equal Employment Opportunity compliance of television and radio broadcast licensees, as well as multichannel video programming distributors (MPVDs), such as cable and DBS operators, and satellite radio; investigates and takes appropriate enforcement action for violations of various Commission transparency rules concerning broadband services, cable television, and other communications offerings. This FTE time is spread among all core bureaus as well as entities that are not Commission regulatory fee payors. For this reason, we find that the FTEs in this division should remain indirect.

73. FTE time in the Enforcement Bureau Field Offices is devoted to investigating unauthorized radio stations, among other things.¹²⁵ Parties found operating radio stations without FCC authorization will be subject to a variety of enforcement actions including seizure of equipment, imposition of monetary forfeitures, ineligibility to hold any FCC license, and criminal penalties.¹²⁶ Such unauthorized radio stations interfere with licensed radio stations and prevent the American public from enjoying the radio station that is unable to broadcast due to such interference. Field offices have other functions, such as on-scene investigations, inspections, and audits; responding to safety of life matters; investigating and resolving individual interference complaints; investigating violations in all licensees and/or operator services; coordinating with local and state public safety entities; and carrying out special priorities of the Commission.

74. After analyzing the FTE time in this bureau, we find that the Enforcement Bureau is appropriately considered an indirect bureau. Accordingly, we tentatively conclude that none of the FTEs in the Enforcement Bureau should be considered for reallocation. We seek comment on this tentative conclusion. As a general matter, investigations are undertaken by Enforcement Bureau staff in the Field offices, and the Fraud, Telecommunications Consumers, Investigations and Hearings, and Spectrum Enforcement Divisions based on complaints and the Commission's decisions on how to allocate investigation resources among various disputes, including those concerning bad actors. Attempting to discern whether the FTE work conducted in general dispute resolution benefits a particular regulatory fee payor would be difficult, time consuming and impractical to administer. Moreover, where the work of the Enforcement Bureau concerns bad actors, it would be particularly unfair to consider the work of resolving such matters as direct to a category of regulatory fee payors. The direct FTE time on which we calculate regulatory fees should not be based on these types of considerations. For example, a decision by the Commission to have the Field offices investigate complaints about unauthorized radio operators should not result in an increase in the AM and FM broadcasters' regulatory fees based on the FTE time in such investigations. An investigation of a fraudulent robocaller should not result in an increase in the wireline

¹²⁵ Unauthorized or "pirate" radio stations generally involve an individual operating an over-the-air radio station in the AM or FM frequency band without an FCC license that exceeds the unlicensed radiated emission limits found in part 15 of the Commission's rules. *See* FCC, Enforcement Bureau, General Enforcement Areas, Pirate Radio, <https://www.fcc.gov/enforcement/areas/pirate-radio> (last visited May 9, 2023).

¹²⁶ *Id.*

or wireless carriers' regulatory fees, due to the fact that the robocalls were made to consumers' phones. This bureau addresses all violations of Commission rules; some of those could be considered fraud or bad actors and others are rule violations or disagreements between parties. As a policy matter, our regulatory fees should not be based on our investigations of generalized disputes or the actions of parties that have violated the Commission's rules. Our regulatory fee calculations are based on the FTEs devoted to oversight and regulation of the regulatory fee payors, and should not be inflated or skewed due to the Commission's focus on investigations and its enforcement of our rules that are related to the telecommunications industry generally or to bad actors within it. We therefore seek comment on our tentative conclusion to maintain all of the Enforcement Bureau FTEs as indirect FTEs.

75. *Consumer and Governmental Affairs Bureau.* Similarly, we propose to continue considering the FTEs in Consumer and Governmental Affairs Bureau as indirect because the work of the FTEs in this bureau, and the oversight and regulation by these FTEs, is primarily devoted to outreach and consumer matters and enforcing the Act and the Commission's rules. FTE time devoted to regulatory fee payors is often either spent on complaints or petitions for declaratory rulings or on oversight more generally of the industry, e.g., establishing and oversight of the Reassigned Numbers Database. As we explained with respect to Enforcement Bureau FTEs, our regulatory fees should not be based on the volume of complaints or petitions for declaratory rulemakings and the Commission's discretion in allocating resources to handling such matters. Thus, we tentatively conclude that none of the FTEs in the Consumer and Government Affairs Bureau should be considered for reallocation as direct FTEs. We therefore seek comment on our tentative conclusion to maintain the Consumer and Governmental Affairs Bureau FTEs as indirect.

4. Broadcast Regulatory Fees

a. Broadcast Television Stations

76. In the *FY 2020 Report and Order*,¹²⁷ we completed the transition to a population-based full-service broadcast television regulatory fee.¹²⁸ The population-based methodology conforms with the service authorized here—broadcasting television to the American people. For FY 2023, we propose to continue to assess fees for full-power broadcast television stations based on the population covered by a full-service broadcast television station's contour. We seek comment on our mechanism, described below, for how we will calculate the regulatory fee based on the previously decided population-based methodology.¹²⁹ We propose adopting a factor of .7799 of one cent (\$.007799) per population served for FY 2023 full-power broadcast television station fees.¹³⁰ The population data for broadcasters' service areas are determined using the TVStudy software and the LMS database, based on a station's projected

¹²⁷ *FY 2020 Report and Order*, 36 FCC Rcd at 1738, para 19.

¹²⁸ Previously, from approximately 1995 through 2018, regulatory fees for full-power television stations were based on the Nielsen Designated Market Area (DMA) groupings 1-10, 11-25, 26-50, 51-100, and remaining markets (DMAs 101-210).

¹²⁹ In the *FY 2018 NPRM*, we sought comment on whether using the actual population covered by the station's contours instead of Designated Market Areas (DMAs) would more accurately reflect the market served by a full-power broadcast television station for purposes of assessing regulatory fees. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Notice of Proposed Rulemaking, 33 FCC Rcd 5091, 5102, para. 28 (2018) (*FY 2018 NPRM*). In the *FY 2018 Report and Order*, the Commission adopted a new methodology for assessing regulatory fees for full-service broadcast stations. The Commission determined that it would fully transition to assessing regulatory fees for full-service television broadcast stations based on the population covered by the station's contour by FY 2020 and, in the interim, for FY 2019, adopted a blended fee based partly on the historical DMA methodology and partly on the new population-based methodology. *Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Report and Order and Order, 33 FCC Rcd 8497, 8501-502, para. 14 (2018) (*FY 2018 Report and Order*).

¹³⁰ The factor of 7799 of one cent (\$.007799) was derived by taking the revenue amount required from all television fee categories and dividing it by the total population count of all "feeable" call signs.

noise-limited service contour.¹³¹ The population data for each licensee and the population-based fee (population multiplied by \$.007799) for each full-power broadcast television station¹³² is listed in Appendix G. We seek comment on these proposed fees.

b. Broadcast Radio Stations

77. For the last several years, broadcaster groups have consistently filed comments in the Commission's annual regulatory fee proceedings about the impact of increasing regulatory fees on small independent broadcasters' ability to continue to provide service to their local communities. Among other factors, they cite competition from satellite radio and music streaming services, a shrinking advertising base and their inability to pass regulatory fee increases on to a subscriber base.¹³³ We share the broadcasters' concern that market pressures are significant and, as currently structured, we risk that our fee schedule results in those that are least able to pay regulatory fees overpaying their share of fees, to the benefit of broadcasters with a larger population base. We have reviewed the existing tiered fee structure on which we base our calculation of annual regulatory fees for radio broadcasters and have concluded that creating an additional tier within the lowest population tier is necessary to ensure that broadcaster fees are more equitably distributed among all radio broadcasters¹³⁴ and that the regulatory fees assessed to the smaller broadcasters are "reasonably related to the benefits provided to the payor of the fee by the Commission's activities" as required by section 9(d) of the Act.¹³⁵ To that end, we propose a revised radio station regulatory fee table that would include a lower population tier for AM and FM broadcasters. Specifically, we propose to separate the previous years' tier of $\leq 25,000$ population into two tiers: 1) $\leq 10,000$, and 2) 10,001 - 25,000. Under our proposal, the remaining population tier thresholds would stay the same as prior years. We seek comment on the table below.

¹³¹ 47 CFR § 73.622(e).

¹³² For those VHF stations whose power had to be increased to obtain a clearer signal, the Commission will continue to use a population count based on that station's lower VHF power level rather than at the increased power level.

¹³³ Letter from Lauren Lynch Flick, Pillsbury Winthrop Shaw Pittman LLP to Marlene H. Dortch, Secretary, FCC, MD Docket No. 22-301 (Dec. 12, 2022) (*Flick ex parte*); Comments of New Jersey Broadcasters Association, MD Docket 22-223, at 2-3 (July 5, 2022); Reply Comments of Joint Broadcasters, MD Docket No. 22-223, at 1 (July 18, 2022); Comments of National Association of Broadcasters, MD Docket No. 22-223, at 29 (July 5, 2022); Reply Comments of National Association of Religious Broadcasters, MD Docket No. 22-223, at 1 (July 13, 2022).

¹³⁴ See *FY 2019 Report and Order*, 34 FCC Rcd 8189, 8204, para. 40 (in which the Commission noted that it had updated its framework for assessing submarine cable system regulatory fees, increasing the number of fee tiers "to provide a more equitable distribution of fees so that a small submarine cable system does not pay the same regulatory fee as a very large submarine cable system that is capable of providing substantially more services.")

¹³⁵ 47 U.S.C. § 159(d).

FY 2023 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
<=10,000	\$595	\$430	\$370	\$410	\$650	\$745
10,001 - 25,000	\$990	\$715	\$620	\$680	\$1,085	\$1,240
25,001 – 75,000	\$1,485	\$1,075	\$930	\$1,020	\$1,630	\$1,860
75,001 – 150,000	\$2,230	\$1,610	\$1,395	\$1,530	\$2,440	\$2,790
150,001 – 500,000	\$3,345	\$2,415	\$2,095	\$2,300	\$3,665	\$4,190
500,001 – 1,200,000	\$5,010	\$3,620	\$3,135	\$3,440	\$5,490	\$6,275
1,200,001 – 3,000,000	\$7,525	\$5,435	\$4,710	\$5,170	\$8,245	\$9,425
3,000,001 – 6,000,000	\$11,275	\$8,145	\$7,060	\$7,745	\$12,360	\$14,125
>6,000,000	\$16,920	\$12,220	\$10,595	\$11,620	\$18,545	\$21,190

5. Space Station Regulatory Fees

78. We seek comment on the proposed regulatory fees for space stations as provided in Appendix B. In 2020, the Commission adjusted the allocation of FTEs among geostationary orbit space stations (GSO) and non-geostationary orbit satellite systems (NGSO) operators.¹³⁶ To ensure that regulatory fees more closely reflected the FTE oversight and regulation for each space station category, the Commission allocated 80% of space station regulatory fees to GSOs and 20% of the space station regulatory fees to NGSOs.¹³⁷ We also seek comment on defining the category of operations for on-orbit servicing (OOS) and rendezvous and proximity operations (RPO) for regulatory fee purposes, including whether a separate regulatory fee category is necessary. In addition, we seek comment on how to apply regulatory fees to OOS and RPO spacecraft specifically operating near the geostationary satellite orbit arc.

79. In 2021, the Commission adopted two new fee subcategories: “less complex” NGSO systems and all other NGSO systems identified as “other” NGSO systems, both under the broader category of “Space Stations (Non-Geostationary Orbit).”¹³⁸ “Less complex” NGSO systems are defined as NGSO satellite systems planning to communicate with 20 or fewer U.S. authorized earth stations that are primarily used for Earth Exploration Satellite Service (EESS) and/or Automatic Identification System (AIS).¹³⁹ “Less complex” NGSO fees and “other” NGSO fees were split within the broader NGSO fee category on a 20/80 basis.¹⁴⁰ For FY 2023, we calculate the fees using the allocation of 80% of space

¹³⁶ *FY 2020 NPRM*, 35 FCC Rcd at 4993-95, paras. 39-45.

¹³⁷ *Id.* at 4993, para. 41.

¹³⁸ *FY 2021 NPRM*, 36 FCC Rcd at 8583, para. 6.

¹³⁹ *Id.* at 8583-84, para. 7. EESS is defined under the Commission rules as “a radiocommunication service between earth stations and one or more space stations... in which... information relating to the characteristics of the Earth and its natural phenomena, including data relating to the state of the environment, is obtained from active sensors or passive sensors on Earth satellites...” 47 CFR § 2.1(c).

¹⁴⁰ *FY 2021 Report and Order*, 36 FCC Rcd at 13018-19, para. 58.

station regulatory fees to GSOs and 20% of the space station regulatory fees to NGSOs. We also use the 20/80 allocation between “less complex” and “other” NGSO space station fees, respectively, within the NGSO fee category. Such allocations still accurately reflect the amount of work involved in regulating NGSO systems and the number of reasonably related benefits provided to the payors of each fee category.¹⁴¹

80. In the Report and Order attached to the *FY 2022 NPRM*, we adopted a methodology for calculating the regulatory fee for small satellites and small spacecraft (together, small satellites) within the NGSO fee category based on 1/20th (5%) of the average of the non-small satellite NGSO space station¹⁴² regulatory fee rates from the current fiscal year on a per license basis.¹⁴³ This methodology accommodates fluctuations in the number of NGSO space stations fee payors, continues to provide a middle ground and an opportunity to gain more experience in regulating small satellites, and reflects that FTEs spend approximately twenty times more time on regulating one non-small satellite NGSO system compared to the time spent for regulating one small satellite license.¹⁴⁴

81. Accordingly, in Appendices B and C, we have included the proposed fees for NGSO space stations calculated by assessing the fees that small satellites will pay in FY 2023, reducing that amount from the overall NGSO space stations fee category, and allocating the remaining NGSO space station fees 20/80 using the two fee subcategories: “less complex” NGSO space stations and all other NGSO space stations identified as “other” NGSO space stations.¹⁴⁵ In Appendices B and C, we also propose fees for GSO space stations. We seek comment on these proposed fees.

82. *Spacecraft Performing On-Orbit Servicing (OOS) and Rendezvous and Proximity Operations (RPO)*. In the *FY 2022 NPRM*, we sought comment on adopting regulatory fee categories for spacecraft performing OOS and RPO.¹⁴⁶ Missions, which can include satellite refueling, inspecting and repairing in-orbit spacecraft, capturing and removing debris, and transforming materials through manufacturing while in space, have the potential to benefit all space stations and improve the sustainability of the outer space environment and the space-based services. Due to the somewhat nascent nature of the OOS and RPO, or more generally “in-space servicing” industries, we currently do not have a regulatory fee category for such spacecraft. We noted in the *FY 2022 NPRM* that there have been a limited number of such operations. We tentatively concluded at that time that it was too early to identify exactly where operations, such as those in low-Earth orbit (LEO), might fit into the regulatory fee structure in the future.¹⁴⁷ We accordingly deferred our determination of whether to create a new fee category for such services to a future fiscal year once the regulatory framework under which space stations performing in-space servicing operations, including OOS, RPO, space situational awareness (SSA), and space domain awareness (SDA) operations, and the scope of those operations, is better understood.¹⁴⁸

83. Since the *FY 2022 NPRM*, neither the scope of in-space servicing operations nor the

¹⁴¹ See *FY 2021 NPRM*, 36 FCC Rcd at 8585-87, paras. 11-13; *FY 2020 NPRM*, 35 FCC Rcd at 4993, para. 41; see also *FY 2022 Report and Order*, at paras. 25-34 (discussing that our basis for allocating “other” and “less complex” NGSO fees on an 80/20 basis remains fair).

¹⁴² Space stations are divided into two main categories: (1) geostationary satellite orbit (GSO) space stations and (2) non-geostationary satellite orbit (NGSO) systems.

¹⁴³ *FY 2022 NPRM*, at paras. 21-42.

¹⁴⁴ *Id.* at para. 36.

¹⁴⁵ Appendix B.

¹⁴⁶ *FY 2022 NPRM*, at paras. 45-46.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* at para. 45.

regulatory framework has developed sufficiently to adopt regulatory fee categories at this time. For example, although we expect that most of these operations are likely to ultimately be in NGSO,¹⁴⁹ there will not be any operational OOS or RPO spacecraft in NGSO for FY 2023.¹⁵⁰ For those spacecraft that may conduct such in-space servicing operations in the future, we seek further comment on defining this emerging category of operations for regulatory fee purposes, including whether a separate regulatory fee category is necessary. In response to our *FY 2022 NPRM*, three commenters supported the creation of a new fee category.¹⁵¹ Of those commenters, one suggested that we use the term “in-space servicing” to define services that will fit within the category to correlate the language with the In-Space Servicing, Assembly, and Manufacturing (ISAM) National Strategy and define those services as activities in space “by a servicer spacecraft or servicing agent on a client space object which require rendezvous and/or proximity operations.”¹⁵² Another commenter suggested a definition for OOS missions as spacecraft whose “primary function” is to provide OOS, including concepts of operations such as deployment via orbital transfer vehicle (OTV), hosting, or RPO, and another agreed with such a definition and added that SSA and SDA operations should also be included.¹⁵³ We seek comment on these and additional or different definitions for a potential new fee category. Commenters that favor a new fee category or categories should fully explain the basis for their positions, including how the Commission might identify where these operations might fit into the existing regulatory fee structure and why these operations are distinct from operations classified under other fee categories.¹⁵⁴

¹⁴⁹ *Id.* at para. 46.

¹⁵⁰ Although some commenters in the FY 2022 regulatory fee proceeding suggested that Spaceflight, Inc.’s Sherpa-AC1 spacecraft is an NGSO in-space servicing spacecraft, we do not currently classify it as such but rather as an NGSO spacecraft which deploys other spacecraft. See Comments of Spaceflight, Inc., MD Docket No. 21-190, at 4-6 (filed Jul. 5, 2022); Reply Comments of Astroscale U.S., MD Docket No. 22-223, at 3 (filed Jul. 18, 2022); Reply Comments of Turion Space Corp., MD Docket No. 21-190, at 4 (filed Jul. 18, 2022). In the past, the Satellite Division has noted the similarity of some free-flying spacecraft deployers to the upper stage of a launch vehicle, particularly where the operations of such spacecraft are limited to support for deployment functions. See *Spaceflight, Inc.*, IBFS File No. SAT-STA-20210922-00127, Condition 2 (granted Mar. 2, 2022); *Spaceflight, Inc.*, IBFS File No. SAT-STA-20210812-00098, Condition 2 (granted Dec. 20, 2021); *Spaceflight, Inc.*, IBFS File No. SAT-STA-20210205-00017, Condition 2 (granted May 28, 2021); *Spaceflight, Inc.*, IBFS File No. SAT-STA-20200728-00089, Condition 2 (granted Dec. 10, 2020); *Spaceflight, Inc.*, IBFS File No. SAT-STA-20180523-00042, Condition 2 (granted Oct. 12, 2018); *Spaceflight, Inc.*, IBFS File No. SAT-STA-20150821-00060, Condition 3 (granted Oct. 25, 2016); see also *Orbital Debris Mitigation in the New Space Age*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 4156, 4192-92, paras. 78-79 (2020) (distinguishing between free-flying or separated deployment devices and those deployment devices that may be part of or remain attached to the launch vehicle).

¹⁵¹ See Comments of Spaceflight, Inc., MD Docket No. 21-190, at 3, (filed Jul. 5, 2022); Reply Comments of Astroscale U.S., MD Docket No. 22-223, at 1 (filed Jul. 18, 2022); Reply Comments of Turion Space Corp., MD Docket No. 21-190, at 3 n. 6, 4 n. 9 (filed Jul. 18, 2022).

¹⁵² See *FY 2022 NPRM*, at para. 43; Reply Comments of Astroscale U.S., MD Docket No. 22-223, at 2 (filed Jul. 18, 2022); see also Reply Comments of Spaceflight, Inc., MD Docket No. 22-223, at 4-5 (filed Jul. 18, 2022) (“Spaceflight has used the term “OOS” for purposes of consistency, but with expectation that terminology will be aligned going forward using a more appropriate term such as “in-space” services.”).

¹⁵³ See *FY 2022 NPRM*, at para. 43; Comments of Spaceflight, Inc., MD Docket No. 21-190, at 3 (filed Jul. 5, 2022); Reply Comments of Turion Space Corp., MD Docket No. 21-190, at 5 (filed Jul. 18, 2022).

¹⁵⁴ We also note that the Commission last year adopted a Notice of Inquiry that sought comment on these ISAM missions and their characteristics, and in response to which some commenters have provided input on regulatory fees for these missions. See generally *Space Innovation; Facilitating Capabilities for In-space Servicing, Assembly, and Manufacturing*, IB Docket No. 22-271, IB Docket No. 22-272, Notice of Inquiry, FCC-22-66, (rel. Aug. 8, 2022); see also Comments of The Aerospace Corporation, IB Docket No. 22-272, at 60 (filed Oct. 21, 2022); Comments of Astroscale U.S. Inc., IB Docket No. 22-272, at 30 (filed Nov. 1, 2022); Comments of Atomos Nuclear and Space Corporation, IB Docket No. 22-272, at 7 (filed Oct. 31, 2022); Comments of Spaceflight, Inc. IB Docket (continued....)

84. Some spacecraft conducting satellite servicing have or plan to operate near the GSO arc. To date, we have licensed two spacecraft under part 25 for communications while conducting these types of operations with GSO satellites.¹⁵⁵ These two spacecraft remain operational in FY 2023.¹⁵⁶ Based on our review and experience regulating OOS and RPO spacecraft in GSO, we tentatively conclude that, despite being assigned their own call signs, which is the unit usually used to assess fees for satellite regulatees operating in GSO, such spacecraft appear to operate as part of existing GSO systems, rather than as separate independent spacecraft. Under this tentative conclusion, there is no independent system for a separate fee assessment for these operations near the GSO arc, and the regulatory burden for such operations are included in the fees collected from the regulatory fee payors paying fees for GSO satellites. We seek comment on this tentative conclusion and whether our experience to date may not apply to future operations of OOS and RPO spacecraft, which may operate more independently of the satellites that they will service. For spacecraft conducting OOS and RPO with GSO satellites, identifying whether such spacecraft operations are part of an existing GSO system appears to be the first step in determining whether we should assess a separate fee. We propose to apply the regulatory fee for “Space Stations (Geostationary Orbit)” to OOS and RPO spacecraft operating near the GSO arc, unless we determine that the OOS or RPO spacecraft is operating as part of an existing GSO system and therefore should not be assessed a separate regulatory fee. We seek comment on this approach, as well as on the specific factors that we should consider to determine whether a OOS or RPO spacecraft will operate as part of an existing GSO system for regulatory fee purposes.

6. Digital Equity and Inclusion

85. The Commission, as part of its continuing effort to advance digital equity for all,¹⁵⁷ including people of color, persons with disabilities, persons who live in rural or tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations¹⁵⁸ and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals for collecting regulatory fees for FY 2023 may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission’s relevant legal authority. We note that diversity and equity considerations, however, do not allow the Commission to shift fees from one party of fee payors to another nor to fees under section 9 of the Act for any purpose other than as an offsetting collection in the amount of our annual S&E appropriation.

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No. 22-272, at 4 (filed Oct. 31, 2022); Reply Comments of Astroscale U.S. Inc., IB Docket No. 22-272, at 1, 14 (filed Nov. 28, 2022); Reply Comments of Spaceflight, Inc., IB Docket No. 22-272, at 3 (filed Nov. 28, 2022).

¹⁵⁵ *Space Logistics, LLC*, IBFS File No. SAT-LOA-20191210-00144; Call Sign S3059 (granted Mar. 25, 2020) (MEV-2); *Space Logistics, LLC*, IBFS File No. SAT-LOA-20170224-00021; Call Sign S2990 (granted June 20, 2019) (MEV-1).

¹⁵⁶ *See id.*

¹⁵⁷ Section 1 of the Communications Act provides that the FCC “regulat[es] interstate and foreign commerce in communication by wire and radio so as to make [such service] available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex.” 47 U.S.C. § 151.

¹⁵⁸ The term “equity” is used here consistent with Executive Order 13985 as the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality. *See* Exec. Order No. 13985, 86 Fed. Reg. 7009, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

7. Continuing Flexibility in FY 2023 for Regulatory Fee Payors

86. In FY 2020, the Commission adopted several temporary measures to assist parties experiencing COVID-19 -related financial hardship in seeking regulatory fee relief.¹⁵⁹ The Commission found good cause to continue the temporary measures in FY 2021 and FY 2022.¹⁶⁰ The measures included: (i) waiver of section 1.1166(a) of the Commission's rules to permit parties seeking regulatory fee waiver, reduction and/or deferral for financial hardship reasons to make a single request for all forms of relief sought, rather than requiring separate filings for each form of relief;¹⁶¹ (ii) waiver of section 1.1166(a) to permit requests to be submitted electronically to a dedicated email address, rather than requiring the requests to be filed in paper form with the Commission's Office of Secretary;¹⁶² and (iii) allowing parties seeking installment payment terms to do so by submitting their requests to the same dedicated email address and to combine their installment payment requests with their waiver, reduction, and/or deferral requests in a single filing.¹⁶³

87. The Commission also reduced the interest rate typically charged on installment payments to a nominal rate and waived the down payment normally required before granting an installment payment request.¹⁶⁴ In addition, the Commission partially waived the requirement that parties seeking relief on financial hardship grounds submit with their requests all financial documentation needed to prove financial hardship.¹⁶⁵ This allowed regulatory fee payors experiencing pandemic-related financial hardship to submit additional financial documentation post-filing if necessary to determine whether relief should be granted. The Commission directed the Managing Director to work with individual regulatory fee payors that filed requests if additional documents were needed to render a decision on the request.¹⁶⁶

88. Finally, the Commission allowed debtors barred from filing requests or applications by the Commission's red-light rule and experiencing pandemic-related financial hardship to nonetheless request relief with respect to their regulatory fees.¹⁶⁷ The Commission authorized the Managing Director to partially waive the red light to permit consideration of those requests while requiring those parties to resolve all delinquent debt to the Commission's satisfaction in the process.¹⁶⁸

89. In the Report and Order above, we amended sections 1.1166 and 1.1914 of the Commission's rules.¹⁶⁹ Here, we seek comment on whether any of the remaining temporary measures, described above, should be extended for FY 2023, and if so, why. Specifically, for FY 2023, should the Commission continue to offer a reduced interest rate and waive the down payment for installment payments of regulatory fees? Should we continue our partial waiver of the red light rule to permit delinquent debtors to seek fee relief, conditioned on the debtor's satisfactory resolution of its delinquent

¹⁵⁹ *FY 2020 Report and Order*, 36 FCC Rcd 1731, 1760-1761, paras. 80-84.

¹⁶⁰ *FY 2021 Report and Order*, 36 FCC Rcd at 13024-25, paras. 69-71; *FY 2022 Report and Order*, 2022 WL 4079045, para 105.

¹⁶¹ *FY 2022 Report and Order*, 2022 WL4079045, para. 105; 47 CFR §1.1166(a).

¹⁶² *FY 2022 Report and Order*, 2022 WL4079045, para. 105; 47 CFR §1.1166(a).

¹⁶³ *FY 2022 Report and Order*, 2022 WL4079045, para. 105; 47 CFR §1.1166(a).

¹⁶⁴ *FY 2022 Report and Order*, 2022 WL4079045, para. 105; 47 CFR §1.1166(a).

¹⁶⁵ *FY 2022 Report and Order*, 2022 WL4079045, para. 105; 47 CFR §1.1166(a).

¹⁶⁶ *FY 2022 Report and Order*, 2022 WL4079045, para. 105; 47 CFR §1.1166(a).

¹⁶⁷ *FY 2022 Report and Order*, 2022 WL4079045, para. 105; 47 CFR §1.1166(a). Under the red light rule, the Commission will not act on any application or request for relief if the requesting party has not paid a debt owed to the Commission. 47 CFR §1.1910.

¹⁶⁸ 47 CFR §1.1910.

¹⁶⁹ *Supra*, paras. 16,17.

debt? Should the Commission continue our partial waiver of section 1.1166 to permit a regulatee to submit financial documentation after its request is filed if the Managing Director determines that additional documents are needed to render a decision on the request? Finally, the Commission anticipates that any required OMB review of revised section 1.1914 under the PRA¹⁷⁰ may not conclude in time for parties seeking installment payment relief during the upcoming regulatory fee season to use the streamlined filing process to be codified in the regulation, and we therefore seek comment on whether we should continue the streamlined filing process for installment payment requests as a temporary measure until the revisions to section 1.1914 become effective. Commenters that support extension of any of these temporary measures should explain why extension of any temporary measure is necessary, and in the case of those temporary measures that require a waiver of a Commission rule, why good cause exists for the waiver and why the waiver is in the public interest. We remind commenters that we cannot relax the standard for granting a waiver or deferral of fees, penalties, or other charges for late payment of regulatory fees under section 9A of the Communications Act. Under that statute, the Commission may only waive a regulatory fee, penalty or interest if it finds there is good cause for the waiver and that the waiver is in the public interest.¹⁷¹ The Commission has only granted financial hardship waivers when the requesting party has shown it “lacks sufficient funds to pay the regulatory fees and to maintain its service to the public.”¹⁷² Other statutory limitations include that the Commission must act on waiver requests individually,¹⁷³ and cannot extend the deadline we set for payment of fees beyond September 30.¹⁷⁴

8. Providing Installment Payment Relief to Small Regulatory Fee Payors

90. Several broadcaster groups request that the Commission allow regulatees to prepay their annual regulatory fees in installments, including by prepaying their annual regulatory fees in increments before the annual regulatory fee payment deadline.¹⁷⁵ The broadcasters state that this and other measures would assist in lessening the broadcasters’ regulatory fee burden.¹⁷⁶

91. We start by reminding regulatory fee payors that the Commission has had a robust installment payment program in place for many years, and that many fee payors, especially small fee payors, have availed themselves of the relief installment payment plans provide, enabling repayment of the annual regulatory fee in installments after the payment deadline, without incurring a 25% late payment penalty.¹⁷⁷ The Commission’s existing installment payment program operates pursuant to the requirements of section 901.8 of the Federal Claims Collection Standards (FCCS), which permits installment payment of monies owed to the United States after the due date, where a debtor demonstrates that it is financially unable to pay its fees in lump sum by the due date.¹⁷⁸ While the Commission does not

¹⁷⁰ Paperwork Reduction Act of 1995, Public Law 104-13.

¹⁷¹ 47 U.S.C. § 159A(d).

¹⁷² *FY 2019 Report and Order*, 34 FCC Rcd at 8207, para. 50.

¹⁷³ Section 9 of the Act does not permit the Commission to exempt any group of regulatees, other than those expressly exempted under the statute. 31 U.S.C. § 159(e). Instead, the statute requires a case-by-case determination to waive regulatory fees or related charges. 31 U.S.C. § 159A(d); *FY 2022 Report and Order*, 2022 WL 4079045, para. 106.

¹⁷⁴ 47 U.S.C. § 159(b). September 30 marks the end of the Commission’s fiscal year. The Commission is required to collect the full amount of its appropriation in the offsetting regulatory fee collection for any given fiscal year by the fiscal year end.

¹⁷⁵ *Flick ex parte*.

¹⁷⁶ *Id.*

¹⁷⁷ 31 U.S.C. § 159A(c)(1).

¹⁷⁸ 31 CFR § 901.8. The Federal Claims Collection Standards (FCCS), 31 CFR Parts 901-904, are government-wide rules jointly promulgated by the United States Department of Treasury and the United States Department of Justice governing debt collection procedures pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. §§ 3701, (continued....)

have the authority to waive the required showing of financial inability to pay in lump sum, the Commission has discretion in setting the interest rate to be charged under an installment payment agreement¹⁷⁹ and other repayment terms.¹⁸⁰ In response to the economic effects of the COVID-19 pandemic, in FYs 2020, 2021, and 2022, the Commission substantially reduced the interest rate it customarily charges on installment payment of regulatory fees to a nominal rate and waived its standard down payment requirement,¹⁸¹ and in this proceeding, is seeking comment on whether to extend those measures in FY 2023.¹⁸² We seek comment on whether the Commission should consider other temporary or permanent modifications to its existing installment payment program, bearing in mind the constraints of section 901.8 of the FCCS.

92. We also seek comment on the broadcasters' proposal that they be permitted to prepay their annual regulatory fees in increments, in advance of the annual regulatory fee date. We note here that the Communications Act has long required the Commission to permit installment payment of large regulatory fees.¹⁸³ The Commission has historically interpreted this requirement to mean that large fee payors should be permitted to pay their fees in installments between the time the annual fee amount is established and the annual deadline for paying the fee, making its implementation impractical.¹⁸⁴ We seek comment on whether we should permit prepayment in increments in advance of the release of the annual report and order establishing the fee amounts, and if so, how would such a program work? For instance, how would the regulatory fee payor determine the amount to be prepaid, given that the regulatory fee will not have been established until most, if not all, of the prepayments are made? How would we structure the prepayment terms, for instance, the frequency and size of each prepayment? Would the prepayment option be available to all regulatory fee payors or only certain payors, and if the latter, what criteria would we use to determine eligibility to prepay?

93. Implementation of such a program, particularly if the eligible pool of regulatory fee payors is a large one, would likely require modifications to our recordkeeping, financial operations and accounting systems, as well as additional personnel to administer the program. What concrete benefits would the Commission and its participating regulatees derive from such a program? For instance, if we assume that the principal benefit to a regulatee of prepaying its regulatory fees in increments is in the ability to budget and plan the expenditure, would prepayment in installments be significantly more beneficial than a regulatee regularly setting aside an amount equivalent to the prepayment it would make, in order to pay its upcoming regulatory fee obligation when due and if so, how would it be more beneficial? Would the program's benefit to regulatees justify the Commission's cost of implementing and administering a prepayment by installment program and if so, how?

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et seq. Section 1.1914 of the Commission's rules, 47 CFR § 1.1914, implements the provisions of section 910.8 of the FCCS.

¹⁷⁹ Section 901.9(b) of the FCCS gives agencies discretion to set the interest rate to be charged under an installment agreement. 31 CFR § 901.9(b); 47 CFR § 1.1940.

¹⁸⁰ Section 901.8(b) of the FCCS permits agencies to determine the size and frequency of installment payments and the repayment term, in reasonable relation to the size of the debt and the debtor's ability to pay. 31 CFR § 901.8(b); 47 CFR § 1.1914(b).

¹⁸¹ *FY 2022 Report and Order* at para. 105, *citing FY 2020 Report and Order*, 36 FCC Rcd at 1760-61, paras. 80-84; *FY 2021 Report and Order*, 36 FCC Rcd at 13024-25, paras. 69-71.

¹⁸² *Supra* para. 92.

¹⁸³ 47 U.S.C. § 159A(e) (2018); 47 U.S.C. § 159(f)(2) (1994).

¹⁸⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, Report and Order, 16 FCC Rcd 13525, 13535, para. 34 (2001); *Assessment and Collection of Regulatory Fees for Fiscal Year 2000*, Report and Order, 15 FCC Rcd 14478, 14495, para. 41 (2000).

9. Other Forms of Assistance

94. We seek comment on other ways in which the Commission might assist regulatory fee payors, including small entities such as broadcasters, in meeting their annual regulatory fee obligations. We ask that commenters explain the legal bases for any proposals they make and how such proposals fit within the Commission's statutory authorizations and our existing regulatory fee methodology.

10. New Regulatory Fee Categories

95. Finally, we continue to seek additional comment on "whether we should adopt new regulatory fee categories and on ways to improve our regulatory fee process regarding any and all categories of service."¹⁸⁵

IV. PROCEDURAL MATTERS

96. Included below are procedural items as well as our current payment and collection methods. We include these payments and collection procedures here as a useful way of reminding regulatory fee payers and the public about these aspects of the annual regulatory fee collection process.

97. *Credit Card Transaction Levels.* In accordance with *Treasury Financial Manual*, Volume I, Part 5, Chapter 7000, Section 7045—*Limitations on Card Collection Transactions*, the highest amount that can be charged on a credit card for transactions with federal agencies is \$24,999.99.¹⁸⁶ Transactions greater than \$24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the \$24,999.99 limit. Customers who wish to pay an amount greater than \$24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, Automates Clearing House (ACH) debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in CORES. Further details will be provided regarding payment methods and procedures at the time of FY 2023 regulatory fee collection in Fact Sheets, <https://www.fcc.gov/regfees>.

98. *Payment Methods.* During the fee season for collecting regulatory fees, regulatees can pay their fees by credit card through Pay.gov, ACH, debit card, or by wire transfer. Additional payment instructions are posted on the Commission's website at <https://www.fcc.gov/licensing-databases/fees/wire-transfer>. The receiving bank for all wire payments is the U.S. Treasury, New York, NY (TREAS NYC). Any other form of payment (e.g., checks, cashier's checks, or money orders) will be rejected. For payments by wire, an FCC Form 159-E should still be transmitted via fax so that the Commission can associate the wire payment with the correct regulatory fee information. The fax should be sent to the Commission at (202) 418-2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at <https://www.fcc.gov/licensing->

¹⁸⁵ *FY 2022 NPRM*, 2022 WL 4079045, para. 53; *see also FY 2021 Report and Order*, 36 FCC Rcd at 13026, paras. 73 ("[S]hould the Commission assess regulatory fees on large technology companies based on a different basis, such as any advantages they receive because of the Commission's universal service or other activities?").

¹⁸⁶ *See* Bureau of the Fiscal Service, *Treasury Financial Manual*, <https://tfm.fiscal.treasury.gov/v1/p5/c700.html> (*Treasury Financial Manual*) (last visited Apr. 14, 2023). Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Fiscal Service maximum dollar amount, \$24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards. Also, an amount owed that exceeds the Fiscal Service maximum dollar amount may not be split into two or more transactions over multiple days by using one or more cards.

[databases/fees/wire-transfer.](#)

99. *Standard Fee Calculations and Payment Dates.* The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2022 for AM/FM radio stations, VHF/UHF broadcast television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2022.
- *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2022. In instances where a permit or license is transferred or assigned after October 1, 2022, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.¹⁸⁷ For Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers as well as toll free numbers in any other status as defined in section 52.103 of the Commission's rules.¹⁸⁸ The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2022.
- *Wireless Services:* Commercial Mobile Radio Service (CMRS) cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2022. The number of subscribers, units, or telephone numbers on December 31, 2021 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2022, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireless Services, Multi-year fees:* The first eight regulatory fee categories in our Schedule of Regulatory Fees (first seven in our Calculation of Fees Appendix) pay "small multi-year wireless regulatory fees."¹⁸⁹ Entities pay these regulatory fees in advance for the entire amount period covered by the five-year or ten-year terms of their initial licenses, and pay regulatory fees again only when the license is renewed, or a new license is obtained. We include these fee categories in our rulemaking to publicize our estimates of the number of "small multi-year wireless" licenses that will be renewed or newly obtained in FY 2023.
- *Multichannel Video Programming Distributor (MVPD) Services (cable television operators, Cable Television Relay Service (CARS) licensees, DBS, and IPTV):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2022.¹⁹⁰ Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2022. In instances where a permit or license is transferred or assigned after October 1, 2022,

¹⁸⁷ Audio bridging services are toll teleconferencing services.

¹⁸⁸ 47 CFR § 52.103.

¹⁸⁹ These multiyear licenses are for PLMRS (exclusive), PLMRS (shared), Microwave, Marine (ship), Aviation (aircraft), Marine (coast), and Aviation (ground).

¹⁹⁰ Cable television system operators should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on "a typical day in the last full week" of December 2022, rather than on a count as of December 31, 2022.

responsibility for payment rests with the holder of the permit or license as of the fee due date. For providers of DBS service and IPTV-based MVPDs, regulatory fees should be paid based on a subscriber count on or about December 31, 2022. In instances where a permit or license is transferred or assigned after October 1, 2022, responsibility for payment rests with the holder of the permit or license as of the fee due date.

- *International Services*: Regulatory fees must be paid for earth stations that were licensed (or authorized) on or before October 1, 2022. Regulatory fees must also be paid for Geostationary orbit space stations (GSO) and non-geostationary orbit satellite systems (NGSO), and the two NGSO subcategories “Other” and “Less Complex,” that were licensed and operational on or before October 1, 2022. Licensees of small satellites that were licensed and operational on or before October 1, 2022 must also pay regulatory fees. In instances where a permit or license is transferred or assigned after October 1, 2022, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services (Submarine Cable Systems, Terrestrial and Satellite Services)*: Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on lit circuit capacity as of December 31, 2022. Regulatory fees for terrestrial and satellite IBCs are to be paid based on active (used or leased) international bearer circuits as of December 31, 2022, in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, entities must include circuits used by themselves or their affiliates. For these purposes, “active circuits” include backup and redundant circuits as of December 31, 2022. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits.¹⁹¹ In instances where a permit or license is transferred or assigned after October 1, 2022, responsibility for payment rests with the holder of the permit or license as of the fee due date.

100. *CMRS and Mobile Services Assessments*. The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on “assigned” telephone number (subscriber) counts that have been adjusted for porting to net Type 0 ports (“in” and “out”).¹⁹² We have included non-geographic numbers in the calculation of the number of subscribers for each CMRS provider in Appendix B and the CMRS regulatory fee factor proposed in Appendix C. CMRS provider regulatory fees will be calculated and should be paid based on the inclusion of non-geographic numbers. CMRS providers can adjust the total number of subscribers, if needed. This information of telephone numbers (subscriber count) will be posted on the Commission’s Registration System (CORES) along with the carrier’s Operating Company Numbers (OCNs).

101. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing CORES and following the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation.¹⁹³ The Commission will then review the revised count and supporting explanation, if any, and either approve or disapprove the submission in CORES. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide supporting

¹⁹¹ We encourage terrestrial and satellite service providers to seek guidance from the International Bureau’s Telecommunications and Analysis Division to verify their particular IBC reporting processes to ensure that their calculation methods comply with our rules.

¹⁹² See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, paras. 38-44 (2005) (*FY 2005 Report and Order*).

¹⁹³ In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

documentation. If the Commission receives no response from the provider, or the Commission does not reverse its initial disapproval of the provider's revised count submission, the fee payment must be based on the number of subscribers listed initially in CORES. Once the timeframe for revision has passed,¹⁹⁴ the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in CORES.

102. Because some carriers do not file the NRUF report, they may not see their telephone number counts in CORES. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (i.e., compute their telephone number counts as of December 31, 2022), and submit their fee payment accordingly. Whether a carrier reviews its telephone number counts in CORES or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. In the event that the Commission determines that the number of telephone numbers that are paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

103. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." Accordingly, we have prepared a Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) concerning the possible impact of the rule and/or policy changes contained in the Report and Order accompanying the NPRM on small entities. The Supplemental FRFA is set forth in Appendix J. We have also prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy change proposals on small entities in the Report and Order accompanying the NPRM. The IRFA is set forth in Appendix I.

104. *Paperwork Reduction Act of 1995 Analysis.* This document may contain new or modified information collection requirements subject to the PRA, Public Law 104-13, 44 U.S.C. 3501, *et seq.* All such new or modified information collection requirements will be submitted to OMB for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on any new or modified information collection requirements contained in this proceeding. Additionally, this document may contain non-substantive modifications to approved information collection(s). Any such modifications will be submitted to OMB for review pursuant to OMB's non-substantive modification process. We find that, to the extent sections 1.1166 and 1.1914 of the Commission's regulations involve information collection, such collection will not present a substantial burden for small business concerns with fewer than 25 employees and that any such burdens would be far outweighed by the benefits of those revisions.

105. *Initial Paperwork Reduction Act of 1995 Analysis.* This document may contain proposed [new or modified] information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on any information collection requirements contained in this document, as required by the PRA. 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.

106. *Comment Filing Procedures.* Pursuant to sections 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 the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

¹⁹⁴ The timeframe for revising telephone number counts is set forth in an annual public notice the Commission issues in advance of release of its order establishing regulatory fee amounts for that fiscal year. *See FY 2022 ITSP and CMRS Data is now available for viewing in CORES*, Public Notice (OMB July 20, 2022) (establishing August 17, 2022 as the date by which CMRS providers must submit revisions to their telephone number counts).

107. Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.¹⁹⁵ In the event that the Commission announces the lifting of COVID-19 restrictions, a filing window will be opened at the Commission's office located at 9050 Junction Drive, Annapolis, MD 20701.¹⁹⁶

108. Pursuant to section 1.49 of the Commission's rules, 47 CFR § 1.49, parties to this proceeding must file any documents in this proceeding using the Commission's Electronic Comment Filing System (ECFS): <http://apps.fcc.gov/ecfs/>.

109. *Materials in Accessible Formats.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

110. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. When the FCC Headquarters reopens to the public, these documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554.

111. *Ex Parte Information.* The proceeding initiated by this Notice of Proposed Rulemaking, in which we seek comment on proposals as described above,¹⁹⁷ shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁹⁸ 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) 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 section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules 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.

V. ORDERING CLAUSES

112. Accordingly, IT IS ORDERED that, pursuant to sections 47 U.S.C. §§ 4(i), 4(j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 159, 159A, and 303(r), this Report and Order and Notice of Proposed Rulemaking IS HEREBY ADOPTED.

¹⁹⁵ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

¹⁹⁶ See *Amendment of the Commission's Rules of Practice and Procedure*, Order, 35 FCC Rcd 5450 (OMD 2020).

¹⁹⁷ See *supra* para. 1.

¹⁹⁸ 47 CFR §§ 1.1200 *et seq.*

113. IT IS FURTHER ORDERED that the amendments to section 1.1166 of the Commission's rules, 47 CFR § 1.1166, in this Report and Order SHALL BE EFFECTIVE 30 days after publication in the Federal Register, which will not occur until after the Office of Management and Budget has completed review of these amendments under the PRA. The amendments to section 1.1914 of the Commission's rules, 47 CFR § 1.1914, which may contain new or substantively modified information collection requirements, will not become effective until 30 days after publication of a Public Notice in the Federal Register that the Office of Management and Budget has completed review of any information collection requirements that the Office of Managing Director determines is required under the PRA. The Commission directs the Office of Managing Director to announce the effective date for section 1.1914 by subsequent Public Notice.

114. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order and Notice of Proposed Rulemaking, including the Supplemental Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

**Comments and Reply Comments to the *FY 2022 Notice of Inquiry*
MD Docket No. 22-301**

Comments to NOI

Commenter	Abbreviated Name	Date Filed
ACA Connects—America’s Communications Association	ACA Connects	10/26/22
National Association of Broadcasters	NAB	10/26/22
Satellite Industry Association; SIA Executive Members include: Amazon; The Boeing Company; DIRECTV; EchoStar Corporation; HawkEye 360; Intelsat S.A.; Iridium Communications Inc.; Kratos Defense & Security Solutions; Ligado Networks; Lockheed Martin Corporation; Northrop Grumman; OneWeb; Planet; SES Americom, Inc.; Space Exploration Technologies Corp.; Spire Global Inc.; and Viasat Inc. SIA Associate Members include: ABS US Corp.; The Aerospace Corporation; Artel, LLC; AST & Science; Astranis Space Technologies Corp.; Aurora Insight; Blue Origin; Comtech Telecommunications Corp.; Eutelsat America Corp.; ExoAnalytic Solutions; Hughes Defense and Intelligence Systems Division/Government Solutions; Inmarsat; Kymeta Corporation; Leonardo; Lynk; Omnispace, LLC; OneWeb Technologies; Ovzon; Panasonic Avionics Corporation; Telesat; United Launch Alliance; and XTAR, LLC.	SIA	10/26/22

Reply Comments to NOI

Reply Commenter	Abbreviated Name	Date Filed
AGM CALIFORNIA, INC. AGM NEVADA, LLC ALABAMA MEDIA, LLC COXSWAIN MEDIA, LLC DAVIS BROADCASTING, INC. OF COLUMBUS EQUITY COMMUNICATIONS, LP FLORIDA KEYS MEDIA, LLC GALAXY SYRACUSE LICENSEE LLC GALAXY UTICA LICENSEE LLC GOLDEN ISLES BROADCASTING, LLC GOOD KARMA BRANDS MILWAUKEE, LLC GOOD KARMA BROADCASTING, LLC GULF SOUTH RADIO, INC. HANCOCK COMMUNICATIONS, INC. HEH COMMUNICATIONS, LLC HOLLADAY BROADCASTING OF LOUISIANA, LLC INLAND EMPIRE BROADCASTING CORP. JAM COMMUNICATIONS, INC. KLAX LICENSING, INC. KLOS RADIO HOLDINGS, LLC KPWR RADIO HOLDINGS, LLC KRZZ LICENSING, INC. KWHY-22 BROADCASTING, LLC KXOL LICENSING, INC. KXOS RADIO HOLDINGS, LLC L.M. COMMUNICATIONS, INC. L.M. COMMUNICATIONS OF KENTUCKY, LLC L.M. COMMUNICATIONS OF SOUTH CAROLINA, INC. L.M.N.O.C. BROADCASTING LLC MERIDIAN MEDIA GROUP, LLC MERUELO RADIO HOLDINGS, LLC MISSISSIPPI BROADCASTERS, LLC NEW SOUTH RADIO, INC. NORTHWAY BROADCASTING, LLC PARTNERSHIP RADIO, LLC PATHFINDER COMMUNICATIONS CORPORATION QBS BROADCASTING, LLC REGIONAL RADIO GROUP, LLC SBR BROADCASTING CORPORATION SERGE MARTIN ENTERPRISES, INC. SPANISH BROADCASTING SYSTEM HOLDING COMPANY, INC. TALKING STICK COMMUNICATIONS, L.L.C.	Joint Commenters	11/23/22

THE CROMWELL GROUP, INC. OF ILLINOIS WCMQ LICENSING, INC. WCYQ, INC. WINTON ROAD BROADCASTING CO., LLC WKLC, INC. WLEY LICENSING, INC. WMEG LICENSING, INC. WPAT LICENSING, INC. WPYO LICENSING, INC. WRMA LICENSING, INC. WRXD LICENSING, INC. WSBS LICENSING, INC. WSKQ LICENSING, INC. WSUN LICENSING, INC. WXDJ LICENSING, INC.		
National Association of Broadcasters	NAB	11/25/22
NCTA–The Internet & Television Association	NCTA	11/25/22
WISPA – <i>Broadband Without Boundaries</i>	WISPA	11/25/22
Alabama Broadcasters Association; Alaska Broadcasters Association; Arizona Broadcasters Association; Arkansas Broadcasters Association; California Broadcasters Association; Colorado Broadcasters Association; Connecticut Broadcasters Association; Florida Association of Broadcasters; Georgia Association of Broadcasters; Hawaii Association of Broadcasters; Idaho State Broadcasters Association; Illinois Broadcasters Association; Indiana Broadcasters Association; Iowa Broadcasters Association; Kansas Association of Broadcasters; Kentucky Broadcasters Association; Louisiana Association of Broadcasters; Maine Association of Broadcasters; MD/DC/DE Broadcasters Association; Massachusetts Broadcasters Association; Michigan Association of Broadcasters; Minnesota Broadcasters Association; Mississippi Association of Broadcasters; Missouri Broadcasters Association; Montana Broadcasters Association; Nebraska Broadcasters Association; Nevada Broadcasters Association; New Hampshire Association of Broadcasters; New Jersey Broadcasters Association; New Mexico Broadcasters Association; The New York State Broadcasters Association; Inc., North Carolina Association of Broadcasters; North Dakota Broadcasters Association; Ohio Association of Broadcasters; Oklahoma Association of Broadcasters; Oregon Association of Broadcasters; Pennsylvania Association of Broadcasters; Radio Broadcasters Association of Puerto Rico; Rhode Island Broadcasters Association; South Carolina Broadcasters Association; South Dakota	State Associations	11/25/22

Broadcasters Association; Tennessee Association of Broadcasters; Texas Association of Broadcasters; Utah Broadcasters Association; Vermont Association of Broadcasters; Virginia Association of Broadcasters; Washington State Association of Broadcasters; West Virginia Broadcasters Association; Wisconsin Broadcasters Association; and Wyoming Association of Broadcasters		
CTIA	CTIA	11/25/22

APPENDIX B

Calculation of FY 2023 Revenue Requirements and Pro-Rata Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	FY 2023 Payment Units	Yrs	FY 2022 Revenue Estimate	Pro-Rated FY 2023 Revenue Require- ment	Computed FY 2023 Regulatory Fee	Rounded FY 2023 Reg. Fee	Expected FY 2023 Revenue
PLMRS (Exclusive Use)	1,200	10	187,500	300,000	25.00	25	300,000
PLMRS (Shared use)	19,000	10	1,250,000	1,900,000	10.00	10	1,900,000
Microwave	16,000	10	4,500,000	4,000,000	25.00	25	4,000,000
Marine (Ship)	7,000	10	1,035,000	1,050,000	15.00	15	1,050,000
Aviation (Aircraft)	4,800	10	420,000	480,000	10.00	10	480,000
Marine (Coast)	240	10	84,000	96,000	40.00	40	96,000
Aviation (Ground)	300	10	70,000	60,000	20.00	20	60,000
AM Class A ¹	60	1	326,740	290,040	4,834	4,835	290,100
AM Class B ¹	1,403	1	4,054,050	3,598,533	2,565	2,565	3,598,695
AM Class C ¹	814	1	1,450,360	1,288,345	1,583	1,585	1,290,190
AM Class D ¹	1,373	1	4,793,460	4,256,627	3,100	3,100	4,256,300
FM Classes A, B1 & C3 ¹	3,043	1	10,109,400	8,977,008	2,950	2,950	8,976,850
FM Classes B, C, C0, C1 & C2 ¹	3,111	1	12,378,460	10,992,387	3,533	3,535	10,997,385
AM Construction Permits ²	5	1	3,450	3,100	620	620	3,100
FM Construction Permits ²	16	1	19,360	17,360	1,085	1,085	17,360
Digital Television ⁵ (including Satellite TV)	3.265 billion population	1	28,897,591	25,463,155	.00779893	.007799	25,463,387
Digital TV Construction Permits ²	4	1	20,840	20,400	5,100	5,100	20,400
LPTV/Class A/Translators FM Trans/Boosters	6,325	1	1,858,440	1,647,933	261	260	1,644,500
CARS Stations	120	1	230,175	208,818	1,740	1,740	208,800
Cable TV Systems, including IPTV & DBS	56,000,000	1	76,475,000	69,369,400	1.2387	1.24	69,440,000
Interstate Telecommunication Service Providers	\$26,100,000,000	1	124,597,500	134,784,350	0.005164	0.00516	134,676,000
Toll Free Numbers	34,500,000	1	4,164,000	4,631,251	0.1342	0.13	4,485,000
CMRS Mobile Services (Cellular/Public Mobile)	545,000,000	1	74,900,000	86,287,694	0.1583	0.16	87,200,000
CMRS Messaging Services	1,300,000	1	120,000	104,000	0.0800	0.080	104,000
BRS/ ³	1,195	1	716,625	836,500	700	700	836,500

Fee Category	FY 2023 Payment Units	Yrs	FY 2022 Revenue Estimate	Pro-Rated FY 2023 Revenue Require- ment	Computed FY 2023 Regulatory Fee	Rounded FY 2023 Reg. Fee	Expected FY 2023 Revenue
LMDS	360	1	204,750	252,000	700	700	252,000
Per Gbps circuit Int'l Bearer Circuits Terrestrial (Common & Non-Common) & Satellite (Common & Non- Common)	17,000	1	468,000	430,862	25.34	25	425,000
Submarine Cable Providers (See chart at bottom of Appendix C) ⁴	67.00	1	8,822,138	8,186,376	122,185	122,185	8,186,395
Earth Stations	2,900	1	1,783,500	1,658,901	572	570	1,653,000
Space Stations (Geostationary)	139	1	17,143,565	15,908,562	117,841	117,840	15,908,400
Space Stations (Non- Geostationary, Other)	9	1	3,380,200	3,114,764	346,085	346,085	3,114,765
Space Stations (Non- Geostationary, Less Complex)	6	1	845,040	778,691	129,782	129,780	778,680
Space Stations (Non- Geostationary, Small Satellite)	5	1	60,725	83,685	11,955	11,955	83,685
***** Total Estimated Revenue to be Collected			385,369,869	389,887,198			391,796,260
***** Total Revenue Requirement			381,950,000	390,192,000			390,192,000
Difference			3,419,869	(304,802)			1,604,260

Notes on Appendix B

¹ The fee amounts listed in the column entitled “Rounded New FY 2023 Regulatory Fee” constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2023 regulatory fees for AM/FM radio station are listed on a grid located at the end of Appendix C.

² The AM and FM Construction Permit revenues and the Digital (VHF/UHF) Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service based on the threshold 10,001 – 25,000, the traditional basis for identifying the lowest licensed fee. Reductions in the Digital (VHF/UHF) Construction Permit revenues, and in the AM and FM Construction Permit revenues, were offset by increases in the revenue totals for Digital television stations by market size, and in the AM and FM radio stations by class size and population served, respectively.

³ The MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1,*

21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, para. 6 (2004).

⁴ The chart at the end of Appendix C lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) and *Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, Second Report and Order, 24 FCC Rcd 4208 (2009). The Submarine Cable fee in Appendix B is a weighted average of the various fee payers in the chart at the end of Appendix C.

⁵ The actual digital television regulatory fees to be paid by call sign are identified in Appendix G.

APPENDIX C

FY 2023 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. \$s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25
Microwave (per license) (47 CFR part 101)	25
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	40
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) (Includes Non-Geographic telephone numbers)	.16
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)	700
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	700
AM Radio Construction Permits	620
FM Radio Construction Permits	1,085
AM and FM Broadcast Radio Station Fees	See Table Below
Digital TV (47 CFR part 73) VHF and UHF Commercial Fee Factor	\$.007799 See Appendix G for fee amounts due, also available at https://www.fcc.gov/licensing-databases/fees/regulatory-fees
Digital TV Construction Permits	5,100
Low Power TV, Class A TV, TV/FM Translators & FM Boosters (47 CFR	260

Fee Category	Annual Regulatory Fee (U.S. \$s)
part 74)	
CARS (47 CFR part 78)	1,740
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV and Direct Broadcast Satellite (DBS)	1.24
Interstate Telecommunication Service Providers (per revenue dollar)	.00516
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.13
Earth Stations (47 CFR part 25)	570
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	117,840
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Other)	346,085
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Less Complex)	129,780
Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)	11,955
International Bearer Circuits - Terrestrial/Satellites (per Gbps circuit)	\$25
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2023 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
<=10,000	\$595	\$430	\$370	\$410	\$650	\$745
10,001 - 25,000	\$990	\$715	\$620	\$680	\$1,085	\$1,240
25,001 – 75,000	\$1,485	\$1,075	\$930	\$1,020	\$1,630	\$1,860
75,001 – 150,000	\$2,230	\$1,610	\$1,395	\$1,530	\$2,440	\$2,790
150,001 – 500,000	\$3,345	\$2,415	\$2,095	\$2,300	\$3,665	\$4,190
500,001 – 1,200,000	\$5,010	\$3,620	\$3,135	\$3,440	\$5,490	\$6,275
1,200,001 – 3,000,000	\$7,525	\$5,435	\$4,710	\$5,170	\$8,245	\$9,425
3,000,001 – 6,000,000	\$11,275	\$8,145	\$7,060	\$7,745	\$12,360	\$14,125
>6,000,000	\$16,920	\$12,220	\$10,595	\$11,620	\$18,545	\$21,190

FY 2023 International Bearer Circuits - Submarine Cable Systems

Submarine Cable Systems (capacity as of December 31, 2022)	Fee Ratio	FY 2023 Regulatory Fees
Less than 50 Gbps	.0625 Units	\$7,640
50 Gbps or greater, but less than 250 Gbps	.125 Units	\$15,275
250 Gbps or greater, but less than 1,500 Gbps	.25 Units	\$30,550
1,500 Gbps or greater, but less than 3,500 Gbps	.5 Units	\$61,095
3,500 Gbps or greater, but less than 6,500 Gbps	1.0 Unit	\$122,185
6,500 Gbps or greater	2.0 Units	\$244,370

APPENDIX D

Sources of Payment Unit Estimates for FY 2023

In order to calculate individual service fees for FY 2023, we adjusted FY 2022 payment units for each service to more accurately reflect expected FY 2023 payment liabilities. We obtained our updated estimates through a variety of means and sources. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections, where available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS), Licensing and Management System (LMS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast*.

Regulatory fee payment units are not all the same for all fee categories. For most fee categories, the term "units" reflect licenses or permits that have been issued, but for other fee categories, the term "units" reflect quantities such as subscribers, population counts, circuit counts, telephone numbers, and revenues. As more current data is received after the *Notice of Proposed Rulemaking (NPRM)* is released, the Commission sometimes adjusts the NPRM fee rates to reflect the new information in the *Report and Order*. This is intended to make sure that the fee rates in the *Report and Order* reflect more recent and accurate information. We realize that by adjusting the unit counts as more accurate information is received may adjust the fee rates for certain regulatory fee categories. Certain entities that collect the fees from customers in advance in order to pay the Commission, such as Cable and DBS companies, ITSP providers, Cell Phone and Toll-Free providers, to name a few, may need to adjust their billings to customers as the Commission adjusts its fee rates. As a result, the Commission understands that these adjustments are necessary so that these regulatees can recover their fee obligations from their customers.

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2023 estimates with actual FY 2022 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 2023 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 2023 payment units are based on FY 2022 actual payment units, it does not necessarily mean that our FY 2023 projection is exactly the same number as in FY 2022. We have either rounded the FY 2023 number or adjusted it slightly to account for these variables.

FEE CATEGORY	SOURCES OF PAYMENT UNIT ESTIMATES
Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed	Based on Wireless Telecommunications Bureau (WTB) information as well as prior year payment information. Estimates have been adjusted to take into consideration the licensing of portions of these services.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 2022 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 2022 payment data.
AM/FM Radio Stations	Based on downloaded LMS data, adjusted for exemptions, and actual FY 2022 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on LMS data, fee rate adjusted for exemptions, and population figures are calculated based on individual station

	parameters.
AM/FM/TV Construction Permits	Based on LMS data, adjusted for exemptions, and actual FY 2022 payment units.
LPTV, Translators and Boosters, Class A Television	Based on LMS data, adjusted for exemptions, and actual FY 2022 payment units.
BRS (formerly MDS/MMDS)LMDS	Based on WTB reports and actual FY 2022 payment units. Based on WTB reports and actual FY 2022 payment units.
Cable Television Relay Service (CARS) Stations	Based on cable trend data, data from the Media Bureau's COALS database, and actual FY 2022 payment units.
Cable Television System Subscribers, Including IPTV Subscribers	Based on publicly available data sources for estimated subscriber counts, trend information from past payment data, and actual FY 2022 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499-A worksheets due in April 2023, and any data assistance provided by the Wireline Competition Bureau.
Earth Stations	Based on International Bureau licensing data and actual FY 2022 payment units.
Space Stations (GSOs & NGSOs)	Based on International Bureau data reports and actual FY 2022 payment units.
International Bearer Circuits	Based on assistance provided by the International Bureau, any data submissions by licensees, adjusted as necessary, and actual FY 2022 payment units.
Submarine Cable Licenses	Based on International Bureau license information, and actual FY 2022 payment units.

APPENDIX E

Factors, Measurements, and Calculations that Determine Station Signal Contours and Associated Population Coverages

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @ 1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

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

APPENDIX F

Satellite Charts for FY 2023 Regulatory Fees

U.S.-Licensed Space Stations

<u>LICENSEE</u>	<u>CALL SIGN</u>	<u>SATELLITE NAME</u>	<u>TYPE</u>
DIRECTV Enterprises, LLC	S2922	SKY-B1	GSO
DIRECTV Enterprises, LLC	S2640	DIRECTV T11	GSO
DIRECTV Enterprises, LLC	S2711	DIRECTV RB-1	GSO
DIRECTV Enterprises, LLC	S2632	DIRECTV T8	GSO
DIRECTV Enterprises, LLC	S2669	DIRECTV T9S	GSO
DIRECTV Enterprises, LLC	S2641	DIRECTV T10	GSO
DIRECTV Enterprises, LLC	S2797	DIRECTV T12	GSO
DIRECTV Enterprises, LLC	S2930	DIRECTV T15	GSO
DIRECTV Enterprises, LLC	S2673	DIRECTV T5	GSO
DIRECTV Enterprises, LLC	S2133	SPACEWAY 2	GSO
DIRECTV Enterprises, LLC	S3039	DIRECTV T16	GSO
DISH Operating L.L.C.	S2931	ECHOSTAR 18	GSO
DISH Operating L.L.C.	S2738	ECHOSTAR 11	GSO
DISH Operating L.L.C.	S2694	ECHOSTAR 10	GSO
DISH Operating L.L.C.	S2740	ECHOSTAR 7	GSO
DISH Operating L.L.C.	S2790	ECHOSTAR 14	GSO
EchoStar Satellite Operating Corporation	S2811	ECHOSTAR 15	GSO
EchoStar Satellite Operating Corporation	S2844	ECHOSTAR 16	GSO
EchoStar Satellite Services L.L.C.	S2179	ECHOSTAR 9	GSO
ES 172 LLC	S2610	EUTELSAT 174A	GSO
ES 172 LLC	S3021	EUTELSAT 172B	GSO
Horizon-3 Satellite LLC	S2947	HORIZONS-3e	GSO
Hughes Network Systems, LLC	S2663	SPACEWAY 3	GSO
Hughes Network Systems, LLC	S2834	ECHOSTAR 19	GSO
Hughes Network Systems, LLC	S2753	ECHOSTAR XVII	GSO
Intelsat License LLC/ViaSat, Inc.	S2160	GALAXY 28	GSO
Intelsat License LLC	S2414	INTELSAT 10-02	GSO
Intelsat License LLC	S2972	INTELSAT 37e	GSO
Intelsat License LLC	S2854	NSS-7	GSO
Intelsat License LLC	S2409	INTELSAT 905	GSO
Intelsat License LLC	S2405	INTELSAT 901	GSO
Intelsat License LLC	S2408	INTELSAT 904	GSO
Intelsat License LLC	S2804	INTELSAT 25	GSO
Intelsat License LLC	S2959	INTELSAT 35e	GSO
Intelsat License LLC	S2237	INTELSAT 11	GSO
Intelsat License LLC	S2785	INTELSAT 14	GSO
Intelsat License LLC	S2380	INTELSAT 9	GSO
Intelsat License LLC	S2831	INTELSAT 23	GSO

Intelsat License LLC	S2915	INTELSAT 34	GSO
Intelsat License LLC	S2863	INTELSAT 21	GSO
Intelsat License LLC	S2750	INTELSAT 16	GSO
Intelsat License LLC	S2715	GALAXY 17	GSO
Intelsat License LLC	S2154	GALAXY 25	GSO
Intelsat License LLC	S2253	GALAXY 11	GSO
Intelsat License LLC	S2381	GALAXY 3C	GSO
Intelsat License LLC	S2887	INTELSAT 30	GSO
Intelsat License LLC	S2924	INTELSAT 31	GSO
Intelsat License LLC	S2647	GALAXY 19	GSO
Intelsat License LLC	S2687	GALAXY 16	GSO
Intelsat License LLC	S2733	GALAXY 18	GSO
Intelsat License LLC	S2385	GALAXY 14	GSO
Intelsat License LLC	S2386	GALAXY 13	GSO
Intelsat License LLC	S2422	GALAXY 12	GSO
Intelsat License LLC	S2387	GALAXY 15	GSO
Intelsat License LLC	S2704	INTELSAT 5	GSO
Intelsat License LLC	S2817	INTELSAT 18	GSO
Intelsat License LLC	S2850	INTELSAT 19	GSO
Intelsat License LLC	S2368	INTELSAT 1R	GSO
Intelsat License LLC	S2789	INTELSAT 15	GSO
Intelsat License LLC	S2423	HORIZONS 2	GSO
Intelsat License LLC	S2846	INTELSAT 22	GSO
Intelsat License LLC	S2847	INTELSAT 20	GSO
Intelsat License LLC	S2948	INTELSAT 36	GSO
Intelsat License LLC	S2814	INTELSAT 17	GSO
Intelsat License LLC	S2410	INTELSAT 906	GSO
Intelsat License LLC	S2406	INTELSAT 902	GSO
Intelsat License LLC	S2939	INTELSAT 33e	GSO
Intelsat License LLC	S2382	INTELSAT 10	GSO
Intelsat License LLC	S2751	NEW DAWN	GSO
Intelsat License LLC	S3023	INTELSAT 39	GSO
Ligado Networks Subsidiary, LLC	S2358	SKYTERRA-1	GSO
Ligado Networks Subsidiary, LLC	AMSC-1	MSAT-2	GSO
Novavision Group, Inc.	S2861	DIRECTV KU-79W	GSO
Satellite CD Radio LLC	S2812	FM-6	GSO
SES Americom, Inc.	S2415	NSS-10	GSO
SES Americom, Inc.	S2162	AMC-3	GSO
SES Americom, Inc.	S2347	AMC-6	GSO
SES Americom, Inc.	S2826	SES-2	GSO
SES Americom, Inc.	S2807	SES-1	GSO
SES Americom, Inc.	S2892	SES-3	GSO
SES Americom, Inc.	S2180	AMC-15	GSO

SES Americom, Inc.	S2445	AMC-1	GSO
SES Americom, Inc.	S2135	AMC-4	GSO
SES Americom, Inc.	S2713	AMC-18	GSO
SES Americom, Inc.	S2433	AMC-11	GSO
SES Americom, Inc./Alascom, Inc.	S2379/S3138	AMC-8/SES-22	GSO
Sirius XM Radio Inc.	S2710	FM-5	GSO
Sirius XM Radio Inc.	S3034/S2617/S2616	XM-8/XM-3/XM-4	GSO
Skynet Satellite Corporation	S2933	TELSTAR 12V	GSO
Skynet Satellite Corporation	S2357	TELSTAR 11N	GSO
ViaSat, Inc.	S2747	VIASAT-1	GSO
XM Radio LLC	S2786/S3033	XM-5/XM-7	GSO

Non-U.S.-Licensed Space Stations – Market Access Through Petition for Declaratory Ruling

<u>LICENSEE</u>	<u>CALL SIGN</u>	<u>SATELLITE COMMON NAME</u>	<u>SATELLITE TYPE</u>
ABS Global Ltd.	S2987	ABS-3A	GSO
Avanti Hylas 2 Ltd.	S3130	HYLAS-4	GSO
DBSD Services Ltd	S2651	DBSD G1	GSO
Empresa Argentina de Soluciones Satelitales S.A.	S2956	ARSAT-2	GSO
Eutelsat S.A.	S3031	EUTELSAT 133 WEST A	GSO
Eutelsat S. A.	S3056	EUTELSAT 8 WEST B	GSO
Eutelsat S.A.	S3055	EUTELSAT 139 WEST A	GSO
Gamma Acquisition L.L.C.	S2633	TerreStar 1	GSO
Hispanar Satélites, S.A.	S2793	AMAZONAS-2	GSO
Hispanar Satélites, S.A.	S2886	AMAZONAS-3	GSO
Hispasat, S.A.	S2969	HISPASAT 30W-6	GSO
Inmarsat PLC	S2932	Inmarsat-4 F3	GSO
Inmarsat PLC	S2949	Inmarsat-3 F5	GSO
New Skies Satellites B.V.	S2756	NSS-9	GSO
New Skies Satellites B.V.	S2870	SES-6	GSO
New Skies Satellites B.V.	S3048	NSS-6	GSO
New Skies Satellites B.V.	S2828	SES-4	GSO
New Skies Satellites B.V.	S2950	SES-10	GSO
Satelites Mexicanos, S.A. de C.V.	S2695	EUTELSAT 113 WEST A	GSO
Satelites Mexicanos, S.A. de C.V.	S2926	EUTELSAT 117 WEST B	GSO
Satelites Mexicanos, S.A. de C.V.	S2938	EUTELSAT 115 WEST B	GSO
Satelites Mexicanos, S.A. de C.V.	S2873	EUTELSAT 117 WEST A	GSO
SES Satellites (Gibraltar) Ltd.	S2676	AMC 21	GSO
SES Americom, Inc.	S3037	NSS-11	GSO
SES Americom, Inc.	S2964	SES-11	GSO
SES DTH do Brasil Ltda	S2974	SES-14	GSO

SES Satellites (Gibraltar) Ltd.	S2951	SES-15	GSO
SES-17 S.a.r.l.	S3043	SES-17	GSO
Embratel Tvsat Telecomunicacoes S.A.	S2678	STAR ONE C2	GSO
Embratel Tvsat Telecomunicacoes S.A.	S2845	STAR ONE C3	GSO
Telesat Brasil Capacidade de Satelites Ltda.	S2821	ESTRELA DO SUL 2	GSO
Telesat Canada	S2745	ANIK F1	GSO
Telesat Canada	S2674	ANIK F1R	GSO
Telesat Canada	S2703	ANIK F3	GSO
Telesat Canada	S2646/S2472	ANIK F2	GSO
Telesat International Ltd.	S2955	TELSTAR 19 VANTAGE	GSO
Viasat, Inc.	S2902	VIASAT-2	GSO

Non-U.S.-Licensed Space Stations - Market Access Through Earth Station Licenses

<u>ITU Name (if available)</u>	<u>Common Name</u>	<u>Call Sign</u>	<u>GSO/NGSO</u>
APSTAR VI	APSTAR 6	M292090	GSO
AUSSAT B 152E	OPTUS D2	M221170	GSO
Ciel Satellite Group	Ciel-2	E050029	GSO
Eutelsat 65 West A	Eutelsat 65 West A	E160081	GSO
INMARSAT 4F1	INMARSAT 4F1	KA25	GSO
INMARSAT 5F2	INMARSAT 5F2	E120072	GSO
INMARSAT 5F3	INMARSAT 5F3	E150028	GSO
JCSAT-2B	JCSAT-2B	M174163	GSO
NIMIQ 5	NIMIQ 5	E080107	GSO
QUETZSAT-1(MEX)	QUETZSAT-1	NUS1101	GSO
Superbird C2	Superbird C2	M334100	GSO
WILDBLUE-1	WILDBLUE-1	E040213	GSO

Non-Geostationary Space Stations (NGSO)

U.S.-Licensed NGSO Systems

<u>ITU Name (if available)</u>	<u>Common Name</u>	<u>Call Sign</u>	<u>NGSO</u>
ORBCOMM License Corp	ORBCOMM	S2103	Other
Iridium Constellation LLC	IRIDIUM	S2110	Other
Space Exploration Holdings, LLC	SPACEX Ku/Ka-Band	S2983/S3018	Other
Swarm Technologies	SWARM	S3041	Other
Planet Labs	Flock/Skysats	S2912	Less Complex
Maxar License	WorldView 1,2 & 3, GeoEye-1	S2129/S2348	Less Complex
BlackSky Global	Global	S3032	Less Complex

Astro Digital U.S., Inc.	LANDMAPPER	S3014	Less Complex
Hawkeye 360	HE360	S3042	Less Complex
Spaceflight, Inc.	Sherpa-AC1	S3133	Less Complex

Non-U.S.-Licensed NGSO Systems – Market Access Through Petition for Declaratory Ruling

<u>ITU Name (if available)</u>	<u>Common Name</u>	<u>Call Sign</u>	<u>NGSO</u>
Telesat Canada	TELESAT Ku/Ka-Band	S2976	Other
Kepler Communications, Inc.	KEPLER	S2981	Other
WorldVu Satellites Ltd.	ONEWEB	S2963	Other
Myriota Pty. Ltd	MYRIOTA	S3047	Other
O3b Ltd.	O3b	S2935	Other

NGSO Systems that Are Partly U.S.-Licensed and Partly Non-U.S.-Licensed with Market Access Through Petition for Declaratory Ruling

<u>ITU Name (if available)</u>	<u>Common Name</u>	<u>Call Sign</u>	<u>NGSO</u>
Globalstar License LLC	GLOBALSTAR	S2115	Other
Spire Global	LEMUR & MINAS	S2946/S3045	Less Complex

NGSO Systems Licensed Under the Streamlined Small Satellite Rules

<u>ITU Name (if available)</u>	<u>Common Name</u>	<u>Call Sign</u>	<u>NGSO</u>
Capella Space Corp.	Capella-2, Capella-3, Capella-4	S3073	Small Satellite
Capella Space Corp.	Capella-5, Capella-6	S3080	Small Satellite
Capella Space Corp.	Capella -7, Capella-8	S3100	Small Satellite
Loft Orbital Solutions Inc.	YAM-3	S3072	Small Satellite
R2 Space, Inc.	XR-1	S3067	Small Satellite
ICEYE US, Inc.	ICEYE	S3082	Small Satellite
Umbra Lab Inc.	Umbra SAR	S3095	Small Satellite

APPENDIX G

FY 2023 Full-Service Broadcast Television Stations by Call Sign

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
3246	KAAB-TV	955,391	879,906	\$ 6,862
18285	KAAL	589,502	568,169	\$ 4,431
11912	KAAS-TV	220,262	219,922	\$ 1,715
56528	KABB	2,474,296	2,456,689	\$ 19,160
282	KABC-TV	17,540,791	16,957,292	\$ 132,250
1236	KACV-TV	372,627	372,330	\$ 2,904
33261	KADN-TV	877,965	877,965	\$ 6,847
8263	KAET-TV	138,085	122,808	\$ 958
2728	KAET	4,217,217	4,184,386	\$ 32,634
2767	KAFT	1,204,376	1,122,928	\$ 8,758
62442	KAID	711,035	702,721	\$ 5,481
4145	KAIL-TV	188,810	165,396	\$ 1,290
67494	KAIL	1,947,635	1,914,765	\$ 14,933
13988	KAIT	605,456	596,232	\$ 4,650
40517	KAJB	383,886	383,195	\$ 2,989
65522	KAKE	803,937	799,254	\$ 6,233
804	KAKM	380,240	379,105	\$ 2,957
148	KAKW-DT	2,615,956	2,531,813	\$ 19,746
51598	KALB-TV	943,307	942,043	\$ 7,347
51241	KALO	954,557	910,409	\$ 7,100
40820	KAMC	390,519	390,487	\$ 3,045
8523	KAMR-TV	366,476	366,335	\$ 2,857
65301	KAMU-TV	346,892	342,455	\$ 2,671
2506	KAPP	319,797	283,944	\$ 2,214
3658	KARD	703,234	700,887	\$ 5,466
23079	KARE	3,868,806	3,861,502	\$ 30,116
33440	KARK-TV	1,212,038	1,196,196	\$ 9,329
37005	KARZ-TV	1,113,486	1,095,224	\$ 8,542

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
32311	KASA-TV	1,161,837	1,119,457	\$ 8,731
41212	KASN	1,175,627	1,159,721	\$ 9,045
7143	KASW	4,174,437	4,160,497	\$ 32,448
55049	KASY-TV	1,145,133	1,100,391	\$ 8,582
33471	KATC	1,348,897	1,348,897	\$ 10,520
13813	KATN	97,466	97,128	\$ 758
21649	KATU	3,030,547	2,881,993	\$ 22,477
33543	KATV	1,257,777	1,234,933	\$ 9,631
50182	KAUT-TV	1,637,333	1,636,330	\$ 12,762
21488	KAUU	381,413	380,355	\$ 2,966
6864	KAUZ-TV	381,671	379,435	\$ 2,959
73101	KAVU-TV	319,618	319,484	\$ 2,492
49579	KAWB	186,919	186,845	\$ 1,457
49578	Kawe	136,033	133,937	\$ 1,045
58684	KAYU-TV	809,464	750,766	\$ 5,855
29234	KAZA-TV	14,973,535	13,810,130	\$ 107,705
17433	KAZD	6,776,778	6,774,172	\$ 52,832
1151	KAZQ	1,097,010	1,084,327	\$ 8,457
35811	KAZT-TV	436,925	359,273	\$ 2,802
4148	KBAK-TV	1,510,400	1,263,910	\$ 9,857
16940	KBCA	479,260	479,219	\$ 3,737
53586	KBCB	1,323,222	1,295,924	\$ 10,107
69619	KBCW	8,227,562	7,375,199	\$ 57,519
22685	KBDI-TV	4,042,177	3,683,394	\$ 28,727
56384	KBEH	17,736,497	17,695,306	\$ 138,006
65395	KBFD-DT	953,207	834,341	\$ 6,507
169030	KBGS-TV	159,269	156,802	\$ 1,223
61068	KBHE-TV	140,860	133,082	\$ 1,038
48556	KBIM-TV	205,701	205,647	\$ 1,604
29108	KBIN-TV	912,921	911,725	\$ 7,111
33658	KBJR-TV	275,585	271,298	\$ 2,116

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
83306	KBLN-TV	297,384	134,927	\$ 1,052
63768	KBLR	1,964,979	1,915,861	\$ 14,942
53324	KBME-TV	123,571	123,485	\$ 963
10150	KBMT	767,572	766,414	\$ 5,977
22121	KBMY	119,993	119,908	\$ 935
49760	KBOI-TV	715,191	708,374	\$ 5,525
55370	KBRR	149,869	149,868	\$ 1,169
66414	KBSD-DT	155,012	154,891	\$ 1,208
66415	KBSH-DT	102,781	100,433	\$ 783
19593	KBSI	756,501	754,722	\$ 5,886
66416	KBSL-DT	49,814	48,483	\$ 378
4939	KBSV	1,352,166	1,262,708	\$ 9,848
62469	KBTC-TV	3,697,981	3,621,965	\$ 28,248
61214	KBTB-TV	734,008	734,008	\$ 5,725
6669	KBTX-TV	4,404,648	4,401,048	\$ 34,324
35909	KBVO	1,498,015	1,312,360	\$ 10,235
58618	KBVU	135,249	120,827	\$ 942
6823	KBYU-TV	2,389,548	2,209,060	\$ 17,228
33756	KBZK	123,523	109,131	\$ 851
21422	KCAL-TV	17,499,483	16,889,157	\$ 131,719
11265	KCAU-TV	714,315	706,224	\$ 5,508
14867	KCBA	3,088,394	2,369,803	\$ 18,482
27507	KCBD	414,804	414,091	\$ 3,229
9628	KCBS-TV	17,853,152	16,656,778	\$ 129,906
49750	KCBY-TV	89,156	73,211	\$ 571
33710	KCCI	1,109,952	1,102,514	\$ 8,599
9640	KCCW-TV	284,280	276,935	\$ 2,160
63158	KCDO-TV	2,798,103	2,650,225	\$ 20,669
62424	KCDT	698,389	657,101	\$ 5,125
83913	KCEB	417,491	417,156	\$ 3,253
57219	KCEC	3,831,192	3,613,287	\$ 28,180

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
10245	KCEN-TV	1,795,767	1,757,018	\$ 13,703
13058	KCET	17,129,650	15,689,832	\$ 122,365
18079	KCFW-TV	177,697	140,192	\$ 1,093
132606	KCGE-DT	123,930	123,930	\$ 967
60793	KCHF	1,118,671	1,085,205	\$ 8,464
33722	KCIT	382,477	381,818	\$ 2,978
62468	KCKA	953,680	804,362	\$ 6,273
41969	KCLO-TV	138,413	132,157	\$ 1,031
47903	KCNC-TV	3,794,400	3,541,089	\$ 27,617
71586	KCNS	8,270,858	7,381,656	\$ 57,570
33742	KCOP-TV	17,386,133	16,647,708	\$ 129,835
19117	KCOS	1,014,396	1,014,205	\$ 7,910
63165	KCOY-TV	664,655	459,468	\$ 3,583
33894	KCPQ	4,439,875	4,312,133	\$ 33,630
53843	KCPT	2,507,879	2,506,224	\$ 19,546
33875	KCRA-TV	10,612,483	6,500,774	\$ 50,700
9719	KCRG-TV	1,136,762	1,107,130	\$ 8,635
60728	KCSD-TV	273,553	273,447	\$ 2,133
59494	KCSG	174,814	164,765	\$ 1,285
33749	KCTS-TV	4,177,824	4,115,603	\$ 32,098
41230	KCTV	2,547,456	2,545,645	\$ 19,853
58605	KCVU	684,900	674,585	\$ 5,261
10036	KCWC-DT	44,216	39,439	\$ 308
64444	KCWE	2,459,924	2,458,302	\$ 19,172
51502	KCWI-TV	1,043,811	1,042,642	\$ 8,132
42008	KCWO-TV	50,707	50,685	\$ 395
166511	KCWV	207,398	207,370	\$ 1,617
24316	KCWX	3,961,268	3,954,787	\$ 30,843
68713	KCWY-DT	80,904	80,479	\$ 628
22201	KDAF	6,648,507	6,645,226	\$ 51,826
33764	KDBC-TV	1,015,564	1,015,162	\$ 7,917

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
79258	KDCK	43,088	43,067	\$ 336
166332	KDCU-DT	753,204	753,190	\$ 5,874
38375	KDEN-TV	3,376,799	3,351,182	\$ 26,136
17037	KDFI	6,684,439	6,682,487	\$ 52,117
33770	KDFW	6,659,312	6,657,023	\$ 51,918
29102	KDIN-TV	1,088,376	1,083,845	\$ 8,453
25454	KDKA-TV	3,611,796	3,450,690	\$ 26,912
60740	KDKF	71,413	64,567	\$ 504
4691	KDLH	263,422	260,394	\$ 2,031
41975	KDLO-TV	208,354	208,118	\$ 1,623
55379	KDLT-TV	639,284	628,281	\$ 4,900
55375	KDLV-TV	96,873	96,620	\$ 754
25221	KDMD	376,906	374,641	\$ 2,922
78915	KDMI	1,141,990	1,140,939	\$ 8,898
56524	KDNL-TV	2,987,219	2,982,311	\$ 23,259
24518	KDOC-TV	17,503,793	16,701,233	\$ 130,253
1005	KDOR-TV	1,112,060	1,108,556	\$ 8,646
60736	KDRV	519,706	440,002	\$ 3,432
61064	KDSD-TV	64,314	59,635	\$ 465
53329	KDSE	42,896	41,432	\$ 323
56527	KDSM-TV	1,096,220	1,095,478	\$ 8,544
49326	KDTN	6,602,327	6,600,186	\$ 51,475
83491	KDTP	26,564	24,469	\$ 191
33778	KDTV-DT	7,959,349	7,129,638	\$ 55,604
67910	KDTX-TV	6,680,738	6,679,424	\$ 52,093
126	KDVR	3,644,912	3,521,884	\$ 27,467
18084	KECI-TV	211,745	193,803	\$ 1,511
51208	KECY-TV	399,372	394,379	\$ 3,076
58408	KEDT	513,683	513,683	\$ 4,006
55435	KEET	177,313	159,960	\$ 1,248
37103	KEKE	97,959	94,560	\$ 737

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
41983	KELO-TV	705,364	646,126	\$ 5,039
34440	KEMO-TV	8,270,858	7,381,656	\$ 57,570
2777	KEMV	619,889	559,135	\$ 4,361
26304	KENS	2,544,094	2,529,382	\$ 19,727
63845	KENV-DT	47,220	40,677	\$ 317
18338	KENW	87,017	87,017	\$ 679
50591	KEPB-TV	576,964	523,655	\$ 4,084
56029	KEPR-TV	453,259	433,260	\$ 3,379
49324	KERA-TV	6,681,083	6,677,852	\$ 52,081
40878	KERO-TV	1,285,357	1,164,979	\$ 9,086
61067	KESD-TV	166,018	159,195	\$ 1,242
25577	KESQ-TV	1,334,172	572,057	\$ 4,461
50205	KETA-TV	1,702,441	1,688,227	\$ 13,166
62182	KETC	2,913,924	2,911,313	\$ 22,705
37101	KETD	3,323,570	3,285,231	\$ 25,622
2768	KETG	426,883	409,511	\$ 3,194
12895	KETH-TV	6,088,821	6,088,677	\$ 47,486
55643	KETK-TV	1,031,567	1,030,122	\$ 8,034
2770	KETS	1,185,111	1,166,796	\$ 9,100
53903	KETV	1,355,238	1,350,292	\$ 10,531
92872	KETZ	526,890	523,877	\$ 4,086
68853	KEYC-TV	544,900	531,079	\$ 4,142
33691	KEYE-TV	2,732,257	2,652,529	\$ 20,687
60637	KEYT-TV	1,419,564	1,239,577	\$ 9,667
83715	KEYU	339,348	339,302	\$ 2,646
34406	KEZI	1,113,171	1,065,880	\$ 8,313
34412	KFBB-TV	93,519	91,964	\$ 717
125	KFCT	795,114	788,747	\$ 6,151
51466	KFDA-TV	385,064	383,977	\$ 2,995
22589	KFDM	732,665	732,588	\$ 5,713
65370	KFDX-TV	381,703	381,318	\$ 2,974

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
49264	KFFV	4,020,926	3,987,153	\$ 31,096
12729	KFFX-TV	409,952	403,692	\$ 3,148
83992	KFJX	689,090	663,506	\$ 5,175
42122	KFMB-TV	3,947,735	3,699,981	\$ 28,856
53321	KFME	393,045	392,472	\$ 3,061
74256	KFNB	80,382	79,842	\$ 623
21613	KFNE	54,988	54,420	\$ 424
21612	KFNR	10,988	10,965	\$ 86
66222	KFOR-TV	1,616,459	1,615,614	\$ 12,600
33716	KFOX-TV	1,023,999	1,018,549	\$ 7,944
41517	KFPH-DT	347,579	282,838	\$ 2,206
81509	KFPX-TV	963,969	963,846	\$ 7,517
31597	KFQX	186,473	163,637	\$ 1,276
59013	KFRE-TV	1,721,275	1,705,484	\$ 13,301
51429	KFSF-DT	7,348,828	6,528,430	\$ 50,915
66469	KFSM-TV	906,728	884,919	\$ 6,901
8620	KFSN-TV	1,836,607	1,819,585	\$ 14,191
29560	KFTA-TV	818,859	809,173	\$ 6,311
83714	KFTC	61,990	61,953	\$ 483
60537	KFTH-DT	6,080,688	6,080,373	\$ 47,421
60549	KFTR-DT	17,560,679	16,305,726	\$ 127,168
61335	KFTS	74,936	65,126	\$ 508
81441	KFTU-DT	113,876	109,731	\$ 856
34439	KFTV-DT	1,794,984	1,779,917	\$ 13,882
664	KFVE	82,902	73,553	\$ 574
592	KFVS-TV	895,871	873,777	\$ 6,815
29015	KFWD	6,666,428	6,660,565	\$ 51,946
35336	KFXA	875,538	874,070	\$ 6,817
17625	KFXB-TV	373,280	368,466	\$ 2,874
70917	KFXK-TV	934,043	931,791	\$ 7,267
84453	KFXL-TV	862,531	854,678	\$ 6,666

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
56079	KFXV	1,225,732	1,225,732	\$ 9,559
41427	KFYR-TV	130,881	128,301	\$ 1,001
25685	KGAN	1,083,213	1,057,597	\$ 8,248
34457	KGBT-TV	1,239,001	1,238,870	\$ 9,662
7841	KGCW	949,575	945,476	\$ 7,374
24485	KGEB	1,186,225	1,150,201	\$ 8,970
34459	KGET-TV	917,927	874,332	\$ 6,819
53320	KGFE	114,564	114,564	\$ 893
7894	KGIN	230,535	228,338	\$ 1,781
83945	KGLA-DT	1,636,922	1,636,922	\$ 12,766
34445	KGMB	953,398	851,088	\$ 6,638
58608	KGMC	1,936,675	1,914,168	\$ 14,929
36914	KGMD-TV	94,323	93,879	\$ 732
36920	KGMV	193,564	162,230	\$ 1,265
10061	KGNS-TV	267,236	259,548	\$ 2,024
34470	KGO-TV	8,637,074	7,929,294	\$ 61,841
56034	KGPE	1,699,131	1,682,082	\$ 13,119
81694	KGPX-TV	685,626	624,955	\$ 4,874
25511	KGTF	161,885	160,568	\$ 1,252
40876	KGTV	3,960,667	3,682,219	\$ 28,718
36918	KGUN-TV	1,398,527	1,212,484	\$ 9,456
34874	KGW	3,026,617	2,878,510	\$ 22,449
63177	KGWC-TV	80,475	80,009	\$ 624
63162	KGWL-TV	38,125	38,028	\$ 297
63166	KGWN-TV	469,467	440,388	\$ 3,435
63170	KGWR-TV	51,315	50,957	\$ 397
4146	KHAW-TV	95,204	94,851	\$ 740
60353	KHBS	631,770	608,052	\$ 4,742
27300	KHCE-TV	2,353,883	2,348,391	\$ 18,315
26431	KHET	959,060	944,568	\$ 7,367
21160	KHGI-TV	233,973	229,173	\$ 1,787

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Facility Id.	Call Sign	Population	Population	Fee Amount
36917	KHII-TV	953,895	851,585	\$ 6,642
29085	KHIN	1,041,244	1,039,383	\$ 8,106
17688	KHME	181,345	179,706	\$ 1,402
47670	KHMT	175,601	170,957	\$ 1,333
47987	KHNE-TV	203,931	202,944	\$ 1,583
34867	KHNL	953,398	851,088	\$ 6,638
60354	KHOG-TV	765,360	702,984	\$ 5,483
4144	KHON-TV	953,207	886,431	\$ 6,913
34529	KHOU	6,083,315	6,081,936	\$ 47,433
4690	KHQA-TV	318,469	316,134	\$ 2,466
34537	KHQ-TV	822,371	774,821	\$ 6,043
30601	KHRR	1,227,847	1,166,890	\$ 9,101
34348	KHSD-TV	188,735	185,202	\$ 1,444
24508	KHSL-TV	625,904	608,850	\$ 4,748
69677	KHSV	2,059,794	2,020,045	\$ 15,754
64544	KHVO	94,226	93,657	\$ 730
23394	KIAH	6,099,694	6,099,297	\$ 47,568
34564	KICU-TV	8,233,041	7,174,316	\$ 55,952
56028	KIDK	305,509	302,535	\$ 2,359
58560	KIDY	116,614	116,596	\$ 909
53382	KIEM-TV	174,390	160,801	\$ 1,254
66258	KIFI-TV	324,422	320,118	\$ 2,497
16950	KIFR	2,180,045	2,160,460	\$ 16,849
10188	KIII	569,864	566,796	\$ 4,420
29095	KIIN	1,365,215	1,335,707	\$ 10,417
34527	KIKU	953,896	850,963	\$ 6,637
63865	KILM	17,256,205	15,804,489	\$ 123,259
56033	KIMA-TV	308,604	260,593	\$ 2,032
66402	KIMT	654,083	643,384	\$ 5,018
67089	KINC	2,002,066	1,920,903	\$ 14,981
34847	KING-TV	4,074,288	4,036,926	\$ 31,484

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
51708	KINT-TV	1,015,582	1,015,274	\$ 7,918
26249	KION-TV	2,400,317	855,808	\$ 6,674
62427	KIPT	171,405	170,455	\$ 1,329
66781	KIRO-TV	4,058,101	4,030,968	\$ 31,438
62430	KISU-TV	311,827	307,651	\$ 2,399
12896	KITU-TV	712,362	712,362	\$ 5,556
64548	KITV	953,207	839,906	\$ 6,550
59255	KIVI-TV	710,819	702,619	\$ 5,480
47285	KIXE-TV	467,518	428,118	\$ 3,339
13792	KJJC-TV	82,749	81,865	\$ 638
14000	KJLA	17,929,100	16,794,896	\$ 130,983
20015	KJNP-TV	98,403	98,097	\$ 765
53315	KJRE	16,187	16,170	\$ 126
59439	KJRH-TV	1,416,108	1,397,311	\$ 10,898
55364	KJRR	45,515	44,098	\$ 344
7675	KJTL	379,594	379,263	\$ 2,958
55031	KJTV-TV	406,283	406,260	\$ 3,168
13814	KJUD	31,229	30,106	\$ 235
36607	KJZZ-TV	2,388,965	2,209,183	\$ 17,229
83180	KKAI	953,400	919,742	\$ 7,173
58267	KKAP	957,786	923,172	\$ 7,200
24766	KKCO	206,018	172,628	\$ 1,346
35097	KKJB	629,939	624,784	\$ 4,873
22644	KKPX-TV	7,588,288	6,758,490	\$ 52,709
35037	KKTV	2,892,126	2,478,864	\$ 19,333
35042	KLAS-TV	2,094,297	1,940,030	\$ 15,130
52907	KLAX-TV	367,212	366,839	\$ 2,861
3660	KLBK-TV	387,783	387,743	\$ 3,024
65523	KLBY	31,102	31,096	\$ 243
38430	KLCS	17,129,650	15,689,832	\$ 122,365
77719	KLCW-TV	381,889	381,816	\$ 2,978

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
51479	KLDO-TV	250,832	250,832	\$ 1,956
37105	KLEI	175,045	138,087	\$ 1,077
56032	KLEW-TV	164,908	148,256	\$ 1,156
35059	KLFY-TV	1,355,890	1,355,409	\$ 10,571
54011	KLJB	1,027,104	1,012,309	\$ 7,895
11264	KLKN	1,161,979	1,122,111	\$ 8,751
52593	KLML	270,089	218,544	\$ 1,704
47975	KLNE-TV	123,324	123,246	\$ 961
38590	KLPA-TV	414,699	414,447	\$ 3,232
38588	KLPB-TV	749,053	749,053	\$ 5,842
749	KLRN	2,374,472	2,353,440	\$ 18,354
11951	KLRT-TV	1,171,678	1,152,541	\$ 8,989
8564	KLRU	2,614,658	2,575,518	\$ 20,086
8322	KLSR-TV	564,415	508,157	\$ 3,963
31114	KLST	199,067	169,551	\$ 1,322
24436	KLTJ	6,034,131	6,033,867	\$ 47,058
38587	KLTL-TV	423,574	423,574	\$ 3,303
38589	KLTM-TV	694,280	688,915	\$ 5,373
38591	KLTS-TV	947,141	944,257	\$ 7,364
68540	KLTV	1,069,690	1,051,361	\$ 8,200
12913	KLUJ-TV	1,195,751	1,195,751	\$ 9,326
57220	KLUZ-TV	1,079,718	1,019,302	\$ 7,950
11683	KLVX	2,044,150	1,936,083	\$ 15,100
82476	KLWB	1,065,748	1,065,748	\$ 8,312
40250	KLWY	541,043	538,231	\$ 4,198
64551	KMAU	213,060	188,953	\$ 1,474
51499	KMAX-TV	10,767,605	7,132,240	\$ 55,624
65686	KMBC-TV	2,506,035	2,504,622	\$ 19,534
35183	KMCB	69,357	66,203	\$ 516
41237	KMCC	2,064,592	2,010,262	\$ 15,678
42636	KMCI-TV	2,429,392	2,428,626	\$ 18,941

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
38584	KMCT-TV	267,004	266,880	\$ 2,081
22127	KMCY	71,797	71,793	\$ 560
162016	KMDE	35,409	35,401	\$ 276
26428	KMEB	221,810	203,470	\$ 1,587
39665	KMEG	708,748	704,130	\$ 5,492
35123	KMEX-DT	17,628,354	16,318,720	\$ 127,270
40875	KMGH-TV	3,815,224	3,574,344	\$ 27,876
35131	KMID	383,449	383,439	\$ 2,990
16749	KMIR-TV	2,760,914	730,764	\$ 5,699
63164	KMIZ	532,025	530,008	\$ 4,134
53541	KMLM-DT	293,290	293,290	\$ 2,287
52046	KMLU	711,951	708,107	\$ 5,523
47981	KMNE-TV	47,232	44,189	\$ 345
24753	KMOH-TV	199,885	184,283	\$ 1,437
4326	KMOS-TV	804,745	803,129	\$ 6,264
41425	KMOT	81,517	79,504	\$ 620
70034	KMOV	3,035,077	3,029,405	\$ 23,626
51488	KMPH-TV	1,754,037	1,717,555	\$ 13,395
73701	KMPX	6,678,829	6,674,706	\$ 52,056
44052	KMSB	1,321,614	1,039,442	\$ 8,107
68883	KMSP-TV	3,857,891	3,829,859	\$ 29,869
12525	KMSS-TV	1,067,838	1,066,106	\$ 8,315
43095	KMTP-TV	5,242,638	4,441,372	\$ 34,638
35189	KMTR	589,948	520,666	\$ 4,061
35190	KMTV-TV	1,346,549	1,344,796	\$ 10,488
77063	KMTW	761,521	761,516	\$ 5,939
35200	KMVT	184,647	176,351	\$ 1,375
32958	KMVU-DT	308,150	231,506	\$ 1,806
86534	KMYA-DT	200,764	200,725	\$ 1,565
51518	KMYS	2,273,888	2,267,913	\$ 17,687
54420	KMYT-TV	1,314,197	1,302,378	\$ 10,157

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
35822	KMYU	133,563	130,198	\$ 1,015
993	KNAT-TV	1,157,630	1,124,619	\$ 8,771
24749	KNAZ-TV	332,321	227,658	\$ 1,776
47906	KNBC	17,244,237	15,812,389	\$ 123,321
81464	KNBN	145,493	136,995	\$ 1,068
9754	KNCT	1,751,838	1,726,148	\$ 13,462
82611	KNDB	118,154	118,122	\$ 921
82615	KNDM	72,216	72,209	\$ 563
12395	KNDO	314,875	270,892	\$ 2,113
12427	KNDU	475,612	462,556	\$ 3,607
17683	KNEP	101,389	95,890	\$ 748
48003	KNHL	277,777	277,308	\$ 2,163
125710	KNIC-DT	2,398,296	2,383,294	\$ 18,587
59363	KNIN-TV	708,289	703,838	\$ 5,489
48525	KNLC	2,981,508	2,978,979	\$ 23,233
48521	KNLJ	655,000	642,705	\$ 5,012
84215	KNMD-TV	1,135,642	1,108,358	\$ 8,644
55528	KNME-TV	1,148,741	1,105,095	\$ 8,619
47707	KNMT	2,887,142	2,794,995	\$ 21,798
48975	KNOE-TV	733,097	729,703	\$ 5,691
49273	KNOP-TV	87,904	85,423	\$ 666
10228	KNPB	604,614	462,732	\$ 3,609
55362	KNRR	25,957	25,931	\$ 202
35277	KNSD	3,861,660	3,618,321	\$ 28,219
19191	KNSN-TV	611,981	459,485	\$ 3,584
23302	KNSO	1,824,786	1,803,796	\$ 14,068
35280	KNTV	8,525,818	8,027,505	\$ 62,607
144	KNVA	2,550,225	2,529,184	\$ 19,725
33745	KNVN	495,902	470,252	\$ 3,667
69692	KNVO	1,247,014	1,247,014	\$ 9,725
29557	KNWA-TV	822,906	804,682	\$ 6,276

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
59440	KNXV-TV	4,183,943	4,173,022	\$ 32,545
59014	KOAA-TV	1,608,528	1,203,731	\$ 9,388
50588	KOAB-TV	207,070	203,371	\$ 1,586
50590	KOAC-TV	1,957,282	1,543,401	\$ 12,037
58552	KOAM-TV	793,563	767,962	\$ 5,989
53928	KOAT-TV	1,132,372	1,105,116	\$ 8,619
35313	KOB	1,152,841	1,113,162	\$ 8,682
35321	KOBF	201,911	166,177	\$ 1,296
8260	KOBI	562,463	519,063	\$ 4,048
62272	KOBR	211,709	211,551	\$ 1,650
50170	KOCB	1,629,783	1,629,152	\$ 12,706
4328	KOCE-TV	17,446,133	16,461,581	\$ 128,384
84225	KOCM	1,434,325	1,433,605	\$ 11,181
12508	KOCO-TV	1,716,569	1,708,085	\$ 13,321
83181	KOCW	83,807	83,789	\$ 653
18283	KODE-TV	740,156	731,512	\$ 5,705
66195	KOED-TV	1,497,297	1,459,833	\$ 11,385
50198	KOET	658,606	637,640	\$ 4,973
51189	KOFY-TV	5,242,638	4,441,372	\$ 34,638
34859	KOGG	190,829	161,310	\$ 1,258
166534	KOHD	201,310	197,662	\$ 1,542
35380	KOIN	3,028,482	2,881,460	\$ 22,473
35388	KOKH-TV	1,627,116	1,625,246	\$ 12,675
11910	KOKI-TV	1,366,220	1,352,227	\$ 10,546
48663	KOLD-TV	1,216,228	887,754	\$ 6,924
7890	KOLN	1,421,223	1,337,970	\$ 10,435
63331	KOLO-TV	959,178	826,985	\$ 6,450
28496	KOLR	1,076,144	1,038,613	\$ 8,100
21656	KOMO-TV	4,132,260	4,087,435	\$ 31,878
65583	KOMU-TV	551,658	542,544	\$ 4,231
35396	KONG	3,998,831	3,981,688	\$ 31,053

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Facility Id.	Call Sign	Population	Population	Fee Amount
60675	KOOD	113,416	113,285	\$ 884
50589	KOPB-TV	3,059,231	2,875,815	\$ 22,428
2566	KOPX-TV	1,501,110	1,500,883	\$ 11,705
64877	KORO	560,983	560,983	\$ 4,375
6865	KOSA-TV	340,978	338,070	\$ 2,637
34347	KOTA-TV	174,876	152,861	\$ 1,192
8284	KOTI	298,175	97,132	\$ 758
35434	KOTV-DT	1,417,753	1,403,838	\$ 10,949
56550	KOVR	10,784,477	7,162,989	\$ 55,864
51101	KOZJ	429,982	427,991	\$ 3,338
51102	KOZK	839,841	834,308	\$ 6,507
3659	KOZL-TV	992,495	963,281	\$ 7,513
35455	KPAX-TV	206,895	193,201	\$ 1,507
67868	KPAZ-TV	4,190,080	4,176,323	\$ 32,571
6124	KPBS	3,584,237	3,463,189	\$ 27,009
50044	KPBT-TV	340,080	340,080	\$ 2,652
77452	KPCB-DT	30,861	30,835	\$ 240
35460	KPDX	2,970,703	2,848,423	\$ 22,215
12524	KPEJ-TV	368,212	368,208	\$ 2,872
41223	KPHO-TV	4,195,073	4,175,139	\$ 32,562
61551	KPIC	156,687	105,807	\$ 825
86205	KPIF	265,080	258,174	\$ 2,013
25452	KPIX-TV	8,226,463	7,360,625	\$ 57,406
58912	KPIK	7,884,411	6,955,179	\$ 54,243
166510	KPJR-TV	3,402,088	3,372,831	\$ 26,305
13994	KPLC	1,406,085	1,403,853	\$ 10,949
41964	KPLO-TV	55,827	52,765	\$ 412
35417	KPLR-TV	2,991,598	2,988,106	\$ 23,304
12144	KPMR	1,731,370	1,473,251	\$ 11,490
47973	KPNE-TV	92,675	89,021	\$ 694
35486	KPNX	4,180,982	4,176,442	\$ 32,572

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Facility Id.	Call Sign	Population	Population	Fee Amount
77512	KPNZ	2,394,311	2,208,707	\$ 17,226
73998	KPOB-TV	144,525	143,656	\$ 1,120
26655	KPPX-TV	4,186,998	4,171,450	\$ 32,533
53117	KPRC-TV	6,099,422	6,099,076	\$ 47,567
48660	KPRY-TV	42,521	42,426	\$ 331
61071	KPSD-TV	19,886	18,799	\$ 147
53544	KPTB-DT	322,780	320,646	\$ 2,501
81445	KPTF-DT	84,512	84,512	\$ 659
77451	KPTH	660,556	655,373	\$ 5,111
51491	KPTM	1,405,533	1,404,364	\$ 10,953
33345	KPTS	832,000	827,866	\$ 6,457
50633	KPTV	2,998,460	2,847,263	\$ 22,206
82575	KPTW	89,433	82,522	\$ 644
1270	KPVI-DT	271,379	264,204	\$ 2,061
58835	KPXB-TV	6,062,458	6,062,238	\$ 47,279
68695	KPXC-TV	3,362,518	3,341,951	\$ 26,064
68834	KPXD-TV	6,555,157	6,553,373	\$ 51,110
33337	KPXE-TV	2,437,178	2,436,024	\$ 18,999
5801	KPXG-TV	3,026,219	2,882,598	\$ 22,481
81507	KPXJ	1,138,632	1,135,626	\$ 8,857
61173	KPXL-TV	2,257,007	2,243,520	\$ 17,497
35907	KPXM-TV	3,507,312	3,506,503	\$ 27,347
58978	KPXN-TV	17,256,205	15,804,489	\$ 123,259
77483	KPXO-TV	953,329	913,341	\$ 7,123
21156	KPXR-TV	828,915	821,250	\$ 6,405
10242	KQCA	10,077,891	6,276,197	\$ 48,948
41430	KQCD-TV	35,623	33,415	\$ 261
18287	KQCK	3,216,059	3,185,307	\$ 24,842
78322	KQCW-DT	1,128,198	1,123,324	\$ 8,761
35525	KQDS-TV	304,935	301,439	\$ 2,351
35500	KQED	8,195,398	7,283,828	\$ 56,807

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Facility Id.	Call Sign	Population	Population	Fee Amount
35663	KQEH	8,195,398	7,283,828	\$ 56,807
8214	KQET	2,981,040	2,076,157	\$ 16,192
5471	KQIN	596,371	596,277	\$ 4,650
17686	KQME	188,783	184,719	\$ 1,441
61063	KQSD-TV	32,526	31,328	\$ 244
8378	KQSL	199,123	142,419	\$ 1,111
20427	KQTV	1,494,987	1,401,160	\$ 10,928
78921	KQUP	697,016	551,824	\$ 4,304
306	KRBC-TV	229,395	229,277	\$ 1,788
166319	KRBK	983,888	966,187	\$ 7,535
22161	KRCA	17,540,791	16,957,292	\$ 132,250
57945	KRCB	8,783,441	8,503,802	\$ 66,321
41110	KRCG	737,927	722,255	\$ 5,633
8291	KRCR-TV	423,000	402,594	\$ 3,140
10192	KRCW-TV	2,966,912	2,842,523	\$ 22,169
49134	KRDK-TV	349,941	349,929	\$ 2,729
52579	KRDO-TV	2,622,603	2,272,383	\$ 17,722
70578	KREG-TV	149,306	95,141	\$ 742
34868	KREM	817,619	752,113	\$ 5,866
51493	KREN-TV	810,039	681,212	\$ 5,313
70596	KREX-TV	145,700	145,606	\$ 1,136
70579	KREY-TV	74,963	65,700	\$ 512
48589	KREZ-TV	148,079	105,121	\$ 820
43328	KRGV-TV	1,247,057	1,247,029	\$ 9,726
82698	KRII	133,840	132,912	\$ 1,037
29114	KRIN	949,313	923,735	\$ 7,204
25559	KRIS-TV	565,112	565,044	\$ 4,407
22204	KRIV	6,078,936	6,078,846	\$ 47,409
14040	KRMA-TV	3,722,512	3,564,949	\$ 27,803
14042	KRMJ	174,094	159,511	\$ 1,244
20476	KRMT	2,956,144	2,864,236	\$ 22,338

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84224	KRMU	85,274	72,499	\$ 565
20373	KRMZ	36,293	33,620	\$ 262
47971	KRNE-TV	47,473	38,273	\$ 298
60307	KRNV-DT	955,490	792,543	\$ 6,181
65526	KRON-TV	8,573,167	8,028,256	\$ 62,612
53539	KRPV-DT	65,943	65,943	\$ 514
48575	KRQE	1,135,461	1,105,093	\$ 8,619
57431	KRSU-TV	1,000,289	998,310	\$ 7,786
82613	KRTN-TV	84,231	68,550	\$ 535
35567	KRTV	92,645	90,849	\$ 709
84157	KRWB-TV	111,538	110,979	\$ 866
35585	KRWF	85,596	85,596	\$ 668
55516	KRWG-TV	894,492	661,703	\$ 5,161
48360	KRXI-TV	725,391	548,865	\$ 4,281
307	KSAN-TV	135,063	135,051	\$ 1,053
11911	KSAS-TV	752,513	752,504	\$ 5,869
53118	KSAT-TV	2,539,658	2,502,246	\$ 19,515
35584	KSAX	365,209	365,209	\$ 2,848
35587	KSAZ-TV	4,203,126	4,178,448	\$ 32,588
38214	KSBI	1,577,231	1,575,865	\$ 12,290
19653	KSBW	5,083,461	4,429,165	\$ 34,543
19654	KSBY	535,029	495,562	\$ 3,865
82910	KSCC	517,740	517,740	\$ 4,038
10202	KSCE	1,015,148	1,010,581	\$ 7,882
35608	KSCI	17,446,133	16,461,581	\$ 128,384
72348	KSCW-DT	915,691	910,511	\$ 7,101
46981	KSDK	2,986,776	2,979,047	\$ 23,234
35594	KSEE	1,761,193	1,746,282	\$ 13,619
48658	KSFY-TV	670,536	607,844	\$ 4,741
17680	KSGW-TV	62,178	57,629	\$ 449
59444	KSHB-TV	2,432,205	2,431,273	\$ 18,961

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Facility Id.	Call Sign	Population	Population	Fee Amount
73706	KSHV-TV	943,947	942,978	\$ 7,354
29096	KSIN-TV	340,143	338,811	\$ 2,642
34846	KSIX-TV	74,884	74,884	\$ 584
35606	KSKN	731,818	643,590	\$ 5,019
70482	KSLA	1,017,556	1,016,667	\$ 7,929
6359	KSL-TV	2,390,742	2,206,920	\$ 17,212
71558	KSMN	320,813	320,808	\$ 2,502
33336	KSMO-TV	2,401,201	2,398,686	\$ 18,707
28510	KSMQ-TV	524,391	507,983	\$ 3,962
35611	KSMS-TV	1,589,263	882,948	\$ 6,886
21161	KSNB-TV	664,079	662,726	\$ 5,169
72359	KSNC	174,135	173,744	\$ 1,355
67766	KSNF	621,919	617,868	\$ 4,819
72361	KSNG	145,058	144,822	\$ 1,129
72362	KSNK	48,715	45,414	\$ 354
67335	KSNT	622,818	594,604	\$ 4,637
10179	KSNV	1,967,781	1,919,296	\$ 14,969
72358	KSNW	791,403	791,127	\$ 6,170
61956	KSPS-TV	819,101	769,852	\$ 6,004
52953	KSPX-TV	7,078,228	5,275,946	\$ 41,147
166546	KSQA	382,328	374,290	\$ 2,919
53313	KSRE	75,181	75,181	\$ 586
35843	KSTC-TV	3,843,788	3,835,674	\$ 29,914
63182	KSTF	51,317	51,122	\$ 399
28010	KSTP-TV	3,788,898	3,782,053	\$ 29,496
60534	KSTR-DT	6,632,577	6,629,296	\$ 51,702
64987	KSTS	8,363,473	7,264,852	\$ 56,659
22215	KSTU	2,384,996	2,201,716	\$ 17,171
23428	KSTW	4,265,956	4,186,266	\$ 32,649
5243	KSVI	175,390	173,667	\$ 1,354
58827	KSWB-TV	3,677,190	3,488,655	\$ 27,208

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Facility Id.	Call Sign	Population	Population	Fee Amount
60683	KSWK	79,012	78,784	\$ 614
35645	KSWO-TV	483,132	458,057	\$ 3,572
61350	KSYS	519,209	443,204	\$ 3,457
59988	KTAB-TV	274,707	274,536	\$ 2,141
999	KTAJ-TV	2,343,843	2,343,227	\$ 18,275
35648	KTAL-TV	1,094,332	1,092,958	\$ 8,524
12930	KTAS	471,882	464,149	\$ 3,620
81458	KTAZ	4,182,503	4,160,481	\$ 32,448
35649	KTBC	3,242,215	2,956,614	\$ 23,059
67884	KTBN-TV	17,929,445	16,750,096	\$ 130,634
67999	KTBO-TV	1,585,293	1,583,553	\$ 12,350
35652	KTBS-TV	1,163,228	1,159,665	\$ 9,044
28324	KTBU	6,035,927	6,035,725	\$ 47,073
67950	KTBW-TV	4,202,104	4,108,031	\$ 32,039
35655	KTBY	348,080	346,562	\$ 2,703
68594	KTCA-TV	3,693,877	3,684,081	\$ 28,732
68597	KTCI-TV	3,606,606	3,597,183	\$ 28,054
35187	KTCW	103,341	89,207	\$ 696
36916	KTDO	1,015,336	1,010,771	\$ 7,883
2769	KTEJ	419,750	417,368	\$ 3,255
83707	KTEL-TV	52,878	52,875	\$ 412
35666	KTEN	602,788	599,778	\$ 4,678
24514	KTFD-TV	3,210,669	3,172,543	\$ 24,743
35512	KTFF-DT	2,225,169	2,203,398	\$ 17,184
20871	KTFK-DT	6,969,307	5,211,719	\$ 40,646
68753	KTFN	1,017,335	1,013,157	\$ 7,902
35084	KTFQ-TV	1,151,433	1,117,061	\$ 8,712
29232	KTGM	159,358	159,091	\$ 1,241
2787	KTHV	1,275,053	1,246,348	\$ 9,720
29100	KTIN	281,096	279,385	\$ 2,179
66170	KTIV	751,089	746,274	\$ 5,820

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49397	KTKA-TV	759,369	746,370	\$ 5,821
35670	KTLA	18,156,910	16,870,262	\$ 131,571
62354	KTLM	1,044,526	1,044,509	\$ 8,146
49153	KTLN-TV	5,381,955	4,740,894	\$ 36,974
64984	KTMD	6,095,741	6,095,606	\$ 47,540
14675	KTMF	187,251	168,526	\$ 1,314
10177	KTMW	2,261,671	2,144,791	\$ 16,727
21533	KTNC-TV	8,270,858	7,381,656	\$ 57,570
47996	KTNE-TV	100,341	95,324	\$ 743
60519	KTNL-TV	8,642	8,642	\$ 67
74100	KTNV-TV	2,094,506	1,936,752	\$ 15,105
71023	KTNW	450,926	432,398	\$ 3,372
8651	KTOO-TV	31,269	31,176	\$ 243
7078	KTPX-TV	1,066,196	1,063,754	\$ 8,296
68541	KTRE	441,879	421,406	\$ 3,287
35675	KTRK-TV	6,114,259	6,112,870	\$ 47,674
28230	KTRV-TV	714,833	707,557	\$ 5,518
69170	KTSC	3,124,536	2,949,795	\$ 23,005
61066	KTSD-TV	83,645	82,828	\$ 646
37511	KTSF	7,959,349	7,129,638	\$ 55,604
67760	KTSM-TV	1,015,348	1,011,264	\$ 7,887
35678	KTTC	815,213	731,919	\$ 5,708
28501	KTTM	76,133	73,664	\$ 575
11908	KTTU	1,324,801	1,060,613	\$ 8,272
22208	KTTV	17,380,551	16,693,085	\$ 130,189
28521	KTTW	329,633	326,405	\$ 2,546
65355	KTTZ-TV	380,240	380,225	\$ 2,965
35685	KTUL	1,416,959	1,388,183	\$ 10,826
10173	KTUU-TV	380,240	379,047	\$ 2,956
77480	KTUZ-TV	1,668,531	1,666,026	\$ 12,993
49632	KTVA	342,517	342,300	\$ 2,670

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Facility Id.	Call Sign	Population	Population	Fee Amount
34858	KTVB	714,865	707,882	\$ 5,521
31437	KTVC	137,239	100,204	\$ 781
68581	KTVD	3,800,970	3,547,607	\$ 27,668
35692	KTVE	641,139	640,201	\$ 4,993
49621	KTVF	98,068	97,929	\$ 764
5290	KTVH-DT	228,832	184,264	\$ 1,437
35693	KTVI	2,995,764	2,991,513	\$ 23,331
40993	KTVK	4,184,825	4,173,028	\$ 32,545
22570	KTVL	419,849	369,469	\$ 2,881
18066	KTVM-TV	260,105	217,694	\$ 1,698
59139	KTVN	955,490	800,420	\$ 6,242
21251	KTVO	227,128	226,616	\$ 1,767
35694	KTVQ	179,797	173,271	\$ 1,351
50592	KTVR	147,808	54,480	\$ 425
23422	KTVT	6,912,366	6,908,715	\$ 53,881
35703	KTVU	8,297,634	7,406,751	\$ 57,765
35705	KTVW-DT	4,174,310	4,160,877	\$ 32,451
68889	KTVX	2,389,392	2,200,520	\$ 17,162
55907	KTVZ	201,828	198,558	\$ 1,549
18286	KTWO-TV	80,426	79,905	\$ 623
70938	KTWU	1,703,798	1,562,305	\$ 12,184
51517	KTXA	6,915,461	6,911,822	\$ 53,905
42359	KTXD-TV	6,706,651	6,704,781	\$ 52,291
51569	KTXH	6,092,627	6,092,442	\$ 47,515
10205	KTXL	8,306,449	5,896,320	\$ 45,985
308	KTXS-TV	247,603	246,760	\$ 1,924
69315	KUAC-TV	98,717	98,189	\$ 766
51233	KUAM-TV	159,358	159,358	\$ 1,243
2722	KUAS-TV	994,802	977,391	\$ 7,623
2731	KUAT-TV	1,485,024	1,253,342	\$ 9,775
60520	KUBD	14,817	13,363	\$ 104

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
70492	KUBE-TV	6,090,970	6,090,817	\$ 47,502
1136	KUCW	2,388,889	2,199,787	\$ 17,156
69396	KUED	2,388,995	2,203,093	\$ 17,182
69582	KUEN	2,364,481	2,184,483	\$ 17,037
82576	KUES	30,925	25,978	\$ 203
82585	KUEW	132,168	120,411	\$ 939
66611	KUFM-TV	187,680	166,697	\$ 1,300
169028	KUGF-TV	86,622	85,986	\$ 671
68717	KUHM-TV	154,836	145,241	\$ 1,133
69269	KUHT	6,080,222	6,078,866	\$ 47,409
62382	KUID-TV	432,855	284,023	\$ 2,215
169027	KUKL-TV	124,505	115,844	\$ 903
35724	KULR-TV	177,242	170,142	\$ 1,327
41429	KUMV-TV	41,607	41,224	\$ 322
81447	KUNP	130,559	43,472	\$ 339
4624	KUNS-TV	4,027,849	4,015,626	\$ 31,318
86532	KUOK	28,974	28,945	\$ 226
66589	KUON-TV	1,375,257	1,360,005	\$ 10,607
86263	KUPB	318,914	318,914	\$ 2,487
65535	KUPK	149,642	148,180	\$ 1,156
27431	KUPT	87,602	87,602	\$ 683
89714	KUPU	956,178	948,005	\$ 7,393
57884	KUPX-TV	2,374,672	2,191,229	\$ 17,089
23074	KUSA	3,802,407	3,560,546	\$ 27,769
61072	KUSD-TV	460,480	460,277	\$ 3,590
10238	KUSI-TV	3,572,818	3,435,670	\$ 26,795
43567	KUSM-TV	122,678	109,830	\$ 857
69694	KUTF	1,210,774	1,031,870	\$ 8,048
81451	KUTH-DT	2,219,788	2,027,174	\$ 15,810
68886	KUTP	4,191,015	4,176,014	\$ 32,569
35823	KUTV	2,388,625	2,199,731	\$ 17,156

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
63927	KUVE-DT	1,294,971	964,396	\$ 7,521
7700	KUVI-DT	1,204,490	1,009,943	\$ 7,877
35841	KUVN-DT	6,680,126	6,678,157	\$ 52,083
58609	KUVS-DT	4,043,413	4,005,657	\$ 31,240
49766	KVAL-TV	1,016,673	866,173	\$ 6,755
32621	KVAW	76,153	76,153	\$ 594
58795	KVCR-DT	18,215,524	17,467,140	\$ 136,226
35846	KVCT	288,221	287,446	\$ 2,242
10195	KVCW	1,967,550	1,918,809	\$ 14,965
64969	KVDA	2,566,563	2,548,720	\$ 19,877
19783	KVEA	17,538,249	16,335,335	\$ 127,399
12523	KVEO-TV	1,244,504	1,244,504	\$ 9,706
2495	KVEW	476,720	464,347	\$ 3,621
35852	KVHP	747,917	747,837	\$ 5,832
49832	KVIA-TV	1,015,350	1,011,266	\$ 7,887
35855	KVIE	10,759,440	7,467,369	\$ 58,238
40450	KVIH-TV	91,912	91,564	\$ 714
40446	KVII-TV	379,042	378,218	\$ 2,950
61961	KVLY-TV	362,850	362,838	\$ 2,830
16729	KVMD	15,274,297	14,512,400	\$ 113,182
83825	KVME-TV	26,711	22,802	\$ 178
25735	KVOA	1,317,956	1,030,404	\$ 8,036
35862	KVOS-TV	2,202,674	2,131,652	\$ 16,625
69733	KVPT	1,744,349	1,719,318	\$ 13,409
55372	KVRR	356,645	356,645	\$ 2,781
166331	KVSN-DT	2,706,244	2,283,409	\$ 17,808
608	KVTH-DT	303,755	299,230	\$ 2,334
2784	KVTJ-DT	1,466,426	1,465,802	\$ 11,432
607	KVTN-DT	936,328	925,884	\$ 7,221
35867	KVUE	2,661,290	2,611,314	\$ 20,366
78910	KVUI	257,964	251,872	\$ 1,964

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
35870	KVVU-TV	2,045,255	1,935,583	\$ 15,096
36170	KVYE	396,495	392,498	\$ 3,061
35095	KWBA-TV	1,129,524	1,073,029	\$ 8,369
78314	KWBM	657,822	639,560	\$ 4,988
27425	KWBN	953,207	840,455	\$ 6,555
76268	KWBQ	1,149,598	1,107,211	\$ 8,635
66413	KWCH-DT	883,647	881,674	\$ 6,876
71549	KWCM-TV	252,284	244,033	\$ 1,903
35419	KWDK	4,194,152	4,117,852	\$ 32,115
42007	KWES-TV	424,854	423,536	\$ 3,303
50194	KWET	127,976	112,750	\$ 879
35881	KWEX-DT	2,376,463	2,370,469	\$ 18,487
35883	KWGN-TV	3,706,455	3,513,537	\$ 27,402
37099	KWHB	979,393	978,719	\$ 7,633
36846	KWHE	952,966	834,341	\$ 6,507
26231	KWHY-TV	17,736,497	17,695,306	\$ 138,006
35096	KWKB	1,121,676	1,111,629	\$ 8,670
162115	KWKS	39,708	39,323	\$ 307
12522	KWKT-TV	1,299,675	1,298,478	\$ 10,127
21162	KWNB-TV	91,093	89,332	\$ 697
67347	KWOG	512,412	505,049	\$ 3,939
56852	KWPX-TV	4,220,008	4,148,577	\$ 32,355
6885	KWQC-TV	1,063,507	1,054,618	\$ 8,225
29121	KWSD	280,675	280,672	\$ 2,189
53318	KWSE	54,471	53,400	\$ 416
71024	KWSU-TV	725,554	468,295	\$ 3,652
25382	KWTV-DT	1,628,106	1,627,198	\$ 12,691
35903	KWTX-TV	2,071,023	1,972,365	\$ 15,382
593	KWWL	1,089,498	1,078,458	\$ 8,411
84410	KWWT	293,291	293,291	\$ 2,287
14674	KWYB	86,495	69,598	\$ 543

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10032	KWYP-DT	148,473	133,470	\$ 1,041
35920	KXAN-TV	2,678,666	2,624,648	\$ 20,470
49330	KXAS-TV	6,774,295	6,771,827	\$ 52,813
24287	KXGN-TV	14,217	13,883	\$ 108
35954	KXII	2,323,974	2,264,951	\$ 17,664
55083	KXLA	17,929,100	16,794,896	\$ 130,983
35959	KXLF-TV	258,100	217,808	\$ 1,699
53847	KXLN-DT	6,085,891	6,085,712	\$ 47,462
35906	KXLT-TV	348,025	347,296	\$ 2,709
61978	KXLY-TV	772,116	740,960	\$ 5,779
55684	KXMA-TV	32,005	31,909	\$ 249
55686	KXMB-TV	142,755	138,506	\$ 1,080
55685	KXMC-TV	97,569	89,483	\$ 698
55683	KXMD-TV	37,962	37,917	\$ 296
47995	KXNE-TV	305,839	304,682	\$ 2,376
81593	KXNW	602,168	597,747	\$ 4,662
35991	KXRM-TV	1,843,363	1,500,689	\$ 11,704
1255	KXTF	140,746	140,312	\$ 1,094
25048	KXTV	10,759,864	7,477,140	\$ 58,314
35994	KXTX-TV	6,721,578	6,718,616	\$ 52,398
62293	KXVA	185,478	185,276	\$ 1,445
23277	KXVO	1,397,072	1,396,085	\$ 10,888
9781	KXXV	1,771,620	1,748,287	\$ 13,635
31870	KYAZ	6,038,257	6,038,071	\$ 47,091
29086	KYIN	581,748	574,691	\$ 4,482
60384	KYLE-TV	323,330	323,225	\$ 2,521
33639	KYMA-DT	396,278	391,619	\$ 3,054
47974	KYNE-TV	980,094	979,887	\$ 7,642
53820	KYOU-TV	651,334	640,935	\$ 4,999
36003	KYTV	1,095,904	1,083,524	\$ 8,450
55644	KYTX	927,327	925,550	\$ 7,218

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13815	KYUR	379,943	379,027	\$ 2,956
5237	KYUS-TV	12,496	12,356	\$ 96
33752	KYVE	301,951	259,559	\$ 2,024
55762	KYVV-TV	67,201	67,201	\$ 524
25453	KYW-TV	11,212,189	11,008,413	\$ 85,855
69531	KZJL	6,037,458	6,037,272	\$ 47,085
69571	KZJO	4,147,016	4,097,776	\$ 31,959
61062	KZSD-TV	41,207	35,825	\$ 279
33079	KZTV	567,635	564,464	\$ 4,402
57292	WAAY-TV	1,531,377	1,452,612	\$ 11,329
1328	WABC-TV	20,948,273	20,560,001	\$ 160,347
4190	WABE-TV	5,308,575	5,291,523	\$ 41,269
43203	WABG-TV	393,020	392,348	\$ 3,060
17005	WABI-TV	530,773	510,729	\$ 3,983
16820	WABM	1,772,367	1,742,240	\$ 13,588
23917	WABW-TV	1,097,560	1,096,376	\$ 8,551
19199	WACH	1,403,222	1,400,385	\$ 10,922
189358	WACP	9,415,263	9,301,049	\$ 72,539
23930	WACS-TV	786,536	783,207	\$ 6,108
60018	WACX	4,292,829	4,288,149	\$ 33,443
361	WACY-TV	946,580	946,071	\$ 7,378
455	WADL	4,610,065	4,606,521	\$ 35,926
589	WAFB	1,857,882	1,857,418	\$ 14,486
591	WAFF	1,527,517	1,456,436	\$ 11,359
70689	WAGA-TV	6,000,355	5,923,191	\$ 46,195
48305	WAGM-TV	64,721	63,331	\$ 494
37809	WAGV	1,614,321	1,282,063	\$ 9,999
706	WAIQ	611,733	609,794	\$ 4,756
701	WAKA	799,637	793,645	\$ 6,190
4143	WALA-TV	1,320,419	1,318,127	\$ 10,280
70713	WALB	773,899	772,467	\$ 6,024

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60536	WAMI-DT	5,449,193	5,449,193	\$ 42,498
70852	WAND	1,388,118	1,386,074	\$ 10,810
39270	WANE-TV	1,146,442	1,146,442	\$ 8,941
72120	WANF	6,027,276	5,961,471	\$ 46,494
52280	WAOE	2,963,253	2,907,224	\$ 22,673
64546	WAOW	636,957	629,068	\$ 4,906
52073	WAPA-TV ^{2,7}	3,759,648	2,784,044	\$ 21,713
49712	WAPT	793,621	791,620	\$ 6,174
67792	WAQP	2,135,670	2,131,399	\$ 16,623
13206	WATC-DT	5,732,204	5,705,819	\$ 44,500
71082	WATE-TV	1,874,433	1,638,059	\$ 12,775
22819	WATL	5,882,837	5,819,099	\$ 45,383
20287	WATM-TV	893,989	749,183	\$ 5,843
11907	WATN-TV	1,787,595	1,784,560	\$ 13,918
13989	WAVE	1,891,797	1,880,563	\$ 14,667
71127	WAVY-TV	2,080,708	2,080,691	\$ 16,227
54938	WAWD	579,079	579,023	\$ 4,516
65247	WAWV-TV	705,790	700,361	\$ 5,462
12793	WAXN-TV	2,677,951	2,669,224	\$ 20,817
65696	WBAL-TV	9,743,335	9,344,875	\$ 72,881
74417	WBAY-TV	1,226,036	1,225,443	\$ 9,557
71085	WBBH-TV	2,017,267	2,017,267	\$ 15,733
65204	WBBJ-TV	662,148	658,839	\$ 5,138
9617	WBBM-TV	9,914,233	9,907,806	\$ 77,271
9088	WBBZ-TV	1,269,256	1,260,686	\$ 9,832
70138	WBDT	3,831,757	3,819,550	\$ 29,789
51349	WBEC-TV	5,421,355	5,421,355	\$ 42,281
10758	WBFF	8,523,983	8,381,042	\$ 65,364
12497	WBFS-TV	5,349,613	5,349,613	\$ 41,722
6568	WBGU-TV	1,343,816	1,343,816	\$ 10,480
81594	WBIF	309,707	309,707	\$ 2,415

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84802	WBIH	718,439	706,994	\$ 5,514
717	WBIQ	1,563,080	1,532,266	\$ 11,950
46984	WBIR-TV	1,978,347	1,701,857	\$ 13,273
67048	WBKB-TV	136,823	130,625	\$ 1,019
34167	WBKI	2,104,090	2,085,393	\$ 16,264
4692	WBKO	963,413	862,651	\$ 6,728
76001	WBKP	55,655	55,305	\$ 431
68427	WBMM	562,284	562,123	\$ 4,384
73692	WBNA	1,699,683	1,666,248	\$ 12,995
23337	WBNG-TV	1,435,634	1,051,932	\$ 8,204
71217	WBNS-TV	2,847,721	2,784,795	\$ 21,719
72958	WBNX-TV	3,639,256	3,630,531	\$ 28,315
71218	WBOC-TV	813,888	813,888	\$ 6,348
71220	WBOY-TV	711,302	621,367	\$ 4,846
60850	WBPH-TV	10,613,847	9,474,797	\$ 73,894
7692	WBPX-TV	6,833,712	6,761,949	\$ 52,736
5981	WBRA-TV	1,726,408	1,677,204	\$ 13,081
71221	WBRC	1,884,007	1,849,135	\$ 14,421
71225	WBRE-TV	2,879,196	2,244,735	\$ 17,507
38616	WBRZ-TV	2,223,336	2,222,309	\$ 17,332
82627	WBSF	1,836,543	1,832,446	\$ 14,291
30826	WBTW	4,433,795	4,296,893	\$ 33,511
66407	WBTW	1,975,457	1,959,172	\$ 15,280
16363	WBUI	981,884	981,868	\$ 7,658
59281	WBUP	126,472	112,603	\$ 878
60830	WBUY-TV	1,569,254	1,567,815	\$ 12,227
72971	WBXX-TV	2,142,759	1,984,544	\$ 15,477
25456	WBZ-TV	7,960,556	7,730,847	\$ 60,293
63153	WCAU	11,269,831	11,098,540	\$ 86,558
363	WCAV	1,032,270	874,886	\$ 6,823
46728	WCAX-TV	784,748	665,685	\$ 5,192

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39659	WCBB	964,079	910,222	\$ 7,099
10587	WCBD-TV	1,149,489	1,149,489	\$ 8,965
12477	WCBI-TV	680,511	678,424	\$ 5,291
9610	WCBS-TV	22,087,789	21,511,236	\$ 167,766
49157	WCCB	3,642,232	3,574,928	\$ 27,881
9629	WCCO-TV	3,862,571	3,855,451	\$ 30,069
14050	WCCT-TV	5,818,471	5,307,612	\$ 41,394
69544	WCCU	694,550	693,317	\$ 5,407
3001	WCCV-TV	3,391,703	2,062,994	\$ 16,089
23937	WCES-TV	1,098,868	1,097,706	\$ 8,561
65666	WCET	3,123,290	3,110,519	\$ 24,259
46755	WCFE-TV	459,417	419,756	\$ 3,274
71280	WCHS-TV	1,352,824	1,274,766	\$ 9,942
42124	WCIA	834,084	833,547	\$ 6,501
711	WCIQ	3,186,320	3,016,907	\$ 23,529
71428	WCIU-TV	10,052,136	10,049,244	\$ 78,374
9015	WCIV	1,152,800	1,152,800	\$ 8,991
42116	WCIX	554,002	549,911	\$ 4,289
16993	WCJB-TV	977,492	977,492	\$ 7,623
11125	WCLF	4,097,389	4,096,624	\$ 31,950
68007	WCLJ-TV	2,305,723	2,303,534	\$ 17,965
50781	WCMH-TV	2,756,260	2,712,989	\$ 21,159
9917	WCML	233,439	224,255	\$ 1,749
9908	WCMU-TV	707,702	699,551	\$ 5,456
9922	WCMV	425,499	411,288	\$ 3,208
9913	WCMW	106,975	104,859	\$ 818
32326	WCNC-TV	3,883,049	3,809,706	\$ 29,712
53734	WCNY-TV	1,342,821	1,279,429	\$ 9,978
73642	WCOV-TV	889,102	884,417	\$ 6,898
40618	WCPB	567,809	567,809	\$ 4,428
59438	WCPO-TV	3,330,885	3,313,654	\$ 25,843

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10981	WCPX-TV	9,753,235	9,751,916	\$ 76,055
71297	WCSC-TV	1,028,018	1,028,018	\$ 8,018
39664	WCSH	1,755,325	1,548,824	\$ 12,079
69479	WCTE	612,760	541,314	\$ 4,222
18334	WCTI-TV	1,688,065	1,685,638	\$ 13,146
31590	WCTV	1,065,524	1,065,464	\$ 8,310
33081	WCTX	7,844,936	7,332,431	\$ 57,186
65684	WCVB-TV	7,780,868	7,618,496	\$ 59,417
9987	WCVE-TV	1,721,004	1,712,249	\$ 13,354
83304	WCVI-TV	50,601	50,495	\$ 394
34204	WCVN-TV	2,129,816	2,120,349	\$ 16,537
9989	WCVW	1,505,484	1,505,330	\$ 11,740
73042	WCWF	1,131,390	1,130,818	\$ 8,819
35385	WCWG	3,630,551	3,299,114	\$ 25,730
29712	WCWJ	1,661,270	1,661,132	\$ 12,955
73264	WCWN	1,909,223	1,621,751	\$ 12,648
2455	WCYB-TV	2,363,002	2,057,404	\$ 16,046
11291	WDAF-TV	2,539,581	2,537,411	\$ 19,789
21250	WDAM-TV	512,594	500,343	\$ 3,902
22129	WDAY-TV	339,239	338,856	\$ 2,643
22124	WDAZ-TV	151,720	151,659	\$ 1,183
71325	WDBB	1,792,728	1,762,643	\$ 13,747
71326	WDBD	940,665	939,489	\$ 7,327
71329	WDBJ	1,626,017	1,435,762	\$ 11,198
51567	WDCA	8,101,358	8,049,329	\$ 62,777
16530	WDCQ-TV	1,269,199	1,269,199	\$ 9,898
30576	WDCW	8,155,998	8,114,847	\$ 63,288
54385	WDEF-TV	1,730,762	1,530,403	\$ 11,936
32851	WDFX-TV	271,499	270,942	\$ 2,113
43846	WDHN	452,377	451,978	\$ 3,525
71338	WDIO-DT	341,506	327,469	\$ 2,554

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714	WDIQ	663,062	620,124	\$ 4,836
53114	WDIV-TV	5,450,318	5,450,174	\$ 42,506
71427	WDJT-TV	3,267,652	3,256,507	\$ 25,397
39561	WDKA	658,699	658,277	\$ 5,134
64017	WDKY-TV	1,204,817	1,173,579	\$ 9,153
67893	WDLI-TV	4,147,298	4,114,920	\$ 32,092
72335	WDPB	596,888	596,888	\$ 4,655
83740	WDPM-DT	1,365,977	1,364,744	\$ 10,644
1283	WDPN-TV	11,594,463	11,467,616	\$ 89,436
6476	WDPX-TV	6,833,712	6,761,949	\$ 52,736
28476	WDRB	2,054,813	2,037,086	\$ 15,887
12171	WDSC-TV	3,389,559	3,389,559	\$ 26,435
17726	WDSE	330,994	316,643	\$ 2,469
71353	WDSI-TV	1,100,302	1,042,191	\$ 8,128
71357	WDSU	1,649,083	1,649,083	\$ 12,861
7908	WDTI	2,092,242	2,091,941	\$ 16,315
65690	WDTN	3,831,757	3,819,550	\$ 29,789
70592	WDTV	566,592	524,961	\$ 4,094
25045	WDVM-TV	3,074,837	2,646,508	\$ 20,640
4110	WDWL	2,638,361	1,977,410	\$ 15,422
49421	WEAO	3,960,217	3,945,408	\$ 30,770
71363	WEAR-TV	1,520,973	1,520,386	\$ 11,857
7893	WEAU	1,006,393	971,050	\$ 7,573
61003	WEBA-TV	641,354	632,282	\$ 4,931
19561	WECN	2,886,669	2,157,288	\$ 16,825
48666	WECT	1,156,807	1,156,807	\$ 9,022
13602	WEDH	5,328,800	4,724,167	\$ 36,844
13607	WEDN	3,451,170	2,643,344	\$ 20,615
69338	WEDQ	5,379,887	5,365,612	\$ 41,846
21808	WEDU	5,379,887	5,365,612	\$ 41,846
13594	WEDW	5,996,408	5,544,708	\$ 43,243

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Facility Id.	Call Sign	Population	Population	Fee Amount
13595	WEDY	5,328,800	4,724,167	\$ 36,844
24801	WEEK-TV	752,596	752,539	\$ 5,869
6744	WEFS	3,380,743	3,380,743	\$ 26,366
24215	WEHT	857,558	844,070	\$ 6,583
721	WEIQ	1,055,632	1,055,193	\$ 8,229
18301	WEIU-TV	458,480	458,416	\$ 3,575
69271	WEKW-TV	1,263,049	773,108	\$ 6,029
60825	WELF-TV	1,477,691	1,387,044	\$ 10,818
26602	WELU	2,315,163	1,721,317	\$ 13,425
40761	WEMT	1,726,085	1,186,706	\$ 9,255
69237	WENH-TV	4,500,498	4,328,222	\$ 33,756
71508	WENY-TV	656,240	517,754	\$ 4,038
83946	WEPH	604,105	602,833	\$ 4,701
81508	WEPX-TV	950,012	950,012	\$ 7,409
25738	WESH	4,063,973	4,053,252	\$ 31,611
65670	WETA-TV	8,315,499	8,258,807	\$ 64,410
69944	WETK	670,087	558,842	\$ 4,358
60653	WETM-TV	870,206	770,731	\$ 6,011
18252	WETP-TV	2,167,383	1,888,574	\$ 14,729
2709	WEUX	380,569	373,680	\$ 2,914
72041	WEVV-TV	752,417	751,094	\$ 5,858
59441	WEWS-TV	4,112,984	4,078,299	\$ 31,807
72052	WEYI-TV	3,715,686	3,652,991	\$ 28,490
72054	WFAA	6,917,502	6,907,616	\$ 53,872
81669	WFBD	817,914	817,389	\$ 6,375
69532	WFDC-DT	8,155,998	8,114,847	\$ 63,288
10132	WFFF-TV	633,649	552,182	\$ 4,306
25040	WFFT-TV	1,095,429	1,095,411	\$ 8,543
11123	WFGC	3,018,351	3,018,351	\$ 23,540
6554	WFGX	1,493,866	1,493,319	\$ 11,646
13991	WFIE	743,079	740,909	\$ 5,778

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
715	WFIQ	546,563	544,258	\$ 4,245
64592	WFLA-TV	5,583,544	5,576,649	\$ 43,492
22211	WFLD	9,957,301	9,954,828	\$ 77,638
72060	WFLI-TV	1,294,209	1,189,897	\$ 9,280
39736	WFLX	5,740,086	5,740,086	\$ 44,767
72062	WFMJ-TV	4,328,477	3,822,691	\$ 29,813
72064	WFMY-TV	4,772,783	4,746,167	\$ 37,015
39884	WFMZ-TV	10,613,847	9,474,797	\$ 73,894
83943	WFNA	1,391,519	1,390,447	\$ 10,844
47902	WFOR-TV	5,398,266	5,398,266	\$ 42,101
11909	WFOX-TV	1,603,324	1,603,324	\$ 12,504
40626	WFPT	5,829,153	5,442,279	\$ 42,444
21245	WFPX-TV	2,637,949	2,634,141	\$ 20,544
25396	WFQX-TV	537,340	534,314	\$ 4,167
9635	WFRV-TV	1,263,353	1,256,376	\$ 9,798
53115	WFSB	4,752,788	4,370,519	\$ 34,086
6093	WFSG	364,961	364,796	\$ 2,845
21801	WFSU-TV	576,105	576,093	\$ 4,493
11913	WFTC	3,787,177	3,770,207	\$ 29,404
64588	WFTS-TV	5,236,379	5,236,287	\$ 40,838
16788	WFTT-TV	4,523,828	4,521,879	\$ 35,266
72076	WFTV	3,882,888	3,882,888	\$ 30,283
70649	WFTX-TV	1,758,172	1,758,172	\$ 13,712
60553	WFTY-DT	5,678,755	5,560,460	\$ 43,366
25395	WFUP	234,863	234,436	\$ 1,828
60555	WFUT-DT	20,538,272	20,130,459	\$ 156,997
22108	WFWA	1,035,114	1,034,862	\$ 8,071
9054	WFXB	1,393,865	1,393,510	\$ 10,868
3228	WFXG	1,070,032	1,057,760	\$ 8,249
70815	WFXL	793,637	785,106	\$ 6,123
19707	WFXP	583,315	562,500	\$ 4,387

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
24813	WFXR	1,426,061	1,286,450	\$ 10,033
6463	WFXT	7,494,070	7,400,830	\$ 57,719
22245	WFXU	218,273	218,273	\$ 1,702
43424	WFXV	702,682	612,494	\$ 4,777
25236	WFXW	274,078	270,967	\$ 2,113
41397	WFYI	2,389,627	2,388,970	\$ 18,632
53930	WGAL	6,287,688	5,610,833	\$ 43,759
2708	WGBA-TV	1,170,375	1,170,127	\$ 9,126
24314	WGBC	249,415	249,235	\$ 1,944
72099	WGBH-TV	7,711,842	7,601,732	\$ 59,286
12498	WGBO-DT	9,828,737	9,826,530	\$ 76,637
11113	WGBP-TV	1,820,589	1,812,232	\$ 14,134
72098	WGBX-TV	7,803,280	7,636,641	\$ 59,558
72096	WGBY-TV	4,470,009	3,739,675	\$ 29,166
62388	WGCU	1,510,671	1,510,671	\$ 11,782
54275	WGEM-TV	361,598	356,682	\$ 2,782
27387	WGEN-TV	43,037	43,037	\$ 336
7727	WGFL	877,163	877,163	\$ 6,841
25682	WGGB-TV	3,443,386	3,053,436	\$ 23,814
11027	WGGN-TV	4,002,841	3,981,382	\$ 31,051
9064	WGGS-TV	2,759,326	2,705,067	\$ 21,097
72106	WGHP	4,174,964	4,123,106	\$ 32,156
710	WGIQ	363,849	363,806	\$ 2,837
12520	WGMB-TV	1,742,708	1,742,659	\$ 13,591
25683	WGME-TV	1,495,724	1,325,465	\$ 10,337
24618	WGNM	742,458	741,502	\$ 5,783
72119	WGNO	1,641,765	1,641,765	\$ 12,804
9762	WGNT	2,128,079	2,127,891	\$ 16,595
72115	WGN-TV	9,983,395	9,981,137	\$ 77,843
40619	WGPT	578,294	344,300	\$ 2,685
65074	WGPX-TV	2,765,350	2,754,743	\$ 21,484

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Facility Id.	Call Sign	Population	Population	Fee Amount
64547	WGRZ	1,878,725	1,812,309	\$ 14,134
63329	WGTA	1,061,654	1,030,538	\$ 8,037
66285	WGTE-TV	2,210,496	2,208,927	\$ 17,227
59279	WGTQ	116,301	112,633	\$ 878
59280	WGTU	358,543	353,477	\$ 2,757
23948	WGTV	5,989,342	5,917,966	\$ 46,154
7623	WGTW-TV	807,797	807,797	\$ 6,300
24783	WGVK	2,439,225	2,437,526	\$ 19,010
24784	WGVU-TV	1,825,744	1,784,264	\$ 13,915
21536	WGWG	986,963	986,963	\$ 7,697
56642	WGWW	1,677,166	1,647,976	\$ 12,853
58262	WGXA	779,955	779,087	\$ 6,076
73371	WHAM-TV	1,381,564	1,334,653	\$ 10,409
32327	WHAS-TV	1,955,983	1,925,901	\$ 15,020
6096	WHA-TV	1,635,777	1,628,950	\$ 12,704
13950	WHBF-TV	1,712,339	1,704,072	\$ 13,290
12521	WHBQ-TV	1,736,335	1,708,345	\$ 13,323
10894	WHBR	1,302,764	1,302,041	\$ 10,155
65128	WHDF	1,553,469	1,502,852	\$ 11,721
72145	WHDH	7,441,208	7,343,735	\$ 57,274
83929	WHDY	5,768,239	5,768,239	\$ 44,986
70041	WHEC-TV	1,322,243	1,279,606	\$ 9,980
67971	WHFT-TV	5,417,409	5,417,409	\$ 42,250
41458	WHIO-TV	3,877,520	3,868,597	\$ 30,171
713	WHIQ	1,278,174	1,225,940	\$ 9,561
61216	WHIZ-TV	911,245	840,696	\$ 6,557
65919	WHKY-TV	3,358,493	3,294,261	\$ 25,692
18780	WHLA-TV	554,446	515,561	\$ 4,021
48668	WHLT	484,432	483,532	\$ 3,771
24582	WHLV-TV	3,906,201	3,906,201	\$ 30,464
37102	WHMB-TV	2,959,585	2,889,145	\$ 22,532

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Facility Id.	Call Sign	Population	Population	Fee Amount
61004	WHMC	774,921	774,921	\$ 6,044
36117	WHME-TV	1,455,358	1,455,110	\$ 11,348
37106	WHNO	1,499,653	1,499,653	\$ 11,696
72300	WHNS	2,549,610	2,270,868	\$ 17,710
48693	WHNT-TV	1,569,885	1,487,578	\$ 11,602
66221	WHO-DT	1,120,480	1,099,818	\$ 8,577
6866	WHOI	736,125	736,047	\$ 5,740
72313	WHP-TV	4,030,693	3,538,096	\$ 27,594
51980	WHPX-TV	5,579,464	5,114,336	\$ 39,887
73036	WHRM-TV	535,778	532,820	\$ 4,155
25932	WHRO-TV	2,169,238	2,169,237	\$ 16,918
68058	WHSB-TV	5,870,314	5,808,605	\$ 45,301
4688	WHSV-TV	845,013	711,912	\$ 5,552
9990	WHTJ	807,960	690,381	\$ 5,384
72326	WHTM-TV	3,211,085	2,799,192	\$ 21,831
11117	WHTN	1,914,755	1,905,733	\$ 14,863
27772	WHUT-TV	7,953,119	7,915,675	\$ 61,734
18793	WHWC-TV	1,123,941	1,091,281	\$ 8,511
72338	WHYY-TV	10,448,829	10,049,700	\$ 78,378
5360	WIAT	1,868,854	1,830,924	\$ 14,279
63160	WIBW-TV	1,234,347	1,181,009	\$ 9,211
25684	WICD	1,238,332	1,237,046	\$ 9,648
25686	WICS	1,101,798	1,099,718	\$ 8,577
24970	WICU-TV	740,115	683,435	\$ 5,330
62210	WICZ-TV	1,249,974	965,416	\$ 7,529
18410	WIDP	2,559,306	1,899,768	\$ 14,816
26025	WIFS	1,583,693	1,578,870	\$ 12,314
720	WIIQ	353,241	347,685	\$ 2,712
68939	WILL-TV	1,178,545	1,158,147	\$ 9,032
6863	WILX-TV	3,378,644	3,218,221	\$ 25,099
22093	WINK-TV	1,818,122	1,818,122	\$ 14,180

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Facility Id.	Call Sign	Population	Population	Fee Amount
67787	WINM	1,001,485	971,031	\$ 7,573
41314	WINP-TV	2,935,057	2,883,944	\$ 22,492
3646	WIPB	1,965,353	1,965,174	\$ 15,326
48408	WIPL	850,656	799,165	\$ 6,233
53863	WIPM-TV ¹	2,280,935	1,648,150	\$ 2,251
53859	WIPR-TV ¹	3,596,802	2,811,148	\$ 21,924
10253	WIPX-TV	2,305,723	2,303,534	\$ 17,965
39887	WIRS ¹²	1,091,825	757,978	\$ 4,676
71336	WIRT-DT	127,001	126,300	\$ 985
13990	WIS	2,644,715	2,600,887	\$ 20,284
65143	WISC-TV	1,734,112	1,697,537	\$ 13,239
13960	WISE-TV	1,070,155	1,070,155	\$ 8,346
39269	WISH-TV	2,912,963	2,855,253	\$ 22,268
65680	WISN-TV	3,003,636	2,997,695	\$ 23,379
73083	WITF-TV	2,412,561	2,191,501	\$ 17,092
73107	WITI	3,111,641	3,102,097	\$ 24,193
594	WITN-TV	1,861,458	1,836,905	\$ 14,326
61005	WITV	871,783	871,783	\$ 6,799
7780	WIVB-TV	1,900,503	1,820,106	\$ 14,195
11260	WIVT	855,138	613,934	\$ 4,788
60571	WIWN	3,338,845	3,323,941	\$ 25,923
62207	WIYC	639,641	637,499	\$ 4,972
73120	WJAC-TV	2,219,529	1,897,986	\$ 14,802
10259	WJAL	8,750,706	8,446,074	\$ 65,871
50780	WJAR	7,108,180	6,976,099	\$ 54,407
35576	WJAX-TV	1,630,782	1,630,782	\$ 12,718
27140	WJBF	1,601,088	1,588,444	\$ 12,388
73123	WJBK	5,748,623	5,711,224	\$ 44,542
37174	WJCL	938,086	938,086	\$ 7,316
73130	WJCT	1,618,817	1,617,292	\$ 12,613
29719	WJEB-TV	1,607,603	1,607,603	\$ 12,538

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Facility Id.	Call Sign	Population	Population	Fee Amount
65749	WJET-TV	747,431	717,721	\$ 5,598
7651	WJFB	2,310,517	2,302,217	\$ 17,955
49699	WJFW-TV	277,530	268,295	\$ 2,092
73136	WJHG-TV	864,121	859,823	\$ 6,706
57826	WJHL-TV	2,034,663	1,462,129	\$ 11,403
68519	WJKT	655,780	655,373	\$ 5,111
1051	WJLA-TV	8,750,706	8,447,643	\$ 65,883
86537	WJLP	21,384,080	21,119,164	\$ 164,708
9630	WJMN-TV	160,991	154,424	\$ 1,204
61008	WJPM-TV	623,939	623,787	\$ 4,865
58340	WJPX ^{6,10,12}	3,254,481	2,500,195	\$ 19,499
21735	WJRT-TV	2,788,684	2,543,446	\$ 19,836
23918	WJSP-TV	4,225,860	4,188,428	\$ 32,666
41210	WJTC	1,381,529	1,379,283	\$ 10,757
48667	WJTV	987,206	980,717	\$ 7,649
73150	WJW	3,977,148	3,905,325	\$ 30,458
61007	WJWJ-TV	1,034,555	1,034,555	\$ 8,068
58342	WJWN-TV ⁶	2,063,156	1,461,497	\$ 4,676
53116	WJXT	1,622,616	1,622,616	\$ 12,655
11893	WJXX	1,618,191	1,617,272	\$ 12,613
32334	WJYS	9,667,341	9,667,317	\$ 75,395
25455	WJZ-TV	9,743,335	9,350,346	\$ 72,923
73152	WJZY	4,432,745	4,301,117	\$ 33,544
64983	WKAQ-TV ³	3,697,088	2,731,588	\$ 2,628
6104	WKAR-TV	1,693,373	1,689,830	\$ 13,179
34171	WKAS	542,308	512,994	\$ 4,001
51570	WKBD-TV	5,065,617	5,065,350	\$ 39,505
73153	WKBN-TV	4,898,622	4,535,576	\$ 35,373
13929	WKBS-TV	1,082,894	937,847	\$ 7,314
74424	WKBT-DT	866,325	824,795	\$ 6,433
54176	WKBW-TV	2,247,191	2,161,366	\$ 16,856

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53465	WKCF	4,241,181	4,240,354	\$ 33,071
73155	WKEF	3,730,595	3,716,127	\$ 28,982
34177	WKGB-TV	413,268	411,587	\$ 3,210
34196	WKHA	511,281	400,721	\$ 3,125
34207	WKLE	856,237	846,630	\$ 6,603
34212	WKMA-TV	524,617	524,035	\$ 4,087
71293	WKMG-TV	3,817,673	3,817,673	\$ 29,774
34195	WKMJ-TV	1,477,906	1,470,645	\$ 11,470
34202	WKMR	463,316	428,462	\$ 3,342
34174	WKMU	344,430	344,050	\$ 2,683
42061	WKNO	1,645,867	1,642,092	\$ 12,807
83931	WKNX-TV	1,684,178	1,459,493	\$ 11,383
34205	WKOI-TV	584,645	579,258	\$ 4,518
67869	WKOI-TV	3,831,757	3,819,550	\$ 29,789
34211	WKON	1,080,274	1,072,320	\$ 8,363
18267	WKOP-TV	1,555,654	1,382,098	\$ 10,779
64545	WKOW	1,918,224	1,899,746	\$ 14,816
21432	WKPC-TV	1,525,919	1,517,701	\$ 11,837
65758	WKPD	283,454	282,250	\$ 2,201
34200	WKPI-TV	606,666	481,220	\$ 3,753
27504	WKPT-TV	1,131,213	887,806	\$ 6,924
58341	WKPV ¹⁰	1,132,932	731,199	\$ 4,676
11289	WKRC-TV	3,281,914	3,229,223	\$ 25,185
73187	WKRK-TV	1,526,600	1,526,075	\$ 11,902
73188	WKRN-TV	2,409,767	2,388,588	\$ 18,629
34222	WKSO-TV	658,441	642,090	\$ 5,008
40902	WKTC	1,387,229	1,386,779	\$ 10,815
60654	WKTV	1,573,503	1,342,387	\$ 10,469
73195	WKYC	4,180,327	4,124,135	\$ 32,164
24914	WKYT-TV	1,174,615	1,156,978	\$ 9,023
71861	WKYU-TV	411,448	409,310	\$ 3,192

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Facility Id.	Call Sign	Population	Population	Fee Amount
34181	WKZT-TV	1,044,532	1,020,878	\$ 7,962
18819	WLAE-TV	1,397,967	1,397,967	\$ 10,903
36533	WLAJ	4,100,475	4,063,963	\$ 31,695
2710	WLAX	469,017	447,381	\$ 3,489
68542	WLBT	948,671	947,857	\$ 7,392
39644	WLBZ	373,129	364,346	\$ 2,842
69328	WLED-TV	332,718	174,998	\$ 1,365
63046	WLEF-TV	200,517	199,188	\$ 1,553
73203	WLEX-TV	969,481	964,735	\$ 7,524
37806	WLFB	798,916	688,519	\$ 5,370
37808	WLFG	1,614,321	1,282,063	\$ 9,999
73204	WLFI-TV	2,243,009	2,221,313	\$ 17,324
73205	WLFL	3,747,583	3,743,960	\$ 29,199
19777	WLII-DT ^{4,8}	2,801,102	2,153,564	\$ 16,796
37503	WLIO	1,067,232	1,050,170	\$ 8,190
38336	WLIW	20,027,920	19,717,729	\$ 153,779
27696	WLJC-TV	1,401,072	1,281,256	\$ 9,993
71645	WLJT-DT	385,493	385,380	\$ 3,006
53939	WLKY	1,927,997	1,919,810	\$ 14,973
11033	WLLA	2,081,693	2,081,436	\$ 16,233
1222	WLMA	1,646,714	1,644,206	\$ 12,823
17076	WLMB	2,754,484	2,747,490	\$ 21,428
68518	WLMT	1,736,552	1,733,496	\$ 13,520
22591	WLNE-TV	6,429,522	6,381,825	\$ 49,772
74420	WLNS-TV	4,100,475	4,063,963	\$ 31,695
73206	WLNY-TV	7,501,199	7,415,578	\$ 57,834
84253	WLOO	913,960	912,674	\$ 7,118
56537	WLOS	3,086,751	2,544,410	\$ 19,844
37732	WLOV-TV	609,526	607,780	\$ 4,740
13995	WLOX	1,182,149	1,170,659	\$ 9,130
38586	WLPB-TV	1,219,624	1,219,407	\$ 9,510

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Facility Id.	Call Sign	Population	Population	Fee Amount
73189	WLPX-TV	1,066,912	1,022,543	\$ 7,975
66358	WLRN-TV	5,447,399	5,447,399	\$ 42,484
73226	WLS-TV	10,174,464	10,170,757	\$ 79,322
73230	WLTN-TV	5,427,398	5,427,398	\$ 42,328
37176	WLTX	1,580,677	1,578,645	\$ 12,312
37179	WLTZ	689,521	685,358	\$ 5,345
21259	WLUC-TV	92,246	85,393	\$ 666
4150	WLUK-TV	1,187,616	1,186,861	\$ 9,256
73238	WLVI	7,441,208	7,343,735	\$ 57,274
36989	WLVT-TV	10,613,847	9,474,797	\$ 73,894
3978	WLWC	3,281,532	3,150,875	\$ 24,574
46979	WLWT	3,367,381	3,355,009	\$ 26,166
54452	WLXI	4,184,851	4,166,318	\$ 32,493
55350	WLYH	3,211,085	2,799,192	\$ 21,831
43192	WMAB-TV	405,483	399,560	\$ 3,116
43170	WMAE-TV	686,076	653,173	\$ 5,094
43197	WMAH-TV	1,257,393	1,256,995	\$ 9,803
43176	WMAO-TV	369,696	369,343	\$ 2,881
47905	WMAQ-TV	9,914,395	9,913,272	\$ 77,314
59442	WMAR-TV	9,198,495	9,072,076	\$ 70,753
43184	WMAU-TV	642,328	636,504	\$ 4,964
43193	WMAV-TV	1,008,339	1,008,208	\$ 7,863
43169	WMAW-TV	726,173	715,450	\$ 5,580
46991	WMAZ-TV	1,185,678	1,136,616	\$ 8,864
66398	WMBB	935,027	914,607	\$ 7,133
43952	WMBC-TV	18,706,132	18,458,331	\$ 143,957
42121	WMBD-TV	742,729	742,660	\$ 5,792
83969	WMBF-TV	445,363	445,363	\$ 3,473
60829	WMCN-TV	612,942	609,635	\$ 4,755
9739	WMCN-TV	10,448,829	10,049,700	\$ 78,378
19184	WMC-TV	2,047,403	2,043,125	\$ 15,934

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Facility Id.	Call Sign	Population	Population	Fee Amount
189357	WMDE	6,384,827	6,257,910	\$ 48,805
73255	WMDN	278,227	278,018	\$ 2,168
16455	WMDT	731,868	731,868	\$ 5,708
39656	WMEA-TV	902,755	853,857	\$ 6,659
39648	WMEB-TV	511,761	494,574	\$ 3,857
70537	WMEC	218,027	217,839	\$ 1,699
39649	WMED-TV	30,488	29,577	\$ 231
39662	WMEM-TV	71,700	69,981	\$ 546
41893	WMFD-TV	1,561,367	1,324,244	\$ 10,328
41436	WMFP	5,792,048	5,564,295	\$ 43,396
61111	WMGM-TV	807,797	807,797	\$ 6,300
43847	WMGT-TV	601,894	601,309	\$ 4,690
73263	WMHT	1,719,949	1,550,977	\$ 12,096
68545	WMLW-TV	1,843,933	1,843,663	\$ 14,379
53819	WMOR-TV	5,394,541	5,394,541	\$ 42,072
81503	WMOW	121,150	105,957	\$ 826
65944	WMPB	7,452,728	7,343,061	\$ 57,269
43168	WMPN-TV	856,237	854,089	\$ 6,661
65942	WMPT	8,637,742	8,584,398	\$ 66,950
60827	WMPV-TV	1,423,052	1,422,411	\$ 11,093
10221	WMSN-TV	1,947,942	1,927,158	\$ 15,030
2174	WMTJ ¹¹	3,143,148	2,365,308	\$ 18,447
6870	WMTV	1,548,616	1,545,459	\$ 12,053
73288	WMTW	1,940,292	1,658,816	\$ 12,937
23935	WMUM-TV	925,814	920,835	\$ 7,182
73292	WMUR-TV	5,242,334	5,057,770	\$ 39,446
42663	WMVS	3,172,534	3,112,231	\$ 24,272
42665	WMVT	3,172,534	3,112,231	\$ 24,272
81946	WMWC-TV	946,858	916,989	\$ 7,152
56548	WMYA-TV	1,650,798	1,571,594	\$ 12,257
74211	WMYD	5,750,989	5,750,873	\$ 44,851

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
20624	WMYT-TV	4,432,745	4,301,117	\$ 33,544
25544	WMYV	3,901,915	3,875,210	\$ 30,223
73310	WNAB	2,176,984	2,166,809	\$ 16,899
73311	WNAC-TV	7,310,183	6,959,064	\$ 54,274
47535	WNBC	21,952,082	21,399,204	\$ 166,892
83965	WNBW-DT	1,400,631	1,396,012	\$ 10,887
72307	WNCF	667,683	665,950	\$ 5,194
50782	WNCN	3,795,494	3,783,131	\$ 29,505
57838	WNCT-TV	1,935,414	1,887,929	\$ 14,724
41674	WNDU-TV	1,863,764	1,835,398	\$ 14,314
28462	WNDY-TV	2,912,963	2,855,253	\$ 22,268
71928	WNED-TV	1,387,961	1,370,480	\$ 10,688
60931	WNEH	1,261,482	1,255,218	\$ 9,789
41221	WNEM-TV	1,475,094	1,471,908	\$ 11,479
49439	WNEO	3,353,869	3,271,369	\$ 25,513
73318	WNEP-TV	3,429,213	2,838,000	\$ 22,134
18795	WNET	21,113,760	20,615,190	\$ 160,778
51864	WNEU	7,135,190	7,067,520	\$ 55,120
23942	WNGH-TV	5,744,856	5,595,366	\$ 43,638
67802	WNIN	908,275	891,946	\$ 6,956
41671	WNIT	1,305,447	1,305,447	\$ 10,181
48457	WNJB	20,787,272	20,036,393	\$ 156,264
48477	WNJN	20,787,272	20,036,393	\$ 156,264
48481	WNJS	7,383,483	7,343,269	\$ 57,270
48465	WNJT	7,383,483	7,343,269	\$ 57,270
73333	WNJU	21,952,082	21,399,204	\$ 166,892
73336	WNJX-TV ²	1,628,732	1,170,083	\$ 2,462
61217	WNKY	379,002	377,357	\$ 2,943
71905	WNLO	1,900,503	1,820,106	\$ 14,195
4318	WNMU	181,736	179,662	\$ 1,401
73344	WNNE	792,551	676,539	\$ 5,276

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Facility Id.	Call Sign	Population	Population	Fee Amount
54280	WNOL-TV	1,632,389	1,632,389	\$ 12,731
71676	WNPB-TV	2,130,047	1,941,707	\$ 15,143
62137	WNPI-DT	167,931	161,748	\$ 1,261
41398	WNPT	2,266,543	2,235,316	\$ 17,433
28468	WNPX-TV	2,084,890	2,071,017	\$ 16,152
61009	WNSC-TV	2,431,154	2,425,044	\$ 18,913
61010	WNTV	2,419,841	2,211,019	\$ 17,244
16539	WNTZ-TV	344,704	343,849	\$ 2,682
7933	WNUV	9,098,694	8,906,508	\$ 69,462
9999	WNVC	807,960	690,381	\$ 5,384
10019	WNVN	1,721,004	1,712,249	\$ 13,354
73354	WNWO-TV	2,872,428	2,872,250	\$ 22,401
136751	WNYA	1,923,118	1,651,777	\$ 12,882
30303	WNYB	1,785,269	1,756,096	\$ 13,696
6048	WNYE-TV	19,414,613	19,180,858	\$ 149,592
34329	WNYI	1,627,542	1,338,811	\$ 10,441
67784	WNYO-TV	1,430,491	1,409,756	\$ 10,995
73363	WNYT	1,679,494	1,516,775	\$ 11,829
22206	WNYW	20,075,874	19,753,060	\$ 154,054
69618	WOAI-TV	2,525,811	2,513,887	\$ 19,606
66804	WOAY-TV	581,486	443,210	\$ 3,457
41225	WOFL	4,048,104	4,043,672	\$ 31,537
70651	WOGX	1,112,408	1,112,408	\$ 8,676
8661	WOI-DT	1,173,757	1,170,432	\$ 9,128
39746	WOIO	3,821,233	3,745,335	\$ 29,210
71725	WOLE-DT ⁴	1,784,094	1,312,984	\$ 7,379
73375	WOLF-TV	2,990,646	2,522,858	\$ 19,676
60963	WOLO-TV	2,635,715	2,594,980	\$ 20,238
36838	WOOD-TV	2,507,053	2,501,084	\$ 19,506
67602	WOPX-TV	3,877,863	3,877,805	\$ 30,243
64865	WORA-TV ^{3,13}	3,594,115	2,762,755	\$ 21,547

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Facility Id.	Call Sign	Population	Population	Fee Amount
73901	WORO-DT	3,236,498	2,516,588	\$ 19,627
60357	WOST	1,193,381	853,762	\$ 6,658
66185	WOSU-TV	2,843,651	2,776,901	\$ 21,657
131	WOTF-TV	3,451,383	3,451,383	\$ 26,917
10212	WOTV	2,368,797	2,368,397	\$ 18,471
50147	WOUB-TV	756,762	734,988	\$ 5,732
50141	WOUC-TV	1,713,515	1,649,853	\$ 12,867
23342	WOWK-TV	1,159,175	1,083,663	\$ 8,451
65528	WOWT	1,380,979	1,377,287	\$ 10,741
31570	WPAN	1,254,821	1,254,636	\$ 9,785
51988	WPBF	3,190,307	3,186,405	\$ 24,851
21253	WPBN-TV	442,005	430,953	\$ 3,361
62136	WPBS-TV	338,448	301,692	\$ 2,353
13456	WPBT	5,416,604	5,416,604	\$ 42,244
13924	WPCB-TV	2,934,614	2,800,516	\$ 21,841
64033	WPCH-TV	5,948,778	5,874,163	\$ 45,813
4354	WPCT	195,270	194,869	\$ 1,520
69880	WPCW	3,393,365	3,188,441	\$ 24,867
17012	WPDE-TV	1,772,233	1,769,553	\$ 13,801
52527	WPEC	5,764,571	5,764,571	\$ 44,958
84088	WPFO	1,329,690	1,209,873	\$ 9,436
54728	WPGA-TV	559,495	559,025	\$ 4,360
60820	WPGD-TV	2,355,629	2,343,715	\$ 18,279
73875	WPGH-TV	3,236,098	3,121,767	\$ 24,347
2942	WPGX	425,098	422,872	\$ 3,298
73879	WPHL-TV	10,421,216	10,246,856	\$ 79,915
73881	WPIX	20,948,273	20,501,774	\$ 159,893
53113	WPLG	5,588,748	5,588,748	\$ 43,587
11906	WPMI-TV	1,468,001	1,467,594	\$ 11,446
10213	WPMT	2,412,561	2,191,501	\$ 17,092
18798	WPNE-TV	1,161,295	1,160,631	\$ 9,052

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Facility Id.	Call Sign	Population	Population	Fee Amount
73907	WPNT	3,172,170	3,064,423	\$ 23,899
28480	WPPT	10,613,847	9,474,797	\$ 73,894
51984	WPPX-TV	8,044,823	7,839,141	\$ 61,137
47404	WPRI-TV	7,254,721	6,990,606	\$ 54,520
51991	WPSD-TV	883,814	879,213	\$ 6,857
12499	WPSG	10,798,264	10,529,460	\$ 82,119
66219	WPSU-TV	1,055,133	868,013	\$ 6,770
73905	WPTA	1,099,180	1,099,180	\$ 8,573
25067	WPTD	3,423,417	3,411,727	\$ 26,608
25065	WPTO	2,961,254	2,951,883	\$ 23,022
59443	WPTV-TV	5,840,102	5,840,102	\$ 45,547
57476	WPTZ	792,551	676,539	\$ 5,276
8616	WPVI-TV	11,491,587	11,302,701	\$ 88,150
48772	WPWR-TV	9,957,301	9,954,828	\$ 77,638
51969	WPXA-TV	6,587,205	6,458,510	\$ 50,370
71236	WPXC-TV	1,561,014	1,561,014	\$ 12,174
5800	WPXD-TV	5,249,447	5,249,447	\$ 40,940
37104	WPXE-TV	3,067,071	3,057,388	\$ 23,845
48406	WPXG-TV	2,577,848	2,512,150	\$ 19,592
73312	WPXH-TV	1,471,601	1,451,634	\$ 11,321
73910	WPXI	3,300,896	3,197,864	\$ 24,940
2325	WPXJ-TV	2,357,870	2,289,706	\$ 17,857
52628	WPXK-TV	1,801,997	1,577,806	\$ 12,305
21729	WPXL-TV	1,639,180	1,639,180	\$ 12,784
48608	WPXM-TV	5,153,621	5,153,621	\$ 40,193
73356	WPXN-TV	20,878,066	20,454,468	\$ 159,524
27290	WPXP-TV	5,565,072	5,565,072	\$ 43,402
50063	WPXQ-TV	3,281,532	3,150,875	\$ 24,574
70251	WPXR-TV	1,375,640	1,200,331	\$ 9,361
40861	WPXS	2,339,305	2,251,498	\$ 17,559
53065	WPXT	1,002,128	952,535	\$ 7,429

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37971	WPXU-TV	700,488	700,488	\$ 5,463
67077	WPXV-TV	1,919,794	1,919,794	\$ 14,972
74091	WPXW-TV	8,075,268	8,024,342	\$ 62,582
21726	WPXX-TV	1,562,675	1,560,834	\$ 12,173
73319	WQAD-TV	1,101,012	1,089,523	\$ 8,497
65130	WQCW	1,307,345	1,236,020	\$ 9,640
71561	WQEC	183,969	183,690	\$ 1,433
41315	WQED	3,529,305	3,426,684	\$ 26,725
3255	WQHA	3,322,840	2,368,215	\$ 18,470
60556	WQHS-DT	3,996,567	3,952,672	\$ 30,827
53716	WQLN	602,232	577,633	\$ 4,505
52075	WQMY	410,269	254,586	\$ 1,986
64550	WQOW	369,066	358,576	\$ 2,797
5468	WQPT-TV	941,381	933,107	\$ 7,277
64690	WQPX-TV	1,644,283	1,212,587	\$ 9,457
52408	WQRF-TV	1,375,774	1,354,979	\$ 10,567
2175	WQTO ¹¹	2,864,201	1,598,365	\$ 5,728
8688	WRAL-TV	3,852,675	3,848,801	\$ 30,017
10133	WRAY-TV	4,184,851	4,166,318	\$ 32,493
64611	WRAZ	3,800,594	3,797,515	\$ 29,617
136749	WRBJ-TV	1,030,831	1,028,010	\$ 8,017
3359	WRBL	1,493,140	1,461,459	\$ 11,398
57221	WRBU	2,933,497	2,929,776	\$ 22,849
54940	WRBW	4,080,267	4,077,341	\$ 31,799
59137	WRCB	1,587,742	1,363,582	\$ 10,635
47904	WRC-TV	8,188,601	8,146,696	\$ 63,536
54963	WRDC	3,972,477	3,966,864	\$ 30,938
55454	WRDQ	3,930,315	3,930,315	\$ 30,653
73937	WRDW-TV	1,564,584	1,533,682	\$ 11,961
66174	WREG-TV	1,642,307	1,638,585	\$ 12,779
61011	WRET-TV	2,419,841	2,211,019	\$ 17,244

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73940	WREX	2,303,027	2,047,951	\$ 15,972
54443	WRFB ¹³	2,674,527	1,975,375	\$ 2,628
73942	WRGB	1,759,432	1,550,958	\$ 12,096
411	WRGT-TV	3,451,036	3,416,078	\$ 26,642
74416	WRIC-TV	2,059,152	1,996,075	\$ 15,567
61012	WRJA-TV	1,204,291	1,201,900	\$ 9,374
412	WRLH-TV	2,017,508	1,959,111	\$ 15,279
61013	WRLK-TV	1,229,094	1,228,616	\$ 9,582
43870	WRLM	3,960,217	3,945,408	\$ 30,770
74156	WRNN-TV	19,853,836	19,615,370	\$ 152,980
73964	WROC-TV	1,203,412	1,185,203	\$ 9,243
159007	WRPT	110,009	109,937	\$ 857
20590	WRPX-TV	2,637,949	2,634,141	\$ 20,544
62009	WRSP-TV	1,102,162	1,100,077	\$ 8,580
40877	WRTV	2,919,683	2,895,164	\$ 22,579
15320	WRUA	2,985,428	2,224,902	\$ 17,352
71580	WRXY-TV	1,784,000	1,784,000	\$ 13,913
48662	WSAV-TV	1,000,315	1,000,309	\$ 7,801
6867	WSAW-TV	652,442	646,386	\$ 5,041
36912	WSAZ-TV	1,239,187	1,168,954	\$ 9,117
56092	WSBE-TV	7,535,710	7,266,304	\$ 56,670
73982	WSBK-TV	7,290,901	7,225,463	\$ 56,351
72053	WSBS-TV	42,952	42,952	\$ 335
73983	WSBT-TV	1,763,215	1,752,698	\$ 13,669
23960	WSB-TV	5,897,425	5,828,269	\$ 45,455
69446	WSCG	867,516	867,490	\$ 6,766
64971	WSCV	5,465,435	5,465,435	\$ 42,625
70536	WSEC	538,090	536,891	\$ 4,187
49711	WSEE-TV	613,176	595,476	\$ 4,644
21258	WSES	1,829,499	1,796,561	\$ 14,011
73988	WSET-TV	1,575,886	1,340,273	\$ 10,453

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Facility Id.	Call Sign	Population	Population	Fee Amount
13993	WSFA	1,166,744	1,132,826	\$ 8,835
11118	WSFJ-TV	1,675,987	1,667,150	\$ 13,002
10203	WSFL-TV	5,344,129	5,344,129	\$ 41,679
72871	WSFX-TV	970,833	970,833	\$ 7,572
73999	WSIL-TV	672,560	669,176	\$ 5,219
4297	WSIU-TV	1,019,939	937,070	\$ 7,308
74007	WSJV	1,651,178	1,644,683	\$ 12,827
78908	WSKA	546,588	431,354	\$ 3,364
74034	WSKG-TV	892,402	633,163	\$ 4,938
76324	WSKY-TV	1,934,585	1,934,519	\$ 15,087
57840	WSLS-TV	1,447,286	1,277,753	\$ 9,965
21737	WSMH	2,339,224	2,327,660	\$ 18,153
41232	WSMV-TV	2,447,769	2,404,766	\$ 18,755
70119	WSNS-TV	9,914,395	9,913,272	\$ 77,314
74070	WSOC-TV	3,706,808	3,638,832	\$ 28,379
66391	WSPA-TV	3,388,945	3,227,025	\$ 25,168
64352	WSPX-TV	1,298,295	1,174,763	\$ 9,162
17611	WSRE	1,354,495	1,353,634	\$ 10,557
63867	WSST-TV	331,907	331,601	\$ 2,586
60341	WSTE-DT	3,723,967	3,000,000	\$ 23,397
21252	WSTM-TV	1,455,586	1,379,393	\$ 10,758
11204	WSTR-TV	3,297,280	3,286,795	\$ 25,634
19776	WSUR-DT ⁸	3,714,790	3,000,000	\$ 7,379
2370	WSVI	50,601	50,601	\$ 395
63840	WSVN	5,588,748	5,588,748	\$ 43,587
73374	WSWB	1,530,002	1,102,316	\$ 8,597
28155	WSWG	381,004	380,910	\$ 2,971
71680	WSWP-TV	902,592	694,697	\$ 5,418
74094	WSYM-TV	1,568,403	1,567,920	\$ 12,228
73113	WSYR-TV	1,329,977	1,243,098	\$ 9,695
40758	WSYT	1,970,721	1,739,071	\$ 13,563

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Facility Id.	Call Sign	Population	Population	Fee Amount
56549	WSYX	2,635,937	2,592,420	\$ 20,218
65681	WTAE-TV	2,995,755	2,860,979	\$ 22,313
23341	WTAJ-TV	1,187,718	948,598	\$ 7,398
4685	WTAP-TV	512,358	494,914	\$ 3,860
416	WTAT-TV	1,111,476	1,111,476	\$ 8,668
67993	WTBY-TV	15,858,470	15,766,438	\$ 122,962
29715	WTCE-TV	2,620,599	2,620,599	\$ 20,438
65667	WTCI	1,216,209	1,104,698	\$ 8,616
67786	WTCT	608,457	607,620	\$ 4,739
28954	WTCV ^{5,9}	3,254,481	2,500,195	\$ 19,499
74422	WTEN	1,902,431	1,613,747	\$ 12,586
9881	WTGL	3,707,507	3,707,507	\$ 28,915
27245	WTGS	966,519	966,357	\$ 7,537
70655	WTHI-TV	978,126	928,582	\$ 7,242
70162	WTHR	2,949,339	2,901,633	\$ 22,630
147	WTIC-TV	5,318,753	4,707,697	\$ 36,715
26681	WTIN-TV ⁷	3,716,312	2,987,150	\$ 2,462
66536	WTIU	1,570,257	1,569,135	\$ 12,238
1002	WTJP-TV	1,947,743	1,907,300	\$ 14,875
4593	WTJR	334,527	334,221	\$ 2,607
70287	WTJX-TV	135,017	121,498	\$ 948
47401	WTKR	2,149,376	2,149,375	\$ 16,763
82735	WTLF	349,696	349,691	\$ 2,727
23486	WTLH	1,065,127	1,065,105	\$ 8,307
67781	WTLJ	1,622,365	1,621,227	\$ 12,644
65046	WTLV	1,757,600	1,739,021	\$ 13,563
74098	WTMJ-TV	3,096,406	3,085,983	\$ 24,068
74109	WTNH	7,845,782	7,332,431	\$ 57,186
19200	WTNZ	1,699,427	1,513,754	\$ 11,806
590	WTOC-TV	993,098	992,658	\$ 7,742
74112	WTOG	5,268,364	5,267,177	\$ 41,079

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Facility Id.	Call Sign	Population	Population	Fee Amount
4686	WTOK-TV	417,919	412,276	\$ 3,215
13992	WTOL	4,487,440	4,479,518	\$ 34,936
21254	WTOM-TV	120,369	117,121	\$ 913
74122	WTOV-TV	3,892,886	3,619,899	\$ 28,232
82574	WTPC-TV	2,049,246	2,042,851	\$ 15,932
86496	WTPX-TV	255,972	255,791	\$ 1,995
6869	WTRF-TV	2,941,511	2,565,375	\$ 20,007
67798	WTSF	922,441	851,465	\$ 6,641
11290	WTSP	5,506,869	5,489,954	\$ 42,816
4108	WTTA	5,583,544	5,576,649	\$ 43,492
74137	WTTE	2,690,341	2,650,354	\$ 20,670
22207	WTTG	8,101,358	8,049,329	\$ 62,777
56526	WTTK	2,844,384	2,825,807	\$ 22,038
74138	WTTT	1,877,570	1,844,214	\$ 14,383
56523	WTTV	2,522,077	2,518,133	\$ 19,639
10802	WTTW	9,776,348	9,776,348	\$ 76,246
74148	WTVB	823,492	810,123	\$ 6,318
22590	WTVB	1,579,628	1,366,976	\$ 10,661
8617	WTVB	3,790,354	3,775,757	\$ 29,447
55305	WTVB	5,156,905	5,152,997	\$ 40,188
36504	WTVB	2,384,622	2,367,601	\$ 18,465
74150	WTVB	4,405,350	4,397,113	\$ 34,293
74151	WTVB	1,390,502	1,327,319	\$ 10,352
10645	WTVB	2,856,703	2,829,960	\$ 22,071
63154	WTVB	5,458,451	5,458,451	\$ 42,570
595	WTVB	1,498,667	1,405,957	\$ 10,965
72945	WTVB	1,409,708	1,398,825	\$ 10,909
28311	WTVB	678,884	678,539	\$ 5,292
51597	WTVB-DT	989,786	983,552	\$ 7,671
57832	WTVB-TV	1,816,197	1,809,035	\$ 14,109
16817	WTVB	5,511,091	5,510,837	\$ 42,979

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Facility Id.	Call Sign	Population	Population	Fee Amount
68569	WTVT	5,473,148	5,460,179	\$ 42,584
3661	WTVW	839,003	834,187	\$ 6,506
35575	WTVX	3,157,609	3,157,609	\$ 24,626
4152	WTVY	974,532	971,173	\$ 7,574
40759	WTVZ-TV	2,156,534	2,156,346	\$ 16,817
66908	WTWC-TV	1,061,101	1,061,079	\$ 8,275
20426	WTWO	737,341	731,294	\$ 5,703
81692	WTWV	1,527,511	1,526,625	\$ 11,906
51568	WTXF-TV	10,784,256	10,492,549	\$ 81,831
41065	WTXL-TV	1,054,514	1,054,322	\$ 8,223
8532	WUAB	3,821,233	3,745,335	\$ 29,210
12855	WUCF-TV	3,707,507	3,707,507	\$ 28,915
36395	WUCW	3,664,480	3,657,236	\$ 28,523
69440	WUFT	1,372,142	1,372,142	\$ 10,701
413	WUHF	1,152,580	1,147,972	\$ 8,953
8156	WUJA	2,638,361	1,977,410	\$ 15,422
69080	WUNC-TV	4,184,851	4,166,318	\$ 32,493
69292	WUND-TV	1,504,532	1,504,532	\$ 11,734
69114	WUNE-TV	3,146,865	2,625,942	\$ 20,480
69300	WUNF-TV	2,625,583	2,331,723	\$ 18,185
69124	WUNG-TV	3,605,143	3,588,220	\$ 27,985
60551	WUNI	7,209,571	7,084,349	\$ 55,251
69332	WUNJ-TV	1,116,458	1,116,458	\$ 8,707
69149	WUNK-TV	1,991,039	1,985,696	\$ 15,486
69360	WUNL-TV	3,055,263	2,834,274	\$ 22,105
69444	WUNM-TV	1,357,346	1,357,346	\$ 10,586
69397	WUNP-TV	1,402,186	1,393,524	\$ 10,868
69416	WUNU	1,202,495	1,201,481	\$ 9,370
83822	WUNW	1,856,918	1,333,273	\$ 10,398
6900	WUPA	5,966,454	5,888,379	\$ 45,923
13938	WUPL	1,721,320	1,721,320	\$ 13,425

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
10897	WUPV	1,933,664	1,914,643	\$ 14,932
19190	WUPW	2,100,914	2,099,572	\$ 16,375
23128	WUPX-TV	1,102,435	1,089,118	\$ 8,494
65593	WUSA	8,750,706	8,446,074	\$ 65,871
4301	WUSI-TV	339,507	339,507	\$ 2,648
60552	WUTB	8,523,983	8,381,042	\$ 65,364
30577	WUTF-TV	7,918,927	7,709,189	\$ 60,124
57837	WUTR	526,114	481,957	\$ 3,759
415	WUTV	1,589,376	1,557,474	\$ 12,147
16517	WUVC-DT	3,768,817	3,748,841	\$ 29,237
48813	WUVG-DT	6,029,495	5,965,975	\$ 46,529
3072	WUVN	1,233,568	1,157,140	\$ 9,025
60560	WUVP-DT	10,421,216	10,246,856	\$ 79,915
9971	WUXP-TV	2,316,872	2,305,293	\$ 17,979
417	WVAH-TV	1,373,555	1,295,383	\$ 10,103
23947	WVAN-TV	1,026,862	1,025,950	\$ 8,001
65387	WVBT	1,885,169	1,885,169	\$ 14,702
72342	WVCY-TV	3,111,641	3,102,097	\$ 24,193
60559	WVEA-TV	4,553,004	4,552,113	\$ 35,502
74167	WVEC	2,098,679	2,092,868	\$ 16,322
5802	WVEN-TV	3,921,016	3,919,361	\$ 30,567
61573	WVEO ⁵	1,091,825	757,978	\$ 4,676
69946	WVER	888,756	758,441	\$ 5,915
10976	WVFX	711,483	618,730	\$ 4,825
47929	WVIA-TV	3,429,213	2,838,000	\$ 22,134
3667	WVII-TV	368,022	346,874	\$ 2,705
70309	WVIR-TV	1,945,637	1,908,395	\$ 14,884
74170	WVIT	5,846,093	5,357,639	\$ 41,784
18753	WVIZ	3,695,223	3,689,173	\$ 28,772
70021	WVLA-TV	1,897,179	1,897,007	\$ 14,795
81750	WVLR	1,412,728	1,300,554	\$ 10,143

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
35908	WVLT-TV	1,888,607	1,633,633	\$ 12,741
74169	WVNS-TV	916,451	588,963	\$ 4,593
11259	WVNY	742,579	659,270	\$ 5,142
29000	WVOZ-TV ⁹	1,132,932	731,199	\$ 4,676
71657	WVPB-TV	992,798	959,526	\$ 7,483
60111	WVPT	767,268	642,173	\$ 5,008
70491	WVPX-TV	4,147,298	4,114,920	\$ 32,092
66378	WVPY	756,696	632,649	\$ 4,934
67190	WVSN	2,948,832	2,137,333	\$ 16,669
66943	WVTA	760,072	579,703	\$ 4,521
69940	WVTB	455,880	257,445	\$ 2,008
74173	WVTM-TV	2,009,346	1,940,153	\$ 15,131
74174	WVTV	3,091,132	3,083,108	\$ 24,045
77496	WVUA	2,209,921	2,160,101	\$ 16,847
4149	WVUE-DT	1,658,125	1,658,125	\$ 12,932
4329	WVUT	273,293	273,215	\$ 2,131
74176	WVVA	1,037,632	722,666	\$ 5,636
3113	WVXF	85,191	78,556	\$ 613
12033	WWAY	1,208,625	1,208,625	\$ 9,426
30833	WWBT	1,924,502	1,892,842	\$ 14,762
20295	WWCP-TV	2,811,278	2,548,691	\$ 19,877
24812	WWCW	1,390,985	1,212,308	\$ 9,455
23671	WWDP	5,792,048	5,564,295	\$ 43,396
21158	WWHO	2,762,344	2,721,504	\$ 21,225
14682	WWJE-DT	7,209,571	7,084,349	\$ 55,251
72123	WWJ-TV	5,562,031	5,561,777	\$ 43,376
166512	WWJX	518,866	518,846	\$ 4,046
6868	WWLP	3,838,272	3,077,800	\$ 24,004
74192	WWL-TV	1,788,624	1,788,624	\$ 13,949
3133	WWMB	1,547,974	1,544,778	\$ 12,048
74195	WWMT	2,538,485	2,531,309	\$ 19,742

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
68851	WWNY-TV	375,600	346,623	\$ 2,703
74197	WWOR-TV	19,853,836	19,615,370	\$ 152,980
65943	WWPB	3,197,858	2,775,966	\$ 21,650
23264	WWPX-TV	2,299,441	2,231,612	\$ 17,404
68547	WWRS-TV	2,324,155	2,321,066	\$ 18,102
61251	WWSB	3,340,133	3,340,133	\$ 26,050
23142	WWSI	11,269,831	11,098,540	\$ 86,558
16747	WWTI	196,531	190,097	\$ 1,483
998	WWTO-TV	6,760,133	6,760,133	\$ 52,722
26994	WWTV	1,034,174	1,022,322	\$ 7,973
84214	WWTW	1,527,511	1,526,625	\$ 11,906
26993	WWUP-TV	116,638	110,592	\$ 863
23338	WXBU	4,030,693	3,538,096	\$ 27,594
61504	WXCW	1,687,947	1,687,947	\$ 13,164
61084	WXEL-TV	5,416,604	5,416,604	\$ 42,244
60539	WXFT-DT	10,174,464	10,170,757	\$ 79,322
23929	WXGA-TV	608,494	606,849	\$ 4,733
51163	WXIA-TV	6,179,680	6,035,625	\$ 47,072
53921	WXII-TV	3,630,551	3,299,114	\$ 25,730
146	WXIN	2,836,532	2,814,815	\$ 21,953
39738	WXIX-TV	2,911,054	2,900,875	\$ 22,624
414	WXLV-TV	4,364,244	4,334,365	\$ 33,804
68433	WXMI	1,988,970	1,988,589	\$ 15,509
64549	WXOW	425,378	413,264	\$ 3,223
6601	WXPX-TV	4,594,588	4,592,639	\$ 35,818
74215	WXTV-DT	20,538,272	20,130,459	\$ 156,997
12472	WXTX	699,095	694,837	\$ 5,419
11970	WXXA-TV	1,680,670	1,537,868	\$ 11,994
57274	WXXI-TV	1,184,860	1,168,696	\$ 9,115
53517	WXXV-TV	1,191,123	1,189,584	\$ 9,278
10267	WXYZ-TV	5,622,543	5,622,140	\$ 43,847

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
77515	WYCI	35,873	26,508	\$ 207
70149	WYCW	3,388,945	3,227,025	\$ 25,168
62219	WYDC	560,266	449,486	\$ 3,506
18783	WYDN	2,577,848	2,512,150	\$ 19,592
35582	WYDO	1,330,728	1,330,728	\$ 10,378
25090	WYES-TV	1,872,245	1,872,059	\$ 14,600
53905	WYFF	2,626,363	2,416,551	\$ 18,847
49803	WYIN	6,956,141	6,956,141	\$ 54,251
24915	WYMT-TV	1,180,276	863,881	\$ 6,737
17010	WYOU	2,879,196	2,226,883	\$ 17,367
77789	WYOW	91,839	91,311	\$ 712
13933	WYPX-TV	1,529,500	1,413,583	\$ 11,025
4693	WYTV	4,898,622	4,535,576	\$ 35,373
5875	WYZZ-TV	1,042,140	1,036,721	\$ 8,085
15507	WZBJ	1,626,017	1,435,762	\$ 11,198
28119	WZDX	1,596,771	1,514,654	\$ 11,813
70493	WZME	5,996,408	5,544,708	\$ 43,243
81448	WZMQ	73,423	72,945	\$ 569
71871	WZPX-TV	2,039,157	2,039,157	\$ 15,903
136750	WZRB	952,279	951,693	\$ 7,422
418	WZTV	2,312,658	2,301,187	\$ 17,947
83270	WZVI	76,992	75,863	\$ 592
19183	WZVN-TV	1,981,488	1,981,488	\$ 15,454
49713	WZZM	1,574,546	1,548,835	\$ 12,079

¹ Call signs WIPM and WIPR are stations in Puerto Rico that are linked together with a total fee of \$24,175.

² Call signs WNJX and WAPA are stations in Puerto Rico that are linked together with a total fee of \$24,175.

³ Call signs WKAQ and WORA are stations in Puerto Rico that are linked together with a total fee of \$24,175.

⁴ Call signs WOLE and WLII are stations in Puerto Rico that are linked together with a total fee of \$24,175.

⁵ Call signs WVEO and WTCV are stations in Puerto Rico that are linked together with a total fee of \$24,175.

⁶ Call signs WJPX and WJWN are stations in Puerto Rico that are linked together with a total fee of \$24,175.

⁷ Call signs WAPA and WTIN are stations in Puerto Rico that are linked together with a total fee of \$24,175.

⁸ Call signs WSUR and WLII are stations in Puerto Rico that are linked together with a total fee of \$24,175.

⁹ Call signs WVOZ and WTCV are stations in Puerto Rico that are linked together with a total fee of \$24,175.

¹⁰ Call signs WJPX and WKPV are stations in Puerto Rico that are linked together with a total fee of \$24,175.

¹¹ Call signs WMTJ and WQTO are stations in Puerto Rico that are linked together with a total fee of \$24,175.

¹² Call signs WIRS and WJPX are stations in Puerto Rico that are linked together with a total fee of \$24,175.

¹³ Call signs WRFB and WORA are stations in Puerto Rico that are linked together with a total fee of \$24,175.

APPENDIX H

FY 2022 Schedule of Regulatory Fees

Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.

Fee Category	Annual Regulatory Fee (U.S. \$s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	25
Microwave (per license) (47 CFR part 101)	25
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	40
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	20
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) (Includes Non-Geographic telephone numbers)	.14
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)	590
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	590
AM Radio Construction Permits	655
FM Radio Construction Permits	1,145
AM and FM Broadcast Radio Station Fees	See Table Below
Digital TV (47 CFR part 73) VHF and UHF Commercial Fee Factor	\$.008430 See Appendix G for fee amounts due, also available at https://www.fcc.gov/licensing-databases/fees/regulatory-fees
Digital TV Construction Permits	5,200

Fee Category	Annual Regulatory Fee (U.S. \$s)
Low Power TV, Class A TV, TV/FM Translators & FM Boosters (47 CFR part 74)	330
CARS (47 CFR part 78)	1,715
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV and Direct Broadcast Satellite (DBS)	1.16
Interstate Telecommunication Service Providers (per revenue dollar)	.00452
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.12
Earth Stations (47 CFR part 25)	620
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	124,060
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Other)	340,005
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Less Complex)	141,670
Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)	12,215
International Bearer Circuits - Terrestrial/Satellites (per Gbps circuit)	\$39
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2022 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	\$1,050	\$755	\$655	\$720	\$1,145	\$1,310
25,001 – 75,000	\$1,575	\$1,135	\$985	\$1,080	\$1,720	\$1,965
75,001 – 150,000	\$2,365	\$1,700	\$1,475	\$1,620	\$2,575	\$2,950
150,001 – 500,000	\$3,550	\$2,550	\$2,215	\$2,435	\$3,870	\$4,430
500,001 – 1,200,000	\$5,315	\$3,820	\$3,315	\$3,645	\$5,795	\$6,630
1,200,001 – 3,000,000	\$7,980	\$5,740	\$4,980	\$5,470	\$8,700	\$9,955
3,000,001 – 6,000,000	\$11,960	\$8,600	\$7,460	\$8,200	\$13,040	\$14,920
>6,000,000	\$17,945	\$12,905	\$11,195	\$12,305	\$19,570	\$22,390

FY 2022 International Bearer Circuits - Submarine Cable Systems

Submarine Cable Systems (capacity as of December 31, 2021)	Fee Ratio	FY 2022 Regulatory Fees
Less than 50 Gbps	.0625 Units	\$8,610
50 Gbps or greater, but less than 250 Gbps	.125 Units	\$17,215
250 Gbps or greater, but less than 1,500 Gbps	.25 Units	\$34,430
1,500 Gbps or greater, but less than 3,500 Gbps	.5 Units	\$68,860
3,500 Gbps or greater, but less than 6,500 Gbps	1.0 Unit	\$137,715
6,500 Gbps or greater	2.0 Units	\$275,430

APPENDIX I

Initial Regulatory Flexibility Analysis

1. As required by the RFA,¹ the Commission prepared this IRFA of the possible significant economic impact on small entities by the policies and rules proposed in the NPRM. 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 NPRM. The Commission will send a copy of the NPRM, including the IRFA and the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the NPRM and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

2. The Commission is required by Congress pursuant to sections 159 of the Communications Act,⁴ and the Commission's FY 2023 Appropriations Act⁵ to assess and collect regulatory fees each year to recover the regulatory costs associated with the Commission's oversight and regulatory activities in an amount that can reasonably be expected to equal the amount of its annual appropriation.⁶ Accordingly for FY 2023, the Commission must recover \$390,192,000 in regulatory fees.⁷ In the NPRM, we seek comment on the Commission's proposed fee calculation methodology and the regulatory fees for FY 2023 as set forth in Appendices B and C. Based on the record in response to the NOI,⁸ we specifically seek comment on reassigning certain indirect full time equivalents (FTEs) as direct FTEs based on their time spent primarily working on matters related to the oversight and regulation of regulatory fee payors without regard to the bureau or office in which they work. We also seek comment on several additional regulatory fee issues, including: (i) the calculation of television and radio broadcaster regulatory fees, including a new grid for the AM and FM radio stations; (ii) defining the category of operations for on-orbit servicing (OOS) and rendezvous and proximity operations (RPO) for regulatory fee purposes, including whether a separate regulatory fee category is necessary, and how to apply regulatory fees to OOS and RPO spacecraft specifically operating near the geostationary satellite orbit arc; (iii) evaluating how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility; and (iv) whether to continue in FY 2023 several of the temporary measures implemented in FYs 2020 through 2022 to assist parties experiencing COVID-19 pandemic-related financial hardship in seeking regulatory fee relief.

¹ 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), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

² 5 U.S.C. § 603(a).

³ *Id.*

⁴ See 47 U.S.C. § 159 (requiring the Commission to assess and collect regulatory fees to recover the costs of carrying out its activities in the total amounts provided for in the Appropriations Act).

⁵ Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Division E—Financial Services and General Government Appropriations Act, 2023 (FY 2023 Consolidated Appropriations Act).

⁶ See 47 U.S.C. § 159(a), (b).

⁷ See 47 U.S.C. § 159(a), (b).

⁸ The Commission's NOI was attached to the *FY 2022 Report and Order, Assessment and Collection of Regulatory Fees for FY 2022*, MD Docket Nos. 22-223, 22-301, Report and Order and Notice of Inquiry, 2022 WL 4079045 (2022) (*FY 2022 Report and Order*).

B. Legal Basis

3. The proposed action is authorized pursuant to sections 154(i), and (j), 159, and 303(r) of the Communications Act.⁹

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

4. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.¹⁰ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹¹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹² 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.¹³

5. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.¹⁴ First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.¹⁵ These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.¹⁶

6. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”¹⁷ The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.¹⁸ Nationwide, for tax year 2020, there

⁹ 47 U.S.C. §§ 154(i) and (j), 159, and 303(r).

¹⁰ 5 U.S.C. § 603(b)(3).

¹¹ 5 U.S.C. § 601(6).

¹² 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.”

¹³ 15 U.S.C. § 632.

¹⁴ See 5 U.S.C. § 601(3)-(6).

¹⁵ See SBA, Office of Advocacy, Frequently Asked Questions, “What is a small business?”, <https://advocacy.sba.gov/wp-content/uploads/2021/12/Small-Business-FAQ-Revised-December-2021.pdf>. (revised Dec. 2021).

¹⁶ *Id.*

¹⁷ 5 U.S.C. § 601(4).

¹⁸ The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>, (last visited May 5, 2023). We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.¹⁹

7. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”²⁰ U.S. Census Bureau data from the 2017 Census of Governments²¹ indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.²² Of this number there were 36,931 general purpose governments (county²³, municipal and town or township²⁴) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts²⁵ with enrollment populations of less than 511 governmental jurisdictions.”²⁶

8. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.²⁷ Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network

¹⁹ See Exempt Organizations Business Master File Extract (EO BMF), <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>, (last visited May 5, 2023). The EO BMF Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2020 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (58,577), Region 2-Mid-Atlantic and Great Lakes Areas (175,272), and Region 3-Gulf Coast and Pacific Coast Areas (213,840) that includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

²⁰ 5 U.S.C. § 601(5).

²¹ See 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog/about.html>.

²² See U.S. Census Bureau, 2017 Census of Governments – Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also Table 2. CG1700ORG02 Table Notes Local Governments by Type and State_2017.

²³ See *id.* at tbl. 5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

²⁴ See *id.* at tbl. 6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

²⁵ See *id.* at tbl. 10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10], <https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html>. There were 12,040 independent school districts with enrollment populations less than 50,000. See also tbl. 4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes Special Purpose Local Governments by State Census Years 1942 to 2017.

²⁶ This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments - Organizations tbls. 5, 6, & 10.

²⁷ See U.S. Census Bureau, 2017 NAICS Definition, “517311 Wired Telecommunications Carriers,” <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services.²⁸ By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.²⁹ Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.³⁰

9. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.³¹ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.³² Of this number, 2,964 firms operated with fewer than 250 employees.³³ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were engaged in the provision of fixed local services.³⁴ Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees.³⁵ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

10. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include both incumbent and competitive local exchange service providers. Wired Telecommunications Carriers³⁶ is the closest industry with a SBA small business size standard.³⁷ Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.³⁸ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.³⁹ U.S. Census Bureau data for 2017 show that there were 3,054 firms

²⁸ *Id.*

²⁹ *Id.*

³⁰ Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

³¹ See 13 CFR § 121.201, NAICS Code 517311.

³² See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

³³ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

³⁴ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

³⁵ *Id.*

³⁶ See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

³⁷ See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

³⁸ Fixed Local Exchange Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

³⁹ *Id.*

that operated in this industry for the entire year.⁴⁰ Of this number, 2,964 firms operated with fewer than 250 employees.⁴¹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 5,183 providers that reported they were fixed local exchange service providers.⁴² Of these providers, the Commission estimates that 4,737 providers have 1,500 or fewer employees.⁴³ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

11. *Incumbent Local Exchange Carriers (Incumbent LECs).* Neither the Commission nor the SBA have developed a small business size standard specifically for incumbent local exchange carriers. Wired Telecommunications Carriers⁴⁴ is the closest industry with a SBA small business size standard.⁴⁵ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.⁴⁶ U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.⁴⁷ Of this number, 2,964 firms operated with fewer than 250 employees.⁴⁸ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 1,227 providers that reported they were incumbent local exchange service providers.⁴⁹ Of these providers, the Commission estimates that 929 providers have 1,500 or fewer employees.⁵⁰ Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

12. *Competitive Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.⁵¹

⁴⁰ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁴¹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁴² Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁴³ *Id.*

⁴⁴ See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁴⁵ See 13 CFR § 121.201, NAICS Code 517311(as of 10/1/22, NAICS Code 517111).

⁴⁶ *Id.*

⁴⁷ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁴⁸ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁴⁹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁵⁰ *Id.*

⁵¹ Competitive Local Exchange Service Providers include the following types of providers: Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

Wired Telecommunications Carriers⁵² is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.⁵³ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.⁵⁴ Of this number, 2,964 firms operated with fewer than 250 employees.⁵⁵ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 3,956 providers that reported they were competitive local exchange service providers.⁵⁶ Of these providers, the Commission estimates that 3,808 providers have 1,500 or fewer employees.⁵⁷ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

13. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers⁵⁸ is the closest industry with a SBA small business size standard.⁵⁹ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.⁶⁰ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.⁶¹ Of this number, 2,964 firms operated with fewer than 250 employees.⁶² Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 151 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 131 providers have 1,500 or fewer employees.⁶³ Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

14. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. Telecommunications

⁵² See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁵³ See 13 CFR § 121.201, NAICS Code 517311 (as of 01/21/22, NAICS Code 517111).

⁵⁴ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=EC1700SIZEEMPFI&hidePreview=false>.

⁵⁵ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁵⁶ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁵⁷ *Id.*

⁵⁸ See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁵⁹ See 13 CFR § 121.201, NAICS Code 517311.

⁶⁰ *Id.*

⁶¹ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=EC1700SIZEEMPFI&hidePreview=false>.

⁶² *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁶³ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

Resellers⁶⁴ is the closest industry with an SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁶⁵ Mobile virtual network operators (MVNOs) are included in this industry.⁶⁶ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁶⁷ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁶⁸ Of that number, 1,375 firms operated with fewer than 250 employees.⁶⁹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 58 providers that reported they were engaged in the provision of payphone services.⁷⁰ Of these providers, the Commission estimates that 57 providers have 1,500 or fewer employees.⁷¹ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

15. *Local Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard.⁷² The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households.⁷³ Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁷⁴ Mobile virtual network operators (MVNOs) are included in this industry.⁷⁵ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁷⁶ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁷⁷ Of that number, 1,375

⁶⁴ See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

⁶⁸ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁶⁹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁷⁰ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁷¹ *Id.*

⁷² See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ See 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

⁷⁷ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517911,

(continued....)

firms operated with fewer than 250 employees.⁷⁸ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 293 providers that reported they were engaged in the provision of local resale services.⁷⁹ Of these providers, the Commission estimates that 289 providers have 1,500 or fewer employees.⁸⁰ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers⁸¹ is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.⁸² Mobile virtual network operators (MVNOs) are included in this industry.⁸³ The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.⁸⁴ U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.⁸⁵ Of that number, 1,375 firms operated with fewer than 250 employees.⁸⁶ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 518 providers that reported they were engaged in the provision of toll services.⁸⁷ Of these providers, the Commission estimates that 495 providers have 1,500 or fewer employees.⁸⁸ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

17. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card

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<https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>.

⁷⁸ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁷⁹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁸⁰ *Id.*

⁸¹ See U.S. Census Bureau, *2017 NAICS Definition*, “517911 Telecommunications Resellers,” <https://www.census.gov/naics/?input=517911&year=2017&details=517911>.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ See 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517111).

⁸⁵ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517911, <https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>.

⁸⁶ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁸⁷ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁸⁸ *Id.*

providers, satellite service carriers, or toll resellers. Wired Telecommunications Carriers⁸⁹ is the closest industry with a SBA small business size standard.⁹⁰ The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.⁹¹ U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.⁹² Of this number, 2,964 firms operated with fewer than 250 employees.⁹³ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 115 providers that reported they were engaged in the provision of other toll services.⁹⁴ Of these providers, the Commission estimates that 113 providers have 1,500 or fewer employees.⁹⁵ Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

18. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.⁹⁶ Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.⁹⁷ The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.⁹⁸ U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.⁹⁹ Of that number, 2,837 firms employed fewer than 250 employees.¹⁰⁰ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 797 providers that reported they were engaged in the provision of wireless services.¹⁰¹ Of these providers, the Commission estimates that 715 providers have 1,500 or fewer employees.¹⁰² Consequently, using the SBA's small business size standard, most of these providers

⁸⁹ See U.S. Census Bureau, *2017 NAICS Definition*, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

⁹⁰ See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517112).

⁹¹ *Id.*

⁹² See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

⁹³ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

⁹⁴ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

⁹⁵ *Id.*

⁹⁶ See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (except Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

⁹⁷ *Id.*

⁹⁸ See 13 CFR § 121.201, NAICS Code 517312.

⁹⁹ See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

¹⁰⁰ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

¹⁰¹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

¹⁰² *Id.*

can be considered small entities.

19. *Television Broadcasting.* This industry is comprised of “establishments primarily engaged in broadcasting images together with sound.”¹⁰³ These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.¹⁰⁴ These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having \$41.5 million or less in annual receipts as small.¹⁰⁵ 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year.¹⁰⁶ Of that number, 657 firms had revenue of less than \$25,000,000.¹⁰⁷ Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

20. As of December 31, 2022, there were 1375 licensed commercial television stations.¹⁰⁸ Of this total, 1282 stations (or 93.2%) had revenues of \$41.5 million or less in 2021, according to Commission staff review of the BIAKelsey Media Access Pro Online Television Database (MAPro) on January 13, 2023,¹⁰⁹ and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of December 31, 2022, there were 383 licensed NCE television stations, 383 Class A TV stations, 1912 LPTV stations and 3122 TV translator stations.¹¹⁰ The Commission however does not compile, and otherwise does not have access to financial information for these television broadcast stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA’s large annual receipts threshold for this industry and the nature of television station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

21. *Radio Stations.* This industry is comprised of “establishments primarily engaged in broadcasting aural programs by radio to the public.”¹¹¹ Programming may originate in their own studio, from an affiliated network, or from external sources.¹¹² The SBA small business size standard for this

¹⁰³ See U.S. Census Bureau, 2017 NAICS Definition, “515120 Television Broadcasting,” <https://www.census.gov/naics/?input=515120&year=2017&details=515120>.

¹⁰⁴ *Id.*

¹⁰⁵ See 13 CFR § 121.201, NAICS Code 515120 (as of 10/1/22, NAICS Code 516120).

¹⁰⁶ See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, <https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

¹⁰⁷ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹⁰⁸ *Broadcast Station Totals as of December 31, 2022*, Public Notice, DA 22-721 (rel. Jan. 11, 2022) (*December 2022 Broadcast Station Totals PN*), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2022>.

¹⁰⁹ BIA Advisory Services, BIAKelsey Media Access Pro Online Television Database, <http://www.biakelsey.com/data-platforms/media-access-pro> (last visited on Jan. 13, 2023).

¹¹⁰ *Broadcast Station Totals as of December 31, 2022*, Public Notice, DA 22-721 (rel. Jan. 11, 2022) (*December 2022 Broadcast Station Totals PN*), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2022>.

¹¹¹ See U.S. Census Bureau, 2017 NAICS Definition, “515112 Radio Stations,” <https://www.census.gov/naics/?input=515112&year=2017&details=515112>.

¹¹² *Id.*

industry classifies firms having \$41.5 million or less in annual receipts as small.¹¹³ U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year.¹¹⁴ Of this number, 1,879 firms operated with revenue of less than \$25 million per year.¹¹⁵ Based on this data and the SBA's small business size standard, we estimate a majority of such entities are small entities.

22. The Commission estimates that as of December 31, 2022, there were 4,484 licensed commercial AM radio stations and 6,686 licensed commercial FM radio stations for a combined total of 11,170 commercial radio stations.¹¹⁶ Of this total, 11,168 stations (or 99.98%) had revenues of \$41.5 million or less in 2021, according to Commission staff review of the MAPro on January 13, 2023,¹¹⁷ and therefore, these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of December 31, 2022, there were 4207 licensed NCE FM radio stations, 2015 low power FM stations and 8950 FM translators and boosters.¹¹⁸ The Commission however does not compile, and otherwise does not have access to financial information for these radio stations that would permit it to determine how many of these stations qualify as small entities under the SBA small business size standard. Nevertheless, given the SBA's large annual receipts threshold for this industry and the nature of radio station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

23. *Cable Companies and Systems (Rate Regulation)*. The Commission has developed its own small business size standard 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.¹¹⁹ Based on industry data, there are about 420 cable companies in the United States.¹²⁰ Of these, only seven have more than 400,000 subscribers.¹²¹ In addition, under the Commission's rules, a "small system" is a cable system

¹¹³ See 13 CFR § 121.201, NAICS Code 515112 (as of 10/1/22, NAICS Code 516110).

¹¹⁴ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515112, <https://data.census.gov/cedsci/table?y=2017&n=515112&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. We note that the US Census Bureau withheld publication of the number of firms that operated for the entire year.

¹¹⁵ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹¹⁶ *Broadcast Station Totals as of December 31, 2022*, Public Notice, DA 22-721 (rel. Jan. 11, 2022) (*December 2022 Broadcast Station Totals PN*), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2022>.

¹¹⁷ BIA Advisory Services, BIAKelsey Media Access Pro Online Radio Database, <http://www.biakelsey.com/data-platforms/media-access-pro> (last visited January 13, 2023).

¹¹⁸ *Broadcast Station Totals as of December 31, 2022*, Public Notice, DA 22-721 (rel. Jan. 11, 2022) (*December 2022 Broadcast Station Totals PN*), <https://www.fcc.gov/document/broadcast-station-totals-december-31-2022>.

¹¹⁹ 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. *Implementation of Sections of the 1992 Cable Act: Rate Regulation*, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408 (1995).

¹²⁰ S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

¹²¹ S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q* (last visited May 26, 2022); S&P Global Market Intelligence, *Multichannel Video Subscriptions, Top 10* (April 2022).

servicing 15,000 or fewer subscribers.¹²² Based on industry data, there are about 4139 cable systems (headends) in the United States.¹²³ Of these, about 639 have more than 15,000 subscribers. Accordingly, the Commission estimates that the majority of cable operators are small.

24. *Cable System Operators (Telecom Act Standard).* The Communications Act contains a size standard for a “small cable system operator”, which is “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000,” as small.¹²⁴ For purposes of the Telecom Act Standard, the Commission determined that a cable systems operation that serves fewer than 677,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator based on the cable subscriber count established in a 2001 Public Notice.¹²⁵ Based on industry data, only six cable system operators have more than 677,000 subscribers.¹²⁶ Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250 million.¹²⁷ Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

25. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic “dish” antenna at the subscriber’s location. DBS is included in the Wired Telecommunications Carriers industry which 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.¹²⁸ Transmission facilities may be based on a single technology or combination of technologies.¹²⁹ Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and

¹²² 47 CFR §76.901(c).

¹²³ S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

¹²⁴ 47 U.S.C. § 543(m)(2); *see also* 47 CFR § 76.901(e).

¹²⁵ *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, 16 FCC Rcd 2225 (CSB 2001) (2001 *Subscriber Count PN*). In this Public Notice, the Commission determined that there were approximately 67.7 million cable subscribers in the United States at that time using the most reliable source publicly available. *Id.* We recognize that the number of cable subscribers changed since then and that the Commission has recently estimated the number of cable subscribers to traditional and telco cable operators to be approximately 58.1 million. *See Communications Marketplace Report*, GN Docket No. 20-60, 2020 Communications Marketplace Report, 36 FCC Rcd 2945, 3049, para. 156 (2020) (2020 *Communications Marketplace Report*). However, because the Commission has not issued a public notice subsequent to the 2001 *Subscriber Count PN*, the Commission still relies on the subscriber count threshold established by the 2001 *Subscriber Count PN* for purposes of this rule. *See* 47 CFR § 76.901(e)(1).

¹²⁶ S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q*, <https://www.spglobal.com/marketintelligence/en/solutions/sp-capital-iq-pro> (last visited May 26, 2022); S&P Global Market Intelligence, *Multichannel Video Subscriptions*, Top 10 (April 2022).

¹²⁷ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority’s finding that the operator does not qualify as a small cable operator pursuant to § 76.901(e) of the Commission’s rules. *See* 47 CFR § 76.910(b).

¹²⁸ *See* U.S. Census Bureau, 2017 NAICS Definition, “517311 Wired Telecommunications Carriers,” <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

¹²⁹ *Id.*

wired broadband internet services.¹³⁰ By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.¹³¹

26. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.¹³² U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year.¹³³ Of this number, 2,964 firms operated with fewer than 250 employees.¹³⁴ Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service - DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation.¹³⁵ DIRECTV and DISH Network both exceed the SBA size standard for classification as a small business. Therefore, we must conclude based on internally developed Commission data, in general DBS service is provided only by large firms.

27. *Satellite Telecommunications.* This industry comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”¹³⁶ Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$35 million or less in annual receipts as small.¹³⁷ U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.¹³⁸ Of this number, 242 firms had revenue of less than \$25 million.¹³⁹ Additionally, based on Commission data in the 2021 Universal Service Monitoring Report, as of December 31, 2020, there were 71 providers that reported they were engaged in the provision of satellite telecommunications services.¹⁴⁰ Of these providers, the Commission estimates that

¹³⁰ See *id.* Included in this industry are: broadband Internet service providers (e.g., cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed-circuit television (CCTV) services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (DTH) services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (MMDS).

¹³¹ *Id.*

¹³² See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

¹³³ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>.

¹³⁴ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

¹³⁵ See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Eighteenth Report*, Table III.A.5, 32 FCC Rcd 568, 595 (Jan. 17, 2017).

¹³⁶ See U.S. Census Bureau, *2017 NAICS Definition*, “517410 Satellite Telecommunications,” <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

¹³⁷ See 13 CFR § 121.201, NAICS Code 517410.

¹³⁸ See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFI, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFI&hidePreview=false>.

¹³⁹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹⁴⁰ Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report* at 26, Table 1.12 (2021), <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>.

approximately 48 providers have 1,500 or fewer employees.¹⁴¹ Consequently, using the SBA's small business size standard, a little more than of these providers can be considered small entities.

28. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.¹⁴² This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.¹⁴³ Providers of Internet services (e.g. dial-up ISPs) or voice over Internet protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.¹⁴⁴ The SBA small business size standard for this industry classifies firms with annual receipts of \$35 million or less as small.¹⁴⁵ U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.¹⁴⁶ Of those firms, 1,039 had revenue of less than \$25 million.¹⁴⁷ Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

29. *RespOrgs.* Responsible Organizations, or RespOrgs (also referred to as Toll-Free Number (TFN) providers), are entities chosen by toll free subscribers to manage and administer the appropriate records in the toll-free Service Management System for the toll-free subscriber.¹⁴⁸ Based on information on the website of SOMOS, the entity that maintains a registry of Toll-Free Number providers (SMS/800 TFN Registry) for the more than 42 million Toll-Free numbers in North America, and the TSS Registry, a centralized registry for the use of Toll-Free Numbers in text messaging and multimedia services, there were approximately 446 registered RespOrgs/Toll-Free Number providers in July 2021.¹⁴⁹ RespOrgs are often wireline carriers, however they can include non-carrier entities. Accordingly, the description below for RespOrgs include both Carrier RespOrgs and Non-Carrier RespOrgs.

30. *Carrier RespOrgs.* Neither the Commission nor the SBA have developed a small business size standard for Carrier RespOrgs. *Wired Telecommunications Carriers*,¹⁵⁰ and *Wireless*

¹⁴¹ *Id.*

¹⁴² See U.S. Census Bureau, 2017 NAICS Definition, "517919 All Other Telecommunications," <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

¹⁴⁶ See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

¹⁴⁷ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹⁴⁸ See 47 CFR § 52.101(b).

¹⁴⁹ See www.somos.com, "Find a Toll-Free Service Provider," https://www.somos.com/find-toll-free-number?searchType=provider&alpha=true&certified=false&services=&serviceName=&keyword=&_page=1, (last visited May 5, 2023). SOMOS serves as the North American Numbering Plan Administrator (NANPA) for more than 800 million local and wireless telephone numbers and as the Reassigned Number Database Administrator. See also 2020 NANPA Annual Report at 97, https://nationalnanpa.com/reports/2020_NANPA_Annual_Report.pdf.

¹⁵⁰ See U.S. Census Bureau, 2017 NAICS Definition, "517311 Wired Telecommunications Carriers," <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

*Telecommunications Carriers (except Satellite)*¹⁵¹ are the closest industries with a SBA small business size applicable to Carrier RespOrgs.¹⁵²

31. *Wired Telecommunications Carriers* are establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.¹⁵³ Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.¹⁵⁴ The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.¹⁵⁵ U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated for the entire year.¹⁵⁶ Of this number, 2,964 firms operated with fewer than 250 employees.¹⁵⁷ Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

32. *Wireless Telecommunications Carriers (except Satellite)* engage in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.¹⁵⁸ The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.¹⁵⁹ For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.¹⁶⁰ Of this number, 2,837 firms employed fewer than 250 employees.¹⁶¹ Based on this data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

33. *Non-Carrier RespOrgs.* Neither the Commission, nor the SBA have developed a small

¹⁵¹ See U.S. Census Bureau, 2017 NAICS Definition, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

¹⁵² The industry descriptions selected for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

¹⁵³ See *supra* note 156.

¹⁵⁴ *Id.*

¹⁵⁵ See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

¹⁵⁶ See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePrevious=false>.

¹⁵⁷ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

¹⁵⁸ See *supra* note 157.

¹⁵⁹ See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

¹⁶⁰ See U.S. Census Bureau, 2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017, Table ID: EC1700SIZEEMPFI, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePrevious=false>.

¹⁶¹ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

business size standard Non-Carrier RespOrgs. *Other Services Related to Advertising*¹⁶² and *Other Management Consulting Services*¹⁶³ are the closest industries with an SBA small business size applicable to Non-Carrier RespOrgs.¹⁶⁴

34. The *Other Services Related to Advertising* industry contains establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services).¹⁶⁵ The SBA small business size standard for this industry classifies a business as small that has annual receipts of \$16.5 million or less.¹⁶⁶ U.S. Census Bureau data for 2017 show that 5,650 firms operated in this industry for the entire year.¹⁶⁷ Of that number, 3,693 firms operated with revenue of less than \$10 million.¹⁶⁸ Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.

35. The *Other Management Consulting Services* industry contains establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting).¹⁶⁹ Establishments providing telecommunications or utilities management consulting services are included in this industry.¹⁷⁰ The SBA small business size standard for this industry classifies a business as small if it has annual receipts of \$16.5 million or less.¹⁷¹ U.S. Census Bureau data for 2017 show that 4,696 firms operated in this industry for the entire year.¹⁷² Of that number, 3,700 firms had

¹⁶² See U.S. Census Bureau, 2017 NAICS Definition, “541890 Other Services Related to Advertising,” <https://www.census.gov/naics/?input=541890&year=2017&details=541890>.

¹⁶³ See U.S. Census Bureau, 2017 NAICS Definition, “541618 Other Management Consulting Services,” <https://www.census.gov/naics/?input=541618&year=2017&details=541618>.

¹⁶⁴ The industry descriptions selected for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

¹⁶⁵ See *infra* note 168.

¹⁶⁶ See 13 CFR § 121.201, NAICS Code 541890.

¹⁶⁷ See U.S. Census Bureau, 2017 *Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 541890, <https://data.census.gov/cedsci/table?y=2017&n=541890&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

¹⁶⁸ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We further note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹⁶⁹ See *supra* note 163163.

¹⁷⁰ *Id.*

¹⁷¹ See 13 CFR § 121.201, NAICS Code 541618.

¹⁷² See U.S. Census Bureau, 2017 *Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 541618, <https://data.census.gov/cedsci/table?y=2017&n=541618&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>.

revenue of less than \$10 million.¹⁷³ Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

36. The NPRM does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements for small entities. Small and other regulated entities are required to pay regulatory fees on an annual basis. The cost of compliance with the annual regulatory assessment for small entities is the amount assessed for their regulatory fee category and should not require small entities to hire professionals to comply. Small entities that qualify can take advantage of the exemption from payment of regulatory fees allowed under the de minimis threshold. Small entities may also be able to reduce their costs of compliance if the Commission maintains the flexibility options for regulatory fee payors that the Commission made available in FYs 2020 through 2022 as a result of the COVID-19 pandemic.

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

37. The RFA requires an agency to describe any significant, specifically business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives, among others: "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such 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 such small entities."¹⁷⁴

38. *Assessment of Regulatory Fees.* In response to the comments to the NOI, for FY 2023 we propose to employ the same methodology to calculate regulatory fees. However, in addition to looking at the current allocation of direct FTEs within the Commission's core bureaus (i.e., the Wireless Telecommunications Bureau, the Media Bureau, part of the Wireline Competition Bureau, and part of the International Bureau)¹⁷⁵ as discussed in the NPRM, we also evaluated the work of certain indirect FTEs in

¹⁷³ *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue less than \$100,000, to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue for this category). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We further note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

¹⁷⁴ 5 U.S.C. § 603(c)(1) – (4).

¹⁷⁵ The phrase "core bureaus" was first adopted in the *FY 2012 Regulatory Fee Reform NPRM* where the Commission explained that, under (prior) section 9(b)(1)(A) of the Communications Act, the Commission was instructed to calculate the regulatory fees by determining the FTEs performing the activities enumerated in section 9(a)(1) of the Communications Act within the Private Radio Bureau, Mass Media Bureau, and Common Carrier Bureau, and other offices of the Commission; those bureaus subsequently were renamed as the Wireless Telecommunications Bureau, Media Bureau, and Wireline Competition Bureau, and a new International Bureau had been formed. See *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, MD Docket No. 12-20, Notice of Proposed Rulemaking, 27 FCC Rcd 8460, para. 5 & n.5 (2012) (*FY 2012 Regulatory Fee Reform NPRM*). The Commission explained that "[f]or simplicity and ease of reference, in this Notice we will refer to these four bureaus as the 'core' bureaus or the 'core licensing' bureaus." *Id.* See also *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8193-94, paras. 9-10 (2019) (*FY 2019 Report and Order*) (continuing to define the "core" bureaus as the Wireless Telecommunications Bureau, the Media Bureau, the Wireline Competition Bureau, and the International Bureau).

non-core bureaus and offices¹⁷⁶ to determine if, based on the nature of their work spent primarily on regulation and oversight of the industry in a fee category, such indirect FTEs could be considered as direct FTEs in a core bureau for regulatory fee purposes. Based on the results of our evaluation, we propose that certain indirect FTEs could be reassigned as direct FTEs and incorporate these into the count of FTEs of the relevant core bureau for purposes of calculating regulatory fees for FY 2023 which could reduce regulatory fee obligations for some small and other regulatory payees.

39. More specifically, the proposed reassignment of certain indirect FTEs to direct FTEs would result in changes in the percentages of direct FTEs in the core bureaus and a decrease in the regulatory fee assessment amounts and could therefore decrease the regulatory assessment payable by small entities. Using the methodology that does not include the indirect FTE reassignments would result in an increase in the FY 2023 regulatory assessment amounts from FY 2022 for three of the four core bureaus. However, when the indirect FTE reassignments are included in the assessment methodology, half of the core bureaus' FY 2023 regulatory assessment amounts decrease from FY 2022. Our evaluation of the indirect FTE reassignments considered treating the FTEs that were moved to OEA from core bureaus as direct FTEs¹⁷⁷ and determined that some work done by OEA FTEs is work that primarily furthers the oversight and regulation of regulatory fee payors in certain industry segments. Conducting similar analyses of work for all non-core bureaus resulted in the number and indirect FTE percentages we have incorporated in our proposed methodology and regulatory fees for FY 2023.

40. While the Commission's proposed methodology considered assessment calculations with and without indirect FTE reassignments, there could be other alternatives that help minimize the economic impact of the regulatory fees for small entities. Therefore, the NPRM invites alternative proposals or comments suggesting changes to our proposed methodology and regulatory fees for FY 2023. Alternative proposals or modification requests should contain a thorough analysis showing a sufficient basis for making the change, provide alternative options for the Commission to meet its statutory obligation to collect the full amount of the appropriation by the end of the fiscal year, and indicate how any proposed alternative options are fair, administrable, and sustainable.

41. *Broadcast Regulatory Fees.* In the NPRM, we propose to continue to assess fees for full-power broadcast television stations based on the population covered by a full-service broadcast television station's contour which will reduce the economic impact of the regulatory fees for some small licensees. The population-based methodology increases fees for some licensees and reduces fees for others. However, we believe the population-based metric better conforms with the service of broadcasting television to the American people. The Commission recognizes that many small independent radio broadcasters face hardships due to the COVID-19 pandemic and other issues, such as competition from satellite radio and music streaming services. The ability of these independent stations to stay in business and serve their communities is an important public interest consideration.¹⁷⁸ Therefore, in the NPRM, we propose splitting the lowest population tier into two separate tiers which should reduce the economic impact for small regulators. In addition, small licensees experiencing financial hardship will continue to have access to fee relief, such as waiver, reduction, deferral and/or installment payment of their regulatory fees and may be exempt from paying a regulatory fee if the assessed fee is below the de minimus

¹⁷⁶ The Enforcement Bureau, Consumer and Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairwoman's and Commissioners' offices, Office of the 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 Workplace Diversity, Office of Media Relations, Office of Economics and Analytics, and Office of Administrative Law Judges, along with some FTEs in the Wireline Competition Bureau and the International Bureau that the Commission has previously classified as indirect for regulatory fee purposes.

¹⁷⁷ NAB NOI Comments at 10-11(MD Docket No. 22-301).

¹⁷⁸ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2016*, Report and Order, 31 FCC Rcd 10339, 10351, para. 33 (2016) (*FY 2016 Report and Order*).

threshold that the Commission has established.

42. *Space Station Regulatory Fees.* In Appendices B and C of the NPRM, we include the proposed fees for NGSO space stations¹⁷⁹ calculated by assessing the fees small satellites will pay in FY 2023, reducing that amount from the overall NGSO space stations fee category, and allocating the remaining NGSO space station fees 20/80 using two fee subcategories: “less complex” NGSO space stations and “other” NGSO space stations.¹⁸⁰ For small satellites and small spacecraft (together, small satellites) within the NGSO fee category, we determine that FTEs spend approximately twenty time more time on regulating one non-small NGSO space station than the FTE time spent regulating one small satellite licensee.

43. Consistent with FY 2022, in the NPRM, we propose to continue using the methodology for calculating regulatory fees for small satellites within the NGSO fee category based on 1/20th (5%) of the average of the non-small satellite NGSO space station regulatory fee rates from the current fiscal year on a per license basis.¹⁸¹ This proposal will minimize the economic impact of the regulatory fees for small satellites. The methodology reflects the significant difference of FTE time attributable to work on small satellite matters, and more equitably apportions the regulatory fees among small and non-small satellite NGSO space stations within the NGSO fee category. The methodology also accommodates fluctuations in the number of NGSO space station fee payors and continues to provide a middle ground and an opportunity to gain more experience in regulating small satellites.

44. *Continuing Flexibility in FY 2023 for Regulatory Fee Payors.* In FYs 2020, 2021, and 2022, the Commission implemented temporary measures to assist regulatees experiencing financial hardship related to the COVID-19 pandemic in seeking waiver, reduction, deferral and installment payment of their regulatory fees.¹⁸² In the NPRM, we consider and seek comment on whether certain of these measures should be continued in FY 2023, and if so, why. Specifically, we consider and seek comment on whether the Commission should continue (i) to offer a reduced interest and waive the down payment for installment payment of FY 2023 regulatory fees; (ii) its partial waiver of the red light rule to permit delinquent debtors to seek fee relief, conditioned on the debtor’s satisfactory resolution of its delinquent debt; and/or (iii) its partial waiver of section 1.1166 of the Commission’s regulations to permit regulatees seeking to waive, reduce and/or defer their regulatory fees to submit financial documentation after a request is filed.

45. *Providing Installment Payment Relief to Small Regulatory Fee Payors.* The NPRM also considers a regulator fee payment alternative suggested by broadcaster groups to reduce the economic impact of regulatory fee payments for small and other entities. Specifically, the broadcaster groups request that the Commission allow regulatees to prepay their annual regulatory fees in increments, before the annual regulatory fee payment deadline.¹⁸³ The broadcasters state that this measure would assist

¹⁷⁹ Space stations are divided into two main categories: (1) geostationary orbit (GSO) space stations and (2) non-geostationary orbit (NGSO) systems.

¹⁸⁰ Appendix B. The 80% of space station regulatory fees to GSOs and 20% of the space station regulatory fees to NGSOs allocation ensure that regulatory fees more closely reflected the FTE oversight and regulation for each space station category.

¹⁸¹ *FY 2022 Report and Order*, 2022 WL 4079045, para 43.

¹⁸² *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Further Notice of Proposed Rulemaking, 36 FCC Rcd 1731, 1760-1761, paras. 80-84 (2020) (*FY 2020 Report and Order*); *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking, 36 FCC Rcd 12990, 13024-25, paras. 69-71 (2021) (*FY 2021 Report and Order*); *FY 2022 Report and Order*, 2022 WL 4079045, para. 105.

¹⁸³ Letter from Lauren Lynch Flick, Pillsbury Winthrop Shaw Pittman LLP to Marlene H. Dortch, Secretary, FCC, MD Docket No. 22-301 (Dec. 12, 2022).

broadcasters in meeting their annual regulatory fee obligation.¹⁸⁴ We seek comment on the broadcasters' proposal and answers to the questions we raise in the NPRM regarding implementation and operation of such a program, including the costs and benefits of such a program.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

46. None.

¹⁸⁴ *Id.* The broadcasters also suggest that establishing the fee amounts earlier in the annual regulatory fee process would help broadcasters to better budget for payment of the fees.

APPENDIX J

Supplemental Final Regulatory Flexibility Analysis

1. As required by the RFA,¹ an IRFA was included in the *Assessment and Collection of Regulatory Fees for Fiscal Year 2022*, Report and Order and Notice of Proposed Rulemaking released in June 2022 (FY2022 NPRM).² The Commission also prepared IRFAs in the *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking released in May 2021 (2021 NPRM), and the *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Notice of Proposed Rulemaking released in May 2020 (FY 2020 NPRM).³ The Commission sought written public comment on the proposals in the above proceedings, including comment on the IRFA. No comments were filed addressing the IRFA.

2. To reflect actions taken in the Report and Order, this Supplemental FRFA supplements the FRFAs in the *Assessment and Collection of Regulatory Fees for Fiscal Year 2022*, Report and Order and Notice of Inquiry (FY 2022 Report and Order), the *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking (FY 2021 Report and Order), and the *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Further Notice of Proposed Rulemaking (FY 2020 Report and Order).⁴ This Supplemental RFRA conforms to the RFA.⁵

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

3. In the Report and Order, we codify several of the temporary measures the Commission implemented in FY 2020 and continued in FYs 2021 and 2022 to provide relief to regulatees experiencing financial hardship related to the COVID-19 pandemic. The Commission received many more requests for waiver, reduction, deferral and installment payment relief in FYs 2020, 2021 and 2022 than it had received in previous years. As in other years, many of the requests were submitted by regulatees without the assistance of counsel. In the absence of the temporary measures the Report and Order codifies, the Commission's procedure for processing paper filings involves a number of intake steps before the pleadings reach the Office of Managing Director for consideration. Electronic submission of consolidated pleadings to a single, dedicated email address managed by the Office of Managing Director greatly simplifies the intake process, ensuring more rapid disposition of requests, reducing the likelihood of procedural errors made by regulatees that result in dismissal of their requests, and easing the Commission's administrative burden in processing the requests.

¹ 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), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

² *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, *Assessment and Collection of Regulatory Fees for Fiscal Year 2022*, MD Docket Nos. 21-190, 22-223, Report and Order and Notice of Proposed Rulemaking, FCC 22-39, 2022 WL 2045858, Appendix I (June 2, 2022) (FY 2022 NPRM).

³ *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking, FCC 20-64, 2021 WL 1835889, Appendix I (May 4, 2021) (FY 2021 NPRM); *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, Appendix J (May 13, 2020) (FY 2020 NPRM).

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, Report and Order and Further Notice of Proposed Rulemaking, 36 FCC Rcd 1731, Appendix I (2020) (FY 2020 Report and Order); *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking, 36 FCC Rcd 12990, Appendix J (2021) (FY 2021 Report and Order); *Assessment and Collection of Regulatory Fees for FY 2022*, MD Docket Nos. 22-223, 22-301, Report and Order and Notice of Inquiry, FCC 22-68, 2022 WL 4079045, Appendix I (2022) (FY 2022 Report and Order).

⁵ 5 U.S.C. § 604.

4. We specifically codify changes to sections 1.1166 and 1.1914 of the Commission's rules⁶ to allow: (i) parties seeking multiple forms of regulatory fee relief, i.e., waiver, reduction, deferral and/or installment payment of their regulatory fees, to file a single pleading in which all requested relief is included, and to submit their requests electronically to a dedicated Commission email address, and (ii) parties seeking only installment payment relief to pay debt owed to the Commission, including regulatory fee debt, to submit such requests in writing, transmitted electronically to a dedicated Commission email address.⁷ Codification of these temporary measures will permanently simplify and streamline the process for filing waiver, deferral, reduction and installment payment requests for regulatory fees. We therefore amend sections 1.1166 and 1.1914⁸ of the Commission's rules to provide procedural flexibility for filing these types of request and to ease the Commission's administrative burden in processing these requests.

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

5. None.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

6. No comments were filed by the Chief Counsel for Advocacy of the Small Business Administration.

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

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.⁹ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹⁰ In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act.¹¹ 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.¹²

8. As noted above, regulatory flexibility analyses were incorporated in the FY 2022 NPRM¹³, the FY 2022 Report and Order,¹⁴ the FY 2021 NPRM,¹⁵ the FY 2021 Report and Order,¹⁶ the FY

⁶ 47 CFR §§ 1.1166 and 1.1914

⁷ Section 1.1914 of the Commission's rules governing installment payment of debt owed to the Commission, including regulatory fees, does not address how installment payment requests are to be made. 47 CFR § 1.1914. Parties seeking installment payment relief for debt owed to the Commission, including regulatory fee debt, typically filed paper requests addressed to the Office of Secretary or filed by email directly to an OMD staff member.

⁸ 47 CFR §§ 1.1166 and 1.1914.

⁹ See 5 U.S.C. § 604(a)(4).

¹⁰ See *id.* § 601(6).

¹¹ See *id.* § 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."

¹² See 15 U.S.C. § 632.

¹³ *FY 2022 NPRM*, Appendix I.

¹⁴ *FY 2022 Report and Order*, Appendix I.

2020 NPRM¹⁷ and the FY 2020 Report and Order.¹⁸ In these regulatory flexibility analyses, the Commission described in detail the small entities that might be significantly affected. Accordingly, in this Supplemental FRFA, we incorporate by reference the descriptions and estimates of the number of small entities from the regulatory flexibility analyses associated with the temporary measures adopted in those related proceedings that we now codify in the Report and Order.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

9. The Report and Order does not adopt any new reporting, recordkeeping, or other compliance requirements. Small and other regulated entities are required to pay regulatory fees on an annual basis. The cost of compliance with the annual regulatory fee assessment for small entities is the amount assessed for their regulatory fee category and should not require small entities to hire professionals to comply. In the Report and Order, the Commission codifies streamlined processes for filing regulatory fee relief requests previously implemented on a temporary basis in FYs 2020, 2021 and 2022, to simplify the process for seeking regulatory fee relief. Small entities can reduce their compliance burdens by availing themselves of these options. Qualifying small entities may also be exempt from payment of regulatory fees under the de minimis threshold established by the Commission. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

10. The RFA requires an agency to provide, “a description of the steps the agency has taken to minimize the significant economic impact on small entities...including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”¹⁹

11. The rule changes codified in the Report and Order streamlining and simplifying the process by which regulatory fee payors may seek regulatory fee relief should significantly reduce the administrative burden small entities experienced with the Commission’s prior filing requirements for regulatory fee relief requests. Electronic submission of consolidated pleadings to a single, dedicated email address managed by the Commission’s Office of Managing Director greatly simplifies the intake process, minimizing filing errors that might otherwise result in dismissal of the relief requests, and ensuring more rapid disposition of requests for relief. Therefore, rather than continuing to allow such submissions on a temporary basis, the Commission determined that the better course of action was to amend the Commission’s rules to permanently require electronic submission of requests for relief.

F. Report to Congress

12. The Commission will send a copy of the Report and Order and NPRM, including this Supplemental FRFA, in a report to Congress pursuant to the Congressional Review Act.²⁰ In addition, the Commission will send a copy of the Report and Order and NPRM, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and NPRM, and Supplemental FRFA (or summaries thereof) will also be published in the *Federal Register*.²¹

(Continued from previous page) —————

¹⁵ FY 2021 NPRM, Appendix I.

¹⁶ FY 2021 Report and Order, Appendix J.

¹⁷ FY 2020 NPRM, Appendix J.

¹⁸ FY 2020 Report and Order, Appendix I.

¹⁹ 5 U.S.C. §604(a)(6).

²⁰ See 5 U.S.C. § 801(a)(1)(A).

²¹ See *id.*

APPENDIX K**Final Rules**

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 1 – PRACTICE AND PROCEDURE

The authority citation for Part 1 continues to read as follows:

Authority: [TO BE INSERTED PRIOR TO FEDERAL REGISTER PUBLICATION]

1. Amend section 1.1166 to read as follows:

§ 1.1166 Waivers, reductions, deferrals, and installment payment of regulatory fees.

The fees established by §§ 1.1152 through 1.1156 and associated interest charges and penalties may be waived, reduced or deferred in specific instances, on a case-by-case basis, where good cause is shown and where waiver, reduction or deferral of such fees, interest charges and penalties would promote the public interest. Requests to pay the fees established by §§ 1.1152 through 1.1156 and associated interest charges and penalties in installments may be granted in accordance with § 1.1914. Requests for waiver, reduction, deferral or installment payment of regulatory fees, interest charges or penalties for entire categories of payors will not be considered.

- (a) Requests for waiver, reduction, deferral or installment payment of regulatory fees shall be filed electronically, by submission to the following email address: regfeerelief@fcc.gov. All requests for waiver, reduction and deferral shall be acted upon by the Managing Director. All such requests made pursuant to §§ 1.1166 and 1.1914 may be combined in a single pleading.
- (b) Deferrals of fees, interest, or penalties, if granted, will be for a designated period of time not to exceed six months from the date of the filing of the deferral request.
- (c) Petitions for waiver of a regulatory fee, interest, or penalties must be accompanied by the required fee, interest, or penalties and FCC Form 159. Submitted fees, interest, or penalties will be returned if a waiver is granted. Waiver requests that do not include the required fees, interest, or penalties or forms will be dismissed unless a request to defer payment due to financial hardship, supported by documentation of the financial hardship, is included in the filing.
- (d) Petitions for reduction of a fee, interest, or penalty must be accompanied by the full fee, interest, or penalty payment and FCC Form 159. Petitions for reduction that do not include the required fees, interest, or penalties or forms will be dismissed unless a request to defer payment due to financial hardship, supported by documentation of the financial hardship, is included in the filing.
- (e) Petitions for waiver of a fee, interest, or penalty based on financial hardship, including bankruptcy, will not be granted, even if otherwise consistent with Commission policy, to the extent that the total regulatory and application fees, interest, or penalties for which waiver is sought exceeds \$500,000 in any fiscal year, including regulatory fees due in any fiscal year, but paid prior to the due date. In computing this amount, the amounts owed by an entity and its subsidiaries and other affiliated entities will be aggregated. In cases where the claim of financial hardship is not based on bankruptcy, waiver, partial waiver, or deferral of fees, interest, or penalties above the \$500,000 cap may be considered on a case-by-case basis.

2. Amend section 1.1914 to read as follows:

§ 1.1914 Collection in installments.

- (a) Subject to the Commission's rules pertaining to the installment loan program (see, e.g., 47 CFR § 1.2110(g)), subpart Q or other agreements among the parties, the terms of which will control, whenever feasible, the Commission shall collect the total amount of a debt in one lump sum. If a debtor is financially unable to pay a debt in one lump sum, the Commission, in its sole discretion, may accept payment in regular installments. Requests for installment payment of debt owed to the Commission, other than for installment payment of regulatory fees, shall be filed electronically, by submission to the following email address: regfeerelief@fcc.gov. Requests for installment payment of regulatory fees shall be made in accordance with § 1.1166(a). The Commission will obtain financial statements from debtors who represent that they are unable to pay their debt to the Commission in one lump sum and which are able to verify independently such representations (see 31 CFR 902.2(g)). The Commission will require and obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement, including, as appropriate, sureties and other indicia of creditworthiness (see Federal Credit Reform Act of 1990, 2 U.S.C. 661, et seq., OMB Circular A-129), and that contains a provision accelerating the debt in the event of default.
- (b) The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments will be sufficient in size and frequency to liquidate the debt in three years or less.
- (c) Security for deferred payments will be obtained in appropriate cases. The Commission may accept installment payments notwithstanding the refusal of the debtor to execute a written agreement or to give security, at the Commission's option.
- (d) The Commission may deny the extension of credit to any debtor who fails to provide the records requested or fails to show an ability to pay the debt.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	Application File Nos. BLFT-19980824TA,
Absolute Broadcasting, LLC	)	BLFT-20171221AAJ, and
	)	BMPFT-20180221AAB
	)	
	)	Facility ID No. 83187
FM Translator Station DW253AF, Bennington,	)	
Vermont	)	

MEMORANDUM OPINION AND ORDER

Adopted: May 16, 2023

Released: May 17, 2023

By the Commission:

I. INTRODUCTION

1. In this Memorandum Opinion and Order, we grant the application for review (Application for Review) filed by Absolute Broadcasting, LLC (Absolute) on September 27, 2021. Absolute seeks Commission review of a letter decision on reconsideration¹ issued by the Audio Division, Media Bureau (Bureau), on September 10, 2021.² The *Reconsideration Letter* upheld a May 26, 2020, staff letter decision which: (1) found that the license for FM translator station DW253AF, Bennington, Vermont (Station) had expired as a matter of law under section 312(g) of the Communications Act of 1934, as amended (Act);³ (2) cancelled the Station's license; (3) deleted the Station's call sign; (4) revoked the Station's program test authority (PTA); and (5) dismissed the above-captioned applications for a license to cover the Station's then-permitted facilities at Nashua, New Hampshire (License Application), and a minor modification of the underlying construction permit (Antenna Modification Application), and associated pleadings, as moot.⁴ For the reasons stated below, we grant the Application for Review, reinstate the Station's license, and return the License Application to pending status.⁵

¹ *Absolute Broadcasting*, Letter Decision, Ref. No. 1800B3-ALV, Application File Nos. BLFT-19980824TA, BLFT-20171221AAJ, and BMPFT-20180221AAB (MB Sept. 10, 2021) (*Reconsideration Letter*).

² On October 10, 2021, Saga filed an opposition to the application for review (Opposition). On October 18, 2021, Absolute filed a reply to the Opposition (Reply).

³ See 47 U.S.C. § 312(g) (Section 312(g)) (providing that if a broadcast station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station automatically expires at the end of that period, unless the license is extended or reinstated by the Commission as a matter of equity and fairness); see also 47 CFR § 73.1740(c).

⁴ *Absolute Broadcasting*, Letter Decision, Ref. No. 1800B3-KV, Application File Nos. BLFT-19980824TA, BLFT-20171221AAJ, and BMPFT-20180221AAB (MB May 26, 2020) (*Staff Letter*).

⁵ 47 U.S.C. § 312(g). For the reasons set out in note 72, *infra*, we do not reinstate the Antenna Modification Application, BMPFT-20180221AAB.

II. BACKGROUND

2. In 2016, during the first modification filing window that permitted AM stations to pair with an FM translator,⁶ Absolute received authorization to acquire and relocate the Station from Bennington, Vermont, to Nashua, New Hampshire, to operate as a fill-in FM translator for co-owned AM primary station WGHM(AM), Nashua, New Hampshire (WGHM).⁷ On December 21, 2017, Absolute filed an application for a license to cover the Nashua facilities (the License Application) and began broadcasting under PTA.⁸ On February 12, 2018, Saga Communications of New England, LLC (Saga) filed an interference claim and informal objection to the License Application, alleging listener interference to Saga's FM translator station W260CF, Manchester, New Hampshire.⁹ On February 22, 2018, Absolute took the Station silent in response to Saga's listener interference claim.¹⁰ For the remainder of 2018 and 2019, the Station remained largely silent as the parties disputed whether the Station was causing prohibited interference.¹¹ Absolute did not file a request for silent special temporary authority (STA) until March 25, 2020.¹²

3. On March 8, 2019, Saga filed a "Petition to Declare License Expired" (Expiration Petition), alleging that the Station had been continuously silent for 12 months and therefore its license had automatically expired under Section 312(g).¹³ In support of this allegation, Saga submitted: (1) Absolute's February 22, 2018, "Response to Interference Complaint" stating that it had taken the Station off the air in response to Saga's interference claim; and (2) a declaration from Saga's chief engineer stating that he had "periodically monitored" the Station's frequency during 2018 and had not heard any broadcasts (Stohrer Declaration).¹⁴ Saga further argued that even if the Station had briefly operated during this time, that operation was unauthorized because Absolute had constructed a two-bay antenna

⁶ See *Revitalization of the AM Service*, First Report and Order, Further Notice of Proposed Rulemaking, and Notice of Inquiry, 30 FCC Rcd 12145 (2015); *Media Bureau Announces Filing Dates and Procedures for AM Station Filing Window for FM Translator Modification and Availability of FM Translator Technical Tools*, Public Notice, 30 FCC Rcd 14690 (MB 2015).

⁷ See Application File Nos. BALFT-20160726ABX (granted August 31, 2016), BPFT-20160727ADA (granted July 25, 2017) (AMR Relocation Application), and BMPFT-20170713AHQ (modifying the construction permit issued by the grant of Application File No. BPFT-20160727ADA) (also granted July 25, 2017). The assignment transaction was consummated on August 18, 2017.

⁸ See Second Response to Interference Complaint and Informal Objections, filed by Absolute on June 12, 2018, at 1-2.

⁹ Specifically, Saga alleged that the Station violated 47 CFR § 74.1203(a)(3) (prohibiting actual interference) with respect to the License Application and 47 CFR § 74.1204(f) (prohibiting predicted interference) with respect to the AMR Relocation Application.

¹⁰ See *Reconsideration Letter* at 2.

¹¹ LOI Response at 3-4. If Saga chooses to make a new interference claim after the Absolute license is reinstated, it must do so following the procedures set out in *Amendment of Part 74 of the Commission's Rules Regarding FM Translator Interference*, Report and Order, 34 FCC Rcd 3457, 3458, para. 3 (2019); *FM Translator Interference*, 84 FR 27734 (June 14, 2019); and 47 CFR § 74.1203. The new translator interference rules became effective on August 13, 2019. *Media Bureau Announces August 13, 2019, Effective Date of Amended Rules for FM Translator Interference*, Public Notice, 34 FCC Rcd 7004 (MB 2019). Pursuant to delegated authority, the Bureau will act on any interference complaint in accordance with the procedures established in this rulemaking. See 47 CFR §§ 0.61(h), 0.283.

¹² In the silent STA, Absolute notified the Commission that it had been silent since June 25, 2019, and had only operated "periodically" since filing the License Application. On March 26, 2020, the day after filing the silent STA, Absolute filed a resumption notification, stating that it had returned to the air on March 24, 2020.

¹³ See *Reconsideration Letter* at 2.

¹⁴ Expiration Petition, Exhs. 1 and 2.

instead of the authorized one-bay antenna.¹⁵ As evidence, Saga submitted a photo of the Station's tower, reportedly taken on February 24, 2019, showing a two-bay antenna.¹⁶ Finally, Saga noted that Absolute had failed to file a silent notification or request for silent STA, in apparent violation of section 73.1740(a)(4) of the Rules.¹⁷

4. In response, Absolute argued that the Expiration Petition lacked evidentiary support.¹⁸ In fact, Absolute stated, the Station broadcast for a little over a week, from July 2–11, 2018.¹⁹ In support of this assertion, Absolute submitted sworn statements from an independent contracted engineer, Tom Ray (Ray) of Tom Ray Broadcast Consulting, LLC, and an Absolute employee working with both the primary AM and translator stations, Gary Blue (Blue) (Ray and Blue Declarations).²⁰ Ray stated that he had placed the Station on the air on July 2, 2018, that it was “operating normally” with a two-bay antenna “in accordance with the Construction Permit.”²¹ He also stated that he had been instructed to discontinue operation of the Station on July 11, 2018, and did so immediately.²² Blue stated that he had personal knowledge that the Station was placed on the air from July 2 – 11 and that he had listened to the WGHM rebroadcast signal on the Station.²³ Blue further attested that he had directly communicated with Absolute's counsel on July 11, 2018, who advised him to discontinue operation.²⁴

5. On September 18, 2019, the Bureau issued a letter of inquiry (LOI), directing Absolute to provide evidence regarding its operational status since initially going silent on or about February 22, 2018.²⁵ Specifically, the LOI requested: (1) the location, effective radiated power and antenna height above ground level for all periods of operation from February 22, 2018, to the date of the LOI; (2) copies of all leases, personnel records (including payroll records), engineering records, station logs, invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds relating to the Station's operation; (3) pictures of the Station's studio facilities and transmission facilities during the relevant timeframe; and (4) exact Station coordinates.²⁶

6. On October 28, 2019, Absolute responded to the LOI (LOI Response), reiterating that the Station had been silent during most of the relevant time period while it addressed the interference allegations but that it had broadcast for a little over a week in July 2018 and again the following summer, from June 17–25, 2019.²⁷ Absolute pointed out that both periods of brief operation were necessary to avoid a Section 312(g) expiration but that the Station was unable to permanently return to the air due to the Commission's pending adjudication of Saga's interference claim.²⁸ Absolute also submitted: (1) the

¹⁵ *Id.* at 2-3.

¹⁶ *Id.*

¹⁷ Expiration Petition at 1-2 (citing 47 CFR § 73.1740(a)(4) (requiring broadcast stations to notify the Commission within 10 days of taking a station silent and to request silent STA if remaining silent more than 30 days)).

¹⁸ “Statement for the Record” filed by Absolute on April 24, 2019 (Absolute Statement) at 2 (emphasis in original).

¹⁹ *Id.* at 1-2.

²⁰ Absolute Statement at 5-6 (exhibits).

²¹ Ray Declaration at 1.

²² *Id.*

²³ Blue Declaration at 1.

²⁴ *Id.*

²⁵ Letter from Albert Shuldiner, Chief, Audio Division, Media Bureau, to Absolute (MB Sept. 18, 2019) (LOI).

²⁶ *Id.*

²⁷ LOI Response at 3; *see also Reconsideration Letter* at 2.

²⁸ LOI Response at 4.

Station's location, effective radiated power, antenna height, and description of the antenna configuration;²⁹ (2) screenshots of the Station's transmitter log during June 17–25, 2019; (3) five undated pictures of the Station's studio facilities and transmission facilities; and (4) the Station's coordinates.³⁰ Absolute explained that it could not provide the other documentation requested by the Bureau because "[t]here are no personnel records, invoices, bill, checks, etc. because this is an FM Translator and not a primary station."³¹ In addition, it claimed, because the Station had not operated for long, there was "little accounting data available."³²

7. On May 26, 2020, the Bureau issued the *Staff Letter*, finding that Absolute had failed to demonstrate that it had operated during the relevant timeframe and therefore the Station's license had automatically expired under Section 312(g).³³ The Bureau relied heavily on the fact that Absolute had failed to provide the documents requested in the LOI and "accorded little weight" to the Ray and Blue Declarations as "uncorroborated statements" from persons who were not disinterested witnesses.³⁴

8. On June 29, 2020, Absolute petitioned for reconsideration of the *Staff Letter* (Petition for Reconsideration), reiterating that the Station had operated from July 2–11, 2018, and submitting sworn statements from five listeners who claimed to have heard the broadcast during that time (Listener Statements). With the Petition for Reconsideration, Absolute submitted a sworn statement by a third-party engineer (Ruck Statement), who analyzed the Station's electrical usage and concluded that an "apparent increase in consumption during the months of June and July" was "consistent with the Translator being operational during this time period."³⁵ Absolute repeated its argument that it was unable to provide all of the information requested in the LOI.³⁶

9. In the *Reconsideration Letter*, the Bureau dismissed the Petition for Reconsideration for relying on evidence that could have been presented earlier (namely, the Listener Statements and the Ruck Statement).³⁷ The Bureau added that even if it had considered the merits of the Petition, the additional evidence would fail to establish that the Station had operated for a week in July 2018.³⁸ Specifically, the Bureau found that the Ruck Statement was "specious evidence" of operation³⁹ and that the Listener Statements were "insufficient to establish the Station's purported 2018 operations" because they were "uncorroborated by any of the information requested in the [LOI]."⁴⁰

²⁹ *Id.* at 2.

³⁰ *Id.* at 3-4.

³¹ *Id.* at 4.

³² *Id.* at 4.

³³ *Staff Letter* at 4-5.

³⁴ *Id.* at 4.

³⁵ Petition for Reconsideration at 5-6.

³⁶ *Id.* at 3-4 ("[The Station] is *passive*. It only rebroadcasts the signal of WGHM. As a translator, it does not have employees, payroll records, etc. Furthermore, it does not sell advertising, and, thus, there does not exist any translator billing. It should be noted that there are two (2) operative leases relative to the translator. The transmitter building is owned by the City of Nashua and the lease is with WSMN(AM). The tower is shared with WSMN . . . Thus, there are no separate leases for the translator. In addition, all maintenance and service for the translator is done by WGHM personnel.") (emphasis in original).

³⁷ *Reconsideration Letter* at 4 (citing the well-established principle that a party may not "sit back and hope that a decision will be in its favor and, when it isn't, to parry with an offer of more evidence.").

³⁸ *Id.* at 4-5.

³⁹ *Id.* at 4.

⁴⁰ *Id.* at 5.

10. In its Application for Review, Absolute urges the Commission to reconsider the evidence already on record, contending that since it is “unable to supply the other information requested” by the LOI, it should be permitted to establish station operation through other means—especially where the consequence is the “draconian action of cancellation of a license.”⁴¹

11. In the Opposition, Saga argues that the Application for Review is procedurally inadmissible because it relies on facts presented in the Petition for Reconsideration upon which the Bureau “had no previous opportunity to pass”—namely, the Ruck Statement and Listener Statements.⁴² On the merits, Saga contends that the Bureau correctly rejected the Ruck Statement as “speculative” and asserts that without a “photographic memory” no listener could remember listening to a broadcast from nearly two years earlier.⁴³ Finally, Saga argues that even if the Station’s license did not automatically expire under Section 312(g), the Commission should revoke it under section 74.1263(e) of the Rules, which permits the Commission to cancel a translator’s license for failure to operate for 30 or more consecutive days.⁴⁴

III. DISCUSSION

12. We grant the Application for Review and reinstate the Station’s license. An application for review of a final action taken on delegated authority will be granted when, *inter alia*, such action: conflicts with statute, regulation, precedent or established Commission policy; involves application of a precedent or policy that should be overturned; or makes an erroneous finding as to an important or material factual question.⁴⁵ In this case, we find that the Bureau relied on an insufficient factual basis when it cancelled the Station’s license pursuant to Section 312(g).

13. Section 312(g) provides that if a broadcast station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license to promote equity and fairness.⁴⁶ The Commission has held that unauthorized operation is “no better than silence” for section 312(g) purposes; therefore, consecutive periods of both silence and unauthorized operation are considered in the aggregate when calculating a consecutive 12-month period under the Act.⁴⁷

14. Upon careful examination of the record, we find that considered as a whole, the evidence in this case does not reasonably support a finding that the Station was silent for 12 consecutive months.⁴⁸ As detailed below, the record here contains some evidence that the Station operated during the relevant timeframe, lacks evidence that the station was *continuously* silent throughout the relevant timeframe, and

⁴¹ Application for Review at 3-4.

⁴² Opposition at 4-5.

⁴³ *Id.* at 6-7.

⁴⁴ See 47 CFR § 74.1263(e).

⁴⁵ 47 CFR 1.115(b)(2).

⁴⁶ 47 U.S.C. § 312(g).

⁴⁷ See *Eagle Broad. Group, Ltd.*, Memorandum Opinion and Order, 23 FCC Rcd 588, 592, para. 9 (2008) (*Eagle*), *aff’d* by *Eagle Broad. Group, Ltd. v. FCC*, 563 F.3d 543 (D.C. Cir. 2009) (*Eagle v. FCC*).

⁴⁸ The *Staff Letter* only analyzed the Station’s operation from February 2018 to February 2019, explaining that “[g]iven our finding that the [Station’s] license expired on February 23, 2019, we do not need to consider the [Station’s] purported June 2019 Operations, which occurred several months after its license expired.” *Staff Letter* at 5. Therefore, in the pleadings relating to the *Reconsideration Letter* and Application for Review, the parties do not brief this issue, and it is not directly before the Commission on review. Nonetheless, because we reinstate the Station’s license herein, we note that the evidence that the Station briefly operated in 2019 is even stronger than for 2018 because it includes screenshots of the Station’s transmitter log from June 17–25, 2019.

includes a plausible explanation of why the Station was unable to provide additional evidence as requested by the Bureau. In these circumstances, we cannot reasonably conclude that the Station's license automatically expired under Section 312(g).⁴⁹ Therefore, we reverse the Bureau's holding and reinstate the Station's license.

15. *Review of the evidence.* Saga bases its Section 312(g) argument on two sources: the Stohrer Declaration and Absolute's own statement in its February 22, 2018, "Response to Interference Complaint," that it had taken the Station silent in response to Saga's interference complaint.⁵⁰ Neither provides evidence of continuous silence throughout the relevant timeframe. The Stohrer Declaration—even if accepted at face value—merely establishes that the Station was silent for much of 2018 and 2019.⁵¹ That fact is not contested, and even Saga does not claim that the Stohrer Declaration establishes that the Station was continuously silent for 12 months.⁵² As far as Absolute's own statements, Absolute has conceded throughout this proceeding that it was silent for most of 2018 and 2019 in response to Saga's interference claim; however, it has also consistently qualified this admission with the assertion that it briefly operated in July 2018.⁵³ Upon review of the record we find that neither of these above-mentioned sources provides sufficient evidence supporting a Section 312(g) determination that the Station was silent for 12 consecutive months.

16. Based on our review of the total record, the evidence submitted by Absolute prior to its Petition for Reconsideration supports its claim that it briefly operated in July 2018.⁵⁴ First is its own assertion, made repeatedly under penalty of perjury, that it operated during this time.⁵⁵ Second are the Ray and Blue Declarations—sworn statements by persons with firsthand knowledge of the facts attested

⁴⁹ This situation is distinguished from cases where the Commission designated a renewal application for a hearing because of extended periods of silence throughout the eight-year license term. *See generally*, 47 U.S.C. 309(k); *see also, e.g., Radioactive, LLC*, Hearing Designation Order, 32 FCC Rcd 6392 (2017); *Birach Broadcasting*, Hearing Designation Order, 33 FCC Rcd 852 (2018). This is not a renewal application and therefore does not involve a Section 309(k) public interest analysis. 47 U.S.C. § 309(k). Furthermore, in this case, the Station was required under the Rules to cease broadcasting as a secondary service responding to an interference claim. *See* 47 CFR § 74.1203(a).

⁵⁰ Expiration Petition at 1-2.

⁵¹ *See* Expiration Petition, Exh. 2 (stating that during the period February 22, 2018 through February 25, 2019, Saga's Chief Engineer, Peter Stohrer "periodically monitored" the FM frequency 99.9 MHz in the area around Absolute's antenna structure and "never heard any transmissions from the apparatus on the tower").

⁵² *See Glenn Cherry*, Memorandum Opinion and Order, 34 FCC Rcd 4198, 4199, para. 5 (2019) (*Cherry*) ("[Objector's] evidence does not refute or conflict with [the evidence of brief operation] and provided at best a 'snap shot' of discrete instances of station non-operation on separate dates.").

⁵³ *See, e.g., "Opposition to Renewed Petition to Declare License Expired"* filed by Absolute on August 29, 2019, at 2; LOI Response at 3; Petition for Reconsideration at 1-3; Application for Review at 2.

⁵⁴ We do not rely on evidence Absolute submitted for the first time in its Petition for Reconsideration, including the Listener Statements and the Ruck Statement. The Bureau appropriately dismissed the submission of this evidence on procedural grounds because it should have been submitted in response to the LOI. *See Reconsideration Letter* at 4 (citing the well-established principle that a party may not "sit back and hope that a decision will be in its favor and, when it isn't, to parry with an offer of more evidence"). *See also International Aerospace Solutions, Inc.*, Memorandum Opinion and Order, 2023 WL 2012155, para. 10 (Feb. 13, 2023) (affirming Bureau's procedural dismissal of Petition for Reconsideration that relied on arguments that should have been submitted in response to Bureau's LOI).

⁵⁵ *See, e.g., "Opposition to Renewed Petition to Declare License Expired"* filed by Absolute on August 29, 2019, at 2; LOI Response at 3; Petition for Reconsideration at 1-3; Application for Review at 2.

to.⁵⁶ Third is the technical information submitted by Absolute in response to specific items requested in the LOI: namely, the location, effective radiated power and antenna height of the facilities (as well as a description of the antenna configuration), photos of the Station's studio facilities and transmission facilities that match the Station photos submitted by Saga, and the Station's coordinates.⁵⁷ The fact that the Station's facilities were constructed and thus physically capable of broadcasting during the claimed period in July 2018 is relevant and circumstantiates Absolute's claim of operation.⁵⁸ The above three sources form an evidentiary basis for Absolute's claim that the Station operated for a little over a week in July 2018. Taken as a whole, the record contains some evidence of operation and lacks evidence of *continuous* silence. Therefore, there was not a sufficient evidentiary basis to support the Bureau's conclusion that the Station's license had automatically expired after 12 months of continuous silence.⁵⁹

17. In the *Staff Letter* and *Reconsideration Decision*, the Bureau relied heavily on Absolute's failure to produce the standardized list of requested documents (i.e., the "leases, personnel records (including payroll records), engineering records, station logs, invoices, bills, checks written or received, credit card charges, wire transfers or deposits of funds" relating to the Station's operation), without considering the service- and licensee-specific factors affecting Absolute's ability to produce those documents. In this case—where an FM translator is installed on the same tower and shares utilities, personnel, and other expenses with the primary station—we find plausible Absolute's assertion that it did not have separate versions of these requested documents relating specifically to the Station's operation. We also agree with Absolute that a translator is in a different position than a full power station with respect to the separate documentation it is required or likely to retain for business or regulatory purposes.⁶⁰ Many of the documents requested in the LOI would be more relevant to determining whether a full service station was constructed at its authorized site than whether, as here, a cross-service translator, co-located with its primary station, briefly operated during a specific time window.⁶¹ Presumably, Absolute could have produced checks, charges, transfers, or other financial transactions relating to the purchase and installation of the Station's antenna system. However, the fact that the Station's antenna system was purchased, installed, and commenced operation is not at issue here. All parties agree that the Station was constructed—in fact, its operation forms the basis of the interference complaint by Saga. Lastly, there was no testimony available from individuals who had personal knowledge of the Station's operation but were not engaged by Absolute to operate the Station. Rather, the individuals who had personal knowledge of the Station's operation were the ones who were engaged by Absolute to operate it. In these circumstances, we find that Absolute's decision to submit the sworn statements of a consulting

⁵⁶ See *Fort Myers Broad. Co.*, 19 FCC Rcd 19556, 29560 (MB 2004) ("With respect to the assertion that the station operated briefly during June 1999, that claim is not supported by the declaration of a person with personal knowledge regarding the operations of the station.").

⁵⁷ LOI Response at 3-4.

⁵⁸ In contrast, many Section 312(g) cases involve stations that could not have physically broadcast from their licensed sites due to failure to construct at that site, termination of a lease, etc. See *infra*, note 68.

⁵⁹ See, e.g., *Cherry*, 34 FCC Rcd at 4199, para. 5 (weighing evidence of frequent silence against evidence of occasional operation and finding insufficient evidence of continuous silence).

⁶⁰ See generally, 47 CFR § 74.1281.

⁶¹ To be clear, we do not require the Bureau to individually tailor in advance the information requested in each LOI, but only to take service- and licensee-specific factors into account when it assesses the sufficiency of the licensee's response as part of its Section 312(g) determination. We further clarify that we expect the Bureau to distinguish between a licensee's inability to provide responsive information versus an unwillingness or failure to do so when the requested material is or should be available. This holding in no way undermines the well-established principle that failing to timely respond to a Bureau LOI is a violation of a Commission order and therefore may be subject to appropriate sanctions. See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589 (2002); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (EB 2003).

engineer and an Absolute employee with personal knowledge of the Translator's operation was reasonable given the lack of other responsive information.

18. *Unauthorized operation.* We reject Saga's claim that the Station's July 2018 operation was unauthorized because it used the wrong antenna configuration and, as such, could not avert automatic expiration. The Commission has not directly addressed the question of whether *any* noncompliance with a technical or other regulatory requirement means a station has "fail[ed] to transmit broadcast signals" for Section 312(g) purposes. Section 312(g) itself does not state that unauthorized operation is sufficient to avoid expiration under Section 312(g),⁶² and the Commission did not discuss the issue when it implemented Section 312(g) in 1996.⁶³ In the 2008 *Eagle* decision, the Commission held that transmissions from an *unauthorized location* could not be used to avoid automatic license expiration, explaining, "Section 312(g), which establishes the specific sanction for extended failure to broadcast, cannot be read to create an exception to Section 301 licensing requirements."⁶⁴ The D.C. Circuit (Court) upheld the Commission's analysis and rejected the appellant's argument that a station could avoid automatic license expiration by transmitting "any signals from *any* location."⁶⁵ Such an approach, the Court explained, would produce the "absurd result" of a licensee being able to avoid expiration at a licensed site in Arizona by broadcasting in New York.⁶⁶ In short, the Court concluded, "unauthorized and unlicensed transmissions are no better than silence."⁶⁷

19. In the vast majority of cases since *Eagle*, the Commission has concluded that licenses have expired pursuant to 312(g) due to "unauthorized operation" when the operation occurred at an unauthorized location⁶⁸ or, in the context of the DTV transition, on an unauthorized frequency.⁶⁹ For

⁶² In its entirety, Section 312(g) states, "If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary, except that the Commission may extend or reinstate such station license if the holder of the station license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness."

⁶³ See *Implementation Order*, 11 FCC Rcd at 16599-600, paras. 2-3.

⁶⁴ *Eagle*, 23 FCC Rcd at 592, para. 9. Prior to 2008, the Commission issued a forfeiture for nearly five years of operation at an unauthorized location. *Morgan County Industries, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 13712 (MB 2006).

⁶⁵ *Eagle v. FCC*, 563 F.3d at 543.

⁶⁶ *Id.* at 552.

⁶⁷ *Id.* at 553.

⁶⁸ See, e.g., *Chinese Voice of Golden City v. FCC*, 2021 WL 6102191 (D.C. Cir. 2021) (affirming that transmissions from an unauthorized location do not constitute "broadcast signals" for purposes of § 312(g)); *Kingdom of God, Inc. v. FCC*, 719 Fed.Appx. 19, 20 (D.C. Cir. 2018) (Mem.) ("Kingdom's transmissions from its unauthorized location in Beech Grove do not constitute 'broadcast signals' for purposes of § 312(g)"); *Roy E. Henderson*, Memorandum Opinion and Order, 33 FCC Rcd 3385, 3385, n.3 (2018) (upholding a Section 312(g) finding where the licensee had lost its licensed site and had not obtained authorization to operate at other temporary sites); *Great Lakes Community Broad., Inc.*, Memorandum Opinion and Order, 24 FCC Rcd 8239, 8257 (2009) (cancelling a station's license that was constructed at an unauthorized location); *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 608, 611 (2008) (holding that equipment testing at an unlicensed location was insufficient to avoid automatic expiration). See also *Hispanic Target Media Inc.*, Letter Decision, Application File Nos. BPH-20180917AAI and BPH-20180910AAD (MB 2021) (finding that two stations' licenses had expired after 12 months' operation at unauthorized locations); *DW243AP, Mooresville, AL*, Letter Decision, 34 FCC Rcd 6202, 6203-4 (MB 2019) (cancelling station's license after operating an unauthorized site at a greater distance than the three-second "tolerance zone" of 47 CFR § 73.1690(b)(2)); *Mr. Jan Charles Gray*, Letter Decision, 32 FCC Rcd 3924, 3927 (MB 2017) (cancelling a station's license after several years of combined silence and operation at an unauthorized location); *James McCluskey, Ph.D.*, Public Notice, 27 FCC Rcd 6252, 6255 (MB 2012) (finding that a station's

(continued....)

other nonconforming operations not involving an unauthorized location or frequency, even if the violation lasted longer than a year, the Bureau has typically entered into a consent decree or imposed a forfeiture under Section 503(b)(1) of the Act.⁷⁰ Consistent with this approach, we clarify that not every instance of non-conforming operation that lasts for more than a year leads automatically to the loss of the station's license pursuant to the terms of Section 312(g). We do not believe that Congress, when it set out to address the spectrum warehousing issue of silent stations, or the Court, when it rejected the “absurd result” that operation from a distant location could avoid automatic license expiration, also intended to establish, without further discussion or analysis, a severe new sanction applicable to *all* consecutive 12-month rule violations. No such intent can be read into Section 312(g) or inferred from the holding in *Eagle*. The Court in *Eagle* established that operation from an unauthorized location triggers Section 312(g) but did not discuss which other rule violations might also rise to the level of being “no better than silence” under Section 312(g). When confronted with the question of applying Section 312(g) in situations other than those involving silence or an unauthorized location as in *Eagle*, the Commission's licensing divisions have consistently declined to go to the extreme of cancelling licenses if the infraction lasted longer than a year. Instead, beyond cases of silence, they have applied Section 312(g) to unauthorized location—or the spectrum “real estate” equivalent, unauthorized frequencies—while addressing other rule violations using the existing enforcement framework set out in the Rules. We endorse this approach as a fair and rational application of Section 312(g) as further expounded in the *Eagle* decision.

20. In this case, the record indicates that the Station's antenna configuration in July 2018 was apparently at variance from the technical parameters authorized in the construction permit (File No. BPFT-20160727ADA) granted July 25, 2017 (Construction Permit).⁷¹ Specifically, the Construction

(Continued from previous page)

license expired after several years' operation at an unauthorized site); *John C. Trent*, Letter Decision, 27 FCC Rcd 2925, 2926 (MB 2012) (finding that a Station's license had automatically expired after 12 years of operation at an unauthorized site); *Idaho Broad. Consortium*, Letter Decision, 16 FCC Rcd 1721, 1722-23 (MB 2001) (applying Section 312(g) where a station was either silent or operated at unauthorized coordinates, antenna height, and antenna configuration).

⁶⁹ See *Word of God Fellowship, Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 13280, 13281-82 (2014) (affirming cancellation of television station broadcasting with temporary facilities on its new channel without an STA). See also *Spirit Productions, Inc.*, 28 FCC Rcd 8875, 8877 (MB 2013) (applying section 312(g) to a television station broadcasting on an unauthorized channel after express notification in a previous order that operation on an out-of-core channel could lead to automatic expiration).

⁷⁰ See, e.g., *Zwerling Broad. System, Ltd.*, Forfeiture Order, DA 22-1318 (MB Dec. 15, 2022) (*Zwerling*) (imposing a forfeiture on an AM station for years of “non-conforming operations,” including exceeding its authorized nighttime power limit); *Low Power Television Stations KRLB-LD, Richland, WA, et al.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 22-1058 (MB Oct. 4, 2022) (imposing a forfeiture on low power TV stations for years of “unauthorized operation” after failing to file applications for licenses to cover after the expiration of the underlying construction permits); *Roy E. Henderson*, Forfeiture Order, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5223 (MB 2018) (imposing a forfeiture on an FM licensee for “unauthorized operation with non-conforming facilities” for more than a year, specifically, an unauthorized power reduction, while finding that the station had not expired under Section 312(g)). In 2012, however, the Bureau cancelled a station's license under Section 312(g) when it resumed operation with a lower nighttime power than authorized. *Davina Sashkin, Esq.*, Letter Decision, 27 FCC Rcd 2920, 2924-25 (MB 2012) (*McComb*). Staff decisions are not, of course, binding on the Commission. See *Comcast v. FCC*, 526 F.3d 763, 769 (D.C. Cir. 2008).

⁷¹ The Construction Permit authorized the facilities specified in the AMR Relocation Application. Because the Bureau found that the Station's license had automatically expired on other grounds, it did not reach the issue of unauthorized operation.

Permit authorized a two-bay antenna system, composed of two stacked Nicom BLD-1/P antennas.⁷² In the License Application, Absolute stated that it had installed one Nicom BLD-1/P antenna, achieving the same signal coverage by correspondingly increasing the transmitter power output (TPO).⁷³ Under Section 74.1251(b)(2) of the Rules, this variance was unauthorized because Absolute had not previously obtained Commission approval to modify its antenna system (by filing an FCC Form 349).⁷⁴ On August 20, 2018, Absolute amended the then-pending License Application to reflect that a “second bay identical to the first was added to the array” and the transmitter power input accordingly reduced to 0.2 kW to produce the authorized ERP of 0.25 kW.⁷⁵ It does not state precisely when the second bay was added. Therefore, the Station’s July 2018 operation was conducted using an antenna that either (1) did not conform to the Construction Permit (authorizing two bays) or (2) did not conform to the facilities described in the License Application (originally specifying one bay).⁷⁶

21. For the reasons discussed in paragraph 19, *supra*, we conclude that the apparent variance of the Station’s installed antenna system from its authorized technical parameters is not subject to automatic license expiration under Section 312(g).⁷⁷ Instead, we direct the Bureau to consider appropriate enforcement action for Absolute’s failure to file an application to modify the Construction Permit to reflect a single bay antenna system prior to filing the License Application,⁷⁸ taking into account the very short time (nine days) that the Station operated with apparently non-conforming equipment, the fact that the Station at all times operated at its authorized location and on its authorized frequency, the loss of the use of Station for nearly three years due to erroneous cancellation, and Absolute’s full and voluntary disclosure regarding the antenna installation in the License Application.

22. *Discontinuation of operation.* Although a translator station is not required to adhere to any regular schedule of operation, section 74.1263(c) of the Rules requires an FM translator licensee to notify the Commission of its intent to discontinue operations for 30 or more consecutive days.⁷⁹ Notification must be made within 10 days of the date on which the station first discontinues operation, and Commission approval is required for such discontinued operation to continue beyond 30 days. The foregoing facts reveal that Absolute apparently violated section 74.1263(c) when it failed to file a silent

⁷² We reject Saga’s contention that the Construction Permit authorized a one-bay antenna system. *See* Expiration Petition at 2-3. In the AMR Relocation Application, Absolute specified a Nicom “BLD-1/P” antenna model in the Tech Box, explaining in the Technical Exhibit that it would install a “two bay 0.75 wavelength spaced Nicom BLD-1/P” antenna. Bureau engineering staff reviewed and authorized this two-bay antenna system. We do not reinstate the Antenna Modification Application, which replaces the AMR Relocation Application’s “BLD-1/P” with “BLD-2/P” in light of our determination that the AMR Relocation Application accurately reflected the proposed antenna and because there is no Nicom antenna model number “BLD-2/P.”

⁷³ License Application, Exh. 12 (“[B]ecause the area [within 207 meters of the tower] is unpopulated [two bays would have reduced downward radiation], it was decided to go with a single bay antenna to bring costs down slightly”).

⁷⁴ *See* 47 CFR § 74.1251(b)(2). Operation under PTA constitutes “broadcast signals” for Section 312(g) purposes. *A-O Broad. Corp.*, Memorandum Opinion and Order, 23 FCC Rcd 603, 604-5, para. 4 (2008).

⁷⁵ License Application (as amended), Exhs. 1, 10 (also lowering the corresponding TPO).

⁷⁶ We note that Ray states that “by [July 2018, the Station] had been constructed using a two-bay antenna as specified in the construction permit.” Ray Declaration at 1.

⁷⁷ We emphasize that this holding has no effect on our well-established rules and policies in any other area that might use similar terminology, for example, whether a station has completed construction before its construction permit expires under 47 CFR § 73.3598(e).

⁷⁸ 47 CFR § 74.1251(b)(2) (requiring a modification application for any change in the transmitting antenna system).

⁷⁹ 47 CFR § 74.1263(c).

notification or request for silent STA after going silent in February 2018.⁸⁰ We direct the Bureau to consider appropriate enforcement action for Absolute's failure to file a silent notification or request for silent STA, taking into account that Absolute repeatedly notified the Commission that it had gone silent in its February 22, 2018, "Response to Interference Complaint" and subsequent pleadings.⁸¹ We note that if Absolute had complied with these requirements, which serve the purpose of ensuring that the Commission is at all times kept aware of a station's operational status, there would have been a contemporaneous record of the Station's operational history for the period in question, thereby avoiding the need to adjudicate the issue. We also reject Saga's argument that Absolute permanently discontinued operation under section 74.1263(e) of the Rules.⁸² The record shows that Absolute temporarily ceased operation pending resolution of Saga's interference complaint, as it is required to do as a secondary service.⁸³ A finding of permanent discontinuation of operation or to cancel the Station's license under section 74.1263(e) would be inappropriate in these circumstances.

23. *Conclusion.* The license for FM translator station DW253AF, Bennington, Vermont was cancelled almost three years ago, on May 26, 2020.⁸⁴ For the foregoing reasons, we find that the Bureau erred in cancelling the Station's license pursuant to Section 312(g). Section 312(g) provides that the Commission may reinstate an expired license if the station "prevails in an administrative . . . appeal."⁸⁵ In light of our decision to grant Absolute's Application for Review, we reinstate the license for FM translator station DW253AF, Nashua, New Hampshire.

IV. ORDERING CLAUSES

24. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,⁸⁶ and Section 1.115(g) of the Commission's Rules,⁸⁷ the Application for Review filed by Absolute Broadcasting, LLC, on September 27, 2021, IS GRANTED.

25. IT IS FURTHER ORDERED, pursuant to Section 312(g) of the Communications Act of 1934, as amended,⁸⁸ the license for FM translator station DW253AF, Nashua, New Hampshire, (Application File No. BLFT-19980824TA), IS REINSTATED.

⁸⁰ Under Bureau precedent, Absolute's failure to file a resumption notice is not determinative in a Section 312(g) analysis. *Elohim Group Corporation*, Memorandum Opinion and Order, 2022 WL 1540570, para. 6 (MB 2022) ("[Objector] provides no authority, and we are not aware of any, to support his claim that section 312(g) is triggered by a licensee's administrative failure to timely file a resumption notice."). We endorse the Bureau's view regarding the effect of a failure to file a resumption notice in a Section 312(g) determination.

⁸¹ See, e.g., "Opposition to Renewed Petition to Declare License Expired" filed by Absolute on August 29, 2019, at 2; LOI Response at 3; Petition for Reconsideration at 1-3; Application for Review at 2.

⁸² See 47 CFR § 74.1263(e).

⁸³ See, e.g., Response to Interference Complaint at 1; *Reconsideration Letter* at 2. See generally, 47 CFR § 74.1203(a) (prohibiting a translator from operating if it causes actual interference to another broadcast station).

⁸⁴ See *Staff Letter*.

⁸⁵ 47 U.S.C. § 312(g).

⁸⁶ 47 U.S.C. § 155(c)(5).

⁸⁷ 47 CFR § 1.115(g).

⁸⁸ 47 U.S.C. § 312(g).

26. IT IS FURTHER ORDERED that the application for a license to cover construction permit File No. BPFT-20160727ADA, as modified by construction permit File No. BMPFT-20170713AHQ, filed by Absolute Broadcasting, LLC, on December 21, 2017, and amended on August 20, 2018 (License Application File No. BLFT-20171221AAJ), IS RETURNED TO PENDING STATUS.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

In the Matter of)
)
Amendment of Parts 0, 1, and 80) MD Docket No. 23-156
of the Commission's Rules)

Released: May 18, 2023

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We find that electronic payment of fees for the services processed by WTB reduces the agency's expenditures (including eliminating the annual fee for the bank's services) and the cost of manually processing each transaction, with little or no inconvenience to the Commission's regulatees, applicants, and the public.⁹ As part of this effort, we are now closing P.O. Box 979097 and modifying the relevant rule provisions that permit manual filings and require payment of fees via the closed P.O. Box. Specifically, sections 0.482, 1.1102, and 1.2107 are being modified to eliminate references to the lockbox at U.S. Bank.¹⁰ In addition, section 1.907 is being modified to eliminate references to applications submitted on paper, and the caption to section 1.913 is being adjusted to eliminate a reference to manual filing.¹¹

4. In addition, we make minor modifications to our rules to reflect the replacement of the Commission's prior payment interface, Fee Filer, with a module contained within the Commission's Registration System (CORES).¹² We make these changes without notice and comment because they are rules of agency organization, procedure, or practice exempt from the general notice-and-comment requirements of the Administrative Procedure Act (APA).¹³

5. *Implementation of Lockbox Closure.* As a temporary transition measure, for 90 days after publication of this order in the Federal Register, U.S. Bank will continue to process payments to P.O. Box 979097. After that date, payments for these WTB services must be made in accordance with the procedures set forth on the Commission's website, <https://www.fcc.gov/wireless-fees>. For now, such payments will be made upon log-in at <https://apps.fcc.gov/core/userLogin.do>. Users will then access the link Manage Existing FRNs, and subsequently FRN Financials.¹⁴ As we assess and implement U.S. Treasury initiatives toward an all-electronic payment system, we may transition to other secure payment systems with appropriate public notice and guidance.

6. *Regulatory Flexibility Act, Paperwork Reduction Act, and Congressional Review Act.* Section 603 of the Regulatory Flexibility Act, as amended, requires a regulatory flexibility analysis in

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the Commission's Rules, Order, MD Docket No. 19-40, 2019 WL 937041 (F.C.C.), 84 FR 8617 (2019) (providing the history of the ongoing transition to electronic payments at the FCC). The Commission has previously taken action to close the lockbox utilized by the Public Safety & Homeland Security Bureau, the Wireline Competition Bureau, the Enforcement Bureau, the Office of Engineering and Technology, the International Bureau, the Media Bureau, and the boxes used to collect forfeiture penalties and to collect payment of charges for certain international telecommunications services. *Amendment of Part 1 of the Commission's Rules*, Order, MD Docket No. 17-123, 32 FCC Rcd 4203 (2017) (PS&HSB); *Amendment of Parts 0, 1, 51, and 61 of the Commission's Rules*, Order, MD Docket No. 17-357, 32 FCC Rcd 10565 (2017) (WCB); *Amendment of Part 1 of the Commission's Rules*, Order, MD Docket No. 19-40, 34 FCC Rcd 1506 (2019) (EB); *Amendment of Part 1 of the Commission's Rules*, Order, MD Docket No. 20-64, 35 FCC Rcd 2094 (2020) (IB); *Amendment of Part 1 of the Commission's Rules*, Order, MD Docket No. 20-64, 2020 WL 7334155 (F.C.C.) (2020) (MB); *Amendment of Part 1 of the Commission's Rules*, Order, MD Docket No. 20-58, 35 FCC Rcd 1652 (2020) (forfeiture penalties); and *Amendment of Part 1 of the Commission's Rules*, Order, MD Docket No. 19-333, 34 FCC Rcd 11002 (2019) (ITS).

⁹ See Treasury Financial Manual, Bulletin No. 2022-01, "Agency No-Cash or No-Check Policies," released on December 7, 2021 (explaining the circumstances under which agencies may decide not to accept payments made in cash or by check), available at <https://tfm.fiscal.treasury.gov/content/tfm/v1/bull/22-01.html>; see also <https://www.gpo.gov/fdsys/pkg/FR-2011-06-16/pdf/2011-15181.pdf>.

¹⁰ 47 CFR §§ 0.482, 1.1102, and 1.2107.

¹¹ 47 CFR §§ 1.907 and 1.913.

¹² 47 CFR § 1.1109; 47 CFR § 1.1111.

¹³ 5 U.S.C. § 553(b)(A).

¹⁴ Batch filers will use ULS Pay fees to make electronic payments. In the event an applicant is unable to make an electronic payment, the Commission's existing waiver standard in 47 CFR § 1.925(b)(3) remains the appropriate vehicle to seek relief from the electronic payment requirement. *E-licensing R&O*, 35 FCC Rcd at 10785, para. 12.

notice and comment rulemaking proceedings.¹⁵ As we are adopting these rules without notice and comment, no regulatory flexibility analysis is required. This document does not contain any new proposed information collection(s) subject to the Paperwork Reduction Act of 1995.¹⁶ In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002.¹⁷ The Commission will not send a copy of this Order pursuant to the Congressional Review Act, see 5 U.S.C. § 801(a)(1)(A), because the adopted rules are rules of agency organization, procedure, or practice that do not “substantially affect the rights or obligations of non-agency parties.”¹⁸

7. ACCORDINGLY, IT IS ORDERED, that pursuant to Sections 4(i), 4(j), 158, 208, and 224 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 158, 208, and 224, this ORDER is hereby ADOPTED and the rules set forth in the Appendix are hereby AMENDED effective 30 days after publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁵ 5 U.S.C. § 603(a).

¹⁶ 44 U.S.C. §§ 3501-3520.

¹⁷ See 44 U.S.C. § 3506(c)(4).

¹⁸ 5 U.S.C. § 804(3)(C) (rules subject to the Congressional Review Act do not include “any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties”).

APPENDIX**Final Rules**

Title 47 of the Code of Federal Regulations, Part 1, is amended as follows:

PART 0 – COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

2. Amend § 0.482 by revising the first sentence to read as follows:

§ 0.482 Application for waiver of wireless radio service rules.

All requests for waiver of the rules (see § 1.925 of this chapter) governing the Wireless Radio Services (see § 1.907 of this chapter) that require a fee (see § 1.1102 of this chapter) shall be submitted via the Universal Licensing System.

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PART 1 — PRACTICE AND PROCEDURE

3. The authority citation for part 1 remains as follows:

AUTHORITY: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

4. Amend § 1.907 to read as follows:

§ 1.907 Definitions.

* * *

Receipt date. The date an electronic application is received at the appropriate location at the Commission.

* * *

* * * * *

5. Amend the title of § 1.913 to read as follows:

§ 1.913 Application and notification forms; electronic filing.

* * * * *

6. Amend § 1.1102 by revising the final sentence of paragraph (a) to read as follows:

§ 1.1102 Schedule of charges for applications and other filings in the wireless telecommunications services.

(a) * * * Manual filings and/or payments for these services are no longer accepted.

* * * * *

7. Amend § 1.1109 by revising the first paragraph to read as follows:

§ 1.1109 Schedule of charges for applications and other filings for the Homeland services.

Payments should be made electronically using the Commission's electronic filing and payment system in accordance with the procedures set forth on the Commission's website, www.fcc.gov/licensing-databases/fees. Manual filings and/or payments for these services are no longer accepted.

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8. Amend § 1.1111 by revising paragraph (b) to read as follows:

§ 1.1111 Payment of charges.

(a) * * *

(b) Applicants may access the Commission's on-line filing systems at <https://www.fcc.gov/licensing-databases/online-filing>, and the Commission's fee payment module through the FRN access page of the Commission's Registration System at <https://apps.fcc.gov/cores/paymentFrnLogin.do>. Applicants who use the on-line processes will be directed to the appropriate electronic application and payment forms for completion and submission of the required application(s) and payment information.

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9. Amend § 1.2107 by revising the first sentence of paragraph (b) to read as follows:

§ 1.2107 Submission of down payment and filing of long-form applications.

(a) * * *

(b) Unless otherwise specified by public notice, within ten (10) business days after being notified that it is a high bidder on a particular license(s), a high bidder must electronically submit to the Commission such additional funds (the "down payment") as are necessary to bring its total deposits (not including upfront payments applied to satisfy bid withdrawal or default payments) up to twenty (20) percent of its high bid(s). * * *

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PART 80 — STATIONS IN THE MARITIME SERVICES

10. The authority citation for part 80 remains as follows:

AUTHORITY: 47 U.S.C. 151-155, 301-609; 3 U.S.T. 3450, 3 U.S.T. 4726, 12 U.S.T. 2377.

11. Amend § 80.59 by revising the first sentence of (c)(2) to read as follows:

§ 80.59 Compulsory ship inspections.

(c) * * *

(1) * * *

(2) Feeable applications for exemption must be filed electronically using the Commission's Universal Licensing System. * * *

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