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August 16 – September 6, 2024

FCC Record

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U.S. GOVERNMENT
INFORMATION
GPO

FCC Record Volume 39, No. 11, Pages 9294 to 10288, August 16 – September 6, 2024



FEDERAL COMMUNICATIONS COMMISSION

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Federal Communications Commission Record

Table of Contents
Volume 39
Issue 11

Table of Cases ***i***

Table of FCC and Delegated Authority Numbers ***iii***

Table of Docket Numbers ***iv***

Table of Rulemaking Numbers ***v***

Table of Cities ***vi***

Table of Cases
Volume 39
Issue 11

Case Name	Page
CSC Wireless, LLC, d/b/a Altice Mobile, Consent Decree	9294
EB Settles with Lingo for Transmitting Illegal Robocalls	9304
Mountain Lakes Broadcasting Corp., Consent Decree	9318
SB, WTB, OIA, & OET Seeks Information on Sharing in the 18 GHz Band	9328
WTB Grants License Modification/Rule Waivers Promoting Railroad Safety	9331
SB Grants in Part Globalstar's Application to Replenish it's Big LEO MSS System	9346
Satellite Licensing Division and Satellite Programs and Policy Division Information Actions Taken	9358
WCB Seeks Comments on Domestic Section 214 Application(s)	9362
WCB Seeks Comments on Domestic Section 214 Application(s)	9366
OIA Terminates Quickly Phone USA, LLC Int'l Section 214 Authorization	9370
OIA Issues Letter to First Technology on Int'l Section 214 Authorization	9376
WCB Grants Interconnected VoIP Numbering Authorizations	9401
WCB Invites Comments on Section 214 Discontinuance Application(s)	9402
WCB Announces Lifeline Voice Conditional Forbearance Counties	9406
FCC Amends Disaster Reporting and MDRI Area for Tropical Storm Ernesto	9451
MB Dismisses Ethne Radio Cactus et al. Application	9453
FCC Deactivates Disaster Reporting and MDRI for Tropical Storm Ernesto	9464
WCB Issues Supply Chain Reimbursement Program Updated FAQs & User Guide	9466
WCB Grants Domestic Section 214 Application	9515
WCB Grants Domestic Section 214 Application	9519
AT&T Enterprises, LLC, Consent Decree	9525
EB Issues Citation For Broadband Data Reporting Violations	9537
EB Issues Citation For Broadband Data Reporting Violations	9541
EB Issues Citation For Broadband Data Reporting Violations	9545
EB Issues Citation For Broadband Data Reporting Violations	9549
EB Issues Citation For Broadband Data Reporting Violations	9553
EB Issues Citation For Broadband Data Reporting Violations	9557
MB Announces AI Disclosure NPRM Comment Dates Extended	9561
EB Issues Citation For Broadband Data Reporting Violations	9563
EB Issues Citation For Broadband Data Reporting Violations	9567
EB Issues Citation For Broadband Data Reporting Violations	9571
EB Issues Citation For Broadband Data Reporting Violations	9575
EB Issues Citation For Broadband Data Reporting Violations	9579
Satellite Licensing Division and Satellite Programs and Policy Division Information Actions Taken	9583
Southern Broadcasting & Investment Co., Inc., NALF	9585
OIA Announces Executive Branch Review Rules/Standard Questions Effective Aug. 23, 2024	9589
SEC Guide: Amendment of the Commission's Rules Regarding Single Network Future: Supplemental Coverage from Space	9623
SEC Guide: Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991	9633
WCB Invites Comments on Section 214 Discontinuance Application(s)	9637
WCB Issues Monthly USF Appeals	9641
MB Requests an Amendment to UM Enterprise, LLC Application	9651
Cobra Broadcasting, LLC - KBRA, NALF	9655
Table of Allotments, Television Broadcast Stations, Augusta, Georgia	9659
PSHSB Announces Region 14 (IN) 700 and 800 MHz RPCs to Hold Meetings	9661
WCB Seeks Nominations for Eight USAC Board Member Positions	9662
WTB Refreshes Record on Part 80 Performance Standards	9665
WCB Announces Proposed NANP Fund Size Estimate and Contribution Factor	9675

Case Name	Page
Table of Allotments, Television Broadcast Stations, Boise, Idaho	9677
Panther Communications LLC, Consent Decree	9679
SB, WTB & OET Seeks Comments on Applications Filed for Transfer of Control of Intelsat to SES	9688
BDTF & OEA Grants Extension of Time to File Comments on BDC Fourth Further Notice	9694
Actions Taken Under Cable Landing License Act	9696
International Authorizations Granted	9697
WCB Addresses Lower Yukon's Request for Clarification and Waiver	9702
Lander County General Improvement District #1, NALF	9707
WCB Grants Streamlined Resolution of Reimbursement Program Extension Requests	9716
WCB Announces Compliance Date for Lifeline Rules Implementing the Safe Connections Act	9725
Satellite Licensing Division and Satellite Programs and Policy Division Information Actions Taken	9726
WCB Dismisses Petition for Reconsideration	9727
FCC Announces FCC Form 395-B Filing Status	9731
SEC Guide: Allocation of Spectrum for Non-Federal Space Launch Operations; Amendment of Part 2 of the Commission's Rules et al.	9732
OET & PSHSB Prohibits Authorization of Equipment Including Kaspersky Software	9739
WCB Announces Application Filing Window for Cybersecurity Pilot	9742
WCB Announces AT&T Test Plan for Tech Transition Discontinuance Application	9749
WCB Grants Resound Networks, LLC a Limited Waiver of the RDOF (Auction 904)	9751
Table of Allotments, Television Broadcast Stations, Cape Girardeau, Missouri	9763
Satellite Licensing Division and Satellite Programs and Policy Division Information Actions Taken	9765
MB Establishes Pleading Cycle for Applications to Transfer Control of Paramount	9766
WCB Reminds Networks of Supply Chain Reimbursement Program Status Update Deadline	9773
FCC Proposes Updates to Citizens Broadband Radio Service Rules	9775
Cunningham Broadcasting Corporation, Forfeiture Order	9834
FCC Implements Framework for 5G Fund for Rural America	9874
FCC Adopts Initial Rules for Uncrewed Aircraft Use in the 5 GHz Band	10005
FCC Opens Eighteenth Inquiry on State of Broadband in the U.S.	10115
FCC Adopts Regulatory Fees Order for Fiscal Year 2024	10140

Table of FCC and Delegated Authority Numbers
Volume 39
Issue 11

DA/FCC Number	Page
DA 24-779	9294
DA 24-790	9304
DA 24-792	9318
DA 24-815	9328
DA 24-822	9331
DA 24-825	9346
DA 24-828	9358
DA 24-829	9362
DA 24-830	9366
DA 24-831	9370
DA 24-832	9376
DA 24-833	9401
DA 24-834	9402
DA 24-835	9406
DA 24-836	9451
DA 24-837	9453
DA 24-838	9464
DA 24-839	9466
DA 24-840	9515
DA 24-841	9519
DA 24-842	9525
DA 24-843	9537
DA 24-844	9541
DA 24-845	9545
DA 24-846	9549
DA 24-847	9553
DA 24-848	9557
DA 24-849	9561
DA 24-850	9563
DA 24-851	9567
DA 24-852	9571
DA 24-853	9575
DA 24-854	9579
DA 24-855	9583
DA 24-856	9585
DA 24-857	9589
DA 24-858	9623
DA 24-859	9633
DA 24-861	9637
DA 24-862	9641
DA 24-863	9651
DA 24-864	9655
DA 24-865	9659
DA 24-866	9661
DA 24-867	9662
DA 24-868	9665
DA 24-869	9675
DA 24-870	9677
DA 24-871	9679
DA 24-872	9688
DA 24-873	9694
DA 24-874	9696
DA 24-875	9697
DA 24-876	9702
DA 24-878	9707
DA 24-879	9716
DA 24-881	9725
DA 24-882	9726
DA 24-883	9727
DA 24-884	9731
DA 24-885	9732
DA 24-886	9739
DA 24-887	9742
DA 24-888	9749
DA 24-889	9751
DA 24-891	9763
DA 24-893	9765
DA 24-894	9766
DA 24-896	9773
FCC 24-86	9775
FCC 24-88	9834
FCC 24-89	9874
FCC 24-91	10005
FCC 24-92	10115
FCC 24-93	10140

Table of Docket Numbers
Volume 39
Issue 11

Docket Number	Page	Docket Number	Page
24-248	9328		
24-172	9362		
24-223	9366		
24-132	9401		
24-246	9402		
11-42	9406		
18-89	9466		
24-178	9515		
24-92	9519		
24-211	9561		
16-155	9589		
23-65	9623		
21-402	9633		
24-247	9637		
06-122	9641		
24-153	9659		
02-378	9661		
96-45	9662		
92-237	9675		
24-152	9677		
24-267	9688		
11-10	9694		
02-6	9702		
18-89	9716		
11-42	9725		
20-34	9727		
98-204	9731		
13-115	9732		
18-89	9739		
23-234	9742		
24-220	9749		
10-90	9751		
24-176	9763		
24-275	9766		
18-89	9773		
17-258	9775		
20-32	9874		
22-323	10005		
24-214	10115		
24-86	10140		

Table of Rulemaking Numbers
Volume 39
Issue 11

Rulemaking Number	Page	Rulemaking Number	Page
RM-11983	9659		
RM-11765	9665		
RM-11982	9677		
RM-11341	9732		
RM-11984	9763		

Table of Localities
Volume 39
Issue 11

City/State	Page	City/State	Page
Augusta, GA	9659		
Boise, ID	9677		
Cape Girardeau, MO	9763		

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

In the Matter of	)	
	)	
CSC Wireless, LLC, d/b/a Altice Mobile	)	File No.: EB-SED-23-00035711
	)	CD Acct. No.: 202432100007
	)	FRN: 0027517473
	)	
	)	

ORDER

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether CSC Wireless, LLC, d/b/a Altice Mobile (Altice) violated section 4.9(e) of the Commission's rules in submitting network outage filings in connection with reportable outages that occurred on March 18 and July 19, 2023, respectively. The Commission's outage reporting rules require communications providers to report certain disruptions to their networks to the Commission. The reports provide the Commission with the means to analyze trends in network disruptions, collaborate with providers to address network vulnerabilities, and formulate policies to improve network resilience. To settle this matter, Altice admits that it violated the network outage reporting requirements set forth in the Commission's rules, will implement a three-year compliance plan, and will pay a $96,000 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 Altice's compliance with the Commission's network outage reporting rules, and section 4.9(e) 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 Altice's basic qualifications to hold or obtain any Commission license or authorization.[2]

4. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 CFR §§ 0.111, 0.311, the attached Consent Decree **IS ADOPTED** and its terms incorporated herein by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

[1] 47 CFR § 4.9(e).

[2] *See id*. § 1.93(b).

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 Cristina Chou, Vice President of Federal Affairs of Altice USA, Inc., on behalf of CSC Wireless, LLC, d/b/a Altice Mobile, c/o Altice USA, Inc., One Court Square West, Long Island City, NY 11120, and to Jeffrey J. Gee, Esq., Wilkinson Barker Knauer, LLP, 1800 M Street, NW, Suite 800N, 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	)	
	)	
CSC Wireless, LLC, d/b/a Altice Mobile	)	File No.: EB-SED-23-00035711
	)	CD Acct. No.: 202432100007
	)	FRN: 0027517473
	)	
	)	

CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) and CSC Wireless, LLC, d/b/a Altice Mobile (Altice), by their authorized representatives, enter into this Consent Decree for the purpose of terminating the Bureau's investigation into whether Altice violated section 4.9(e) of the Rules in submitting network outage reports in connection with outages that occurred on March 18 and July 19, 2023, respectively. To resolve this matter, Altice admits that it violated the network outage reporting requirements set forth in the Rules, agrees to implement a three-year compliance plan, and pay a $96,000 civil penalty.

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.[1]

(b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.

(c) "Altice" means CSC Wireless, LLC, d/b/a Altice Mobile and its subsidiaries, predecessors-in-interest, and successors-in-interest.

(d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.

(e) "CD Acct No." means account number 202432100007, associated with payment obligations described in paragraph 18 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 Altice is subject by virtue of its business activities, including but not limited to the Network Outage Reporting Rules.

(h) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 13.

(i) "Covered Employees" means all employees and agents of Altice who perform, supervise, oversee, or manage the performance of, duties that relate to Altice's responsibilities under the Network Outage Reporting Rules.

[1] 47 U.S.C. § 151 *et seq.*

(j) "Effective Date" means the date by which both the Bureau and Altice have signed the Consent Decree and the Bureau has released an Adopting Order.

(k) "Investigation" means the investigation commenced by the Bureau in EB-SED-23-00035711 regarding whether Altice violated the Network Outage Reporting Rules.

(l) "Network Outage Reporting Rules" means part 4 of the Commission's Rules, including section 4.9 of the Commission's Rules, and other Communications Laws related to the reporting of network outages.

(m) "Operating Procedures" means the standard internal operating procedures and compliance policies established by Altice to implement the Compliance Plan.

(n) "Parties" means Altice and the Bureau, each of which is a "Party."

(o) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Altice is a facilities-based mobile virtual network operator that operates across 21 states. It offers its subscribers the ability to originate and receive wireless calls and qualifies as a wireless service provider as defined in section 4.3(f) of the Rules.[2] Under section 4.9(e) of the Rules,[3] wireless service providers must submit three reports to the Commission following a network outage.[4] For outages of at least 30 minutes in duration that potentially affect at least 900,000 user minutes[5] of telephony and associated data service, wireless service providers must submit a Network Outage Reporting System (NORS) Notification within 120 minutes of discovery.[6] Wireless service providers must also submit an Initial Communications Outage Report in NORS (Initial NORS Report) not later than 72 hours after discovering the outage[7] and a Final Communications Outage Report in NORS (Final NORS Report) not later than 30 days after discovering the outage.[8] The NORS Notification, Initial and Final NORS Reports must include specific information regarding the outage, services affected, and the communications provider.[9] These network outage reports allow the Commission to analyze trends in network disruptions, collaborate with providers to address network vulnerabilities, and formulate policies to improve network resilience.[10]

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[2] 47 CFR § 4.3(f); *see* Response to Letter of Inquiry from CSC Wireless, LLC, to Spectrum Enforcement Division, FCC Enforcement Bureau, at 6, Response to Inquiry 8 (Nov. 15, 2023) (on file in EB-SED-23-00035711) (LOI Response).

[3] 47 CFR § 4.9(e).

[4] *Id*. § 4.5(a) (providing a definition for "outage").

[5] Section 4.7(e)(2) of the Rules defines "user minutes" as "[t]he mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of end users potentially affected by the outage, for all other forms of communications." *Id.* § 4.7(e)(2).

[6] *See id.* § 4.9(e)(1)(ii).

[7] *Id.* § 4.9(e)(4).

[8] *Id.*

[9] *See id*. § 4.11.

[10] *Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications New Part 4 of the Commission's Rules Concerning Disruptions to Communications The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers,* PS Docket Nos. 15-80 and 11-82, ET Docket No. 04-35, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 31 FCC Rcd 5817, 5820-21, para. 8 (2016).

4. On March 18, 2023, Altice experienced an outage (March Outage) that lasted 4 hours and 46 minutes from 17:53 Eastern Daylight Time (EDT) until 22:39 EDT and prevented wireless users on Altice's core network from placing or receiving calls and text messages.[11] Although Altice timely submitted its NORS Notification and Final NORS Report to the Commission, its Initial NORS Report was submitted to the Commission on March 27, 2023, approximately six days late.[12] Altice also experienced an outage on July 19, 2023 (July Outage), which lasted 2 hours and 33 minutes from 19:53 EDT until 22:26 EDT and precluded wireless users on Altice's network from placing or receiving calls and text messages.[13] Although Altice timely submitted its Initial and Final NORS Reports to the Commission for the July Outage, it submitted its NORS Notification to the Commission on July 20, 2023 at 8:55 EDT, approximately 8.5 hours after the deadline.[14] Both outages impacted several hundred thousand wireless users across Altice's entire footprint.[15] Neither outage had any effect on 911 voice calls because Altice did not route 911 calls through its core network,[16] so Public Safety Answering Point (PSAP) notifications were not required.[17]

5. On October 2, 2023, the Bureau issued a Letter of Inquiry (LOI) to Altice directing it to submit a sworn written response relating to the July Outage.[18] In its response, Altice informed the Bureau that it also experienced the March Outage,[19] and the Bureau subsequently issued follow-up questions to Altice relating to the March Outage.[20] Altice timely responded to the each of the Bureau's inquiries.[21]

6. Altice and the Bureau subsequently engaged in settlement negotiations. To settle this matter, the Parties enter into this Consent Decree and agree to the following terms and conditions.

III. TERMS OF AGREEMENT

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

8. **Jurisdiction**. Altice 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.

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[11] Letter from Counsel to CSC Wireless, LLC d/b/a Altice Mobile, to Spectrum Enforcement Division, FCC Enforcement Bureau, at 3, Bates No. Altice-000076, Response to Inquiry 6 (Feb. 6, 2024) (on file in EB-SED-23-00035711) (FLOI Response).

[12] *See* 47 CFR § 4.9(e)(4); FLOI Response at 5, Bates No. Altice-000120, Response to Inquiry 13.

[13] LOI Response, *supra* note 2, at 6-7, Response to Inquiry 10.

[14] *See* FLOI Response at 5, Bates No. Altice-000120, Response to Inquiry 13; 47 CFR § 4.9(e)(1). Altice determined the outage was reportable on July 19, 2023, at 22:20 EDT. LOI Response at 9, Bates No. Altice-000054, Response to Inquiry 15.

[15] LOI Response, *supra* note 2, at 5-6, 9; FLOI Response at 3.

[16] All VOLTE 911 calls placed by Altice's end users are routed to a wireless partner's wireless radio access network for call origination. *See* LOI Response, *supra* note 2, at 6, Response to Inquiry 10.

[17] 47 CFR § 4.9(e)(1)(v).

[18] *See* Letter from Spectrum Enforcement Division, FCC Enforcement Bureau, to Counsel to CSC Wireless, LLC, d/b/a Altice Mobile (Oct. 2, 2023) (on file in EB-SED-23-00035711).

[19] *See* LOI Response, *supra* note 2.

[20] *See* Letter from Spectrum Enforcement Division, FCC Enforcement Bureau, to Counsel to CSC Wireless, LLC, d/b/a Altice Mobile (Jan. 16, 2024) (on file in EB-SED-23-00035711).

[21] *See* LOI Response, *supra* note 2; FLOI Response, *supra* note 11.

9. **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.

10. **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, Altice 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 Altice concerning the matters that were the subject of the Investigation, or to set for hearing the question of Altice'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.[22]

11. **Admission of Liability**. Altice admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 10 herein, that its actions described in paragraph 4 violated the Network Outage Reporting Rules.

12. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, Altice 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 Altice 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 discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Network Outage Reporting Rules prior to assuming his/her duties.

13. **Compliance Plan**. For purposes of settling the matters set forth herein, Altice 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 Network Outage Reporting Rules and with the terms and conditions of this Consent Decree. With respect to the Network Outage Reporting Rules, Altice will implement, at a minimum, the following procedures:

(a) **Operating Procedures**. Within thirty (30) calendar days after the Effective Date, Altice shall establish Operating Procedures that all Covered Employees must follow to help ensure Altice's compliance with the Network Outage Reporting Rules. Altice's Operating Procedures shall include internal procedures and policies specifically designed to ensure that Altice complies with section 4.9 of the Rules and other applicable Rules in determining reportable outages, and reports outages in a timely manner pursuant to section 4.9 of the Rules and other applicable Rules. As part of the Operating Procedures, Altice shall also develop a Compliance Checklist that describes the steps a Covered Employee must follow to ensure compliance with the Network Outage Reporting Rules. Altice shall review and revise the Operating Procedures and Compliance Checklist on an annual basis to ensure that the information set forth therein remains current and accurate.

(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 Network Outage Reporting Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Altice's compliance with the Network Outage Reporting Rules. Altice shall periodically review and revise the Compliance Manual as

[22] *See* 47 CFR § 1.93(b).

necessary to ensure that the information set forth therein remains current and accurate. Altice shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

(c) **Compliance Training Program**. Altice shall establish and implement a Compliance Training Program on compliance with the Network Outage Reporting Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Altice's obligation to report any noncompliance with the Network Outage Reporting Rules under paragraph 14 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. Altice 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.

14. **Reporting Noncompliance**. Altice shall report any material noncompliance with the Network Outage Reporting 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 Altice 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 Altice has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Chief, Spectrum Enforcement Bureau Division, Enforcement Bureau, Federal Communications Commission, via EB-SED-Response@fcc.gov.

15. **Compliance Reports**. Altice 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 Altice's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Network Outage Reporting Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Altice, stating that the Compliance Officer has personal knowledge that Altice: (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 14 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.[23]

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Altice, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps Altice has taken or will take to remedy such

[23] *Id.* § 1.16.

noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps Altice 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 to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, via EB-SED-Response@fcc.gov.

16. **Termination Date**. Unless stated otherwise, the requirements set forth in paragraphs 12 through 15 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

17. **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 Act[24] against Altice 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 Altice with the Communications Laws.

18. **Civil Penalty**. Altice will pay a civil penalty to the United States Treasury in the amount of Ninety-Six Thousand Dollars ($96,000) within thirty (30) calendar days of the Effective Date. Altice 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).[25] Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Altice shall send electronic notification of payment to 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/cores/userLogin.do, Automated Clearing House (ACH) 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:[26]

- 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 159[27] or printed CORES form[28] 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

[24] 47 U.S.C. § 208.

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

[26] For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

[27] FCC Form 159 is accessible at https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159.

[28] 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/cores/userLogin.do.

(Payor FRN).[29] 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.

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

20. **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 Altice.

21. **Waivers**. As of the Effective Date, Altice 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. Altice 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 Altice nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Altice shall waive any statutory right to a trial *de novo*. Altice hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[30] relating to the matters addressed in this Consent Decree.

22. **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

[29] Instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

[30] *See* 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

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.

23. **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.

24. **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 Altice does not expressly consent) that provision will be superseded by such Rule or order.

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

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

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

28. **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.

29. **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.

30. **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

_____
Cristina Chou
Vice President of Federal Affairs
of Altice USA, Inc., on behalf of
CSC Wireless, LLC, d/b/a Altice Mobile

_____
Date

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

In the Matter of	)	
	)	
Lingo Telecom, LLC	)	File No.: EB-TCD-24-00036425
	)	NAL/Acct. No.: 202432170004
	)	FRN: 0035440734
	)	

ORDER

Adopted: August 21, 2024 **Released: August 21, 2024**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into the apparent violations of Lingo Telecom, LLC (Lingo Telecom or Company) of section 64.6301(a) of the Commission's rules[1] in connection with Secure Telephone Identity Revisited and Signature-based Handling of Asserted Information Using toKENs (STIR/SHAKEN) attestations. To resolve this matter, Lingo Telecom agrees to implement a robust compliance plan and pay a $1,000,000 civil penalty.

2. The STIR/SHAKEN framework allows for the authentication and verification of caller identification (ID) information and is a vital tool designed to give consumers more confidence that caller ID information is accurate. The last two decades have seen a proliferation in the misuse of spoofing technology by malicious actors as a means of evading liability for illegal robocalls and other abusive communications. Accordingly, restoring the reliability of caller ID information is a top consumer protection priority for the Commission. In recent years, the Commission has undertaken multiple proceedings to ensure rapid adoption of the technology required to bring STIR/SHAKEN to telecommunications networks across the country.[2] The framework uses three attestation levels that indicate the level of the signing provider's validation of the caller ID information. False or incorrect attestations undermine years of regulatory and industry efforts to enable caller ID authentication, and diminish the integrity of the STIR/SHAKEN framework. This Consent Decree furthers those consumer protection objectives.

3. On January 21, 2024, two days before the New Hampshire Democratic primary election (Primary Election), potential voters in the state received thousands of spoofed robocalls carrying a deepfake generative artificial intelligence (AI) voice message purporting to be from the president of the

[1] 47 CFR § 64.6301(a).

[2] *See, e.g.*, *Call Authentication Trust Anchor, Implementation of TRACED Act Section 6(a) – Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket Nos. 17-97 and 20-67, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3241 (2020); *Call Authentication Trust Anchor*, WC Docket No. 17-97, Second Report and Order, 36 FCC Rcd 1859 (2020); *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, Fifth Report and Order, Order on Reconsideration, Order, Seventh Further Notice of Proposed Rulemaking, Fifth Further Notice of Proposed Rulemaking, 37 FCC Rcd 6865 (2022); *Call Authentication Trust Anchor*, WC Docket No. 17-97, Sixth Report and Order and Further Notice of Proposed Rulemaking, 38 FCC Rcd 2573 (2023).

United States.[3] The prerecorded AI message, using voice cloning technology, told recipients not to vote in the upcoming Primary Election.[4] On May 23, 2024, following the Bureau's extensive investigation and coordination with several law enforcement partners, the Commission adopted a Notice of Apparent Liability for Forfeiture (NAL) against Lingo Telecom proposing a $2,000,000 penalty.[5]

4. 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, terminating the referenced investigation, and resolving the NAL.

5. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 503(b), and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 CFR §§ 0.111, 0.311, the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

6. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** and the Notice of Apparent Liability for Forfeiture **IS RESOLVED** in accordance with the terms of the attached Consent Decree.

7. **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 Lingo Telecom, LLC, 9330 LBJ Freeway, Suite 944 Dallas, TX 75243, and Kevin G. Rupy, Wiley Rein LLP, 2050 M Street NW Washington, DC 20036, and Lauren M. Wilson and Todd D. Daubert, Dentons US LLP, at 1900 K Street NW, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

[3] *Lingo Telecom LLC*, Notice of Apparent Liability for Forfeiture, FCC 24-60, 2024 WL 2828369, at *4, para. 9 (May 23, 2024).

[4] *Id.*

[5] *Id.* at *11, para. 29.

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

In the Matter of	)	
	)	
Lingo Telecom, LLC	)	File No.: EB-TCD-24-00036425
	)	NAL/Acct. No.: 202432170004
	)	FRN: 0035440734
	)	
	)	

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Lingo Telecom, LLC (Lingo Telecom or Company) by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether Lingo Telecom violated section 64.6301(a) of the Commission's Rules in connection with incorrect Secure Telephone Identity Revisited and Signature-based Handling of Asserted information using toKENs (STIR/SHAKEN) attestations. To resolve this matter, Lingo Telecom agrees to implement a Compliance Plan and pay a $1,000,000 civil penalty.

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.[1]

(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) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

(e) "Communications Laws" means collectively, the Act, the Commission's rules, and the published and promulgated orders and decisions of the Commission to which Lingo Telecom is subject by virtue of its business activities, including but not limited to the STIR/SHAKEN rules.

(f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 17.

(g) "Covered Employees" means all employees and agents of Lingo Telecom who perform, supervise, oversee, or manage the performance of, duties that relate to Lingo Telecom's responsibilities under the Communications Laws, including the STIR/SHAKEN rules.

(h) "Effective Date" means the date by which both the Bureau and Lingo Telecom have signed the Consent Decree and the Bureau has released an Adopting Order.

(i) "Investigation" means the investigation commenced by the Bureau in EB-TCD-24-00036425 regarding whether Lingo Telecom violated STIR/SHAKEN rules.

[1] 47 U.S.C. § 151 *et seq.*

(j) "Lingo Telecom" or "Company" means Lingo Telecom, LLC and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(k) "NAL" means the Notice of Apparent Liability for Forfeiture issued to Lingo Telecom and released on May 28, 2024 proposing a two million dollar ($2,000,000) forfeiture for apparent violations of section 64.6301(a) of the Commission's rules.

(l) "Operating Procedures" means the standard internal operating procedures and compliance policies established by Lingo Telecom to implement the Compliance Plan.

(m) "Parties" means Lingo Telecom 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) "STIR/SHAKEN Rules" means section 64.6301(a) of the Commission's rules and other Communications Laws related to STIR/SHAKEN obligations.

II. BACKGROUND

3. *STIR/SHAKEN.* The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act) and the Commission's implementing rules codified at section 64.6301(a) required voice service providers to implement the STIR/SHAKEN authentication framework on their Internet protocol (IP) networks by June 30, 2021,[2] subject to certain extensions and exemptions.[3] The STIR/SHAKEN framework helps protect consumers from illegal spoofed calls by enabling authenticated caller ID information to travel securely with the call itself through the entire IP-enabled call path.[4] The Commission's Rules define the term "STIR/SHAKEN authentication framework" to mean the "secure telephone identity revisited and signature-based handling of asserted information using tokens *standards*."[5] Specifically, the Commission requires compliance with three technical standards developed jointly by the Internet Engineering Task Force and the Alliance for Telecommunications Industry Solutions (ATIS) for implementation of STIR/SHAKEN, which are identified in the Commission's *First Call Authentication Order*: ATIS-1000074, ATIS-1000080, and ATIS-1000084.[6] For voice service providers, "[c]ompliance with the most current versions of these three standards as of March 31, 2020, including any errata as of that date or earlier, represents the *minimum requirement* to satisfy [the] rules."[7]

[2] *See* Pub. L. No. 116-105, § 4, 133 Stat. 3274, 3276 (2019) (TRACED Act); 47 CFR § 64.6301(a) (requiring STIR/SHAKEN implementation by voice service providers).

[3] *See* 47 CFR §§ 64.6304, 64.6306. None of these were relevant to Lingo Telecom.

[4] *Call Authentication Trust Anchor*, WC Docket No. 17-97, Sixth Report and Order and Further Notice of Proposed Rulemaking, FCC 23-18, 38 FCC Rcd 2573, 2575, para. 4 (2023) (*Sixth Call Authentication Order*).

[5] 47 CFR § 64.6300(m) (emphasis added); *see also* TRACED Act § 4(a)(1) (defining "STIR/SHAKEN authentication framework" to mean "the [STIR/SHAKEN] standards proposed by the information and communications technology industry.").

[6] *See Call Authentication Trust Anchor, Implementation of TRACED Act Section 6(a) – Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket Nos. 17-97 and 20-67, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3241, 3258-59, para. 36 (2020) (*First Call Authentication Order*); *see also* Alliance for Telecommunications Industry Solutions, Signature-based Handling of Asserted information using toKENs (SHAKEN), ATIS-10000074-E19E (2019) (ATIS-1000074); Errata to Signature-based Handling of Asserted information using toKENs (SHAKEN): Governance Model and Certificate Management, ATIS-1000080-E19 (2019); Errata to Technical Report on Operational and Management Considerations for SHAKEN STI Certification Authorities and Policy Administrators, ATIS-1000084-E19 (2019).

[7] *See First Call Authentication Order*, 35 FCC Rcd at 3258-59, para. 36 (emphasis added); *see also Sixth Call Authentication Order*, 38 FCC Rcd at 2585, para. 21.

4. Of particular relevance in the NAL is ATIS-1000074, which describes the three attestation levels that a provider can apply to a call.[8] An "A" attestation or "Full Attestation" means that the signing provider: (i) "is responsible for the origination of the call onto the IP-based service provider voice network;" (ii) "has a direct authenticated relationship with the customer and can identify the customer;" and (iii) "has established a verified association with the telephone number used for the call."[9] A "B" attestation or "Partial Attestation" means that the provider can meet the first two criteria of the A-level attestation but the provider "has NOT established a verified association with the telephone number being used for the call."[10] Finally, a "C" attestation or "Gateway Attestation" means that the signing provider "has no relationship with the initiator of the call (e.g., international gateways)."[11] Thus, the attestation level assigned by a voice service provider signifies "what it knows about the identity of the calling party," and therefore how much trust downstream providers can ascribe to the caller ID number.[12]

5. *Lingo Telecom Investigation.* Lingo Telecom is a Texas Limited Liability Company.[13] It is a subsidiary of Lingo Management, LLC.[14] Lingo Telecom provides "IP-based Cloud voice and data along with other unified communications technologies."[15]

6. On January 21, 2024, two days before the Democratic New Hampshire presidential primary election, potential New Hampshire voters received 9,581 calls[16] carrying a prerecorded and generative AI deepfake message that encouraged potential voters to abstain from voting in the primary election.[17] All but the last sentence of which was spoken in a fake voice that was used to create the impression that President Joseph Biden created the message.[18]

7. The calls were placed using inaccurate, or "spoofed," caller ID information.[19] The number used as the caller ID for the calls was associated with an unknowing and uninvolved local political operative.[20] The Bureau carried out an Investigation in coordination with the New Hampshire Department of Justice Office of the Attorney General, the bipartisan Anti-Robocall Multistate Litigation Task Force, the U.S. Department of Justice, and USTelecom's Industry Traceback Group. The Investigation, with the cooperation of Lingo Telecom, determined that Lingo Telecom was the originating

[8] ATIS-1000074 at 9-10.

[9] *Id.* at 9.

[10] *Id.*

[11] *Id.* at 10.

[12] *Call Authentication Trust Anchor*, WC Docket No. 17-97, Second Report and Order, 36 FCC Rcd 1859, 1863, para. 10 (2020).

[13] Matrix Telecom, LLC, Certificate of Conversion, 802357352, Tex. Sec'y of State (Dec. 28, 2015).

[14] Lingo Management, LLC Robocall Mitigation Plan v4.2024 (on file at EB-TCD-24-00036425).

[15] Lingo Telecom, LLC dba Impact Telecom Robocall Mitigation Plan v1.2023 (on file at EB-TCD-24-00036425).

[16] Subpoena Response of Life Corp. (Feb. 7, 2024) (on file in EB-TCD-24-00036425), at Response to Request for Information (RFI) No. 1.

[17] *Lingo Telecom LLC*, Notice of Apparent Liability for Forfeiture, FCC 24-60, 2024 WL 2828369, at *4, para. 9 (May 23, 2024) (*Lingo Telecom NAL*).

[18] *Id.*

[19] *Id*. at *4, para. 10.

[20] *Id.*

provider (i.e., the first voice service provider in the call path) for a number of these calls.[21] Lingo Telecom identified Life Corporation as the party that transmitted the calls to the Company.[22]

8. On February 6, 2024, the Bureau sent Lingo Telecom a cease-and-desist letter (CDL) demanding that it "effectively mitigate illegal traffic" and "implement effective measures to prevent new and renewing customers from using its network to originate illegal calls."[23] On March 13, 2024, and May 9, 2024, the Bureau subpoenaed Lingo Telecom for additional information about the New Hampshire calls and Company STIR/SHAKEN attestation practices.[24] Lingo Telecom produced evidence showing that Lingo Telecom completed 3,978 calls to potential New Hampshire voters on January 21, 2024, which the Company signed with A-Level attestations.[25] Lingo Telecom explained that its policy was to assign A-level attestations to a customer's traffic when the Company directly assigned Direct Inward Dialing (DID) numbers to a customer like Life Corporation. If one of these customers, like Life Corporation, also purchased Company Session Initiation Protocol (SIP) trunks that permits the customer to use numbers assigned by other carriers, Lingo Telecom allowed them to "receive an A-level attestation for traffic associated with . . . non-Lingo provisioned telephone numbers if the customer certified that it 'will identify its customer and has a verified association with the telephone number used for the call.'"[26]

9. Lingo Telecom submitted evidence to the Bureau that Life Corporation had provided Lingo Telecom with a certification that Life Corporation would identify its customers and had verified that the telephone numbers used for all calls were associated with the customers. Lingo Telecom concluded that Life Corporation could legitimately use the telephone number that appeared as the calling party of the New Hampshire calls[27] based on: (i) Life Corporation's certification to Lingo Telecom that Life Corporation would identify its customers and had verified that the telephone numbers used for all calls were associated with the customers; (ii) the past Know-Your-Customer research that Lingo Telecom had performed on Life Corporation; and (iii) the 16-year history of Life Corporation's traffic patterns as a customer of Lingo Telecom.[28] Based on this conclusion, Lingo Telecom provided A-level attestations for the New Hampshire calls.[29] Lingo Telecom took no additional steps beyond those recited above to independently ascertain whether the customers of Life Corporation could legitimately use the telephone number that appeared as the calling party for the New Hampshire presidential primary calls.

10. On May 28, 2024, the Commission issued an NAL against Lingo Telecom proposing a penalty of $2,000,000 for apparent violations of section 64.6301(a) of the Commission's Rules.[30]

[21] *See* ITG Subpoena Response (Jan. 31, 2024) (on file in EB-TCD-24-00036425) (ITG Subpoena Response).

[22] *Id*.

[23] Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Alex Valencia, Chief Compliance Officer, Lingo Telecom, LLC, 2024 WL 488250 (Feb. 6, 2024).

[24] Subpoena to Lingo Telecom, LLC (Mar. 13, 2024) (EB-TCD-24-00036425) (Lingo Subpoena).

[25] Lingo Subpoena Response at Lingo 05-000202 (Mar. 27, 2024) (on file at EB-TCD-24-00036425) (Lingo Subpoena Response) (reflecting call detail records).

[26] *Id.* at Response to RFI No. 2.

[27] *See* ATIS-1000074 § 5.2.4 (2022), Note 1 at 8.

[28] *See* Lingo Subpoena Response at Response to RFI Nos. 1-2.

[29] *See id.*

[30] *Lingo Telecom NAL*, *supra* note 17.

III. TERMS OF AGREEMENT

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

12. **Jurisdiction**. Lingo Telecom 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.

13. **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, including the Compliance Plan, 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. Additionally, if Lingo Telecom fails to comply with STIR/SHAKEN Rules or any term of the Compliance Plan, the Commission may extend the Termination Date by twelve (12) months for each instance of non-compliance.

14. **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, Lingo Telecom 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 Lingo Telecom concerning the matters that were the subject of the Investigation, or to set for hearing the question of Lingo Telecom'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.[31]

15. **Admission**. Lingo Telecom admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 14 herein, that paragraphs 8 and 9 contain a true and accurate description of the facts underlying the Investigation. No other admissions are made by Lingo Telecom.

16. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, Lingo Telecom 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 Lingo Telecom 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 discharge his or her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the STIR/SHAKEN Rules prior to assuming his/her duties.

17. **Compliance Plan**. For purposes of settling the matters set forth herein, Lingo Telecom agrees that it shall, within thirty (30) 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 STIR/SHAKEN Rules, Lingo Telecom will implement, at a minimum, the following procedures:

(a) **Operating Procedures**. Within ninety (90) calendar days after the Effective Date, Lingo Telecom and all Covered Employees shall comply with the Operating Procedures set forth in Attachment 1 to help ensure Lingo Telecom's compliance with the STIR/SHAKEN Rules. Lingo Telecom shall also develop a Compliance

[31] *See* 47 CFR § 1.93(b).

Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the STIR/SHAKEN Rules.

(b) **Compliance Manual**. Within thirty (30) 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 STIR/SHAKEN Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Lingo Telecom's compliance with the STIR/SHAKEN Rules. Lingo Telecom shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Lingo Telecom shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

(c) **Compliance Training Program**. Lingo Telecom shall establish and implement a Compliance Training Program on compliance with the STIR/SHAKEN Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Lingo Telecom's obligation to report any noncompliance with the STIR/SHAKEN Rules under paragraph 18 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. Lingo Telecom 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.

18. **Reporting Noncompliance**. Lingo Telecom shall report any noncompliance with the STIR/SHAKEN 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 Lingo Telecom 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 Lingo Telecom has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, via EnforcementBureauTCD@fcc.gov.

19. **Compliance Reports**. Lingo Telecom shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, and every twelve (12) months thereafter until the Termination Date.

(a) Each Compliance Report shall include a detailed description of Lingo Telecom's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the STIR/SHAKEN Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Lingo Telecom, stating that the Compliance Officer has personal knowledge that Lingo Telecom: (i) has established and implemented the Compliance Plan; (ii) has complied with the Operating Procedures since the implementation of the Compliance Plan; (iii) has reported any instances of non-compliance in conformance with paragraph 18 of this Consent Decree and the dates of any such reports; and (iv) is otherwise not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 18 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.[32]

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Lingo Telecom, 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 Lingo Telecom 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 Lingo Telecom 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, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, via EnforcementBureauTCD@fcc.gov.

20. **Termination Date**. Unless stated otherwise, or extended as set forth in paragraph 13, the requirements set forth in paragraphs 16 through 19 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

21. **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 Act[33] against Lingo Telecom 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 Lingo Telecom with the Communications Laws.

22. **Civil Penalty**. Lingo Telecom will pay a civil penalty to the United States Treasury in the amount of one million dollars ($1,000,000). Such payment will be made in four (4) installments (each an Installment Payment). The first Installment Payment in the amount of one hundred thousand dollars ($100,000) is due within thirty (30) calendar days of the Effective Date. Thereafter, subsequent Installment Payments of three hundred thousand dollars ($300,000) will be due by the following deadlines: (1) one hundred twenty (120) calendar days after the Effective Date; (2) two hundred seventy (270) calendar days after the Effective Date; and (3) three hundred sixty five (365) calendar days after the Effective Date. Lingo Telecom acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty and each Installment Payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).[34] Upon an Event of Default, as defined in paragraph 23, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Lingo Telecom shall send electronic notification of payment to EnforcementBureauTCD@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/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 Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:[35]

[32] *Id.* § 1.16.

[33] 47 U.S.C. § 208.

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

[35] For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

- 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 159[36] or printed CORES form[37] 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).[38] 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.

23. **Event of Default**. Lingo Telecom agrees that an Event of Default shall occur upon the failure Lingo Telecom to pay the full amount of the Civil Penalty or any Installment Payment on or before the due date specified in this Consent Decree.

24. **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 or any Installment Payment 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 or Installment Payment 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 Lingo Telecom.

[36] FCC Form 159 is accessible at https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159.

[37] 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/cores/userLogin.do.

[38] Instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

25. **Waivers**. As of the Effective Date, Lingo Telecom 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. Lingo Telecom 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 Lingo Telecom nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Lingo Telecom shall waive any statutory right to a trial *de novo*. Lingo Telecom hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[39] relating to the matters addressed in this Consent Decree.

26. **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.

27. **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.

28. **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 Lingo Telecom does not expressly consent) that provision will be superseded by such Rule or order.

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

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

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

32. **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.

33. **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.

[39] *See* 5 U.S.C. § 504; 47 CFR §§ 1.1501-1.1530.

34. **Counterparts**. This Consent Decree may be signed in counterparts (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

_____
Ananth Veluppillai
President & Chief Executive Officer
Lingo Telecom, LLC

_____
Date

ATTACHMENT 1: OPERATING PROCEDURES

The following provisions are not a comprehensive robocall mitigation plan and are designed to supplement, rather than replace, existing caller ID authentication and robocall mitigation measures Lingo Telecom currently has in place or may implement in the future. Compliance with these measures is not a defense to future violations of state or federal law or Commission Rules.

I. DEFINITIONS

1. For the purposes of the Operating Procedures, the following definitions shall apply, in addition to any definitions set forth in the Consent Decree.

(a) "Caller Identity" means the originating phone number included in call signaling used to identify the caller for call screening purposes.

(b) "Call" means a call originated on behalf of a calling party by Lingo Telecom.

(c) "SIP Trunking Product" means a single connection comprised of multiple communications channels that provides Voice over Internet Protocol connectivity between an on-premise phone system and the public switched telephone network.

(d) "Supporting Record" means any of the following: (i) a primary document containing the information that Lingo Telecom is required by this Consent Decree to obtain (e.g., government record, government identification, lease, utility statement); (ii) a search result from a government website (e.g., the Delaware Division of Corporations); or (iii) a report from a private database that validates information about companies for the purpose of providing fraud detection, risk management, credit check, or similar services.

II. TELEPHONE NUMBER VALIDATION

2. Lingo Telecom may only apply an A-level attestation to a call if Lingo Telecom itself has provided the Caller Identity to the calling party associated with the Call.

III. ENHANCED KNOW YOUR CUSTOMER (KYC) MEASURES FOR CUSTOMERS

3. Lingo Telecom shall fully comply with 47 CFR § 64.1200(n)(4). In addition, with respect to any customer who purchases a SIP Trunking Product from Lingo Telecom (Customer), Lingo Telecom shall implement at least the following measures to know its Customer.

(a) If the Customer is a partnership or corporate entity, Lingo Telecom shall obtain the following information about the Customer:

i. Legal business name and Supporting Records confirming the same;

ii. Place of formation and Supporting Records confirming the same;

iii. Proof of good standing in the place of formation not older than six months prior to the date of the latest order by the Customer of a Lingo Telecom SIP Trunking Product;

iv. U.S. federal Employer Identification Number or Business Registration Number (if applicable);

v. Physical business address and Supporting Records confirming the same;

vi. Active telephone number and Supporting Records confirming the same;

vii. Type of goods or services offered (e.g., marketing, education, political consulting), and verification of commercial presence reflecting same (e.g., website, social media, store front);

viii. Name of authorized individual acting on behalf of the Customer;

ix. Confirmation that the acting authorized individual purporting to act on behalf of the Customer has the authority to do so, e.g., letter of authority, board minutes, or contractual representation and warranty; and

x. Confirmation the Customer has not been the subject of an adverse final determination in an adjudicatory proceeding brought by either a private or government party, including any FCC order, court order, or other similar determination, for violating any state or federal laws or Commission Rules pertaining to robocalls.

(b) If the Customer is a natural person, Lingo Telecom shall obtain the following information about the Customer:

i. Name and Supporting Record confirming the name;

ii. Physical address and Supporting Record confirming the same;

iii. Active telephone number and Supporting Records confirming the same;

iv. Type of goods or services offered (e.g., marketing, education, political consulting), and verification of commercial presence reflecting same (e.g., website, social media, store front); and

v. Confirmation the Customer has not been the subject of an adverse final determination in an adjudicatory proceeding brought by either a private or government party, including any FCC order, court order, or other similar determination, for violating any state or federal laws or Commission Rules pertaining to robocalls.

IV. ENHANCED KNOW YOUR CUSTOMER MEASURES FOR UPSTREAM PROVIDERS

4. Lingo Telecom shall fully comply with 47 CFR § 64.1200(n)(5). In addition, prior to transmitting any call as a gateway or intermediary provider on behalf of any immediate upstream provider (Upstream Provider), Lingo Telecom shall obtain the following information:

(a) All information identified in Section III(3)(a);

(b) The Upstream Provider's active Robocall Mitigation Database filing;

(c) Confirmation from the Industry Traceback Consortium that the Upstream Provider has not failed to timely respond to any traceback requests in the prior twelve (12) months;

(d) Confirmation that the Upstream Provider imposes contractual obligations on its customers or its own Upstream Providers to prohibit unlawful traffic; and

(e) Confirmation the Upstream Provider has mechanisms in place to ensure its clients, employees, and/or contractors comply with robocalling restrictions under state and federal laws and Commission Rules.

V. PAYMENT RESTRICTIONS

5. Lingo Telecom shall not accept payment in the form of cryptocurrency, gift cards, or cash to transmit or originate calls.

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

In re Applications of	)	NAL/Acct. No. MB-202441410013
	)	
Mountain Lakes Broadcasting Corp.	)	FRN: 0006165013
	)	
for Consent to Transfer of Control of Stations KCTT-FM, Yellville, Arkansas, KBOD(FM), Gainesville, Missouri, KTLO(AM), Mountain Home, Arkansas, and KTLO-FM, Mountain Home, Arkansas	)	Facility ID Nos. 178, 14066, 35671, and 35672
	)	
from	)	
	)	
Vivian Sue Knight Revocable Trust (Transferor)	)	Application File No. 0000244047 et al.
	)	
to	)	
	)	
Bobby Dean Knight Revocable Trust (Transferee)	)	
	)	
and	)	
	)	Application File No. 0000244051 et al.
Bobby Knight (Deceased), Trustee (Transferor)	)	
	)	
to	)	
	)	
Heather Caroline Loftis, Trustee (Transferee)	)	

ORDER

Adopted: August 27, 2024 **Released: August 27, 2024**

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 Mountain Lakes Broadcasting, Corp. (Licensee), licensee of stations KCTT-FM, Yellville, Arkansas; KBOD(FM), Gainesville, Missouri; KTLO(AM), Mountain Home, Arkansas; and KTLO-FM, Mountain Home, Arkansas. The Consent Decree resolves issues arising from the Bureau's review of the captioned applications (Applications).[1]

2. In the course of processing the Applications, the Bureau staff found that two unauthorized transfers of control occurred prior to the filing of the Applications, with the first taking place in 2020 and the last in 2021. The Consent Decree concludes the Bureau's investigation of Licensee's compliance with section 310(d) of the Communications Act of 1934, as amended (the Act),[2]

[1] Application File No. 0000244047 et al. (filed Apr. 29, 2024); Application File No. 0000244051 et al. (filed Apr. 30, 2024). *See Broadcast Applications*, Public Notice, Report No. PN-1-240516-01, at 1, 6, 8 (MB May 16, 2024); *Broadcast Applications*, Public Notice, Report No. PN-1-240502-01, at 1, 4, 5 (MB May 2, 2024).

[2] 47 U.S.C. § 310(d).

and sections 73.3540 and 73.3541 of the Commission's rules (Rules).[3]

3. Pursuant to the terms of the Consent Decree, Licensee stipulates that it violated section 310(d) of the Act and sections 73.3540 and 73.3541 of the Rules. The Consent Decree requires, among other things, that the Licensee make an eight thousand dollar ($8,000) civil penalty payment to the United States Treasury. A copy of the Consent Decree is attached hereto and incorporated by reference.

4. 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 investigation of potential violations of the Rules and the Act in connection with the Applications.

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

6. ACCORDINGLY, IT IS ORDERED that, pursuant to section 4(i) of the Act,[4] and by the authority delegated by sections 0.61 and 0.283 of the Rules,[5] the Consent Decree attached hereto IS ADOPTED without change, addition, or modification.

7. IT IS FURTHER ORDERED that the investigation by the Bureau of the matters noted above IS TERMINATED.

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Mountain Lakes Broadcasting, Corp., and to its counsel, Stephen T. Lovelady, Esq., Shainis & Peltzman, Chartered, 1850 M Street, NW, Suite 240, Washington, D.C., 20036.

9. IT IS FURTHER ORDERED that pursuant to section 73.3526(e)(10) of the Rules,[6] a copy of this Order and Consent Decree and as otherwise required all related investigatory materials SHALL BE RETAINED in the above-captioned Stations' online public inspection file until grant of the next license renewal application.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

[3] 47 CFR §§ 73.3540, 73.3541.

[4] 47 U.S.C. § 4(i).

[5] 47 CFR §§ 0.61, 0.283.

[6] *Id.* § 73.3526(e)(10).

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

In re Applications of	)	NAL/Acct. No. MB-202441410013
	)	
Mountain Lakes Broadcasting Corp.	)	FRN: 0006165013
	)	
for Consent to Transfer of Control of Stations KCTT-FM, Yellville, Arkansas, KBOD(FM), Gainesville, Missouri, KTLO(AM), Mountain Home, Arkansas, and KTLO-FM, Mountain Home, Arkansas	)	Facility ID Nos. 178, 14066, 35671, and 35672
	)	
from	)	
	)	
Vivian Sue Knight (Deceased) Revocable Trust (Transferor)	)	Application File No. 0000244047 et al.
	)	
to	)	
	)	
Bobby Dean Knight Revocable Trust (Transferee)	)	
	)	
and	)	
	)	Application File No. 0000244051 et al.
Bob Knight (Deceased), Trustee (Transferor)	)	
	)	
to	)	
	)	
Heather Caroline Loftis, Trustee (Transferee)	)	

CONSENT DECREE

I. INTRODUCTION

1. This Consent Decree is entered into by and between the Media Bureau (Bureau) of the Federal Communications Commission and Mountain Lakes Broadcasting, Corp., Licensee of the above-captioned stations, for the purpose of terminating the Bureau's investigation concerning compliance with section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), and sections 73.3540 and 73.3541 of the Commission's rules, 47 CFR §§ 73.3540, 73.3541.

II. DEFINITIONS

2. For 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 the order of the Bureau adopting this Consent Decree;

(c) "Applications" means, collectively, the FCC Form 2100, Schedule 316 application for consent to the pro forma transfer of control of the Licensee from the Vivian Sue Knight Revocable Trust to the Bobby Dean Knight Revocable Trust, Application File No. 0000244047, and the FCC Form 2100, Schedule 315 application for consent to the non pro forma transfer of control of the Licensee from Bob Knight (Deceased), Trustee, to

Heather Caroline Loftis, Trustee, Application File No. 0000244051;

(d) "Bureau" means the Media Bureau of the Federal Communications Commission;

(e) "Civil Penalty" means the payment Licensee has agreed to pay to the United States Treasury;

(f) "Commission" or "FCC" means the Federal Communications Commission and all of its bureaus and offices;

(g) "Effective Date" means the date on which the Bureau releases the Adopting Order;

(h) "Investigation" means the Bureau's investigation of information contained in the Applications, as detailed herein;

(i) "Involuntary Transfer of Control Rule" means 47 CFR § 73.3541;

(j) "Licensee" means Mountain Lakes Broadcasting, Corp., Licensee of stations KCTT-FM, Yellville, Arkansas, KBOD(FM), Gainesville, Missouri, KTLO(AM), Mountain Home, Arkansas, and KTLO-FM, Mountain Home, Arkansas, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest;

(k) "Parties" means the Licensee and the Bureau;

(l) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations;

(m) "Transfer of Control Rules" means the Voluntary Transfer of Control Rule and the Involuntary Transfer of Control Rule;

(n) "Violations" mean the violations of the Transfer of Control Rules and section 310(d) of the Act;

(o) "Voluntary Transfer of Control Rule" means 47 CFR § 73.3540.

III. BACKGROUND

3. Section 310(d) of the Act, provides in pertinent part:

> No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.[1]

4. The Involuntary Transfer of Control Rule stipulates that:

> The FCC shall be notified in writing promptly of the death or legal disability of an individual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee.
>
> Within 30 days after the occurrence of such death or legal disability, an application on FCC Form 2100, Schedule 316 shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such

[1] 47 U.S.C. § 310(d).

corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.[2]

5. In addition, the Voluntary Transfer of Control Rule states that "[p]rior consent of the FCC must be obtained for a voluntary assignment or transfer of control."[3] It is well-settled that "control" as used in the Act and the Transfer of Control Rules encompasses all forms of control, actual or legal, direct or indirect, negative or *affirmative*, and that passage of *de facto* as well as *de jure* control requires the prior consent of the Commission.[4]

6. Vivian Sue Knight was the sole Trustee of the Transferor, the Vivian Sue Knight Revocable Trust, until her death on February 7, 2020.[5] After her death, the common stock of the Licensee held by her Trust (i.e., 25% of all the outstanding voting shares) was transferred to the Bobby Dean Knight Revocable Trust, of which Bob Knight was the sole Trustee.[6] This transfer was not documented with or approved by the Commission.[7] The transfer resulted in an increase of the ownership interest of the Bobby Dean Knight Revocable Trust from a minority interest of 25% of the Licensee's common stock to a negative controlling interest of 50% of the Licensee's common stock.[8]

7. Thereafter, on October 28, 2021, Bob Knight passed away.[9] Heather Caroline Loftis became the sole trustee of the Bobby Dean Knight Revocable Trust and thereby acquired negative control of the Licensee. Ms. Loftis had not previously been passed upon as an individual with an attributable interest in the Licensee.[10] The various transfers of control described above were all done without prior Commission consent in violation of section 310(d) of the Act and the Transfer of Control Rules.

8. On April 29, 2024, the Licensee filed the Application belatedly seeking Commission consent to the 2020 pro forma transfer of control from the Vivian Sue Knight Revocable Trust to the Bobby Dean Knight Revocable Trust.[11] On April 30, 2024, the Licensee belatedly filed a non pro forma transfer of control application seeking approval of the qualifications of Heather Caroline Loftis, who

[2] 47 CFR § 73.3541.

[3] 47 CFR § 73.3540. The rule states further that an "[a]pplication for consent to the transfer of control of an entity holding a construction permit or license must be filed on FCC Form 2100, Schedule 315" where the transaction involves a substantial (or non pro forma) change in ownership or control, or on FCC Form 2100, Schedule 316 where the transaction is pro forma (i.e., does not involve a substantial change in ownership or control). *Id.* § 73.3540(a). The test for whether a change in ownership or control is "substantial" has generally been (a) whether 50 percent or more of the voting stock is being transferred, and (b) whether as a result of the transaction 50 percent or more of the outstanding voting stock will be held by persons whose qualifications to be Commission licensees have not previously been approved of or "passed upon." *Barnes Enterprises*, *Inc*., 55 FCC 2d 721 (1975); *Clay Broadcasters*, *Inc*., 21 RR 2d 442 (1971).

[4] *See, e.g.*, *Stereo Broadcasters, Inc.*, 55 FCC 2d 819, 821 (1975) (citing *WWIZ, Inc.*, 36 FCC 561 (1964)), *modified*, 59 FCC 2d 1002 (1976).

[5] *See* Application File No. 0000244047, Description of Transaction Exhibit.

[6] *Id*.

[7] *Id*. The Licensee notes that the transfer was documented in the corporate ledger records of the Licensee.

[8] *See* Application File No. 0000244047, Description of Transaction Exhibit.

[9] *Id*.

[10] *See* Application File No. 0000244051, Description of Transaction Exhibit.

[11] Application File No. 0000244047 (filed Apr. 29, 2024); *see Broadcast Applications,* Public Notice, Report No. PN-1-240516-01, at 1, 6, 8 (MB May 16, 2024).

acquired negative control of the Licensee as the successor Trustee of the Bobby Dean Knight Revocable Trust.[12]

9. Based on the foregoing, the Bureau commenced the Investigation and suspended processing of the Applications. The Parties acknowledge that any proceedings that might result from the Violations would be time-consuming and require a substantial expenditure of public and private resources. In order to conserve such resources, resolve the matters, and promote compliance with the Rules, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

IV. TERMS OF AGREEMENT

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

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

12. **Effective Date; Violations**. The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. Upon the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Licensee agrees that it is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. Any violation of the Adopting Order or 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 enforcement of a Commission order.

13. **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, Licensee agrees to the terms, conditions, and procedures contained herein.

14. The Bureau further agrees that, in the absence of new material evidence, it will not use the Violations or the existence of this Consent Decree in any action against Licensee concerning the matters that were the subject of the Investigation, provided that the Licensee satisfies all of its obligations under this Consent Decree. In the event that the Licensee fails to satisfy any of its obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

15. **Admission of Liability**. Licensee stipulates that its actions described in Paragraphs 6 through 8 violated section 310(d) of the Act and the Transfer of Control Rules.

16. **Civil Penalty**. Licensee agrees to pay the Civil Penalty to the United States Treasury in the amount of eight thousand dollars ($8,000), within thirty (30) calendar days after the Effective Date. Licensee acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty shall become a "Claim" or "Debt" as defined in section 3701(b)(1) of the Debt Collection Improvement Act of 1996.[13]

17. **Payment**. Licensee will also send electronic notification of payment to Christopher Clark at Christopher.Clark@fcc.gov and to Olivia Hill at Olivia.Hill@fcc.gov on the date said payment is made. Payment of the Civil Penalty must be made by credit card, ACH (Automated Clearing House)

[12] *See* Application File No. 0000244051 (filed Apr. 30, 2024); *see* , *Broadcast Applications,* Public Notice, Report No. PN-1-240502-01, at 1, 4, 5 (MB May 2, 2024).

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

debit from a bank account using CORES (the Commission's online payment system),[14] or by wire transfer. 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. 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).[16] 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/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 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/cores/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.

18. **Qualifications; Agreement to Grant**. The Bureau finds that its Investigation raises no substantial and material questions of fact as to whether the Licensee possesses the basic qualifications, including those relating to character, to hold a Commission license or authorization. Accordingly, the Bureau agrees to grant the Applications after the Effective Date, provided that the following conditions have been met: 1) the Civil Penalty payment, referenced in paragraph 16 of this Decree, has been fully and timely satisfied; and 2) there are no issues other than the Violations that would preclude grant of the Applications.

[14] Payments made using CORES do not require the submission of an FCC Form 159.

[15] 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.

[16] Instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

19. **Waivers**. Licensee agrees to waive any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition or modification. If any 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, no Party will contest the validity of the Consent Decree or Adopting Order, and Licensee will waive any statutory right to a *trial de novo*. Licensee further agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[17] relating to the Consent Decree or Adopting Order.

20. **Severability**. The Parties agree that if a court of competent jurisdiction renders any of the provisions of this Consent Decree unenforceable, such unenforceability shall not render unenforceable the 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.

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

22. **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 Licensee does not expressly consent), such provision will be superseded by such Rule or order.

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

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

25. **Modifications**. This Consent Decree cannot be modified or amended without the advance written consent of all Parties.

26. **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.

27. **Authorized Representative**. Each Party represents and warrants to the other Party 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.

[17] 5 U.S.C. § 504; 47 CFR §§ 1.1501-.1530.

28. **Counterparts**. This Consent Decree may be signed in counterparts and/or electronically and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed electronically or by original signatures.

MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: _____
Albert Shuldiner, Chief, Audio Division

Date: **08/27/2024**

Mountain Lakes Broadcasting, Corp.

By: _____
Heather Caroline Loftis, President

Date: _____

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MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION

By: _____
Albert Shuldiner, Chief, Audio Division

Date: _____

Mountain Lakes Broadcasting, Corp.

By: _____
Heather Caroline Loftis, President

Date: 8-20-2024

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 24-815
Released: August 16, 2024

THE SPACE BUREAU, THE WIRELESS TELECOMMUNICATIONS BUREAU, THE OFFICE OF INTERNATIONAL AFFAIRS, AND THE OFFICE OF ENGINEERING AND TECHNOLOGY SEEK INFORMATION ON SHARING IN THE 18 GHZ BAND IN CONNECTION WITH THE NATIONAL SPECTRUM STRATEGY IMPLEMENTATION PLAN

GN Docket No. 24-248

Comment Date: September 5, 2024
Reply Comment Date: September 16, 2024

With this *Public Notice*, the Space and Wireless Telecommunications Bureaus, the Office of International Affairs, and the Office of Engineering and Technology seek to further develop the record for the 18.1–18.6 GHz band (18 GHz band) with the goal of informing the forthcoming report mandated by the National Spectrum Strategy (NSS) Implementation Plan. The NSS identified the 18 GHz band as a potential band for expanded Federal and non-Federal satellite operations, consistent with the U.S. position at the 2023 World Radiocommunication Conference (WRC-23), which would add space-to-space allocations to this band (among others).[1] Fixed-Satellite Service (FSS) downlink operations are currently authorized in the band. In addition, non-Federal Fixed Service is authorized in the 18.1–18.3 GHz segment of the band.[2] The final report with findings is to be completed by May 2025.[3]

Background. In 2006, the Federal Communications Commission (Commission) released the Report and Order rechannelizing the 17.7–19.7 GHz band for Fixed Microwave Services under part 101 of the Commission's Rules (18 GHz R&O).[4] As part of the 18 GHz R&O, the Commission adopted a revised band plan for the 17.7–18.3 and 19.3–19.7 GHz band, designated a contiguous 600 megahertz block of one way spectrum from 17.7–18.3 GHz for use by multichannel video programming distributors (MVPDs), and protected certain federal earth stations in the FSS (space-to-Earth) in the 17.7–17.8 GHz band.[5] United States federal systems are authorized to operate in the 17.8–20.2 GHz band in accordance

[1] National Telecommunications and Information Administration, National Spectrum Strategy at 7 (2023), https://www.ntia.gov/sites/default/files/publications/national_spectrum_strategy_final.pdf (NSS). See also, World Radio Communication Conference (WRC-23) Final Acts, https://www.itu.int/dms_pub/itu-r/opb/act/R-ACT-WRC.16-2024-PDF-E.pdf at 141 (Note: WRC-23 added space-to-space allocations to the 18GHz band).

[2] NSS at 3, 6-7. National Telecommunications and Information Administration, National Spectrum Strategy Implementation Plan at 6 (2024), https://www.ntia.gov/sites/default/files/publications/national-spectrum-strategy-implementation-plan.pdf (NSS Implementation Plan).

[3] NSS Implementation Plan at A-11.

[4] *In the Matter of Rechannelization of the 17.7-19.7 GHz Frequency Band for Fixed Microwave Services under Part 101 of the Commission's Rules,* WT Docket No. 04-143, Report and Order 21 FCC Rcd 10900 (2006).

[5] *See id.*

with footnote US334 in the United States Table of Frequency Allocations.[6] Coordination between non-federal operations, both terrestrial and satellite, and these federal operations remain in effect.

WRC-23 and 18 GHz. Under Agenda Item 1.17 of WRC-23, the Conference considered appropriate regulatory actions for the provision of inter-satellite links in the frequency bands 11.7–12.7 GHz, 18.1–18.6 GHz, 18.8–20.2 GHz and 27.5–30.0 GHz. During the ITU-R study cycle leading up to the Conference, the United States and other administrations developed extensive sharing and compatibility studies to assess the feasibility of introducing satellite-to-satellite links in the 18 GHz band, among others. Based on these studies, at WRC-23 the United States and other member states of the Inter-American Telecommunication Commission (CITEL) supported a common regional proposal to add an inter-satellite service allocation in bands including the 18 GHz band, under certain conditions.[7] WRC-23 ultimately adopted inter-satellite service allocations in the 18 GHz and other bands in the International Table of Frequency Allocations subject to a new Resolution and additional restrictions.[8]

WRC-15 NPRM and 18.142–18.3 GHz. In April 2023, the Commission sought comment on whether it should raise the non-Federal secondary FSS (space-to-Earth) allocation in the 18.142–18.3 GHz band to primary status, i.e., co-equal with the non-Federal primary fixed service allocation in the band.[9] If adopted, this upgrade of allocation status would provide receiving earth stations with interference protection from later-licensed fixed stations that are used for part 74 and part 101 Multichannel Video Programming Distributor (MVPD) and part 78 cable television relay service (CARS) operations that operate in accordance with the proposed rules in this section.[10]

National Spectrum Strategy. The NSS identifies the 18 GHz band as a band for further study."[11] The NSS Implementation Plan establishes a schedule under which a band study would be completed by February 2025 and a final report issued by May 2025.[12] In order to aid the band study and report preparation, we seek public input on various issues relating to current or potential uses of the 18 GHz Band. Specifically, we seek comment on whether the assumptions and analysis on which the WRC-23 decision was based are still valid. Commenters advocating that the NSS band study should be based on different assumptions or analysis should provide detailed technical information describing why they disagree with the previous work and what assumptions they favor and their preferred analysis method. We also seek comment on the use cases operators in the 18 GHz band plan to support and what regulatory changes are needed to implement any allocation changes supported by the record. In addition, we seek comment on whether the separately pending proposal to elevate the non-Federal FSS allocation in the 18.142–18.3 GHz band to primary status would affect a new space allocation in the 18 GHz band. The record developed in response to this *Public Notice* will be publicly available in GN Docket No. 24-248 and shared with the NTIA and other interested agencies.

Filing Requirements. 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

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[6] 47 CFR § 2.106(c)(334).

[7] Member States of the Inter-American Telecommunication Commission (CITEL), Proposals for the Work of the Conference, Agenda Item 1.17, https://www.itu.int/dms_pub/itu-r/md/23/wrc23/c/R23-WRC23-C-0044!A17!MSW-E.docx.

[8] *See* World Radiocommunication Conference 2023 (WRC-23), Final Acts, https://www.itu.int/dms_pub/itu-r/opb/act/R-ACT-WRC.16-2024-PDF-E.pdf.

[9] *Amendment of the Commission's Rules Regarding Implementation of the Final Acts of the World Radiocommunication Conference (Geneva, 2015) (WRC-15), Other Allocation Issues, and Related Rule Updates*, Notice of Proposed Rulemaking, ET Docket No. 23-120, 38 FCC Rcd 3528, 3545, para. 38 (2023).

[10] *Id.*

[11] NSS at 7.

[12] NSS Implementation Plan at A-11.

indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

- 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 hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street 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), 202-418-0432 (TTY).

Additional Information. For further information regarding this Public Notice, please contact Bahman Badipour, Office of Engineering and Technology, at 202-418-7814 or bahman.badipour@fcc.gov.

- FCC -

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

In the Matter of	)	
	)	
PTC-220, LLC	)	File No. 0010856225
	)	
For Modification of License for	)	
Automated Maritime Telecommunications System	)	
Station WRZN736 (Region 1 – Northern Atlantic)	)	

ORDER

Adopted: August 27, 2024 **Released: August 27, 2024**

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. By this Order, the Mobility Division of the Wireless Telecommunications Bureau (Bureau) grants the license modification application filed by PTC-220, LLC (PTC-220)—a joint venture of the nation's Class I freight railroads[1]—for permanent authority to operate 76 positive train control (PTC) wireless radio base stations, 144 PTC wireless radio wayside stations,[2] and related mobile (locomotive) radio stations under Automated Maritime Telecommunications System (AMTS) Station License WRZN736 in AMTS Region 1, Northern Atlantic (AMTS-1).[3] This grant of permanent

[1] FCC File No. 0010856225 (filed Jan. 16, 2024, amended Jan. 17, 2024) (Modification Application). The Modification Application includes several exhibits, discussed below, in support of the request for permanent operating authority. PTC-220's member railroads are: BNSF Railway Company (BNSF Railway), Canadian National Railway Company, Canadian Pacific Railway Company, CSX Corporation, Kansas City Southern, Norfolk Southern Corporation, and Union Pacific Corporation (Union Pacific).

[2] In the PTC context, base stations typically operate at antenna heights of 50 to 175 feet above ground level (AGL) and at effective radiated power (ERP) levels ranging from 100 to 400 watts. Wayside stations are "radio sites at intermediate or control point railroad signals," have a typical antenna height of 30 to 60 feet AGL, and communicate with approaching locomotives and nearby base stations at ERP levels up to 76 watts. *See* Modification Application, "Engineering Study Report and Plan to Limit Interference from AMTS Stations to Over-the Air Reception of TV Channels 13 and 10, Covering WRZN736 (AMTS Region 1)," at 2, 8 (TV Engineering Study).

[3] PTC-220 will operate in AMTS-1 using the upper portion of the A Block at 219.5-220 MHz, adjacent to its 220 MHz spectrum. *See* TV Engineering Study at i (specifying the frequencies to be used in the various counties covered by the license). The Commission originally intended that AMTS stations would be used to provide service to tugs, barges, and other commercial maritime vessels. *Amendment of Parts 2, 81 and 83 of the Commission's Rules to Allocate Spectrum for an Automated Inland Waterways Communications System along the Mississippi River and Connecting Waterways*, GEN Docket No. 80-1, Report and Order, 84 F.C.C.2d 875 (1981). The Commission amended the AMTS rules in 1997 to permit AMTS stations to serve fixed, mobile, and handheld units on land. *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, *Second Report and Order,* 12 FCC Rcd. 16949, 16964-65, paras. 24-25 (1997). It now licenses AMTS stations by geographic area; the band includes two spectrum blocks in 10 geographic license areas. *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, Second Memorandum Opinion and Order and Fifth Report and Order, 17 FCC Rcd. 6685, 6696, para. 24 (2002) (*Maritime Communications Fifth R&O*); 47 CFR § 80.385 (frequencies for AMTS systems). We regulate PTC base and wayside stations as AMTS coast stations for licensing purposes because they are fixed stations. We regulate locomotive stations as AMTS ship stations for licensing purposes because they are mobile. Incumbent site-based stations are grandfathered and are

(continued….)

operating authority is subject to certain conditions adopted below. We also grant PTC-220's request for waiver of two Commission rules to facilitate PTC and related (non-PTC) rail safety systems in AMTS-1.[4]

2. WRZN736's license area covers the western portion of AMTS-1. Today's action will enable PTC-220's member railroads to deploy Congressionally-mandated, interoperable PTC and related (non-PTC) rail safety systems on rail lines serving 53 counties in New Jersey, New York, and Pennsylvania.[5] In addition, we recognize that passenger and commuter railroads will likely access PTC-220's spectrum resources via spectrum lease, as Amtrak currently does within AMTS-1 through a 220 MHz lease agreement.[6] PTC-220 states that it "will facilitate lease agreements with other railroads as has been done in the six other 219 MHz AMTS regions" in which it holds licenses.[7] Consequently, granting the Modification Application to supplement PTC-220's spectrum, with the accompanying waiver relief, will benefit passenger railroads as well as the PTC-220 member freight railroads.

II. BACKGROUND

A. Positive Train Control

3. The Rail Safety Improvement Act of 2008, as amended by the Positive Train Control Enforcement and Implementation Act of 2015 (together, the Rail Safety Act), required most U.S. freight, passenger, and commuter railroads to install and operate interoperable PTC systems by December 31, 2018.[8] Four railroads timely met this deadline.[9] As the Rail Safety Act permits, the remaining railroads subject to the PTC mandate, including PTC-220's member railroads, requested up to a two-year extension, until December 31, 2020, to implement PTC.[10] The FRA found that these railroads met the statutory criteria necessary to qualify for an extended implementation schedule and, subsequently, that they met their extended deadlines.[11]

4. PTC systems are designed to reduce the risk of human-error rail accidents, by "prevent[ing] train-to-train collisions, over-speed derailments, incursions into established work zone

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entitled to protection from a geographic licensee. *See Maritime Communications Fifth R&O*, 17 FCC Rcd. at 6699-701, paras. 30-35; 47 CFR § 80.773.

[4] *See infra* Sections III.A. and III.B. (discussing PTC-220's requests for waiver of 47 CFR §§ 1.913(b) and 80.215(i)).

[5] TV Engineering Study at 2, n.9; Station License WRZN736 in ULS, "Market" and "Map" tabs. *See also* Modification Application, "Schedule D PTC Site Data" (Schedule D Data).

[6] *See* FCC File No. 0010322233, PTC-220 Assignment of License Application for AMTS Region 1 (Jan. 5, 2023) (Assignment Application), "Request for Waivers for AMTS Spectrum to be Assigned from Call Sign WQGF310," at 3 (citing ULS Lease ID L000040744) (Assignment Waiver Request).

[7] Modification Application, "Request for Waiver of Section 80.215(i)," at 5 (Power Waiver Request).

[8] *Rail Safety Improvement Act of 2008*, Pub. L. No. 110-432, § 104, 122 Stat. 4848, 4857 (2008), *amended by Positive Train Control Enforcement and Implementation Act of 2015*, Pub. L. No. 114-73, § 1302, 129 Stat. 568, 576 (2015). The Federal Railroad Administration (FRA) is responsible for approving each railroad's PTC system, including design, testing, and implementation and for ensuring compliance with the Rail Safety Act and FRA regulations implementing that statute. Positive Train Control (PTC) Information (R&D), Federal Railroad Administration (updated Nov. 13, 2019), https://www.fra.dot.gov/Page/P0152 (last visited July 19, 2024).]

[9] Statement on Positive Train Control Implementation, U.S. Department of Transportation (updated Dec. 31, 2018), https://www.transportation.gov/briefing-room/statement-positive-train-control-implementation (last visited July 19, 2024).

[10] *Id*.

[11] Positive Train Control (PTC), U.S. Department of Transportation, https://railroads.dot.gov/train-control/ptc/positive-train-control-ptc (last visited July 19, 2024).

limits, and the movement of a train through a switch left in the wrong position."[12] The U.S. rail industry has chosen to implement PTC through wireless networks that use radio spectrum. These networks have the capacity to enable information sharing between trains, rail wayside stations, and back office applications regarding train movement authorities, speed restrictions, train position and speed, and the state of signal and switch devices.[13]

B. Spectrum Acquisitions

5. PTC-220 was formed to acquire and manage the necessary spectrum resources for its freight railroad members to implement PTC systems throughout the United States.[14] PTC-220 has acquired a nationwide footprint of spectrum in the 220-222 MHz (220 MHz) band for its members and other railroads, including commuter railroads, to deploy PTC and related rail safety systems.[15] However, because of the need for its members to deploy two additional PTC common channels—which locomotive radios use to attach to PTC base stations and receive instructions regarding the proper frequency on which to operate in an area—and the lack of additional suitable 220 MHz spectrum, PTC-220 has been driven to acquire 500 kilohertz of immediately adjacent AMTS spectrum (from 219.5 to 220 MHz).[16]

6. In 2023, PTC-220 acquired its AMTS-1 spectrum from Intelligent Transportation & Monitoring Wireless LLC (ITMW) to deploy PTC and related rail safety systems in the western portion of the AMTS-1 region.[17] In 2022, PTC-220 acquired spectrum from ITMW in AMTS Region 3 (Southern Atlantic) to deploy PTC and related rail safety systems on rail lines serving Georgia, Florida, and South Carolina, and certain counties in Alabama and North Carolina.[18] PTC-220 acquired spectrum in 2020 from Thomas K. Kurian to deploy PTC and related rail safety systems on rail lines serving 16 western states in AMTS Region 10 (Mountain).[19] The prior year, PTC-220 likewise consummated assignments of spectrum from Choctaw Holdings, LLC (Choctaw) for AMTS Regions 2 (Mid-Atlantic), 4 (Mississippi River), 5 (Great Lakes), and 6 (Southern Pacific).[20]

7. In the short term, PTC-220's member railroads will use the AMTS spectrum to implement two additional PTC common channels, which will improve system reliability and safety.[21] In the long term, the railroads will leverage the spectrum to: (1) expand PTC deployment onto non-mandatory lines; (2) support other, related train control safety applications, including End-of-Train

[12] 49 U.S.C. § 20157(i)(5).

[13] *See* Power Waiver Request at 2-3.

[14] Assignment Waiver Request at 2.

[15] *Id*. at 3. PTC-220 holds 31 separate 220 MHz licenses. *Id*. n.6.

[16] *Id*. at 2-3.

[17] *See Intelligent Transportation & Monitoring Wireless LLC, Assignor, PTC-220, LLC, Assignee, Application to Partially Assign Licenses for AMTS Station WQGF310*, Order, DA 23-928, 2023 WL 6537413 (WTB MD 2023) (*PTC-220 AMTS-1 Assignment Order*). *See also* Assignment Application (consummated Nov. 20, 2023).

[18] *See* FCC File No. 0009803741 (Feb. 23, 2022) (AMTS-3 Assignment Application) (granted Apr. 11, 2022). The spectrum assigned to PTC-220 in AMTS-3 is licensed under call sign WRQI879.

[19] *Application of Thomas K. Kurian, For Partitioning and Disaggregation of License for Automated Maritime Telecommunications System Station WQCP809 to PTC-220, LLC*, Order, 35 FCC Rcd. 13105 (WTB MD 2020) (*Kurian/Region 10 Assignment Order*). The AMTS-10 spectrum assigned to PTC-220 from Kurian is licensed under call sign WRKK374.

[20] *See* FCC File Nos. 0008527475 (WQGF315), 0008530247 (WQGF316), 0008527617 (WQGF317), and 0008527687 (WQGF318) (Choctaw licenses) (all filed Feb. 15, 2019; all granted Apr. 1, 2019). These assignments resulted in the issuance to PTC-220 of new Station Licenses WRDI936, WRDH825, WRDH826, and WRDH972.

[21] *See* Power Waiver Request at 1.

devices and distributed power systems; and (3) support future safety-related functions, such as improvements to the monitoring of grade crossing equipment.[22]

C. Grant of Associated Request for Waiver of Certain Part 80 Rules with PTC-220's AMTS-1 Assignment Application

8. In connection with its Assignment Application, PTC-220 filed a request for waiver of eight Commission Part 80 rules in anticipation of its permanent operations under Station WRZN736. Specifically, to enable its deployment of PTC and related rail safety systems, PTC-220 requested, and the Bureau granted, waiver of the following rules:[23]

- Section 80.92(a), which requires licensees to monitor a frequency before transmitting;[24]
- Section 80.105, which requires coast stations to receive calls from ship and aircraft stations;[25]
- Section 80.106, which requires a coast station to receive communications from mobile stations and to transmit communications delivered to it, which are directed to mobile stations;[26]
- Section 80.123(a), which requires an AMTS land station to secure a letter authorizing the land station to communicate with a coast station;[27]
- Section 80.123(b), which requires coast stations to afford priority to marine-originating communications;[28]
- Section 80.123(f), which provides that AMTS land stations may only communicate with coast stations;[29]
- Section 80.215(h)(5), which requires coast stations' transmitter power, as measured at the input terminals to the station antenna, to be 50 watts or less;[30] and
- Section 80.385(a)(2), which divides the AMTS spectrum band into coast (base) station frequencies (217-218 MHz) and ship (mobile) station frequencies (219-220 MHz).[31]

9. The Bureau's Order discussed at length the rationale for waiver pursuant to sections 1.925(b)(3) and/or 1.3 of the Commission's rules, and also explained that such relief was consistent with several prior decisions granting similar waiver relief.[32] In 2021, for example, the Bureau waived the same

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[22] *Id*.

[23] *See* Assignment Waiver Request; Station License WRZN736. The rule waivers are listed in a special condition on the license, which specifies that they are granted "solely for use of the assigned spectrum to deploy Positive Train Control (PTC) and other railroad safety systems in the defined rail corridors in AMTS Region 1 (as specified in the Application)." If PTC-220 assigns, partitions, disaggregates, or leases to a third party any of its licensed AMTS-1 spectrum, the waiver relief granted in connection with grant of the Assignment Application, as well as the additional waiver relief granted herein (*see infra* Sections III.A. and B.), would likewise apply solely for the same purpose.

[24] 47 CFR § 80.92(a).

[25] *Id*. § 80.105.

[26] *Id.* § 80.106.

[27] *Id.* § 80.123(a).

[28] *Id.* § 80.123(b).

[29] *Id.* § 80.123(f).

[30] *Id.* § 80.215(h)(5).

[31] *Id.* § 80.385(a)(2).

[32] *Id*. §§ 1.925(b)(3), 1.3; *PTC-220 AMTS-1 Assignment Order*, 2023 WL 6537413 at *5-8, paras. 14-27.

eight rules to enable PTC-220 to deploy PTC and related rail safety applications in AMTS Regions 2, 4, 5, and 6,[33] and likewise waived them in 2020 to enable PTC-220 to deploy PTC and related rail safety applications in AMTS Region 10.[34] In 2016, the Bureau waived six of these rules (as requested) to enable Southern California Regional Rail Authority (SCRRA) and its three tenant railroads—Amtrak, the BNSF Railway, and the Union Pacific Railroad—to deploy PTC in an area partitioned from AMTS Region 6 (adjoining PTC-220's AMTS Region 6 license area),[35] and in 2015, it waived seven of these rules (as requested) to enable Amtrak to deploy PTC using AMTS spectrum in the Northeast Rail Corridor (from New York to Washington DC).[36]

10. With the adoption of today's Order, the waiver relief regarding the above-listed eight rules will remain in place to govern PTC-220's permanent operations in the license area. PTC-220 has requested two additional rule waivers associated with the instant Modification Application. We address those waiver requests in Section III. below.

D. Special Temporary Authorization (WSCG371) for AMTS-1 Operations

11. Following consummation of its acquisition of AMTS-1 spectrum from ITMW, PTC-220 sought a special temporary authorization (STA) to operate in the WRZN371 license area. The Bureau granted the application and issued STA license WSCG371.[37] With its request for STA, PTC-220 requested waiver of the same eight Part 80 rules listed above,[38] and consistent with the precedents cited in the preceding Section II.C. of this Order, the Bureau waived the eight rules to govern PTC-220's temporary operations in AMTS-1.[39]

12. Additionally with its STA Application, PTC-220 requested waiver of section 80.215(i) of the Commission's rules so that its members could operate locomotive radios at up to 50 watts transmitter power output (TPO) with an ERP up to 39 watts using its STA license.[40] Specifically, PTC-220 sought

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[33] *PTC-220, LLC, Modification of Licenses for Automated Maritime Telecommunications System Stations WRDI936, WRDH825, WRDH826, and WRDH972*, Order, 36 FCC Rcd. 18183, 18187, 18189-91, paras. 16, 20-27 (WTB MD 2021) (*PTC-220 2021 AMTS Modification Order*). *See also* Station License WRQI879 (noting, in a special condition, waivers of the same eight rules to enable PTC-220 to deploy PTC and related rail safety applications in AMTS Region 3, citing the *PTC-220 2021 AMTS Modification Order*).

[34] *Kurian/Region 10 Assignment Order,* 35 FCC Rcd. at 13114-16, paras. 30-35.

[35] *Maritime Communications/Land Mobile, LLC and Southern California Regional Rail Authority File Applications to Modify License and Assign Spectrum for Positive Train Control Use, and Request Part 80 Waivers*, WT Docket No. 10-83, Order, 31 FCC Rcd. 9826, 9835-40, paras. 27-39 (WTB 2016) (waiving the same Part 80 rules except 47 CFR §§ 80.106 and 80.215(h)(5), which SCRRA did not include in its waiver request).

[36] *National Railroad Passenger Corporation (d/b/a Amtrak), Request for Waiver of Certain Part 80 Automated Maritime Telecommunications System Rules to Implement Positive Train Control*, Order, 30 FCC Rcd. 2038, 2040-43, paras. 8, 11-14 (WTB MD 2015) (waiving the same Part 80 rules except 47 CFR § 80.215(h)(5), which Amtrak did not include in its waiver request).

[37] FCC File No. 0010901384 (filed Jan. 30, 2024, amended Mar. 14, 2024) (STA Application) (granted Apr. 4, 2024). *See* STA License WSCG371.

[38] *See* STA Application, "Request for Waivers Associated with Special Temporary Authority Operations" (STA Waiver Request).

[39] *See* STA Application; STA License WSCG371. PTC-220 also requested—and the Bureau granted—waiver of 47 CFR § 1.913(a), to the extent the rule would require PTC-220 to file a separate FCC Form 601 Schedule D for each individual radio station rather than in a consolidated format. *See* STA Application, "Request for Waiver of 47 CFR 1.913(a)(1) and Schedule D Instructions." These 9 waivers are listed in a special condition on STA License WSCG371.

[40] 47 CFR § 80.215(i)(1)-(2); STA Waiver Request at 12-13 and Appendix A; STA Application, "Section 80.215(j) Plan for Higher Mobile Power," at 1-3 (STA Section 80.215(j) Plan). TPO is the power level at the output terminals of a radio transmitter. PTC-220 submitted the identical waiver request with its Modification Application. Below in

(continued….)

waiver of the rule's provision that a mobile station's TPO not exceed 25 watts and its ERP not exceed 18 watts unless two conditions are satisfied.[41] PTC-220 submitted the requisite plan to control interference, pursuant to section 80.215(j) of the Commission's rules, and the Bureau waived the two conditions under section 80.215(i) to facilitate temporary PTC operations in the license area.[42]

13. The Bureau's grant of the STA with waiver relief was subject to interference control conditions, requiring that PTC-220 do the following:

- provide 24-hour advance written notice by email, prior to operating a PTC base or wayside station, to all channel 13 TV stations within 169 kilometers (105 miles) and all channel 10 TV stations within 129 kilometers (80 miles) of that base or wayside station;
- maintain a 24-hour Trouble Desk to receive interference complaints;
- address each interference complaint reported to the Trouble Desk, including opening a Trouble Ticket and a tracking number that the viewer or broadcaster may use as a reference;
- investigate any reported interference within 48 hours of receiving a report;
- resolve any interference caused by PTC operations at its own expense within 72 hours of receiving a report; resolution may include, for example, PTC-220 remotely adjusting PTC base or wayside station power levels, antennas, or installing a notch filter at a viewer's residence; and
- submit monthly reports by email to specified FCC staff stating: (a) the number of interference reports received; (b) the date and time of reported interference; (c) the affected broadcast station; (d) a description of the base station that caused the interference, including its location, height, and other pertinent characteristics; and (e) the period from receipt of a report to resolution, and the type of resolution.[43]

In accordance with the requirement for monthly reports to specified FCC staff, PTC-220 has been sending monthly emails since the time it commenced operations using STA License WSCG371. It has reported thus far that it has received no reports of interference to television stations operating on channel 10 or channel 13 in AMTS-1.

E. Modification Application

14. PTC-220 seeks to modify its geographic area license (WRZN736) to authorize, on a permanent (non-STA) basis and subject to the applicable license terms, operation of 76 PTC base stations, 144 PTC wayside stations, and related mobile (locomotive) stations. Although AMTS geographic licensees generally are authorized to deploy base stations anywhere within their licensed geographic service areas, section 80.215(h) of the Commission's rules requires individual licensing of base stations

Section III.A, we discuss in detail the section 80.215(i) provisions and PTC-220's request for waiver in the context of its Modification Application.

[41] 47 CFR § 80.215(i)(1) (requiring that increases exceeding 25 watts be made only by radio command from the controlling base station) and (2) (requiring that the application for an equipment authorization demonstrate that the TPO is 25 watts or less when external radio commands are not present).

[42] STA Section 80.215(j) Plan. Waiver of 47 CFR 80.215(i) is included in the special condition that lists the other rule waivers on STA License WSCG371.

[43] In addition, a separate special condition explains that grant of the STA is without prejudice to FCC review of the TV Engineering Study. Our review and assessment of the Study is discussed below in Section III.C.

located less than 169 kilometers (105 miles) from a channel 13 TV station, or less than 129 kilometers (80 miles) from a channel 10 TV station.[44]

15. Pursuant to section 80.215(h), PTC-220 conducted its analysis and submitted the TV Engineering Study describing its methodology and results in support of the Modification Application. Using the Commission's "*TVStudy*" software, the TV Engineering Study addresses the potential number of channel 10 and channel 13 over-the-air (OTA) TV households that could be impacted by operation of PTC-equipped base, wayside, and mobile stations in the WRZN736 license area.[45] Additionally, as also required by section 80.215(h), PTC-220 has committed to eliminate any interference actually caused by operation of the proposed base and wayside stations to channels 10 and 13 OTA television reception (Channel 10/13 Plan).[46] PTC-220 has certified that PTC-220, its members, and spectrum lessees will adhere to this Plan.[47] We discuss the TV Engineering Study's findings and the Channel 10/13 Plan below in Section III.

16. As required by section 80.475(a)(2) of the Commission's rules,[48] PTC-220 served written notice of the Modification Application on potentially affected broadcast stations on January 17, 2024.[49] No broadcast station or other party has opposed or commented on the Modification Application.

17. The Modification Application also includes requests for waiver of two Commission rules: section 80.215(i) concerning power limits; and section 1.913(b) concerning the FCC Form 601 Schedule D filing requirements. We discuss these rules and the waiver requests below in Sections III.A. and B.

III. DISCUSSION

18. We have reviewed the Modification Application, PTC-220's TV Engineering Study, Channel 10/13 Plan, waiver requests, and all other associated filings before us. Based on the record, and as discussed below, we find that the public interest in facilitating rail safety will be served by granting the Modification Application and associated waiver requests, thereby authorizing permanent operations of the proposed 76 PTC base stations, 144 PTC wayside stations, and related mobile (locomotive) stations in PTC-220's AMTS-1 license area.

A. Waiver of 80.215(i)—Power Limits, for Wireless Mobile (Locomotive) Radio Stations

19. Section 80.215(i) of the Commission's rules provides that AMTS mobile radio stations (here, locomotive radios) must have a transmitter power output (TPO) "not exceeding 25 watts and an ERP not exceeding 18 watts."[50] The rule permits increased TPO, up to 50 watts, provided that the following two conditions are met: (1) "[i]ncreases exceeding 25 watts are made only by radio command from the controlling [base] stations"; and (2) TPO "is 25 watts or less when external radio commands are

[44] 47 CFR § 80.215(h)(2); *see also id.* § 80.475(a)(1). AMTS base stations are authorized "subject to the condition that no harmful interference will be caused to television reception except that TV services authorized subsequent to the filing of the AMTS station application will not be protected." *Id.* § 80.215(h).

[45] *See* TV Engineering Study at ii, 4-10 (explaining that PTC-220 used the Commission's *TVStudy* software, citing, at 6 n.17, the Commission's Office of Engineering and Technology *TVStudy* version 2.2.5).

[46] PTV-220's Channel 10/13 Plan is included in the Study. *See* TV Engineering Study at 15-19.

[47] Modification Application, "Certification of PTC-220, LLC" (signed by Kelechi Nwogu, its President) (Jan. 16, 2024) (PTC-220 Nwogu Certification).

[48] 47 CFR § 80.475(a)(2).

[49] Modification Application, Letter from Michele C. Farquhar, Counsel to PTC-220 LLC, to Channel 10/13 TV Station Licensees (Jan. 17, 2024).

[50] 47 CFR § 80.215(i).

not present."[51] Section 80.215(j) provides that mobile radio stations that meet both of these conditions are "exempted from the limitation of 18 watts ERP when operating in specific geographical areas identified in a plan for the use of higher power."[52]

20. PTC-220 seeks waiver of the two conditions in sections 80.215(i)(1) and (2)—which it cannot meet for technical reasons—so that its members may permanently operate locomotive radios at up to 50 watts TPO with an ERP up to 39 watts in its licensed portion of AMTS-1.[53] The Bureau granted PTC-220 identical relief to enable deployment of PTC and related rail safety systems in AMTS Region 3,[54] AMTS Regions 2, 4, 5, and 6,[55] and to enable its members, their tenant railroads, and Amtrak to implement PTC and related rail safety systems using spectrum in AMTS Region 10.[56] The Bureau also granted SCRRA the same relief to enable SCRRA and its three tenant railroads—Amtrak, and PTC-220 members BNSF Railway and Union Pacific—to implement PTC and related rail safety systems using AMTS spectrum in a partitioned license area abutting PTC-220's AMTS Region 6 license area.[57] We grant PTC-220's request for the reasons that follow.

21. The Rail Safety Act required U.S. railroads to deploy interoperable PTC systems so that when a railroad enters another's territory as a tenant, it can safely use the host rail's PTC system where required.[58] To comply with this statutory requirement, PTC-220's member railroads deployed an integrated PTC system, which uses a combination of their base and wayside radio stations operating on PTC-220's 220 MHz band spectrum.[59] Due to a shortage of available spectrum in that band for PTC deployment, PTC-220 created a common pool of PTC spectrum channels drawn from 220 MHz band spectrum and from adjacent band AMTS spectrum licensed to PTC-220.[60] PTC-220 explains that to implement interoperable PTC systems that can use channels drawn from the common spectrum pool, it requires a limited waiver of section 80.215(i)'s power limits.[61]

22. PTC-220's member railroads and their tenant railroad partners have deployed more than 16,000 Meteorcomm PTC locomotive radios across the country, using the spectrum PTC-220 holds in the 220 MHz band.[62] Consistent with applicable Commission Part 90 rules, the railroads configured their

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[51] *Id.* § 80.215(i)(1)-(2).

[52] *Id.* § 80.215(j).

[53] *See generally* Power Waiver Request.

[54] *PTC-220, LLC for Modification of License for Automated Maritime Telecommunications System Station WRQI879 (Region 3),* Order, DA 24-397, 2024 WL 2699853 at *6-7, paras. 19-25 (WTB MD 2024).

[55] *PTC-220 2021 AMTS Modification Order*, 36 FCC Rcd. at 18192-95, paras. 28-36.

[56] *PTC-220 LLC, Call Sign WRKK374*, Letter Order, 36 FCC Rcd. 17160, 117164-67 (WTB MD 2021).

[57] *Southern California Regional Rail Authority, Call Sign WQYR421*, Letter Order, 35 FCC Rcd. 11912, 11917-20 (WTB MD 2020).

[58] 49 U.S.C. § 20157(a)(2)(A)(i)(1) (a railroad "must provide for interoperability of the system with the movements of trains of other railroad carriers over its lines"). The Rail Safety Act defines "interoperability" as "the ability to control locomotives of the host railroad and tenant railroad to communicate with and respond to the positive train control system, including uninterrupted movements over property boundaries." *Id.* § 20157(i)(3).

[59] Power Waiver Request at 2-3

[60] *Id*. at 3-4.

[61] *Id*. at 9-10. *See also* TV Engineering Study at 7 (explaining that the Study was "also prepared to support PTC-220's request for waiver of the power limits contained in Section 80.215(i)(1)-(2) . . ." and that such waiver is required "to allow mobile power limits in the AMTS band that are consistent with the power levels allowed and used for PTC in the 220 MHz Band.").

[62] Power Waiver Request at 10. The radio's specifications are provided in Exhibit 1 to PTC-220's "Section 80.215(j) Plan for Higher Mobile Power" (discussed further below), attached to the Modification Application.

mobile radios to operate at a constant 50-watt TPO in the 220 MHz band.[63] PTC-220 explains that these "locomotive radios do not have the ability to have their power dynamically controlled by" base stations, and that adjustment of a radio's TPO "would require that a technician manually connect to the radio to program in the new value."[64] It further states that, "[a]s a result, the radio's power is not variable as it moves from one base station's coverage to another's."[65]

23. Pursuant to section 1.925(b)(3)(ii), in view of the unique circumstances here, including Congress' mandate that PTC safety systems be interoperable, we find that application of the two conditions required by section 80.215(i) to operate mobile radio transmitters at up to 50 watts TPO in the AMTS band—(1) that TPO increases exceeding 25 watts are made only by base station radio command, and (2) that TPO must be 25 watts or less when external radio commands are not present—would be contrary to the public interest in the safety of life and property.[66] We also find that not permitting PTC-220's member railroads to operate mobile radios at 50 watts TPO would be contrary to the public interest because it would preclude sharing of scarce spectrum resources, which are needed for robust interoperable PTC deployment throughout the country. Further, we find that PTC-220 has no reasonable alternative. As noted in the preceding paragraph, PTC-220's member railroads have installed more than 16,000 locomotive radios that operate at a constant 50 watts TPO in the 220-222 MHz band. The record shows that it is not possible to program the radios to operate at 50 watts TPO and satisfy the condition that TPO be 25 watts or less when external radio commands are not present. Accordingly, given the totality of the circumstances on the record before us, we hereby waive the conditions in sections 80.215(i)(1) and (2) to the extent necessary to allow PTC-220 to operate locomotive radios at 50 watts TPO using Station License WRZN736 for PTC and related rail safety system deployment.

24. PTC-220 also requests waiver of section 80.215(i)'s 18-watt mobile radio ERP limit so that its members can operate PTC mobile (locomotive) radios at up to 39 watts ERP.[67] As explained above, although section 80.215(i) generally limits mobile radio ERP to 18 watts, section 80.215(j) exempts mobile radio operations from this ERP limit provided that the two conditions in section 80.215(i)(1)-(2) are met "when operating in specific geographical areas identified in a plan for the use of higher power."[68] PTC-220 has submitted a plan to deploy mobile radios with a peak ERP from 24 to 39 watts in specific geographical areas of AMTS-1, including maps of the specific rail lines where its mobile radios will operate and a showing regarding the radios' peak ERP levels.[69] PTC-220 states that no appreciable additional interference would result from operation of the mobile radios because their transmit duty cycle is extremely low, their antennas are much lower to the ground than base and wayside station antennas, and they operate at much lower power levels.[70]

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[63] *See* Power Waiver Request at 11; 47 CFR § 90.729(b).

[64] Power Waiver Request at 10.

[65] *Id.*

[66] *See* 47 CFR § 1.925(b)(3)(ii); 47 U.S.C. § 151 (establishing the Commission "for the purpose of promoting safety of life and property through the use of wire and radio communications . . . .").

[67] *See* Power Waiver Request at 10.

[68] 47 CFR § 80.215(j).

[69] *See* Modification Application, "Section 80.215(j) Plan for Higher Mobile Power" (Section 80.215(j) Plan) and "WRZN736–AMTS Region 1 Maps of Base Stations and Waysides." Depending on their configuration, PTC-220's member railroads' locomotive radios operate at an ERP ranging from 24 to 39 watts. *See* Section 80.215(j) Plan at 3.

[70] Section 80.215(j) Plan at 4-6 (stating that mobile radios' 30% duty cycle is rarely met, that the manufacturer estimates they typically transmit less than one percent of the time, and that mobile radio antennas are mounted on the top of locomotives from 17-19 feet AGL, while wayside antennas are mounted at 60-80 feet AGL and base station antennas at 150 feet or more AGL). *See also* TV Engineering Study at 8-9 (stating that the power of wayside

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25. As discussed above, today we grant a waiver of the two conditions of section 80.215(i) concerning use of mobile radios with TPO exceeding 25 watts ERP. Once these two conditions are either met, or waived as here, a licensee is exempt from the rule's 18-watt ERP limit, provided that it has submitted an appropriate plan for use of higher mobile power under section 80.215(j). We have reviewed PTC-220's Section 80.215(j) Plan for WRZN736 and find that it meets the requirements for exemption of mobile radio operations from section 80.215(i)'s 18-watt ERP limit. Accordingly, we hereby grant the waiver request and authorize PTC-220 to operate mobile radios at up to 39 watts ERP under Station License WRZN736.

B. Waiver of Section 1.913(b)—Form 601 Schedule D Requirements for Wireless Base and Wayside Stations

26. PTC-220 seeks to provide the data for the wireless radio base and wayside stations in a consolidated format. Pursuant to section 1.925(b)(3)(ii) of the Commission's rules, PTC-220 requests that we waive section 1.913(b) to the extent the rule would require PTC-220 to file a separate FCC Form 601 Schedule D for authorization of each of the radio stations.[71] PTC-220 argues that the number of base and wayside radio stations included in its Modification Application (a total of 220) presents unique factual circumstances that would render the requirement to complete a Schedule D for each station unduly burdensome and contrary to the public interest.[72] PTC-220 requests that we accept the information required by Schedule D in a spreadsheet attached to its Modification Application.[73] It asserts that the spreadsheet provides location and other pertinent station parameters in a format that can be analyzed more easily by interested parties and FCC staff, rather than having to parse through voluminous Schedule D filings.[74]

27. We find that this case presents unique factual circumstances, especially given the importance of PTC and additional rail safety systems in promoting the safety of life and property related to U.S. freight and passenger rail operations, and that application of section 1.913(b) in this case would be unduly burdensome to the extent that it would require submission of 220 separate Schedule D filings. Accordingly, pursuant to section 1.925(b)(3)(ii), we grant PTC-220's waiver request and accept its presentation of the Schedule D data in consolidated format, as submitted in its attachment to the Modification Application.[75]

C. TV Engineering Study and Channel 10/Channel 13 Plan to Control Interference

28. In compliance with section 80.215(h), PTC-220 submitted its TV Engineering Study and Channel 10/13 Plan analyzing the potential interference from its operations to viewers' OTA reception of

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stations (up to 76 watts ERP) and base stations (up to 400 watts ERP) is typically much greater than mobiles (up to 39 watts ERP)).

[71] *See* Modification Application, "Request for Waiver of 47 C.F.R. § 1.913(b) and Schedule D Instructions," at 1 (Schedule D Waiver Request) (citing 47 CFR § 1.925(b)(3)(ii); also noting that under 47 CFR § 1.3, the Commission may waive any provision of its rules "for good cause shown"). Section 1.913(b) requires that "associated schedules . . . be filed electronically in accordance with the electronic filing instructions provided by ULS." 47 CFR § 1.913(b). Schedule D is titled "Wireless Telecommunications Bureau and/or Public Safety and Homeland Security Bureau Schedule for Station Locations and Antenna Structures." The Schedule D filing instructions state that "[t]his schedule must be completed when any station location is to be added, modified, or deleted," and that an applicant must "[u]se as many copies of Schedule D as necessary to provide information for all stations." FCC Form 601, Schedule D – Instructions, at 1 (Feb. 2024).

[72] Schedule D Waiver Request at 1-2.

[73] *Id*. at 3.

[74] *See id.*

[75] *See* Schedule D Data.

channels 10 and 13 and committing to eliminate any actual interference to such stations caused by its operations.[76] We evaluate PTC-220's Study and Channel 10/13 Plan below.

1. Channel 10 Broadcast Stations

29. For its analysis, PTC-220 identified all full power, Class A low power (Class A), and low power television (LPTV) digital stations that transmit on channel 10 within 129 kilometers (80 miles) of a PTC site in its AMTS-1 license area.[77] Section 80.215(h) also requires applicants seeking to operate in the AMTS band to submit a plan addressing potential interference to TV channel 10.[78] However, the Commission adopted this rule, which was intended to protect *analog* TV channel 10 receivers from intermodulation interference, before the transition from analog to digital television. The transition resulted in a lack of criteria to assess the potential for interference to digital channel 10 receivers, and in 2017, the Commission's Office of Engineering and Technology (OET) issued Supplement A to its 2015 OET Bulletin No. 74 to provide guidance on evaluating potential interference to television stations, targeted to applicants seeking to use AMTS spectrum for PTC.[79] OET-74A states that, "to assert compliance with the protection and mitigation requirements in [section 80.215(h)] regarding potential interference to channel 10, PTC applicants intending to operate in the AMTS band should briefly explain (1) that the transition to digital TV results in a lack of criteria to assess potential interference to channel 10, (2) that harmful interference to TV channel 10 is unlikely, and (3) that if such interference is caused by PTC operations, it will be cured at the applicant's expense."[80]

30. PTC-220 excluded channel 10 digital stations from its interference analysis.[81] Consistent with the requirements of OET-74A, PTC-220 states that "the transition [from analog] to digital TV results in a lack of criteria to assess potential interference to digital transmissions on channel 10," and "the threat of harmful interference to digital channel 10 broadcasts is unlikely."[82] Further consistent with the requirements of OET-74A, PTC-220 acknowledges that it is responsible for curing any interference to viewers of OTA channel 10 digital TV stations at its own expense.[83] We therefore find that PTC-220 properly excluded channel 10 digital stations from its interference analysis.

31. We emphasize that if a railroad's operations under Station License WRZN736 were to interfere with OTA reception of a channel 10 station, the railroad must resolve such interference at its own expense as required by section 80.215(h) and the interference resolution conditions we adopt below. We also remind PTC-220 that if it were unable to remedy reported interference to a channel 10 station,

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[76] *See* TV Engineering Study, which includes PTC-220's Channel 10/13 Plan at 15-19.

[77] *See* TV Engineering Study at ii; Modification Application, "Appendix C" (identifying and mapping channel 10 stations within 129 kilometers of a PTC site in the license area).

[78] 47 CFR § 80.215(h)(1).

[79] Both OET Bulletin No. 74, *Longley-Rice Methodology for Predicting Inter-Service Interference to Broadcast Television from Mobile Wireless Broadband Services in the UHF Band* (Oct. 26, 2015) (OET-74), and Supplement A, *Guidance for Predicting Inter-Service Interference to Broadcast Television in the VHF Band from Positive Train Control (PTC) Systems* (Sept. 18, 2017) (OET-74A), are available at OET's "Bulletins On-line" website, https://www.fcc.gov/general/oet-bulletins-line. *See also* TV Engineering Study at 2-3, 20 (citing OET-74A). PTC-220 notes that there are no analog channel 10 TV stations in the WRZN736 license area that are within 129 km of a PTC base station and/or wayside station. *Id*. at ii, 3.

[80] OET-74A at 5.

[81] *See* TV Engineering Study at 2-3, 20; Appendix C.

[82] TV Engineering Study at 20.

[83] *Id*. We discuss PTC-220's Channel 10/13 Plan in more detail in the next Section.

Commission rules would require it to discontinue use of an offending base or wayside radio station altogether.[84]

2. Channel 13 Broadcast Stations

32. PTC-220's TV Engineering Study identifies a total of six channel 13 digital television stations—four full power, and two LPTV—within 169 kilometers (105 miles) of a PTC site.[85] It further reports that two of the full power stations, WHYY-TV and WMCN-TV, and both of the LPTV stations "share the same station transmitter under channel sharing agreements on channel 13, reducing the total number of studies performed to four TV station contours."[86] Using the *TVStudy* software and a threshold desired/undesired (D/U) signal ratio of -33 dB, PTC-220 applied the Longley-Rice radio propagation model to calculate the number of television households that potentially could be affected by the operation of the proposed radio stations.[87] PTC-220 explains that it used a matrix of square tiles—two kilometers per side for full power channel 13 stations and one kilometer per side for LPTV channel 13 stations—to identify the tiles with insufficient D/U ratio inside a television station's service area and the number of potential households within those tiles that potentially could be affected by the proposed PTC operations.[88]

33. Section 80.215(h)(3) of the Commission's rules provides for authorization of an individual fixed AMTS station where a licensee shows that fewer than 100 households would be impacted by its operations.[89] However, rather than providing data for each fixed station, PTC-220 chose to aggregate the data for all stations.[90] PTC-220 predicts that, before undertaking interference remedies, the aggregate transmissions of all its proposed PTC stations in AMTS-1 have the potential to affect a total of 101,570 channel 13 TV households.[91] Specifically, of the 5,819,295 households covered by the full power TV stations, PTC-220 predicts that 99,029 households (i.e., approximately 2%) would potentially suffer harmful interference from its PTC operations in the aggregate, and that 2,541 of the 4,491,947 LPTV households (i.e., approximately 0.1%) would potentially suffer harmful interference.[92] Given this aggregation, to analyze the potential impact on channel 13 households, we will assume for purposes of this AMTS-1 analysis that each PTC base and wayside station in the license area has the potential to impact more than 100 channel 13 households.

34. To obtain authorization for a station that potentially would impact more than 100 households, a licensee must satisfy three requirements under section 80.215(h)(3). Specifically, the Commission may approve a fixed AMTS station where 100 or more households are within the interference contour of that station and a television station's analog Grade B contour (here, PTC-220 used

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[84] *See* 47 CFR 80.215(h)(4).

[85] *See* TV Engineering Study at 4 (adding, at 11 n.32, that there were no affected Class A channel 13 stations).

[86] *See id. See also id.* at 14, listing the full power stations in Table 1, and the LPTV stations in Table 2. These stations are depicted in maps provided in the TV Study at 5 (full power) and 6 (LPTV), and in "Appendix A" attached to the Modification Application.

[87] *Id*. at ii, 6-7 (citing *Longley-Rice Methodology for Evaluating TV Service Coverage and Interference*, OET Bulletin No. 69 (Feb. 6, 2004) (OET-69), and OET-74A, available at OET's "Bulletins On-line" website, https://www.fcc.gov/general/oet-bulletins-line). Again citing OET-69 and OET-74A, as well as OET-74, PTC-220 describes nine steps in its methodology for the Study. *Id*. at 11-12. *See also id*. at 5, Fig. 2 (Full Power Channel 13 Stations) and at 6, Fig. 3 (LPTV Channel 13 Stations).

[88] *See id*. at ii, 6-7, 11-12.

[89] 47 CFR § 80.215(h)(3).

[90] *See* TV Engineering Study at 13-15.

[91] *Id*.

[92] *Id.*

the TV stations' noise-limited service contours),[93] provided that the applicant: (1) shows that the proposed site is the only suitable location (at the application stage, it is sufficient to establish that the site is especially well-suited to provide the proposed service); (2) develops a plan to control any interference caused to TV reception from its operations; and (3) agrees to make adjustments in the TV receivers affected "as may be necessary to eliminate interference caused by its operations."[94]

35. PTC-220 claims that it has satisfied these three requirements. First, PTC-220 certifies that each of the proposed station locations is "especially well-suited to provide the proposed [PTC] service."[95] PTC-220 explains that, "[b]ecause the proposed services are designed specifically for communications with trains, the sites must be placed in close proximity to railroad tracks and appropriately spaced to ensure a good quality signal along all segments of the tracks."[96] Regarding the second and third requirements in the rule, and as discussed further in the next Section, PTC-220 has developed its Channel 10/13 Plan to control potential interference and has committed to eliminate, at its own expense, actual interference if caused by its operations to any household's OTA reception of a channel 13 station (including the installation of notch filters, which PTC-220 predicts would eliminate interference to all households).[97]

3. Channel 10/13 Plan; Special Conditions for Permanent Operations

36. PTC-220's Channel 10/13 Plan describes and establishes a process for PTC-220 to comply with section 80.215(h)(4)'s requirement that interference to channel 10 and channel 13 reception caused by its operations be resolved within 90 days.[98] PTC-220 has committed to be more responsive and resolve interference within *60* days of receiving a report.[99] First, PTC-220 will investigate within 30 days whether a transmitter owned or controlled by a PTC-220 member is the source of any reported interference, and if interference resolution is required, PTC-220 has committed to resolve the interference by one of three possible measures.[100] PTC-220 states it would change the frequency of the interfering transmitter either to another licensed AMTS frequency or to a frequency in the 220 MHz band on spectrum licensed to PTC-220 or modify the RF configuration of the site (*e.g.*, ERP, orientation, and tilt); but if interference were to persist despite the foregoing measures or if such measures are impractical, then PTC-220 would provide, free of charge, TV notch filters (with a minimum notch depth of 40 (+/-1) dB) to

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[93] 47 CFR § 80.215(h)(3). Historically, the Commission analyzed the potential for interference according to a TV station's analog Grade B predicted contour. To account for the conversion to digital television, the Commission developed the noise-limited service contour (NLSC) to approximate the same probability of service as the analog Grade B contour. The NLSC is defined using the F(50,90) field strength contour, the area in which at least 50% of the locations can be expected to receive a signal that exceeds a specified field strength value at least 90% of the time. *See Establishment of a Model for Predicting Digital Broadcast Television Field Strength Received at Individual Locations*, ET Docket No. 10-152, Notice of Proposed Rule Making and Further Notice of Proposed Rule Making, 25 FCC Rcd. 10474, 10485, para. 25 (2010). *See also Avista Corporation*, Order, 27 FCC Rcd. 263, 266-67, paras. 6-7 (WTB MD 2012) (Longley-Rice propagation model and NLSC used to predict potential interference to DTV station by AMTS licensee).

[94] 47 CFR § 80.215(h)(3)(i)-(iii).

[95] PTC-220 Nwogu Certification; TV Engineering Study at 3 (adding that many of the sites already constructed as part of the railroads' existing PTC networks have been selected for deployment of the AMTS spectrum).

[96] PTC-220 Nwogu Certification; TV Engineering Study at 3.

[97] TV Engineering Study at 15-19. A notch (band reject) filter attenuates one frequency band and passes both a lower and a higher frequency band.

[98] *Id*. As noted above, *see supra* para. 15, PTC-220 has committed PTC-220, its member-owners, and non-member spectrum lessees to implement the interference resolution measures.

[99] TV Engineering Study at 16. *See also* PTC-220 Nwogu Certification (stating that PTC-220 "will require its non-member spectrum lessees to abide by the same interference resolution timelines.").

[100] TV Engineering Study at 15-16; PTC-220 Nwogu Certification.

affected viewers, which it predicts would eliminate interference caused to any affected TV receiver.[101] According to PTC-220, application of these filters "will result in zero households experiencing interference" in the license area.[102]

37. Based on our review of PTC-220's TV Engineering Study, which includes its Channel 10/13 Plan, we find that PTC-220 has satisfied the requirements of section 80.215(h) and, accordingly, we hereby grant its application for permanent authority to operate the 76 base stations and 144 wayside stations, as listed in its Modification Application, as well as the related mobile (locomotive) radio stations, subject to certain interference resolution conditions. Specifically, we require PTC-220 to:

- establish, prior to commencing the service, and maintain, a 24-hour helpdesk to receive reports of potential interference;
- provide each potentially affected broadcaster contact information to report possible interference to the helpdesk;
- provide a party reporting interference a unique tracking number for each interference report;
- investigate any reported interference within 30 calendar days of receiving a report; and
- resolve any interference caused by its operations at its own expense within 60 calendar days of receiving an interference report.[103]

Notwithstanding our adoption of the special conditions listed above, we again remind PTC-220 that if it were unable to resolve reported interference despite implementing the measures established in its Channel 10/13 Plan, Commission rules would require it to discontinue use of an offending station altogether.[104]

IV. CONCLUSION AND ORDERING CLAUSES

38. For the reasons stated above, we conditionally grant PTC-220's Modification Application and related waiver requests for permanent authority to operate 76 PTC wireless radio base stations, 144 PTC wireless radio wayside stations, and related mobile (locomotive) radio stations under Station License WRZN736 in AMTS-1, limited to deployment of PTC and related (non-PTC) rail safety systems. Our action today will serve the public interest in rail safety in PTC-220's license area within the AMTS-1 (Northern Atlantic) region, covering (as specified in the Modification Application) 53 counties in New Jersey, New York, and Pennsylvania, where PTC-220 lacks sufficient spectrum capacity to implement its PTC operations and related rail safety systems. As noted above, today's action also will benefit Amtrak, which operates as a lessee on the members' railroad networks, and other passenger and commuter

[101] TV Engineering Study at 16.

[102] *Id*. at 17. In the context of channel 13 households, PTC-220 adds that, "[i]n the very rare event that the *TVStudy* results understate the interference such that interference from PTC operations persists after the insertion of a notch filter, PTC-220 is prepared to undertake a more extensive change to the site to ensure that no interference to channel 13 viewers continues," and this could include, *e.g.*, "replacing the antennas, lowering the antennas, or relocating the site." *Id*. at 17 and n.38. While its Channel 10/13 Plan addresses channel 10 households in broader terms based on the lack of criteria to assess potential interference to digital transmissions on channel 10, PTC-220 states that any interference caused by its operations "will be cured at PTC-220's expense." *Id*. at 20.

[103] PTC-220 also must comply, as applicable, with the ERP limits and all other conditions enumerated in a Letter from Paulette W. Woody, National Radio Quiet Zone (NRQZ) Office Administrator, to PTC-220, Attn: Kevin Waldern (Nov. 20, 2019) (NRQZ ID 12167_04SEP2019) (attached to FCC File No. 0008834433, labeled as "NRQZ Concurrence Letter"), and the related notification procedures enumerated in a Letter from David L. Martin, then-Counsel to PTC-220, to Marlene H. Dortch, Secretary, FCC (Jan. 17, 2020) (attached to the same application and labeled as "NRQZ Commitments Letter").

[104] 47 CFR § 80.215(h)(4).

railroads, as they will have access to PTC-220's spectrum in the licensed area.[105] Granting the Modification Application and waiver requests therefore also serves the Commission's core policy goals of promoting the safety of life and property.

39. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and (j), 303(r), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 303(r), 309, the application filed on January 16, 2024, and amended on January 17, 2024, to modify the license for Automated Maritime Telecommunications System station WRZN736 (AMTS-1 – Northern Atlantic), FCC File Number 0010856225, IS GRANTED, subject to the conditions stated herein.

40. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and (j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and section 1.925 of the Commission's rules, 47 CFR § 1.925, the requests for waiver of sections 1.913(b) and 80.215(i), 47 CFR §§ 1.913(b), 80.215(i), filed on January 16, 2024 by PTC-220, LLC, ARE GRANTED as described and subject to the conditions stated herein.

41. This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

[105] *See supra* para. 2. We reiterate that if PTC-220 assigns, partitions, disaggregates, or leases to a third party any of its licensed AMTS-1 spectrum, the waiver relief granted in connection with grant of the Assignment Application, as well as the additional waiver relief granted herein, would apply solely for providing PTC or related rail safety applications.

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

In the Matter of	)	
Globalstar Licensee LLC	)	ICFS File No.:
Application for Modification of Non-Geostationary Mobile Satellite Service System Authorization	)	SAT-MOD-20230804-00192 Call Sign: S2115

ORDER AND AUTHORIZATION

Adopted: August 16, 2024 **Released: August 16, 2024**

By the Chief, Space Bureau:

I. INTRODUCTION

1. By this Order we grant in part, and defer in part, the modification application of Globalstar Licensee LLC (Globalstar) to authorize Globalstar to deploy and operate up to 26 non-geostationary satellite orbit (NGSO) space stations in low-Earth orbit (LEO) to replenish and enhance its constellation in the provision of mobile satellite service (MSS) in the "Big LEO" frequency bands.[1] We grant Globalstar an extension of its license to permit continued operations of both its on-orbit and to-be-launched satellites. Globalstar is authorized to deploy up to 17 replacement satellites initially, with the remainder authorized for deployment pending Commission approval of an updated orbital debris mitigation plan, as discussed below. We also deny a Petition to Dismiss or Deny filed by Space Exploration Holdings, LLC. This modification grant will enable Globalstar to continue to provide a variety of essential voice and data communications services to consumers, including safety-of-life services, through its global satellite network.

II. BACKGROUND

2. *Current Globalstar MSS System.* The Globalstar MSS system introduced commercial service in 2000.[2] Globalstar was authorized to launch a constellation of up to 48 first generation Big LEO NGSO MSS space stations using the 1610-1621.35 MHz (Earth-to-space) and 2483.5-2500 MHz (space-to-Earth) bands for service links (the 1.6/2.4 GHz bands), the 5091-5250 MHz bands (Earth-to-space) for feeder links and telemetry, tracking, and command (TT&C), and the 6875-7055 MHz (space-to-Earth)

[1] The Commission has classified certain satellites operating in low earth orbit (LEO) as Big LEOs or Little LEOs. Big LEOs provide voice and data communications above 1 GHz, while Little LEOs provide data communications below 1 GHz. *Review of Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, IB Docket No. 02-258, Report and Order, Fourth Report and Order, and Further Notice of Proposed Rulemaking, 19 FCC Rcd 13356 (2004).

[2] Globalstar Licensee LLC, ICFS File No. SAT-MOD-20230804-00192 (Globalstar Modification), Narrative at 4.

bands for feeder link and TT&C operations.[3] Globalstar refers to these space stations as the HIBLEO-4 satellites.[4]

3. In 2008, Globalstar requested a license modification to launch and operate up to 48 second generation space stations, which would ultimately replace the HIBLEO-4 space stations. In this application, Globalstar explained that due to the design life and various technical anomalies, the HIBLEO-4 space stations had an average life span of 7.5 years, and that with various adjustments and the launch of eight spare satellites, it was able to ensure continuity of service.[5] Thus, Globalstar requested authority to operate additional space stations to replenish and augment its first-generation system with greater capacity and higher date rate transmissions.[6] Globalstar amended its application and informed the Commission that it had decided to obtain a license for its second-generation satellites from France. Globalstar sought U.S. market access for those satellites, known as the HIBLEO-X satellites, to communicate with U.S. earth stations as one system along with the U.S. licensed satellites.[7] These satellites were designed to operate at the same orbital altitudes, same frequency bands, and with the same service footprint as the first generation HIBLEO-4 satellites.[8] Globalstar explained that during the transition from the first generation satellites to the second generation, the constellation would be under the authority of two separate administrations, but would provide continuous service to the United States.[9] In 2011, the International Bureau granted Globalstar's request for U.S. market access to allow its fixed and mobile earth stations in the United States and U.S. territories to communicate with the French-licensed second-generation HIBLEO-X satellites.[10] As a result, Globalstar's current MSS system, communicating with earth stations in the United States, is comprised of the HIBLEO-4 and HIBELO-X satellites.[11]

4. *Current Modification Application.* In the instant modification request, Globalstar seeks authority to launch and operate up to 26 space stations - an overall reduction from the currently authorized 48 space stations - to replenish, and ultimately replace, Globalstar's constellation.[12] Globalstar currently operates a total of seven HIBLEO-4 satellites together with its French licensed HIBLEO-X

[3] *Loral/Qualcom, L.P., Authority to Construct, Launch and Operate Globalstar*, Order and Authorization, 10 FCC Rcd 2333 (IB 1995). Globalstar also authorized to provide ancillary terrestrial component service in the 1610-1617.775 MHz and 2483.5-2495 MHz bands. *Globalstar Licensee LLC*, FCC 08-238, Order of Modification, 23 FCC Rcd 15056 (2008) (*Globalstar Order*).

[4] *Globalstar Order*.

[5] Globalstar Application, ICFS File No. SAT-MOD-200840904-00165, Narrative at 13-14 (Globalstar 2008 Modification).

[6] *Id*.

[7] Globalstar Licensee LLC, Order, 26 FCC Rcd 3948, 3956 at para. 4 (IB, Mar. 18, 2011) (Globalstar Market Access Order).

[8] Globalstar Market Access Order.

[9] Globalstar 2008 Modification, Narrative at 6.

[10] *Id*. On January 4, 2023, the Commission adopted an Order establishing the Space Bureau to handle policy and licensing matters related to satellite communications and other in-space activities formerly handled by the International Bureau, which the Order eliminated. *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*, Order, FCC 23-1, paras. 1-2 (Jan. 4, 2023). The Space Bureau officially launched on April 11, 2023.

[11] Globalstar Market Access Order.

[12] The license term for these satellites expires Oct, 4, 2024, based on an extension granted in 2014. ICFS File No. SAT-MOD-20130314-00030 (grant stamped Sept. 18, 2014). The revised license term is consistent with the license term for Globalstar's mobile earth station operations.

satellites in a "Walker" constellation.[13] The next generation satellites Globalstar requests to deploy as part of this modification application will be operated using the same frequency bands, orbital altitude and service footprint as the existing constellation.[14] Globalstar states that it will initially launch eight HIBLEO-4 next generation satellites and combine with the HIBLEO-X satellites to form a Walker 32 constellation.[15] As Globalstar replenishes the HIBLEO-4 satellites, it will phase out or retire the HIBLEO-X satellites. Globalstar specifies that while its intent is to operate a Walker 32 constellation for the majority of the new license term, ultimately, it will phase out or retire all of the HIBLEO-X satellites and the constellation will be composed entirely of the U.S. licensed satellites.[16] Globalstar also asks that the 26 space stations operate under a new 15 year license term.[17] Globalstar states that grant of the application will allow it to preserve and enhance its current MSS offerings, including for voice, duplex and simplex data. These offerings include its SPOT and direct-to-handset emergency SOS via satellite branded consumer products that have facilitated thousands of rescues in multiple countries.[18]

5. *Petition and Comments.* Globalstar's application was placed on public notice.[19] In response, Space Exploration Technologies Corp., (SpaceX) filed a petition to deny the modification.[20] SpaceX asserts the application is incomplete, stating that Globalstar did not include an interference analysis with pending systems, nor did it include a complete orbital debris mitigation plan.[21] It further argues that Globalstar cannot "replace" 26 satellites, and can only replace those authorized by the United States, not France.[22] Kepler Communications Inc. submitted an *ex parte* letter supporting SpaceX's petition.[23] Globalstar then filed an opposition, to which SpaceX submitted a reply.[24] In addition, 12

[13] A "Walker" constellation is one in which the satellites are in circular orbits of the same period, distributed uniformly on the celestial spere in orbit plans separated equally around the reference plane. M. Richaria, *Mobile Satellite Communications: Principles and Trends*, Pearson Education Ltd., 2001, § 2.3.3.

[14] Globalstar Application, Narrative at 11.

[15] Letter to Merissa Velez, Chief, Satellite Programs and Policy Division, Space Bureau, from L. Barbee Ponder, Globalstar, Inc. (Nov. 6, 2023) at 2 (Globalstar November Letter).

[16] Globalstar November Letter at 2, 4.

[17] Globalstar Modification at 1, 13.

[18] Globalstar Application, Narrative at 2.

[19] Satellite Licensing Division and Satellite Programs and Policy Division, Space Station Applications Accepted for Filing, Public Notice, Report No. SAT-01775 (Nov. 17, 2023).

[20] Space Exploration Technologies Corp., Petition to Dismiss or Deny, filed Dec. 18, 2023 (SpaceX Petition). Prior to the application being placed on public notice, SpaceX filed a letter asserting that the Commission "cannot accept Globalstar's application in its current form." Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from David Goldman, Space Exploration Technologies, Corp. (Aug. 28, 2023). This letter includes the principal arguments made in the Petition to Deny.

[21] SpaceX Petition at 6.

[22] *Id*. at 10.

[23] Letter to Marlene H. Dortch, Secretary, FCC, from Polly Averns, Kepler Communications Inc. (Feb. 6, 2024).

[24] Globalstar Licensee LLC Opposition to Petition to Dismiss or Deny (Jan. 3, 2024) (Globalstar Opposition), and Reply of Space Exploration Holdings, LLC (Jan. 11, 2024).

letters were filed by various individuals and entities supporting grant of Globalstar's request.[25] Globalstar also submitted two supplements providing additional information at the Bureau's request.[26]

6. On February 5, 2024, SpaceX filed a letter requesting that "all pending applications in the 1.6/2.4 GHz and 2 GHz bands be held in abeyance" awaiting its submission and resolution of a petition for rulemaking for the Commission to reassess its MSS sharing frameworks for these bands.[27] SpaceX's request to hold all pending 1.6/2.4 and 2 GHz application in abeyance was subsequently denied in part and dismissed in part.[28]

III. DISCUSSION

7. After review of the record, we conclude that grant in part of Globalstar's application will serve the public interest, subject to the requirements and conditions specified herein. This modification will allow Globalstar to continue to provide valuable MSS services to U.S. consumers and the public safety community. We conclude that SpaceX's arguments are not sufficient to warrant denial or dismissal of Globalstar's application.

8. Section 25.117 governs the modification of space station licenses.[29] In interpreting this provision, the Bureau has stated that, "If the proposed modification does not present any significant interference problems and is otherwise consistent with Commission policies, it is generally granted."[30] Thus, we will grant a modification application unless one of the enumerated exceptions of section 25.117(d) applies. The only consideration here is when "granting the modification request would not serve the public interest, convenience, and necessity."[31] Criteria in this evaluation includes whether the modification would worsen the interference environment.[32] Because Globalstar is replenishing its system consistent with its current authorization, we find no reason to veer from the Commission's finding in 2008 that "we have a sufficient record to conclude… that [Globalstar's operations] would serve the public interest, convenience, and necessity."[33]

A. New License Term and Satellite Replacement

9. *License Term*. We grant Globalstar's request for a new license term of 15 years and consequently we modify its license for continued operations of its currently operational satellites, and grant Globalstar authority to operate the additional 26 satellites as replacement satellites during its new license term ending in 2039. We note that Globalstar refers to these satellites as replacements, as they will utilize existing licensed spectrum to serve the same geographic areas, and such applications are acted

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[25] *See* Letters to Marlene H. Dortch, Secretary, FCC from: Rayonier, Inc. (Dec. 18, 2023); Tug Leberman (Dec. 18, 2023); Kimber Cross (Dec. 18, 2023); Speedcast (Dec. 18, 2023); Semtech Corp. (Dec. 18, 2023); Logisticus Group (Dec. 18, 2023); Aaron Carotta (Dec. 18, 2023); Darren Scott Bloom (Dec. 18, 2023); 3AM Innovations, Inc. (Dec. 18, 2023); Florian GPS Tracking LLC (Dec. 18, 2023); Geoforce (Dec. 18, 2023); and Global Satellite Engineering (Dec. 18, 2023).

[26] Globalstar November Letter; and Letter to Marlene H. Dortch, Secretary, FCC, from L. Barbee Ponder, Globalstar (Aug. 5, 2024) (Globalstar August Letter).

[27] Letter to Marlene H. Dortch, Secretary FCC, from David Goldman, Space Explorations Technologies Corp. (Feb. 5, 2024).

[28] *Space Exploration Holdings, LLC*, *Application for Modification of Authority for the SpaceX Gen2 NGSO Satellite System to Add a Mobile-Satellite Service System*, Order, DA 24-300 (SPPD, Space Bur. March 26, 2024) (SpaceX Dismissal Order).

[29] 47 CFR § 25.117(d)(2).

[30] *See Teledesic LLC*, Order and Authorization, 14 FCC Rcd 2261, 2264 at para. 5 (IB 1999) (Teledesic Order).

[31] 47 CFR § 27.117(d)(2)(ii).

[32] Teledesic Order, 14 FCC Rcd at 2264.

[33] *Globalstar Order*, 23 FCC Rcd at 15217.

upon as they are filed, and outside of the processing round framework.[34] In its modification application, Globalstar requests authority to operate up to 26 "replacement" satellites during the course of the new license term. Although Globalstar requests authority for replacement satellites, we note these new satellites would essentially replenish the existing Globalstar constellation currently authorized to serve the United States.

10. In concluding that grant of this modification is in the public interest, we observe that Globalstar's MSS system has been in continuous operation in the United States for more than two decades, providing service to over 760,000 end user customers with millions more potentially benefiting from its direct to handset emergency service.[35] The Commission has stated it did not intend to foreclose system improvements "through the normal procedures for entertaining license modifications."[36] Furthermore, the Commission recognized the enormous investment necessary to construct and operate a satellite system, and stated it would grant authority to implement next generation systems unless "extraordinary circumstances prevent us from doing so."[37] We conclude that it is in the public interest to grant Globalstar's request for an additional license term.

11. *Replacement Satellites*. In its modification application, Globalstar requests authority to operate up to 26 "replacement" satellites during the course of the new license term. These satellites would essentially replenish the existing Globalstar constellation currently authorized to serve the United States. Under the Commission's rules, NGSO processing round procedures do not apply to replacement space stations.[38] NGSO replacement satellites are those that replace an existing NGSO space station in its authorized orbit, are authorized to operate in the same frequency bands and with the same coverage area as the space station to be replaced; and scheduled to be launched so that it will be brought into use at approximately the same time as, but no later than, the existing space station is retired.[39] We conclude that, although Globalstar's system currently operates with both a U.S. and French-licensed satellites, the 26 satellites Globalstar plans to deploy qualify as "replacement" satellites under our rules.

12. SpaceX maintains that Globalstar is limited to launching and operating only seven satellites, to replace those seven of its U.S. licensed satellites currently in operation. To allow otherwise, SpaceX argues, would permit Globalstar to operate more satellites than are permitted in its current authorization and be contrary to "law and the public interest."[40] SpaceX asserts that Globalstar's

[34] Globalstar has exclusive use of the 1610-1617 MHz band; thus, this band would not be eligible for a consideration in a processing round. Further. the Commission will not authorize new systems that would cause harmful interference to existing operations. *Amendment of the Commission's Space Station Licensing Rules and Policies*, IB Docket No. 02-54, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760, 10802 at para. 103 (2003) (*First Space Station Reform Order*).

[35] Globalstar Modification, Narrative at 17.

[36] *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1626.5/2483.5-2500 MHz Frequency Bands*, CC Docket No. 92-166, Memorandum Opinion and Order, 11 FCC Rcd 12861, 12878 at para. 50 (1996). The description of renewal applications as next generation Big LEO systems was not intended to require Big LEO licensees seeking improvements in one or more satellites to delay doing so until the license renewal window. *Id*.

[37] *Amendment of the Commission's Rules to Establish Rules and Policies Pertaining to a Mobile Satellite Service in the 1610-1625.5/2483.5-2500 MHz Frequency Bands*, CC Docket No. 92-166, Report and Order, 9 FCC Rcd 5936, 6008 at para. 187 (1994).

[38] 47 CFR § 25.157(b)(1).

[39] 47 CFR § 25.165(e).

[40] SpaceX Petition at 8-9.

application is flawed because it is attempting to "launder its … French satellites into its first generation U.S. constellation in a shell game designed to revive spectrum rights…."[41]

13. We disagree. Globalstar currently operates seven HIBLEO-4 satellites operating in conjunction with the 24 HIBLEO-X satellites, and all have been authorized by the Commission to provide service in the United States.[42] As Globalstar explains, in replenishing its system, it will phase out or retire the HIBLEO-X satellites, and eventually end up with a constellation of 26 HIBLEO-4 satellites.[43] Although some of its satellites are currently French-licensed, in this instance these satellites have always been authorized to provide service to the United States, and operate effectively as one system with the U.S. licensed satellites. The fact that Globalstar's constellation currently utilizes both U.S. and U.S. market access space stations does not diminish the service it provides to U.S. consumers.[44] Nor does it, as SpaceX asserts, "collapse" the two systems into one U.S. license.[45] In granting Globalstar U.S. market access for its HIBLEO-X space stations, the Bureau rejected the contention that operating U.S. licensed satellites in an integrated constellation with French-licensed satellites was "unworkable," and stated it did not create regulatory concerns.[46] There are no technical reasons to view the HIBELO-4 and HIBLEO-X space stations as distinct systems and both sets of satellites have the same processing round status. The same service is being provided to U.S. consumers regardless of whether an individual satellite involved in providing such service is U.S. licensed or authorized to serve the U.S. market. Therefore, in this case, we conclude that it is in the public interest to authorize Globalstar to deploy up to the total number of currently authorized satellites in its combined U.S. license and grant of U.S. market access during its new license term, subject to approval of the modification discussed below.

B. Other Issues

14. *Interference Analysis.* SpaceX asserts that Globalstar must assess interference from its proposed modified system into other MSS systems, SpaceX's proposed system in particular.[47] Globalstar responds that its modification application addresses methods to avoid harmful interference to co-channel and adjacent band licensed operations.[48] We conclude that Globalstar's requested satellites constitute replacement satellites under part 25 of the Commission's rules, and so are not subject to the processing

[41] *Id.* at 9.

[42] Globalstar Licensee LLC, IBFS File No. SAT-MOD-20171020-00141, Sch. S. at 2.

[43] Globalstar November Letter at 4.

[44] In its application, Globalstar notes that replenishing its constellation will enable the U.S. to maintain its ITU date priority for international coordination. Globalstar Modification, Narrative at 15. In addressing this comment, SpaceX asserts that Globalstar is "hiding behind a narrative of fearmongering" and then seems to indicate that the ITU priority is based on an "expanded" license that includes satellites in the U.S. license and the U.S. market access grant. SpaceX Petition at 9. But as Globalstar explains, the ITU date priority with respect to international coordination pertains to the constellation in its U.S. license, which is the only authorization at issue here. Globalstar Opposition at 11. Nonetheless, the Commission has indicated that preserving ITU date priority is not a public interest factor it will consider when evaluating applications. *See* Letter to David K. Moskowitz, Executive Vice President and General Counsel, EchoStar Satellite LLC from Thomas Tycz, Chief, Satellite Division, International Bureau, DA 05-1405 (May 19, 2005).

[45] SpaceX Petition at 9. *See* Globalstar Market Access Order, 26 FCC Rcd at 3960 at para. 28 (stating that the Commission is not precluded from licensing individual satellites that would operate within a larger satellite constellation that includes foreign licensed satellites).

[46] Globalstar Market Access Order, 26 FCC Rcd at 3690, para. 29.

[47] SpaceX Petition at 7. In February 2023, SpaceX filed an application seeking modify its NGSO FSS system to add MSS using several frequency bands, among them the 1610-1617.775 MHz and 2483.5-2500 MHz frequencies authorized to Globalstar as part of the Big LEO proceedings. Space Exploration Holdings, LLC, ICFS File No. SAT-MOD-20230207-00022. *See* note 50 *infra*.

[48] Globalstar Opposition at 11, and Globalstar Modification, Exhibit A at 12.

round procedures that would otherwise require information regarding sharing with other proposed systems.[49] Because it is using previously authorized frequencies and technical parameters under the terms and conditions of its existing authorization, Globalstar need not submit an interference analysis involving SpaceX's proposed system or others.[50]

15. *Orbital Debris Mitigation*. Globalstar's orbital debris mitigation statement complies with Commission requirements for space stations terminating operations in an orbit in the LEO region below 2,000 kilometer altitude. Globalstar states that it will be disposing of the satellites through atmospheric re-entry.[51] In conjunction with its demonstration, Globalstar states that it will execute post-mission disposal through electrical propulsive maneuvering of the satellite from its 1414 kilometer operational orbit into a lower orbit whose lifetime is consistent with the Commission's five-year de-orbiting requirement.[52]

16. SpaceX questions the completeness of Globalstar's orbital debris mitigation showing. Specifically, SpaceX focuses on a supplemental statement made by Globalstar in response to a Bureau request for specific information regarding a satellite failure at the insertion orbit at around 700 kilometers.[53] In its reply, Globalstar states that in the event of a satellite failure at the insertion orbit, which results in a total loss of control of the satellite, it would take approximately 863 years for the satellite to deorbit and enter the atmosphere.[54] Globalstar further states that because the National Aeronautics and Space Administration (NASA) Debris Assessment Software does not allow for calculations beyond the year 2100, it was unable to provide an in-orbit collision probability in this worst-case scenario.[55] Specifically, Globalstar points to the limitations in orbital debris environment model, ORDEM 3.1, as implemented in DAS modeling.[56] Given the extended timeframes involved and the

[49] *See* 47 CFR § 25.157(b)(1).

[50] In any event, SpaceX's application was dismissed as unacceptable for filing, based on a finding that the requests SpaceX's application did not substantially comply with Commission requirements established in rulemaking proceedings which determined that the 1.6/2.4 GHz and 2 GHz bands are not available for additional MSS applications. *SpaceX Dismissal Order*.

[51] We note that Globalstar's post-mission disposal plan for its first generation HIBELO-4 satellites was to leave the satellites in a "graveyard" orbit. Specifically, Globalstar planned to maneuver the satellites to an orbital altitude of 1514 km (± 2 km). *See* ICFS File No. SAT-MOD-20030606-00098, Exhibit B. The Commission later sought information on whether it was technically feasible for Globalstar to either relocate its satellites into orbits with perigee altitudes above 2000 kilometers or ensure that they would re-enter the atmosphere within 25 years. ICFS File No. SAT-MOD-20030606-00098, Letter to William Wallace from Thomas S. Tycz, Satellite Division, International Bureau (March 26, 2004). Globalstar responded that 16 of its 52 in-orbit satellites were capable of being raised to a 2000 kilometer altitude orbit, but that the other 36 had varying fuel reserves that would permit individual satellites to be raised to altitudes ranging from 1514 kilometers up to 1900 kilometers. ICFS File No. SAT-MOD-20030606-00098, Letter to Thomas S. Tycz, International Bureau, from William D. Wallace (April 12, 2004) at 2. At the time, Globalstar stated that even though it would be technically possible to lower some of the satellites, the ground system and satellites were not designed for re-entry. *Id. See also Disposal of Globalstar Satellites*, National Aeronautics and Space Administration, Orbital Debris Quarterly News, v. 10.1 at 5 (January 2006), https://orbitaldebris.jsc.nasa.gov/quarterly-news/pdfs/ODQNv10i1.pdf. Globalstar's orbital debris mitigation plan for the HIBLEO-X satellites was consistent with the HIBLEO-4 orbital debris mitigation plan. *See* ICFS File No. SAT-MOD-20080904-00165, Narrative at 18.

[52] Globalstar Modification, Exhibit B at 11. *See Space Innovation; Mitigation of Orbital Debris in the New Space Age*, Second Report and Order, IB Docket Nos. 18-313, 22-271, 37 FCC Rcd 11818 (2022).

[53] October 2023 Letter.

[54] Globalstar November Letter at 5.

[55] Globalstar November Letter at 5, and n. 7.

[56] *Id*.

challenges in modeling collision risk in those timeframes, as evidenced by the limitations in the NASA software, we do not believe that additional estimations of collision risk beyond the year 2100 would be useful in our assessment of Globalstar's orbital debris mitigation plan.[57]

17. Globalstar's satellites operate at approximately 1414 kilometers, a higher altitude in LEO than many other systems. Consistent with other recent satellite authorizations, we apply a condition to the replacement satellites requiring that Globalstar report on post-mission disposal failures.[58] In this case, Globalstar will deploy the satellites into an initial orbital altitude of 680 to 700 kilometers,[59] operate the satellites at an orbital altitude of 1414 kilometers (± 10 km),[60] and at the end of the mission lower the satellites to an orbit of approximately 400 kilometers, from which they will deorbit within five years.[61] In particular, we note that the failure of a satellite at the insertion orbit or operational orbit would result in creation of long-term debris.[62] Therefore, we condition this grant on Globalstar reporting to the Commission any inability to command the Globalstar replacement satellites above 400 kilometer altitude. Based on the information reported, the license may be subject to additional terms and conditions, including additional reporting obligations, limitations on additional deployments, requirements for early removal of satellites from orbit, or any other appropriate conditions to limit collision risk.[63] Although in some other cases we have included a specific 100 object years metric as triggering additional requirements including filing of a modification, we note that even a single satellite failure at Globalstar's operational altitude would result in the authorized replacement satellites exceeding 100 post-failure object years, and therefore find that requiring Globalstar to report on any individual post-mission disposal failures would largely accomplish the same objective of notifying the Commission of an event resulting in creation of long term debris.[64] This condition and Globalstar's operations overall are subject to any modified rules adopted in connection with the Commission's Orbital Debris Mitigation proceeding.[65] In connection with this grant, we also adopt several additional conditions, including requirements to coordinate with the National Aeronautics and Space Administration (NASA) and National Science Foundation (NSF).[66] Globalstar is required to coordinate and collaborate with NASA to promote a

[57] Globalstar states that in the unlikely event of total loss of a satellite at the insertion orbit, Globalstar will commission the removal of the satellite from the insertion orbit through direct retrieval services when such services are technically feasible and commercially available. *Id*. at 5.

[58] In other contexts, the Commission had defined a disposal failure as any case in which control of a satellite is lost at an altitude of 350 kilometers or greater. *See, e.g.*, *Space Exploration Holdings, LLC,* Order and Authorization, 37 FCC Rcd 14882, 14927 at para. 91 (2022) *(SpaceX Gen2 Order); and Planet Labs,* Order, DA 23-799, para.4 (SPPD 2023).

[59] Globalstar Modification, Exhibit B at 2.

[60] *Id.* at 4.

[61] *Id.* at 10. Globalstar November Letter at 5.

[62] Globalstar states, for example, that a failure at deployment orbit would result in a satellite de-orbiting within 38 years, if the satellite is able to deploy solar arrays and utilize attitude control actuators such as magnetotorquers and reaction wheel assemblies. Globalstar November Letter at 5.

[63] *See, e.g.*, *SpaceX Gen2 Order* at 14952 para. 135, ff, gg; *Kuiper Systems LLC, Request for Modification of the Authorization for the Kuiper NGSO Satellite System*, DA 24-224, Order and Authorization, at para. 16 (SB 2024) (*Kuiper Modification Order*).

[64] Although there are some altitudes during de-orbit at which a failure of the Globalstar satellites would not result in creation of debris in excess of 100 object years, given that the satellites will be deployed to and operate at higher altitudes in LEO, we find that a reporting requirement related to a single failure is appropriate.

[65] *See, e.g.*, *Orbital Debris in the New Space Age*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 4156 (2020), and *Space Bureau Seeks to Refresh the Record on Proposed Rules Pertaining to Orbital Debris Mitigation*, Public Notice, DA 24-412 (May 2, 2024).

[66] *See SpaceX Gen2 Order* at 14592-3, *see also Kuiper Modification Order* at paras. 48, 50.

mutually beneficial space environment that would minimize impacts to NASA's science missions involving astronomy and to coordinate with NSF to achieve a mutually acceptable coordination agreement to mitigate the impact of its satellites on optical ground-based astronomy. We also condition this authorization to require Globalstar to submit an annual report to the Commission, by January 1st each year, covering the preceding year and containing the following information: (1) whether it has reached a coordination agreement with NSF addressing optical astronomy; and (2) any steps Globalstar has taken to reduce the impact of its satellites on optical astronomy, including but not limited to darkening, deflecting light away from the Earth, attitude maneuvering, and provision of orbital information to astronomers for scheduling observations around satellites' locations.

18. With respect to its orbital debris casualty risk assessment, Globalstar has calculated that each of its replacement satellites will have a reentry casualty risk of 1.95E-5.[67] Globalstar also states that it plans to deploy up to eight of its replacement satellites prior to the end of 2025.[68] These eight satellites are part of Globalstar's current procurement contract for 17 satellites, which also includes nine additional satellites to be delivered in 2025 and available for use as spare satellites, if necessary, before regularly-scheduled deployment.[69] Given the potential for surviving debris associated with deployment of multiple Globalstar satellites and the opportunity for changes in design for future satellites to improve the outcome with respect to casualty risk assessment, we conclude that it is in the public interest to authorize deployment of up to only the first 17 satellites in this grant. The deployment of Globalstar's final nine replacement satellites will be subject to Commission approval of a modification application that demonstrates improvement in the potential risk associated with reentry of satellite components.[70] In making this determination, we note that the initial 17 of the satellites are well into the manufacturing stage.[71] Although only eight of the satellites are planned for deployment before the end of 2025, Globalstar states that in the event of a launch failure, it would need to launch additional satellites within several months in order to avoid degradation of its service quality and system capacity, and to maintain the availability safety of life features.[72] In view of these facts specific to the operations of the Globalstar system, we approve 17 satellites for deployment with the current design. However, grant is further conditioned on Globalstar providing a supplement that includes an updated casualty risk analysis using higher fidelity modeling prior to satellite deployment.[73] In the event that the higher fidelity modeling shows increased casualty risk, the Commission retains discretion to modify this authorization to account for such risks, which could include further limiting the number of satellites that may be deployed with the current design.

19. *Bond and Milestones*. Globalstar's modification application seeks to replenish satellites in its constellation and is not adding frequencies or making technical modifications. As the new satellites

[67] Globalstar August Letter at 2. While Globalstar had previously submitted a casualty risk assessment which specified use of titanium thruster mount and titanium yoke components that contributed to a non-zero casualty risk, the revised assessment is based on the satellites no longer including titanium yoke components, but instead an aluminum component, which will fully burn up during atmospheric reentry, resulting in a significant reduction in the casualty risk per replacement HIBLEO-4 satellite. *See id.*

[68] *Id.* at 4.

[69] *Id*. at 3.

[70] Such modification would address only the orbital debris mitigation aspects of the replacement satellites, specifically the casualty risk assessment. Globalstar states that it has committed to work with the manufacturer to identify any design modifications to further reduce the casualty risk. *Id.* at 4.

[71] *Id.* at 3.

[72] *Id., see also* Globalstar Application at 6-9 (describing emergency and safety-of-life services provided by the Globalstar system).

[73] Globalstar's current analysis is based on use of the NASA Debris Assessment Software (DAS) 3.2.5. *See* Globalstar August Letter at 2. Although Globalstar states in its letter that it utilized the "Data Acquisition Software," this appears to be a typographical error.

otherwise qualify as replacement satellites, they are not subject to processing round or bond and milestone requirements.[74] The Commission has expressed confidence that requests for replacement satellites will be for continued service, rather than being filed for speculative purposes.[75] Because Globalstar's constellation is in orbit and operating we have no concerns regarding spectrum warehousing or that the application is speculative. Consequently, Globalstar's operations are not subject to any additional bond or milestone requirements.

IV. CONCLUSION AND ORDERING CLAUSES

20. We conclude that granting in part Globalstar's request for modification of its license to extend the license term and to deploy and operate up to 26 satellites to replenish its first generation of U.S. licensed HIBLEO-4 satellites, as conditioned, will serve the public interest, convenience and necessity.

21. Accordingly, pursuant to 47 CFR §§ 0.51, 0.261 and 25.117 of the Commission's rules, IT IS ORDERED that ICFS File No. SAT-MOD-20230804-00192 is GRANTED IN PART/DEFERRED IN PART. Globalstar is AUTHORIZED to deploy and operate up to 26 low-Earth orbiting space stations, in eight orbital planes, at an altitude of approximately 1414 kilometers, for the purpose of providing continued mobile satellite service in the United States in accordance with the technical parameters in its application, and the Commission's rules, unless waived herein.

22. IT IS FURTHER ORDERED, that Globalstar's HIBLEO-4 satellites are authorized to operate in the 1610-1618.725 MHz bands, with operations in the 1610-1617.775 MHz band on an exclusive basis. Operations in the 1617.775-1618.725 MHz band shall be on a shared basis with the Iridium Big LEO system.

23. IT IS FURTHER ORDERED, that Globalstar's HIBLEO-4 satellites are authorized to operate feeder links and TT&C in the 5091-5250 MHz (Earth-to-space), and 6875-7055 MHz (space-to-Earth) bands.

24. IT IS FURTHER ORDERED that Globalstar's HIBLEO-4 satellites are authorized to operate MSS service links in the 2483.5-2500 MHz (space-to-Earth) bands.

25. IT IS FURTHER ORDERED that Globalstar must coordinate physical operations of spacecraft with any operator using similar orbits, for the purpose of eliminating collision risk and minimizing operational impacts. The orbital parameters specified in this grant are subject to change based on such coordination.

26. IT IS FURTHER ORDERED, that Globalstar's operations shall be in compliance with any restrictions established in the course of international coordination for Globalstar's replenishment satellites pursuant to ITU regulations.

27. IT IS FURTHER ORDERED that in connection with the provision of service in any particular country, Globalstar is obliged to comply with the applicable laws, regulations, rules, and licensing procedures of that country.

28. IT IS FURTHER ORDERED, that Globalstar's replacement satellites authorized in this modification are subject the following additional conditions:

a. Globalstar must not deploy any of its authorized replacement satellites directly to their operational altitudes.

b. Upon receipt of a conjunction warning from the 18th Space Control Squadron or other source, Globalstar must review and take all possible steps to assess the collision risk, and mitigate

[74] *See* 47 CFR §§ 25.164, 25.165 and *Iridium Constellation LLC*, Order and Authorization, 31 FCC Rcd 8675, 8687 at para. 41 (IB, OET Aug. 1, 2016).

[75] *First Space Station Reform Order*, 18 FCC Rcd at 10825 at para. 167.

collision risk if necessary. As appropriate, steps to assess and mitigate should include, but are not limited to: contacting the operator of any active spacecraft involved in such warning; sharing ephemeris data and other appropriate operational information with any such operator; modifying spacecraft attitude and/or operations.

c. Globalstar must provide a semi-annual report, by January 1 and July 1 each year, covering the preceding six-month period, respectively, from June 1 to November 30 and December 1 to May 31. The report should include the following information:

(1) The number of conjunction events identified for Globalstar satellites during the reporting period, and the number of events that resulted in an action (maneuver or coordination with another operator), as well as any difficulties encountered in connection with the collision avoidance process and any measures taken to address those difficulties;

(2) The number of satellites that re-entered the atmosphere; and

(3) Identification of any collision avoidance system outages or unavailability, either on a system-wide basis or for individual satellites. An "outage" would include any individual satellite anomaly that results in a satellite not achieving targeted risk mitigation via maneuver.

d. Globalstar must also provide a report if during any continuous one-year period there is one or more satellite disposal failure, i.e., a satellite that loses the capability to maneuver effectively after being raised from its injection, including a discussion of any assessed cause of the failure and remedial actions. Such report shall be filed not later than 10 days following the disposal failure and must either state the assessed cause of the failure and remedial actions for each of the disposal failures during the period, if available, or provide a schedule for completion of a process for doing so. Based on the information reported, the license may be subject to additional terms and conditions, including additional reporting obligations, limitations on additional deployments, requirements for early removal of satellites from orbit, or any other appropriate conditions to limit collision risk.

e. Globalstar must communicate and collaborate with NASA to support safety of both Globalstar and NASA assets and to preserve long-term sustainable space-based communications services. Globalstar must report on the progress of its communications and collaboration efforts to the Commission in its regular reports specified above. Globalstar must coordinate and collaborate with NASA to promote a mutually beneficial space environment that would minimize impacts to NASA's science missions involving astronomy.

f. Globalstar must coordinate with NSF to achieve a mutually acceptable agreement to mitigate the impact of its satellites on optical ground-based astronomy. Globalstar must submit an annual report to the Commission, by January 1st each year covering the preceding year containing the following information: (1) whether it has reached a coordination agreement with NSF addressing optical astronomy; and (2) any steps Globalstar has taken to reduce the impact of its satellites on optical astronomy, including but not limited to darkening, deflecting light away from the Earth, attitude maneuvering, and provision of orbital information to astronomers for scheduling observations around satellites' locations

29. IT IS FURTHER ORDERED that Globalstar is authorized to deploy up to 17 replacement satellites. We defer action with respect to the additional satellites, pending filing and approval by the Commission of a modification to the application with an updated orbital debris mitigation demonstration addressing the reentry casualty risk associated with the deployment of future Globalstar replacement satellites.

30. IT IS FURTHER ORDERED that prior to deployment of its authorized replacement satellites, Globalstar must submit in ICFS File No. SAT-MOD-20230804-00192 an updated assessment of satellite reentry casualty risk, using an established modeling tool with a higher fidelity analysis than the

NASA DAS.

31. IT IS FURTHER ORDERED that 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 authorized in this Order by Globalstar 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.

32. IT IS FURTHER ORDERED, that Globalstar is authorized to continue the operations of its currently operational satellites, consistent with its prior authorizations and to operate the additional replacement satellites authorized in this order, for a term ending October 4, 2039.

33. IT IS FURTHER ORDERED that the Petition to Deny filed by Space Exploration LLC filed on December 18, 2023 is DENIED.

34. IT IS FURTHER ORDERED, that SpaceX's request to hold the Application in Abeyance, which was addressed in *Space Exploration Holding Technology Corp*., Order, DA 24-300 (SPPD, Space Bur. March 26, 2024) is DISMISSED as moot.

35. IT IS FURTHER ORDERED that Globalstar is afforded 30 days from the date of release of this Order to decline this grant as conditioned. Failure to respond within that period will constitute formal acceptance of the authorization as conditioned.

FEDERAL COMMUNICATIONS COMMISSION

Julie M. Kearney
Chief
Space Bureau

PUBLIC NOTICE

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DA No. 24-828

Report No. SAT-01847 **Friday August 16, 2024**

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-MOD-20230310-00053 E S2382 Intelsat License LLC
Modification
Withdrawn Effective Date: 08/15/2024

Nature of Service: Fixed Satellite Service

SAT-STA-20240626-00142 E S2704 Intelsat License LLC
Special Temporary Authority
Grant of Authority Effective Date: 07/12/2024

Nature of Service: Fixed Satellite Service

On July 12, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Intelsat License LLC for an additional period of 30 days, to operate Intelsat 5 at the 166.15° E.L. orbital location and to perform telemetry, tracking and command operations necessary to de-orbit Intelsat 5 from 166.15° E.L.

SAT-STA-20240627-00145 E S2386 Intelsat License LLC
Special Temporary Authority
Withdrawn Effective Date: 08/15/2024

SAT-STA-20240729-00163 E S2129 Maxar License Inc.
Special Temporary Authority
Grant of Authority Effective Date: 08/14/2024

On August 14, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Maxar License Inc. for limited satellite downlink transmissions from the WorldView Legion 3 and WorldView Legion 4 space stations immediately following deployment of the space stations from the launch vehicle. Intermittent transmissions are authorized using a 8380 MHz center frequency with 0.075 MHz and 0.625 MHz bandwidth channels (space-to-Earth), for a period of up to 20 minutes in total, over the course of one hour following deployment.

SAT-STA-20240731-00166 E S2368 Intelsat License LLC

Special Temporary Authority

Grant of Authority Effective Date: 08/13/2024

On August 13, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Intelsat License LLC, for a period of 30 days, to perform telemetry, tracking and command operations necessary to de-orbit Intelsat 1R from the 157.1° W.L. orbital location.

SAT-STA-20240802-00169 E S2133 Alascom, Inc.

Special Temporary Authority

Grant of Authority Effective Date: 08/15/2024

On August 15, 2024, the Satellite Programs and Policy Division granted, with conditions, Alascom, Inc.'s request for an additional 30 days to conduct telemetry, tracking, and command (TT&C) operations in order to: (1) continue venting the space station's propellant tanks while maintaining a 0.1°± station-keeping tolerance, and (2) deorbit the space station. TT&C is conducted using the 19701.75 MHz and 19702.75 MHz (space-to-Earth), and 29503.9063 MHz and 29511.7188 MHz (Earth-to-space) frequencies.

SAT-T/C-20231229-00329 E Liberty Sirius XM Holdings Inc.

Transfer of Control

Grant of Authority Effective Date: 03/07/2024

Current Licensee: Sirius XM Radio Inc.

FROM: Liberty Media Corporation

TO: Liberty Sirius XM Holdings Inc.

No. of Station(s) listed: 3

On August 13, 2024, the Satellite Programs and Policy Division granted an extension of time to consummate the approved pro forma transfer of control until November 1, 2024.

SAT-T/C-20231229-00330 E Liberty Sirius XM Holdings Inc.

Transfer of Control

Grant of Authority Effective Date: 03/07/2024

Current Licensee: XM Radio LLC

FROM: Liberty Media Corporation

TO: Liberty Sirius XM Holdings Inc.

No. of Station(s) listed: 2

On August 13, 2024, the Satellite Programs and Policy Division granted an extension of time to consummate the approved pro forma transfer of control until November 1, 2024.

SAT-T/C-20231229-00331 E Liberty Sirius XM Holdings Inc.

Transfer of Control

Grant of Authority Effective Date: 03/07/2024

Current Licensee: Satellite CD Radio LLC

FROM: Liberty Media Corporation

TO: Liberty Sirius XM Holdings Inc.

No. of Station(s) listed: 1

On August 13, 2024, the Satellite Programs and Policy Division granted an extension of time to consummate the approved pro forma transfer of control until November 1, 2024.

SAT-T/C-20240530-00113 E SES S.A.
Transfer of Control
Withdrawn Effective Date: 08/12/2024

Current Licensee: Horizons-4 Satellite LLC
FROM: Intelsat S.A.
TO: SES S.A.

No. of Station(s) listed: 1

SAT-T/C-20240530-00114 E SES S.A.
Transfer of Control
Withdrawn Effective Date: 08/12/2024

Current Licensee: Horizons-1 Satellite LLC
FROM: Intelsat S.A.
TO: SES S.A.

No. of Station(s) listed: 1

SAT-T/C-20240530-00115 E SES S.A.
Transfer of Control
Withdrawn Effective Date: 08/12/2024

Current Licensee: Intelsat License LLC
FROM: Intelsat S.A.
TO: SES S.A.

No. of Station(s) listed: 2

INFORMATIVE

SAT-AMD-20240506-00094 S3175 Sidus Space, Inc.

See ICFS File No. SAT-LOA-20230613-00141 for a description of the action taken.

SAT-AMD-20240808-00175 S3200 Pixxel Space Technologies, Inc.

See ICFS File No. SAT-LOA-20240523-00110.

SAT-LOA-20230613-00141 S3175 Sidus Space, Inc.

The Satellite Programs and Policy Division has designated the above-captioned proceeding as "permit-but-disclose" for the purposes of the Commission's rules regarding ex parte communications, effective August 16, 2024. We find that designating this proceeding as "permit-but-disclose" will serve the public interest by facilitating the resolution of broad policy issues raised by this application. See 47 CFR §§ 1.200(a), 1.206, and 1.208, note 2.

SAT-LOA-20240307-00049 S3188 Satellogic USA, Inc.

The Satellite Programs and Policy Division has designated the above-captioned proceeding as "permit-but-disclose" for purposes of the Commission's rules governing ex parte communications, effective August 16, 2024. We find that designating this proceeding as "permit-but-disclose" will serve the public interest by facilitating the resolution of broad policy issues raised by the application. See 47 CFR §§ 1.200(a), 1.206, and 1.208, note 2.

SAT-LOA-20240523-00110 S3200 Pixxel Space Technologies, Inc.

The Satellite Programs and Policy Division has designated the above-captioned proceeding as "permit-but-disclose" for the purposes of the Commission's rules regarding ex parte communications, effective August 16, 2024. We find that designating this proceeding as "permit-but-disclose" will serve the public interest by facilitating the resolution of broad policy issues raised by this application. See 47 CFR §§ 1.200(a), 1.206, and 1.208, note 2.

SAT-MOD-20240508-00096 S2129 Maxar License Inc.

The Satellite Programs and Policy Division has designated the above-captioned proceeding as "permit-but-disclose" for purposes of the Commission's rules governing ex parte communications, effective August 16, 2024. We find that designating this proceeding as "permit-but-disclose" will serve the public interest by facilitating the resolution of broad policy issues raised by the application. See 47 CFR §§ 1.200(a), 1.206, and 1.208, note 2.

SAT-MOD-20240724-00160 S2946 Spire Global, Inc.

The Satellite Programs and Policy Division has designated the above-captioned proceeding as "permit-but-disclose" for purposes of the Commission's rules governing ex parte communications, effective August 16, 2024. We find that designating this proceeding as "permit-but-disclose" will serve the public interest by facilitating the resolution of broad policy issues raised by the application. See 47 CFR §§ 1.200(a), 1.206, and 1.208, note 2.

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
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DA 24-829
Released: August 16, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF COMMNET WIRELESS, LLC BY MONTANA INTERNET CORPORATION

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-172

Comments Due: August 30, 2024
Reply Comment Due: September 6, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Commnet Wireless, LLC (Commnet) and Inventive Wireless of Nebraska, LLC dba Montana Internet Corporation (Montana Internet) (together, the Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,[1] requesting consent for the acquisition of Commnet's Rural Digital Opportunity Fund (RDOF) obligations and support for certain designated census blocks in Study Area Code 489014 in the county of Lewis & Clark, Montana (Assigned Census Blocks), by Montana Internet.[2]

Applicants

Commnet, a Delaware limited liability company, provides voice and broadband services in portions of the western United States.[3] Commnet is an Eligible Telecommunications Carrier (ETC) for the Assigned Census Blocks.[4] On February 14, 2022, the Bureau authorized Commnet to receive, with

[1] *See* 47 U.S.C. § 214(a); 47 CFR §§ 63.03-04.

[2] *See* Domestic Section 214 Application for Acquisition of Certain Assets of Commnet Wireless, LLC by Montana Internet Corporation, WC Docket No. 24-172 (filed Jun. 7, 2024) (Application). Applicants provide information on the individual census block contained in the Assigned Census Block. Application, Exh. 1 (List of Assigned Census Block Groups and Census Blocks) at 1-2. Applicants have also filed an application (FCC File No. 0011107659) seeking Commission consent to assign two Citizens Broadband Radio Service (CBRS) licenses (Call Signs WRTW364 and WRTW365) from Commnet's sister subsidiary, SAL Spectrum, LLC, to Montana Internet. Application at 1 and 6. Applicants state that Montana Internet plans to use these CBRS licenses to deploy broadband service to the Assigned Census Blocks. *Id.* at 6. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[3] Application at 2. Commnet is an indirect 94.4% owned subsidiary of ATN International, Inc. (ATN), a publicly traded Massachusetts corporation. *Id.* at 2. Commnet, together with sister subsidiaries of ATN, provide services principally in rural areas across the West and Southwest of the United States, as well as in the United States, Virgin Islands and Alaska. *Id.* at 2-3.

respect to the Assigned Census Blocks, $5,964,913.70 over ten years to serve 2,078 locations in 224 census blocks in Montana.[5] Applicants state that Commnet does not provide local exchange service in the Assigned Census Blocks.[6]

Montana Internet, a Montana Corporation, provides voice and broadband services to approximately 6,000 customers in a 1,249 square mile area of rural Montana using fixed wireless and fiber optic technology.[7] Applicants state that no single individual or entity holds 10% or greater interest in Montana Internet[8] and that Montana Internet does not own 10% or greater interest in any other provider of any domestic telecommunications services.[9]

Description of the Proposed Transaction

Pursuant to the terms of the proposed transaction, on June 6, 2024, the Applicants entered into an agreement under which Commnet agreed to assign the RDOF obligations and corresponding unspent RDOF support it has received for the Assigned Census Blocks to Montana Internet, and Montana Internet agreed to accept those funds and assume those obligations, subject to any required regulatory approvals.[10] In connection with the proposed transaction, on August 5, 2024, Montana Internet filed an application with the Montana PSC for ETC designation to cover the Assigned Census Blocks.[11]

Statement of Public Interest

Applicants assert that the proposed transaction would serve the public interest, convenience, and necessity.[12] Applicants state that Montana Internet has deployed broadband networks and served customers since 1994 in rural areas of Montana and it is uniquely situated to efficiently deploy RDOF-supported voice and broadband service in the Assigned Census Blocks.[13] Applicants state that Montana Internet has the necessary managerial and operational expertise to meet Commnet's RDOF buildout milestones and performance obligations and Montana Internet certifies that Commnet's RDOF obligations in the Assigned Census Blocks will be met.[14] Applicants state that Montana Internet commits

[4] *Id.* at 3. On June 1, 2021, the Montana Public Service Commission (PSC) issued an Order Granting Designation of Commnet as an ETC for the Assigned Census Blocks (Docket No. 2021.03.030, Order No. 7777a). *Id.*

[5] *See Rural Digital Opportunity Fund Support Authorized for 2.576 Winning Bids*, Public Notice, AU Docket No. 20-34 and WC Docket Nos. 19-126 and 10-90, 37 FCC Rcd 1617, 1627 at Attach. A (WCB 2022).

[6] Application at 3.

[7] *Id.*

[8] *Id.* at 12.

[9] *Id.* at 4.

[10] *Id.* at 4-5. Applicants provide a further explanation of the proposed transaction in the Application. *Id.* at 5-6.

[11] *Id.* at 5. *See* Application for Designation as an Eligible Telecommunications Carrier and Request by Montana Internet Corporation, Department of Public Service Regulation Before the Public Service Commission of the State of Montana, Docket No. 2024.08.080 (filed Aug. 5, 2024).

[12] *Id.* at 6-9. Applicants note that Commnet believes that the Assigned Census Blocks might be served in a more expeditious and cost-effective manner by Montana Internet given Montana Internet's proximity to Commnet's RDOF-supported areas, as well as Montana Internet's existing operations, resources, and infrastructure. *Id.* at 7. Applicants assert that because the Assigned Census Block areas are adjacent to or nearby Montana Internet's existing operations, Montana Internet can achieve economies of scale and leverage its labor force, infrastructure, and operational capabilities to rapidly and cost-effectively build out the Commnet RDOF areas as Montana Internet expands its broadband operations. *Id.* at 7-8. Applicants provide a map showing Commnet's RDOF-supported areas and Montana Internet's operations. Application, Exh. 3 at 1.

[13] Application at 6-7.

[14] *Id.* at 7. Applicants provide information on Montana Internet's management and technical staff. Application, Exh. 2 at 1-4. Applicants state that Montana Internet has conducted extensive due diligence of the Assigned Census

to meeting the buildout milestones and performance obligations established for the Assigned Census Blocks, including the upcoming 40% buildout milestone.[15] Applicants note that Montana Internet is not taking on any debt repayment obligations or otherwise increasing substantially its costs to deploy service.[16]

Non-Streamlined Processing

Because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, in order to sufficiently analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.[17]

> Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Commnet Wireless, LLC, by Montana Internet Corporation, WC Docket No. 24-172 (filed Jun. 7, 2024).

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 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).

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  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

Blocks and is familiar with Commission rules and Universal Service Administrative Company processes necessary for compliance with RDOF support, and has determined that it can meet the upcoming December 31, 2025 milestone and subsequent milestones using fixed wireless technology that is has deployed on its own network. *Id.* Montana Internet certifies that, upon consummation of the proposed assignment, Montana Internet's management team will assume the operations of Commnet Wireless's RDOF deployment obligations in the Assigned Census Blocks, and further certifies that it is familiar with deployment obligations under RDOF program, and that, upon consummation of the proposed assignment, will use the RDOF support for covered services. *Id.*

[15] *Id.* at 8.

[16] *Id.*

[17] 47 CFR § 63.03(c)(1)(v).

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In addition, e-mail one copy of each pleading to each of the following:

1) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov;
2) Linda Ray, Broadband Division, Wireless Telecommunications Bureau, linda.ray@fcc.gov; and
3) 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 *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.[18] 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 Gregory Kwan at gregory.kwan@fcc.gov.

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[18] *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 24-830
Released: August 16, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF COMMNET WIRELESS, LLC BY GALLATIN WIRELESS INTERNET, LLC D/B/A WISPWEST

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-223

Comments Due: August 30, 2024
Reply Comment Due: September 6, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Commnet Wireless, LLC (Commnet) and Gallatin Wireless Internet, LLC, d/b/a Wispwest (Wispwest) (together, the Applicants), pursuant to section 214(a) of the Communications Act of 1934, as amended, and sections 63.03-04 of the Commission's rules,[1] requesting consent for the acquisition of Commnet's Rural Digital Opportunity Fund (RDOF) obligations and support for certain designated census blocks in Study Area Code 489014 in Park County, Montana (Assigned Census Blocks) by Wispwest.[2]

Applicants

Commnet, a Delaware limited liability company, provides voice and broadband services in portions of the western United States.[3] Commnet is an Eligible Telecommunications Carrier (ETC) for the Assigned Census Blocks.[4] On February 14, 2022, the Bureau authorized Commnet to receive, with respect to the Assigned Census Blocks, $5,964,913.70 over ten years to serve 2,078 locations in 224

[1] *See* 47 U.S.C. § 214(a); 47 CFR §§ 63.03-04.

[2] *See* Domestic Section 214 Application for the Acquisition of Certain Assets of Commnet Wireless, LLC, by Gallatin Wireless, LLC, d/b/a Wispwest, WC Docket No. 24-223 (filed Jul. 26, 2024) (Application). Applicants provide information on the individual census block included in the Assigned Census Block. Application, Exh. 1 at 1-6. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[3] Application at 2. Commnet is an indirect 94.4% owned subsidiary of ATN International, Inc. (ATN), a publicly traded Massachusetts corporation. *Id.* at 2-3. Commnet, together with sister subsidiaries of ATN, provide services principally in rural areas across the West and Southwest of the United States, as well as in the United States, Virgin Islands and Alaska. *Id.* at 3.

[4] *Id.* at 3. On June 1, 2021, the Montana Public Service Commission (Montana PSC) issued an Order Granting Designation of Commnet as an ETC for the Assigned Census Blocks (Docket No. 2021.03.030, Order No. 7777a). *Id.*

census blocks in Montana.[5] Applicants state that Commnet is not providing any RDOF-funded service in the Assigned Census Blocks.[6]

Wispwest, a Montana limited liability company, provides voice and broadband services to approximately 5300 customers in Montana, using hybrid fiber and fixed-wireless infrastructure, with 4G LTE and FPGA-based technologies, using band 41and band 48 licensed frequencies, as well as unlicensed spectrum.[7] Applicants state that Wispwest holds band 48 PAL channels in all counties in Montana in which it operates and will utilize those holdings for this RDOF transfer.[8] Applicants state that Wispwest is wholly owned by BHT Investment Holdings, LLC (BHT), a Wyoming limited liability company.[9] Applicants state that other than what is disclosed in the Application, neither Wispwest nor BHT holds a 10% or greater interest in any other provider of domestic telecommunications services.[10]

Description of the Proposed Transaction

Pursuant to the terms of the proposed transaction, on June 25, 2024, the Applicants entered into an agreement under which Commnet agreed to assign the RDOF obligations and corresponding unspent RDOF support it has received and is eligible to receive in the future for the Assigned Census Blocks to Wispwest, and Wispwest agreed to accept those funds and assume those obligations, subject to any required regulatory approvals.[11] In connection with the proposed transaction, Wispwest states that it will be filing an application with the Montana PSC this month seeking to be designated as an ETC with respect to the Assigned Census Blocks, so that it may lawfully take assignment of Commnet's RDOF obligations and its prospective RDOF rights.[12]

Statement of Public Interest

Applicants assert that the proposed transaction would serve the public interest, convenience, and necessity.[13] Applicants state that Wispwest has deployed broadband networks and served customers since

[5] *See Rural Digital Opportunity Fund Support Authorized for 2.576 Winning Bids*, Public Notice, AU Docket No. 20-34 and WC Docket Nos. 19-126 and 10-90, 37 FCC Rcd 1617, 1627 at Attach. A (WCB 2022). Applicants state that, of the $5,964,913.70 amount, $ 2,418,171.80, was attributable to the Assigned Census Blocks herein. Application at 3; *id.*, Exh. 1 at 1.

[6] Application at 2.

[7] *Id.* at 3-4.

[8] *Id.* at 4.

[9] *Id.* at 10. Applicants state that BHT is held by the following United States entities and citizens: Colonnade Venture Partners, LLC (Colonnade Venture) (30%); Neil Schlenker (30%); Kelly Fowler (30%); Lolo Investments (10%). *Id.* at 10-11. Colonnade Venture, in turn, is held by the following United States citizens: Eric Steinman (76%); Glenn Ishihara (20%); and Don Evans (4%). *Id.* Lolo Investments is wholly owned by Chris Davidson, a United States citizen. *Id.* Applicants note that the same ownership group that owns BHT also owns: 1) BHT Investments, LLC, a Wyoming limited liability company, which wholly owns Bush-Tell, Inc., an Alaska corporation and incumbent local exchange carrier (LEC) serving ten villages in southwestern Alaska (approximately 555 access lines); and 2) BHT Holdings, a Wyoming corporation, which owns 100% of Tri-County Telephone Association, Inc., a rural incumbent LEC serving the counties of Washakie, Big Horn and Hot Springs in Wyoming and Carbon County in Montana (approximately 2,695 incumbent LEC access lines and 1,730 competitive LEC access lines, or 4,425 total access lines). *Id.* at 11-12.

[10] *Id.* at 4.

[11] *Id.* Applicants provide a further explanation of the proposed transaction in the Application. *Id.* at 4-6.

[12] *Id.* at 4.

[13] *Id.* at 6-9. Applicants note that Commnet believes that the Assigned Census Blocks might be served in a more expeditious and cost-effective manner by Wispwest given Wispwest's proximity to Commnet's RDOF-supported areas, as well as Wispwest's existing operations, resources, and infrastructure. *Id.* at 7. Applicants assert that because Commnet's RDOF areas are adjacent to Wispwest's existing operations, Wispwest can

2003 in rural areas of Montana, including areas close to or within the Assigned Census Blocks, and it is uniquely situated to efficiently deploy RDOF supported voice and broadband service in the Assigned Census Blocks.[14] Applicants state that Wispwest has the necessary managerial and operational expertise to meet Commnet's RDOF buildout milestones and performance obligations with respect to the Assigned Census Blocks.[15] Applicants note that all of the Assigned Census Blocks are in Park County, Montana where Wispwest has an existing broadband network serving customers.[16] Applicants state that the proposed transaction will not result in any adverse alteration to the buildout plans Commnet submitted to the Commission in order to be authorized to receive RDOF funding and that Wispwest commits to meeting the buildout milestones and performance obligations established for the Assigned Census Blocks, including the 40% buildout milestone required by December 31, 2025.[17] Applicants further state that Wispwest is not taking on any debt repayment obligations or otherwise increasing substantially its costs to deploy service.[18]

Non-Streamlined Processing

Because the proposed transaction would involve the exchange and assumption of Universal Service Fund high-cost mechanism obligations, in order to sufficiently analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.[19]

> Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Commnet Wireless, LLC, by Gallatin Wireless Internet, LLC, d/b/a Wispwest, WC Docket No. 24-223 (filed Jul. 26, 2024).

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.

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achieve economies of scale and leverage its labor force, existing infrastructure, and operational capabilities to rapidly and cost-effectively build out the Assigned Census Block areas as it expands its broadband operations. *Id*.

[14] *Id.* at 6.

[15] *Id.* at 6-7.

[16] *Id.* at 7.

[17] *Id.*

[18] *Id.*

[19] 47 CFR § 63.03(c)(1)(v).

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In addition, e-mail one copy of each pleading to each of the following:

1) Gregory Kwan, Competition Policy Division, Wireline Competition Bureau, gregory.kwan@fcc.gov; and
2) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

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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.[20] 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 Gregory Kwan at gregory.kwan@fcc.gov.

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[20] *See* 47 CFR § 1.45(c).

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

In the Matter of	)	
	)	
	)	ITC-214-20120920-00244
International Section 214 Authority of	)	
Quickly Phone USA, LLC	)	

ORDER

Adopted: August 16, 2024 **Released: August 16, 2024**

By the Chief, Telecommunications and Analysis Division, Office of International Affairs:

I. INTRODUCTION

1. By this Order, we declare the international section 214 authorization granted to Quickly Phone USA, LLC (Quickly Phone)[1] terminated because of its failure to comply with express conditions for holding its authorization. We also conclude that Quickly Phone failed to comply with the requirements of the Communications Act of 1934, as amended (the Act), and the Commission's rules that ensure that the Commission can contact and communicate with the authorization holder and verify that it is still providing service.

II. BACKGROUND

2. Section 214(a) of the Act prohibits any carrier from constructing, extending, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate of authorization from the Commission.[2] Under section 214(c) of the Act, the Commission "may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require."[3]

3. On July 18, 2014, the International Bureau granted Quickly Phone international section 214 authority, ITC-214-20120920-00244, to provide global or limited global resale service in accordance with section 63.18(e)(2) and 63.23(e) of the Commission's rules, conditioned upon Quickly Phone abiding by the commitments and undertakings set forth in its June 2014 Letter of Assurances (June 2014 LOA) to the United States Department of Justice (DOJ), including the National Security Division (NSD) and the Federal Bureau of Investigation (FBI).[4]

[1] *International Authorizations Granted Section 214 Applications (47 C.F.R. § 63.18); Section 310(b) Requests*, Public Notice, 29 FCC Rcd 9189 (IB 2014) (Quickly Phone Public Notice Grant).

[2] 47 U.S.C. § 214(a); 47 CFR § 63.18.

[3] 47 U.S.C. § 214(c).

[4] Quickly Phone Public Notice Grant, 29 FCC Rcd at 9189; Petition of the U.S. Department of Justice (DOJ) and the Department of Homeland Security (DHS) to Adopt Conditions to Authorizations and Licenses, File No. ITC-214-20120920-00024 (July 18, 2014) (Petition to Adopt Conditions); Letter from Marco Antonio Fernandez Martinez, President, Quickly Phone USA, LLC, to Mr. John Carlin, Acting Assistant Attorney General, National Security Division, DOJ and Unit Chief, Science and Technology Policy Law Unit, FBI (June 19, 2014) (June 2014 LOA).

4. On July 22, 2022, the Committee "recommend[ed] that the Commission terminate Quickly Phone's international section 214 authorization for noncompliance with the [June 2014] LOA."[5] The Committee stated that the June 2014 LOA required Quickly Phone to, among other things, (1) designate a law enforcement point of contact to receive service of process for U.S. records; (2) pay for and undergo third-party audits, including financial audits; and (3) submit an annual report to the DOJ on January 31 of each calendar year, beginning January 31, 2015, regarding its compliance with the specific terms of the LOA.[6] The Committee asserted that Quickly Phone did not nominate a law enforcement point of contact within 14 days of FCC approval of the authorization and it has not yet received such a nomination.[7] Additionally, the Committee stated it did not receive within 60 days of the LOA, notice of a proposed third-party auditor from Quickly Phone,[8] the required reports regarding the initial annual audit, or the four subsequent annual audits.[9] The Committee added that it has not received any of the seven required annual reports on the agreed upon date of January 31 of each calendar year.[10]

5. The Committee made significant efforts to communicate with Quickly Phone regarding its noncompliance but have been unable to contact Quickly Phone. The Committee stated that it has been "reasonable, diligent, and thorough in its attempts to contact Quickly Phone,"[11] including four phone calls to phone numbers listed on Quickly Phone's international section 214 application, an email to an email address provided by Quickly Phone's counsel of record, and certified letters to addresses listed for Quickly Phone on its international section 214 application and on the Florida Secretary of State's website.[12]

6. The Commission also made significant efforts to contact Quickly Phone and provided Quickly Phone with notice and opportunity to respond to the Committee and the Commission. First, on January 4, 2024, the Chief of the Office of International Affairs Telecommunications and Analysis Division sent a letter to Quickly Phone forwarding the DOJ Letter and requesting a response by February 2, 2024.[13] Notably, the Quickly Phone Letter states that "[a] failure to respond to this letter will be

[5] Letter from Eileen Keenan, Attorney Advisor, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC at 4 (July 22, 2022) (DOJ Letter). A confidential version of the DOJ Letter was also filed.

[6] *Id.* at 2.

[7] *Id.* The Committee states that in the June 2014 LOA, Quickly Phone committed to "give notice of its [law enforcement point of contact] to DOJ for approval within 14 days of the date Quickly Phone receives from the FCC the telecommunications certification at issue herein." *Id.* at 2; June 2014 LOA at 2.

[8] *Id*. The Committee states that in June 2014 LOA, Quickly Phone committed to "[w]ithin sixty (60) days from the execution of this Agreement . . . provid[ing] notice of its proposed third-party auditor for the Initial Audit to DOJ." *Id.* at 3.

[9] *Id.* at 3.

[10] *Id*.

[11] *Id.* at 4.

[12] *Id.* at 3.

[13] Letter from Denise Coca, Chief, Telecommunications and Analysis Division, FCC Office of International Affairs, to Marco Antonio Fernandez Martinez, President, Quickly Phone USA, LLC (Jan. 3, 2024) (on file in ITC-214-20120920-00244) (Quickly Phone Letter). Notably, the Commission required all international section 214 authorization holders to respond to a One-Time Information Collection to update the Commission's records regarding their foreign ownership by January 22, 2024, and Quickly Phone failed to respond, which is a violation of Commission rules and further suggests that Quickly Phone is no longer providing service. *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks' Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 Through 1.1109 of the Commission's Rules*, IB Docket No. 23-119, MD Docket No. 23-134, Order and Notice of Proposed Rulemaking, 38 (continued….)

deemed as an admission of the facts alleged by the Committee in the DOJ Letter and could result in the . . . [the termination] of Quickly Phone's section 214 authorization."[14] The letter was mailed on January 4, 2024 via first-class and certified mail, return receipt requested to Marco Antonio Fernandez Martinez, President of Quickly Phone at the address listed in its international section 214 application and the address listed for Marco Antonio Fernandez Martinez in the FCC's Form 499 database.[15] On January 4, 2024, FCC staff also mailed the letter to Quickly Phone's D.C. agent for service of process, Cecilia Padilla, Incorp Services[16] and emailed the letter to Cecilia Padilla.[17] Finally, FCC staff posted a copy of the letter in the Commission's Office of the Secretary.[18] The Commission has not received a response from Quickly Phone or its D.C. agent for service of process.

7. Second, on May 16, 2024, the Office of International Affairs issued a Public Notice affording Quickly Phone a final notice and opportunity to respond to the letters submitted by the Committee and the allegations of apparent violations of the Act and Commission rules (Quickly Phone Public Notice).[19] The Public Notice stated that failure to respond would be deemed as an admission of the

FCC Rcd 4346 (2023); *The Office of International Affairs Announces the Opening of the One-Time Information Collection Filing Window for International Section 214 Authorization Holders to Provide Foreign Ownership Information*, IB Docket No. 23-119, MD Docket No. 23-134, Public Notice, DA 23-1146 (OIA Dec. 13, 2023).

[14] Quickly Phone Letter at 2.

[15] The certified letter sent to the address listed in Quickly Phone's international section 214 authorization application (17971 Biscayne Blvd., Suite 201, Aventura, Florida 33160) was received at that address on January 8, 2024. *See* USPS.com, USPS Tracking, Tracking Number 70041160000026181052, https://tools.usps.com/go/TrackConfirmAction?qtc_tLabels1=70041160000026181052# (stating "Your item was delivered to the front desk, reception area, or mail room at 3:12 pm on January 8, 2024 in NORTH MIAMI BEACH, FL 33160."). The certified letter sent to the address listed for Quickly Phone in the Form 499 database (7950 NW 53rd Street, Suite 337, Miami, FL 33166) was returned to the FCC. *See* USPS.com, USPS Tracking, Tracking Number 70041160000026181069, https://tools.usps.com/go/TrackConfirmAction?qtc_tLabels1=70041160000026181069 (stating "Your item has been delivered to the original sender at 6:49 am on January 29, 2024 in WASHINGTON, DC 20554."). Neither of the first-class letters to Quickly Phone's addresses were returned to the FCC. We did not receive a response for either of these letters. In the Attachment to this Order, we provide copies of the Commission's proof of service to the individuals and entities described in this Order for purposes of service of process.

[16] The certified letter to Cecilia Padilla, Quickly Phone's D.C. agent at 1090 Vermont Avenue, NW, No. 910, Washington, D.C. 20005 for service of process was returned to the FCC. *See* USPS.com, USPS Tracking, Tracking Number 70041160000026181076, https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=70041160000026181076%2C&tABt=true (stating "Your item has been delivered to the original sender at 6:55 am on January 17, 2024 in WASHINGTON, DC 20554."). The returned certified envelope contained the following notations: "Return To Sender, Not Deliverable as Addressed, Unable To Forward," and we did not receive a signature card. The first-class letter to Cecilia Padilla was not returned to the FCC, and we did not receive a response.

[17] Email from Joseph Meyer, Attorney Advisor, Federal Communications Commission, Telecommunications and Analysis Division, FCC Office of International Affairs, to Cecilia Padilla, D.C. Agent for Service of Process for Quickly Phone USA, LLC (Jan. 4, 2024, 9:22 EST). The email to Cecilia Padilla was delivered on January 4, 2024, but we did not receive a read receipt nor did we receive a response.

[18] 47 U.S.C. § 413; 47 CFR § 1.47(h).

[19] *Notice of Intent to Declare Quickly Phone USA, LLC's International Section 214 Authorization Terminated*, File No. ITC-214-20120920-00244, Public Notice DA 24-464 (OIA May 16, 2024) (Quickly Phone Public Notice). The Office of International Affairs mailed the Public Notice to the addresses listed in Quickly Phone's international section 214 authorization application and in the FCC's Form 499 database, as well as to Cecilia Padilla, Quickly Phone's D.C. agent, via both first-class and certified mail, return receipt requested. The Public Notice sent via certified mail, return receipt requested to the address listed for Quickly Phone in the Form 499 database (7950 NW 53rd Street, Suite 337, Miami, FL 33166) was returned to the FCC with an unsigned signature card. *See* USPS.com, (continued….)

facts alleged by the Committee and of the apparent statutory and rule violations described therein.[20] To date, Quickly Phone has not responded to any of the Committee's or the Commission's multiple requests to resolve this matter.

III. DISCUSSION

8. We find that the international section 214 authorization held by Quickly Phone to provide global or limited global resale service has terminated due to Quickly Phone's failure to comply with the express conditions of its authorization.[21] The Office of International Affairs provided Quickly Phone with notice and opportunity to respond to the allegations set out in the DOJ Letter alleging Quickly Phone's noncompliance with the conditions of its authorization. DOJ and the Office of International Affairs have also given Quickly Phone the opportunity to cure its noncompliance. Quickly Phone has not responded to any of the multiple requests from the Committee or the Commission. We find that the repeated failure of Quickly Phone to respond to our requests constitutes an admission of the facts alleged by the Committee and of the alleged violations of the Act and Commission rules.[22] This failure demonstrates that Quickly Phone has failed to satisfy the June 2014 LOA commitments which the Committee relied upon in providing its non-objection to the grant of its application, and compliance with which is a condition of the Commission's grant of its international section 214 authorization to provide global or limited global resale service.[23]

9. We further find that Quickly Phone also willfully failed to comply with the basic requirements of the Act and the Commission's implementing rules that are designed to ensure the Commission's ability to communicate with the authorization holder and other requirements. Specifically, based on the information provided by the Committee and our attempts to reach Quickly Phone, Quickly Phone willfully failed to maintain accurate contact information for Quickly Phone's President, Marco Antonio Fernandez Martinez as required by section 63.21(a) of the Commission's rules.[24] In particular, section 63.21(a) is designed to ensure authorization holders maintain the accuracy of their application

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USPS Tracking, Tracking Number 70032260000296696772, https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=70032260000296696772%2C&tABt=false. The Public Notice sent via first-class mail to that address was not returned to the FCC. The Public Notices sent via first-class mail and certified mail, return receipt requested to the address listed in Quickly Phone's international section 214 authorization application (17971 Biscayne Blvd., Suite 201, Aventura, Florida 33160) were both returned to the FCC. *See* USPS.com, USPS Tracking, Tracking Number 70032260000296696789, https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=70032260000296696789%2C&tABt=true#. The Public Notices sent to Cecilia Padilla, Quickly Phone's D.C. agent at 1090 Vermont Avenue, NW, No. 910, Washington, D.C. 20005 via first-class and certified mail, return receipt requested were both returned to the FCC. *See* USPS.com, USPS Tracking, Tracking Number 70032260000296696765, https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=70032260000296696765%2C&tABt=true.

[20] Quickly Phone Public Notice at 6.

[21] Quickly Phone Public Notice Grant; June 2014 LOA.

[22] Quickly Phone Public Notice at 6.

[23] Quickly Phone Public Notice Grant, 29 FCC Rcd at 9189; Petition to Adopt Conditions; June 2014 LOA.

[24] 47 CFR § 63.21. Section 63.21 of the Commission's rules sets forth several conditions applicable to all international section 214 applications including the requirement under section 63.21(a) that "[e]ach carrier is responsible for the continuing accuracy of the certifications made in its application." 47 CFR § 63.21(a). These certifications include the requirements under section 63.18(h) for international section 214 applicants to certify "[t]he name, address, citizenship and principal businesses of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one percent"). 47 CFR § 63.18(h).

certifications. All attempts to contact Quickly Phone's corporate contact have gone unanswered. We also find that Quickly Phone has willfully violated section 413 of the Act and its implementing rules as it no longer has a valid D.C. agent.[25] In fact, Quickly Phone's FCC Form 499-A file has been inactive since July 2014.[26] All correspondence sent to Quickly Phone's D.C. agent by DOJ and Commission staff has gone unanswered.

10. Finally, we find that Quickly Phone willfully violated section 43.62 of the Commission's rules. As a condition of its international section 214 authorization that was granted on July 18, 2014, Quickly Phone was required to file annual international telecommunications Traffic and Revenue Reports, pursuant to section 43.62 of the Commission's rules, for calendar year 2014, by July 31, 2015 and for calendar year 2015, by July 31, 2016.[27] Specifically, section 43.62(b)(1) stated that "[n]ot later than July 31 of each year, each person or entity that holds an authorization pursuant to Section 214 to provide international telecommunications service shall report whether it provided international telecommunications services during the preceding calendar year."[28] Quickly Phone, however, did not submit traffic and revenue reports for the 2014 and 2015 reporting periods indicating whether or not it

[25] 47 U.S.C. § 413; 47 CFR §§ 1.47(h) and 64.1195(g). Quickly Phone listed an agent with Incorp Services in Form 499-A. However, Quickly Phone's FCC Form 499-A account has been closed. Specifically, the Form 499 database states, "No Longer Active as of 7/1/2014. This account was inactive for an extended period and closed because the administrator could not contact the filer." *See* FCC Form 499-A Filer Database Detailed Information, https://apps.fcc.gov/cgb/form499/499detail.cfm?FilerNum=829951. On July 18, 2023, an Incorp Services representative advised FCC staff by telephone that Quickly Phone is not listed as a client of Incorp Services. *See also* 2024 Telecommunications Reporting Worksheet Instructions, FCC Form-499A, at 12 ("New carriers and VoIP providers (including interconnected and non-interconnected) must identify an agent for service of process within the District of Columbia. Although alternate agents may be included in the filing, a resident D.C. agent must be designated. Carriers that hold international section 214 authorizations must designate a U.S. citizen or U.S. lawful permanent resident as their agent for service of process. Filers must update their registration information, including a DC Agent for Service of Process in accordance with these instructions to the FCC Form 499-A.").

[26] *See supra* note 25.

[27] 47 CFR § 43.62 (formerly 47 CFR § 43.61(a)). Compliance with 47 CFR § 43.61(a) (consolidated into 47 CFR § 43.62 in 2013), which requires carriers to "file annual reports of overseas telecommunications traffic," is a condition of Quickly Phone's international section 214 authorization. *See* Quickly Phone Public Notice Grant. The final year Traffic and Revenue Reports were required to be filed was for calendar year 2015 (to be submitted by July 31, 2016). On March 23, 2017, the Commission adopted a Notice of Proposed Rulemaking proposing to eliminate the international Traffic and Revenue Reports. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Notice of Proposed Rulemaking, 32 FCC Rcd 2606, 2606, para. 1 (2017). On May 1, 2017, the International Bureau temporarily waived the requirement to file annual Traffic and Revenue Reports until after 60 days of the release of a Commission Order addressing the proposed elimination of the international Traffic and Revenue Reports. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Order, 32 FCC Rcd 3765, paras 2-3 (IB 2017). Thus, filing entities were not required to submit Traffic and Revenue Reports for the 2016 calendar year by July 31, 2017. On October 24, 2017, the Commission eliminated the annual traffic and revenue reporting requirement. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Report and Order, 32 FCC Rcd 8115, 8119-8126, paras. 8-23 (2017); Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations, 83 Fed. Reg. 17931 (Apr. 25, 2018).

[28] 47 CFR § 43.62(b)(1). In 2013, the Commission adopted section 43.62(b) of its rules, which went into effect on February 11, 2015. *Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112, Second Report and Order, 28 FCC Rcd 575 (2013); Reporting Requirements for U.S. *Providers* of International Telecommunications Services, 80 Fed. Reg. 7547 (Feb. 11, 2015).

provided services.[29] Quickly Phone's willful failure to comply with section 413 of the Act and sections 1.47(h), 63.21(a), 43.62, and 64.1195(g) of the Commission's rules, taken together, demonstrates a wholesale disregard of its basic regulatory obligations and indicates that the Commission cannot rely on Quickly Phone to comply with the Act and rules. These violations therefore warrant termination of its international section 214 authorization wholly apart from Quickly Phone's failure to comply with the June 2014 LOA.[30]

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED pursuant to sections 4(i), 214, and 413 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 413, and sections 1.47(h), 43.62, 63.18, 63.21(a), 63.23(e), and 64.1195 of the Commission's rules, 47 CFR §§ 1.47(h), 43.62, 63.18, 63.21(a), 63.23(e), 64.1195 that the international section 214 authorization issued under File No. ITC-214-20120920-00244 IS HEREBY TERMINATED AND DECLARED NULL AND VOID.

12. IT IS FURTHER ORDERED that this Order shall be posted in the Commission's Office of the Secretary;[31] mailed, via first-class and certified mail, return receipt requested to the following addresses of record for Quickly Phone's President: 17971 Biscayne Blvd., Suite 201, Aventura, Florida 33160 and 7950 NW 53rd St., Suite 337, Miami, Florida 33166 and to the following address of record for the D.C. agent for service of process, Cecilia Padilla, Incorp Services: 1090 Vermont Avenue, NW, No. 910, Washington, D.C. 20005.

13. This Order is issued on delegated authority under 47 CFR §§ 0.19, 0.351 and is effective upon release. Petitions for reconsideration under section 1.106 of the Commission's rules, 47 CFR § 1.106, or applications for review under section 1.115 of the Commission's rules, 47 CFR § 1.115, may be filed within 30 days of the date of the release of this Order.

FEDERAL COMMUNICATIONS COMMISSION

/s/ *Denise Coca*
Denise Coca
Chief, Telecommunications and Analysis Division
Office of International Affairs

[29] If Quickly Phone has discontinued international services, it is also in violation of section 214 of the Act and its implementing rule, section 63.19 of the Commission's rules, which requires prior notification for such discontinuance if Quickly Phone had customers at the time of discontinuance. 47 U.S.C. § 214; 47 CFR § 63.19.

[30] Quickly Phone Public Notice at 4-6.

[31] 47 U.S.C. § 413; 47 CFR § 1.47(h).

Federal Communications Commission
Washington, D.C. 20554

August 16, 2024

DA 24-832

By First-Class Mail, Certified Mail, and Email

Mahreen Nasir
Director and Shareholder
First Technology Development, Inc.
14518 Fall Creek Crossing
Humble, TX 77396
mahreen−nasir@mironezone.com

Re: Potential Termination of First Technology Development, Inc.'s International Section 214 Authorization, ITC-214-20130726-00202

Dear Ms. Nasir:

We forward for your response a letter submitted by the U.S. Department of Justice (DOJ) on June 29, 2023.[1] In the letter, the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) notified the Federal Communications Commission (Commission or FCC) that First Technology Development, Inc. (First Technology), the holder of an international section 214 authorization,[2] "appears to have changed its contact information and dissolved its enterprise without notifying the FCC."[3] The Committee added that "DOJ has made multiple attempts via telephone, email, and certified mail to contact First Technology, and to date has not received a response from First Technology."[4] The Committee added that First Technology has failed to comply with

[1] Letter from Eileen Keenan, Attorney Advisor, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, at 1 (June 29, 2023) (DOJ Letter) (citing Exec. Order No. 13913, 85 Fed. Reg. 19643 (Apr. 4, 2020)). A copy of the DOJ Letter is attached to this letter and may also be viewed on the FCC's website by searching for File No. ITC-214-20130726-00202 in the International Communications Filing Systems (ICFS) at https://www.fcc.gov/icfs, and accessing the "Other Filings Related to this Application" from the Document Viewing Area. A confidential version of the DOJ Letter was also filed.

[2] *International Authorizations Granted, Section 214 Applications (47 C.F.R. § 63.18)*, *Section 310(b) Requests*, Public Notice, 29 FCC Rcd 11158 (IB 2014) (issuing First Technology its international section 214 authorization, ITC-214-20130726-00202, to provide facilities-based service and resale service in accordance with sections 63.18(e)(1) and (e)(2) of the Commission's rules respectively. 47 CFR § 63.18(e)(1), (2)).

[3] DOJ Letter at 1; *id.* at 2 (citing 47 CFR § 63.21(a) ("Each carrier is responsible for the continuing accuracy of the certifications made in its application. Whenever the substance of any such certification is no longer accurate, the carrier shall as promptly as possible and, in any event, within thirty (30) days, file with the Commission a corrected certification referencing the FCC file number under which the original certification was provided…")).

[4] *Id.* at 3. The counsel of record listed on First Technology's international section 214 application, Edward Moldonado, indicated to DOJ in a September 2021 email that he no longer represents First Technology. FCC staff emailed Mr. Maldonado on January 10, 2024, to confirm whether he had withdrawn from representing First Technology. Mr. Maldonado did not respond. Based upon the September 2021 email to DOJ and our attempts to reach Mr. Maldonado, we consider Mr. Maldonado to have withdrawn his representation of First Technology and added a memo to that effect in First Technology's ICFS file. *See* Memorandum to the File Regarding First

certain obligations set forth in a Letter of Agreement (LOA) between First Technology and DOJ, entered into on August 25, 2014, compliance with which is an express condition of the FCC's grant of First Technology's international section 214 authorization.[5] The Committee requested that the FCC "take any appropriate action in accordance with FCC rules and regulations."[6]

Based on our review, it also appears that First Technology may be in violation of the Communications Act of 1934, as amended (the Act) and Commission rule provisions. *First*, if First Technology has discontinued international services, it may be in violation of section 214 of the Act and its implementing rule, section 63.19 of the Commission's rules.[7] In its letter, the Committee states that DOJ has . . . "received information from state government entities indicating that First Technology has been dissolved."[8] Section 63.19 of the Commission's rules requires prior notification of a discontinuance to all affected customers (and a copy of the discontinuance notification filed with the Commission) if the carrier had customers at the time of discontinuance.[9] *Second*, it appears that First Technology has not identified a D.C. Agent as required by Section 413 of the Communications Act and its implementing rules.[10] *Third*, as part of its authorization that was granted on September 5, 2014, First Technology was required to file an annual international telecommunications Traffic and Revenue Report, as required by section 43.62 of the Commission's rules, for calendar year 2015 but failed to do so.[11] First Technology may have violated section 43.62 of the Commission's rules.[12] In light of First Technology's failure to

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Technology Development, Inc.'s Counsel of Record, ITC-214-20130726-00202 (filed Mar. 22, 2024) https://licensing.fcc.gov/myibfs/download.do?attachment_key=27090137. On June 21, 2024, FCC staff also attempted to contact First Technology at the telephone number listed on First Technology's international section 214 application (303-777-2294) but the call went unanswered and FCC staff left a voicemail. To date, we have not received a response to the voicemail.

[5] *Id*. at 2, n.1 ("The LOA requires First Technology to designate and maintain a U.S.-based Law Enforcement Point of Contact ('LEPOC) to receive service of process for U.S. Records and provide DOJ notice of material changes within 30 days. *See* First Technology LOA at 1-4. DOJ has no record of First Technology nominating or maintaining a LEPOC. First Technology has additionally failed to notify DOJ of several apparent material changes.").

[6] DOJ Letter at 1.

[7] 47 U.S.C. § 214; 47 CFR § 63.19.

[8] DOJ Letter at 1.

[9] 47 CFR § 63.19.

[10] 47 U.S.C. § 413; *see* 47 CFR §§ 1.47(h) and 64.1195; *see also* 2024 Telecommunications Reporting Worksheet Instructions, FCC Form-499A, at 12 ("New carriers and VoIP providers (including interconnected and non-interconnected) must identify an agent for service of process within the District of Columbia. Although alternate agents may be included in the filing, a resident D.C. agent must be designated. Carriers that hold international section 214 authorizations must designate a U.S. citizen or U.S. lawful permanent resident as their agent for service of process. Filers must update their registration information, including a D.C. Agent for Service of Process in accordance with these instructions to the FCC Form 499-A.").

[11] 47 CFR § 43.62.

[12] The final year that Traffic and Revenue Reports were required to be filed was for calendar year 2015 (to be submitted by July 31, 2016). On March 23, 2017, the Commission adopted a Notice of Proposed Rulemaking proposing to eliminate the international Traffic and Revenue Reports. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Notice of Proposed Rulemaking, 32 FCC Rcd 2606, 2606, para. 1 (2017). On May 1, 2017, the

respond to the Committee and its failure to comply with the Commission's requirements, it appears that First Technology is no longer providing service pursuant to its international section 214 authorization.[13]

Pursuant to authority conferred by the Act,[14] we request that First Technology respond to the Committee's allegations and this letter within 30 days from the date of this letter, by **September 16, 2024**. In your response, describe any steps that you are taking or will take with the Committee to resolve the issues alleged by the Committee and address the apparent violations of the Act and the Commission's rules. Your response should provide any facts you believe are relevant to our determination whether First Technology has violated a condition of its authorization or the above-described provisions of the Act and the Commission's rules.

Absent a timely and complete response from First Technology demonstrating why adverse action is not warranted, the Commission's Office of International Affairs may issue a public notice announcing its intent to declare that First Technology's international section 214 authorization has terminated based on First Technology's failure to comply with the conditions of its international section 214 authorization. First Technology's failure to respond to the facts alleged by the Committee and of the apparent statutory and rule violations described in this letter will be deemed as an admission of the alleged facts and apparent violations. We also advise First Technology that its noncompliance with the Act and Commission rules may result in forfeitures or other enforcement action, including cease and desist proceedings.[15]

International Bureau temporarily waived the requirement to file annual Traffic and Revenue Reports until after 60 days of the release of a Commission Order addressing the proposed elimination of the international Traffic and Revenue Reports. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Order, 32 FCC Rcd 3765, paras 2-3 (IB 2017). Thus, filing entities were not required to submit Traffic and Revenue Reports for the 2016 calendar year by July 31, 2017. On October 24, 2017, the Commission eliminated the annual traffic and revenue reporting requirement. *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Report and Order, 32 FCC Rcd 8115, 8119-8126, paras. 8-23 (2017); Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations, 83 Fed. Reg. 17931 (Apr. 25, 2018).

[13] The Committee provided copies of a State of Delaware Certification of Dissolution filed for First Technology dated January 17, 2020, and a State of Texas Termination of Registration filed for First Technology on May 29, 2020. DOJ Letter at 18, 20. We also note that First Technology failed to respond to the Commission's One-Time Information Collection to update the Commission's records regarding carriers' foreign ownership. *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks; Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 Through 1.1109 of the Commission's Rules*, IB Docket No. 23-119, MD Docket No. 23-134, Order and Notice of Proposed Rulemaking, 38 FCC Rcd 4346 (2023); *The Office of International Affairs Announces the Opening of the One-Time Information Collection Filing Window for International Section 214 Authorization Holders to Provide Foreign Ownership Information*, IB Docket No. 23-119, MD Docket No. 23-134, Public Notice, DA 23-1146 (OIA Dec. 13, 2023).

[14] *See, e.g.,* 47 U.S.C. §§ 218, 219, 403.

[15] 47 U.S.C. § 312(b)-(c); *see General Telephone Co. of California v. FCC,* 413 F.2d 390, 404 (D.C. Cir. 1969), *cert. denied*, 396 US 888 (1969).

If First Technology no longer provides services under its international section 214 authorization and does not intend to do so in the future, indicate in your response whether it is surrendering the international section 214 authorization. We are mailing this letter, via first-class mail and certified mail, return receipt requested to the address and email listed on First Technology's international section 214 application and will post a copy of this letter in the FCC's Office of the Secretary, as required by section 413 of the Communications Act.[16]

Sincerely,

/s/ *Denise Coca*
Denise Coca, Chief
Telecommunications and Analysis Division
Office of International Affairs

Enclosure: DOJ Letter (Redacted)

[16] 47 U.S.C. § 413; 47 CFR § 1.47(h).

U.S. Department of Justice

National Security Division

Foreign Investment Review Section *Washington, D.C. 20530*

June 29, 2023

By Electronic Mail

Ms. Marlene H. Dortch
Federal Communications Commission
445 l2th St. SW, Room TW-B204
Washington, DC 20554

Re: Notice of International Section 214 Authorization Holder First Technology Development, Inc.'s Apparent Undisclosed Status Change
TT 13-045, ITC-214-20130726-00202

Dear Ms. Dortch:

The Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (hereinafter the "Committee") hereby notifies the Federal Communications Commission ("FCC") that the holder of the above referenced international Section 214 authorization appears to have changed its contact information and dissolved its enterprise without notifying the FCC. The Committee is informing the FCC so that the FCC take any appropriate action in accordance with FCC rules and regulations.

I. First Technology Development, Inc.'s ("First Technology") Procedural History

- July 26, 2013: First Technology applied for an international Section 214 Authorization, requesting to provide resale services between the United States and permissible international points. FCC File No. ITC-214-20130726-00202.
- September 11, 2013: First Technology's application was removed from streamline and reviewed by the Committee's *ad hoc* predecessor. FCC, Report No. TEL-01635S.
  - August 19, 2014: First Technology signed a Letter of Agreement ("LOA") with the Department of Justice ("DOJ"), creating various obligations as a condition for

Contains information relating to a review conducted by the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector; the public disclosure of such information is restricted under Section 8 of Executive Order 13913. Some information may also be exempt from public disclosure under 5 U.S.C. § 552(b).

receiving the international Section 214 Authorization. *See* First Technology LOA.[1]

- September 18, 2014: the FCC issued a Public Notice granting the international Section 214 Authorization to First Technology conditioned on compliance with the mitigation measures in the LOA. FCC File No. ITC-214-20130726-00202 (Grant date September 5, 2014) TEL-01691.

II. The FCC has held that an authorization holder's failure to notify the FCC of changes to its contact information or operational status is a violation of FCC rules and warrants termination of an authorization.

International Section 214 authorization holders have an ongoing obligation to maintain the accuracy of information contained in applications to the FCC. 47 CFR § 63.21(a) states:

> Each [international Section 214 authorization holder] is responsible for the continuing accuracy of the certifications made in its application. Whenever the substance of any such certification is no longer accurate, the carrier shall as promptly as possible and, in any event, within thirty (30) days, file with the Commission a corrected certification referencing the FCC file number under which the original certification was provided.

In an International Bureau and Wireline Competition Bureau Order terminating certain Section 214 authorizations, the FCC cited that same regulation and concluded:

> The failure of [the authorization holders] to adhere to the Commission's rules designed to ensure its ability to communicate with the holder of the authorizations and to verify if the holder is still providing service also warrants termination, wholly apart from their non-compliance with the conditions of their domestic section 214 authority and their international section 214 authorizations.[2]

[1] The LOA requires First Technology to designate and maintain a U.S.-based Law Enforcement Point of Contact ("LEPOC") to receive service of process for U.S. Records and provide DOJ notice of material changes within 30 days. *See* First Technology LOA pgs. 1-4. DOJ has no record of First Technology nominating or maintaining a LEPOC. First Technology has additionally failed to notify DOJ of several apparent material changes (see Section III below). If First Technology ever offered interconnected VoIP or facilities-based services in the United States, it may have also violated other provisions of the LOA.

[2] Domestic Section 214 Authority and International Section 214 Authorizations of Angel Americas, LLC and Angel Mobile, Inc., DA 19-1150, Public Notice Order, Pg. 5, File Nos. ITC-214-20010220-00085, ITC-214-20010618-00348, ITC-214-20020531-00293, ITC-214-20050315-00105, ITC-214-20031020-00495, ITC-214-20130429-00125, and ITC-214-20131206-00337 and WC Docket No. 13-242 (November 7, 2019); *See also*, Wypoint Telecom, Inc., Termination of International Section 214 Authorization, DA 15-1343, FCC Order, File Nos. ITC-214-20070601-00211, (November 20, 2015) ("[A]fter having received an international 214 authorization, a carrier 'is responsible for the continuing accuracy of the certifications made in its application' and must promptly correct information no longer accurate, 'and in any event, within thirty (30) days.' Wypoint's address is no longer valid and thus Wypoint has failed to inform the Commission of any changes in the continuing accuracy of its prior certifications.").

III. First Technology appears to have changed its contact information and dissolved its enterprise without notifying the FCC.

DOJ has made multiple attempts to contact First Technology via telephone, email, and certified mail, and to date has not received a response from them. DOJ has also received information from state government entities indicating that First Technology has been dissolved. The numerous contact attempts are described in detail below.

a. Attempts via phone

On August 20, 2021, DOJ called (303) 777-2294 a phone number listed on First Technology's international Section 214 application, but the call went unanswered and DOJ left a voicemail message. *See* Ex. 2. Also on August 20, 2021, DOJ called (305) 477-7580, a phone number listed for Edward Maldonado, named as First Technology's counsel on its international Section 214 application. *See* Ex. 2. DOJ left a voicemail message for Mr. Maldonado who did not return the phone call though he did respond to a later email. *See* Ex. 3. On September 29, 2021 and October 15, 2021 DOJ called (303) 777-2294, again and left voicemail messages on both dates, none of which have been returned. All voicemail messages stated that DOJ would like to speak with representatives of First Technology to discuss its compliance with the August 19, 2014 LOA.

b. Attempts via email

On September 13, 2021, DOJ emailed Edward Maldonado (at eam@maldonado-group.com), who is listed as the attorney on First Technology's international Section 214 application, in its answers to triage questions, and on the FCC's website. *See* Ex. 1-2. Mr. Maldonado responded to DOJ on September 15 stating he no longer represents First Technology; had not spoken to anyone from First Technology in over two years; and does not have any contact information for any representative of First Technology. *See* Ex. 3.

On September 29, 2021, DOJ attempted to email First Technology owner, Mahreen Nasir (at mahreen-nasir@mironezone.com, the email address listed on First Technology's international Section 214 application). *See* Ex. 2. DOJ received an automated response back noting the email was undeliverable due to permanent fatal errors. *See* Ex. 4 and 5.

c. Attempts via certified mail

On October 18, 2021, DOJ sent a certified letter to First Technology at 14518 Fall Creek Crossing, Humble, Texas, 77396, the address listed for First Technology on the international Section 214 application and the FCC website. *See* Ex. 1-3. On November 9, 2021, that letter was returned to DOJ as undeliverable. *See* Ex. 6,7. On December 14, 2021, DOJ sent a certified letter to First Technology at 5014 Park Canyon Lane, Katy, Texas 77494, the address listed for First Technology on the Texas Comptroller for Public Account's website. *See* Ex. 8. This letter was returned as undeliverable on January 26, 2022. *See* Ex. 9.

d. Information from Texas and Delaware Secretaries of State

First Technology was incorporated in the State of Delaware and its official address, as listed in its international Section 214 application, is in Humble, Texas. *See* Ex. 2. On December 7, 2021, DOJ contacted the Texas Secretary of State and obtained certification of First Technology's Termination of Registration which had been filed on May 29, 2020. *See* Ex. 10. On December 7, 2021, DOJ contacted the Delaware Secretary of State and obtained a copy of First Technology's Certification of Dissolution which had been filed on January 17, 2020. *See* Ex. 11.

IV. Conclusion

The Committee, through DOJ, the Chair, has been reasonable, diligent, and thorough in its attempts to contact First Technology which has never responded. As such, the Committee, through the Chair, hereby notifies the FCC that First Technology appears to have changed its contact information and dissolved its enterprise without notifying the FCC of these changes,[3] so that the FCC may take any appropriate action in accordance with FCC rules and regulations.

Thank you for your consideration.

Sincerely,

_____/s/_____

Eileen Keenan
Attorney Advisor
Eileen.Keenan@usdoj.gov
(202) 305-2658
Christine M. Quinn
Attorney Advisor
Christine.Quinn3@usdoj.gov
(202) 233-0750

***For* Tyler J. Wood**
Deputy Chief
Compliance and Enforcement
Foreign Investment Review Section
National Security Division
U.S. Department of Justice

[3] As noted above, First Technology also failed to notify DOJ of these changes, in violation of its LOA obligations.

CONTAINS E.O. 13913 SEC. 8 RESTRICTED INFORMATION

cc: FCC-TTelecom@fcc.gov
Kathleen.Collins@fcc.gov
Denise.Coca@fcc.gov
David.Frech@fcc.gov
Adrienne.McNeil@fcc.gov
Compliance.telecom@usdoj.gov
Eileen.Keenan@usdoj.gov
Applications.TT@usdoj.gov
dhsteamtelecom@hq.dhs.gov
osd.pentagon.ousd-a-s.list.team-telecom@mail.mil

INDEX OF EXHIBITS

Ex. No.	Description
1	FCC Website Entry for First Technology
2	First Technology 214 Authorization Application
3	September 14, 2021 Email from Mr. Maldonado
4	DOJ Email to First Technology
5	DOJ's Email to First Technology Undeliverable – Permanent Fatal Errors
6	USPS Tracking for Certified Letter to Humble, TX Address
7	Certified Letter to Humble, TX Address, Returned to DOJ on November 9, 2021
8	Texas Comptroller of Public Accounts, website entry for First Technology Development, Inc.
9	Certified Letter to Katy, TX Address, Returned to DOJ on January 26, 2022
10	State of Texas Termination of Registration Filed May 29, 2020 for First Technology Development, Inc.
11	Secretary of State of the State of Delaware Certification of Dissolution of First Technology Development Inc., filed January 17, 2020

Exhibit 1: FCC Website Entry for First Technology

Federal Communications Commission

INTERNATIONAL BUREAU
FCC SELECTED APPLICATION LISTING BY FILE NUMBER
REPORT WR07 - Mon Dec 6 11:34:42 2021

File Number = ITC2142013072600202;

File Number: ITC-214-20130726-00202

Callsign: None

Streamlined: N

Environmental Impact: None

Status: Action Taken Public Notice

Red Light: N

Status Date: 09/18/2014

Last Action: Grant of Authority

Grant Date: 09/05/2014

DA #: 14-1351

Released Date: 09/17/2014

Service Type: Global or Limited Global Facilities-Based Service
Global or Limited Global Resale Service

Accepted For Filing PN Date: 09/13/2013

Action Taken PN Date: 09/18/2014

Term Begin Date: None

Term End Date: None

Date Filed: 07/26/2013

Last Action Date: 09/05/2014

Bond Date: None

Adopted Date: 09/17/2014

Document Viewing

Site Information
Other filings related to this application (Petitions, comments, etc)
Public Notice List
Licensee History
Attachment Menu
PDF Version of this application.
HTML version of this application.

Old File Number: None

Applicant:
First Technology Development, Inc.
14518 Fall Creek Crossing
Humble, TX 77396 USA

Contact: Edward A. Maldonado
Maldonado Law Group
2850 Douglas Road
Suite 303
Coral Gables, FL 33134 USA

Description: Application for authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules, and also to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules, 47 C.F.R. § 63.18(e)(1), (

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
First Technology Development Inc.	)	
	)	
Application for authority pursuant to Section 214 of the Communications Act of 1934, as amended, for global authority to operate as an international facilities-based and resale carrier	)	**File No.: ITC-214_____**

Application Attachment II.

(Information pursuant to 47 CFR § 63.18)

The following information is submitted, as required by 47 CFR § 63.18 of the Commission's Rules, in support of **First Technology Development Inc.** 's request for authorization:

47 CFR § 63.18(a): The name, address and telephone number of the Applicant is:

Name:	**First Technology Development Inc.**
Address:	**14518 Fall Creek Crossing**
State, City, Zip Code:	**Humble, TX, 77396**
Tel:	**(303) 777-2294**

47 CFR § 63.18(b): **First Technology Development Inc.** is a corporation organized under the laws of the State of Delaware.

48 CFR § 63.18(c): Correspondence concerning this application should be sent to:

Name:	**Ms. Mahreen Nasir, Director and Shareholder**
	First Technology Development Inc.
Address:	**14518 Fall Creek Crossing**
State, City, Zip Code:	**Humble, TX, 77396**
Tel:	**(303) 777-2294**
With a copy to Contact:	**Edward A. Maldonado, Esq.** Regulatory Counsel for Applicant **MALDONADO LAW GROUP** **LAW OFFICES OF EDWARD A. MALDONADO, P.A.** **815 Ponce de Leon Blvd. Suite 304** **Coral Gables, Florida, 33134** **Tel: (305) 477-7580 Fax: (305) 477-7504**

Approved by OMB
3060-0686

INTERNATIONAL SECTION 214 APPLICATION
FCC FORM 214
FOR OFFICIAL USE ONLY

APPLICANT INFORMATION

Enter a description of this application to identify it on the main menu:
First Technology Development, Inc. requests authority to provide international telecommunications pursuant to 47 U.S.C. Section 214 et al

1. Applicant

Name:	First Technology Development, Inc.	**Phone Number:**	303-777-2294
DBA Name:		**Fax Number:**	
Street:	14518 Fall Creek Crossing	**E-Mail:**	mahreen-nasir@mironezone.com
City:	Humble	**State:**	TX
Country:	USA	**Zipcode:**	77396 -
Attention:	Ms. Mahreen Nasir		

1

Exhibit 3: September 14, 2021 Email from Mr. Maldonado

From: Edward Maldonado
To: [redacted]
Cc:
Subject: RE: URGENT: Updating Contact Information
Date: Tuesday, September 14, 2021 9:07:59 PM
Attachments: image001.png
image003.png

Good evening [redacted]

[redacted]

- First Technology Development – no contact for extended period – more than 2 years

[redacted]

[redacted] First Tech I am still looking for a good email address from the period I performed work. I'm in the office part-time these days as Florida had a recent spike in COVID-D so I will look again next time I am in the office later this week.

[redacted]

- First Technology Development

[redacted]

Let me know if you need anything further.

Best Regards,

Edward Maldonado, Esq.
Attorney
This electronic signature is for transmission purposes only unless affirmed by attorney otherwise.

Exhibit 4: DOJ Email to First Technology

From: [redacted]
To: mahreen-nasir@mironezone.com
Cc: [redacted]
Subject: First Technology Development, Inc. 2014 LOA
Date: Wednesday, September 29, 2021 2:20:00 PM

Good afternoon Ms. Mahreen Nasir,

I am contacting you on behalf of the United States Department of Justice. It has come to our attention that First Technology Development, Inc. has been terminated as an entity registered with the Texas Secretary of State. We would like to confirm that this is true.

Similarly, we would like to confirm that services associated with the 2014 FCC ITC-214 authorization (ITC-214-20130726-00202) are no longer being offered.

Many individuals assume that if their corporation is dissolved or is terminated, that their FCC authorization is automatically revoked. Unfortunately this is not the case, but thankfully the solution is very quick and simple. We, the U.S. DOJ, just need to file some forms with the FCC in order to make the revocation official. But in order to complete this process, we need confirmation from a registered agent of the company that the corporation has been terminated or dissolved and that the FCC authorization is no longer in use.

Please respond at your earliest convenience. We look forward to working with you to settle this matter soon.

Best,
[redacted]

E.O. 13913, SEC. 8 RESTRICTED INFORMATION REDACTED / FOR PUBLIC INSPECTION

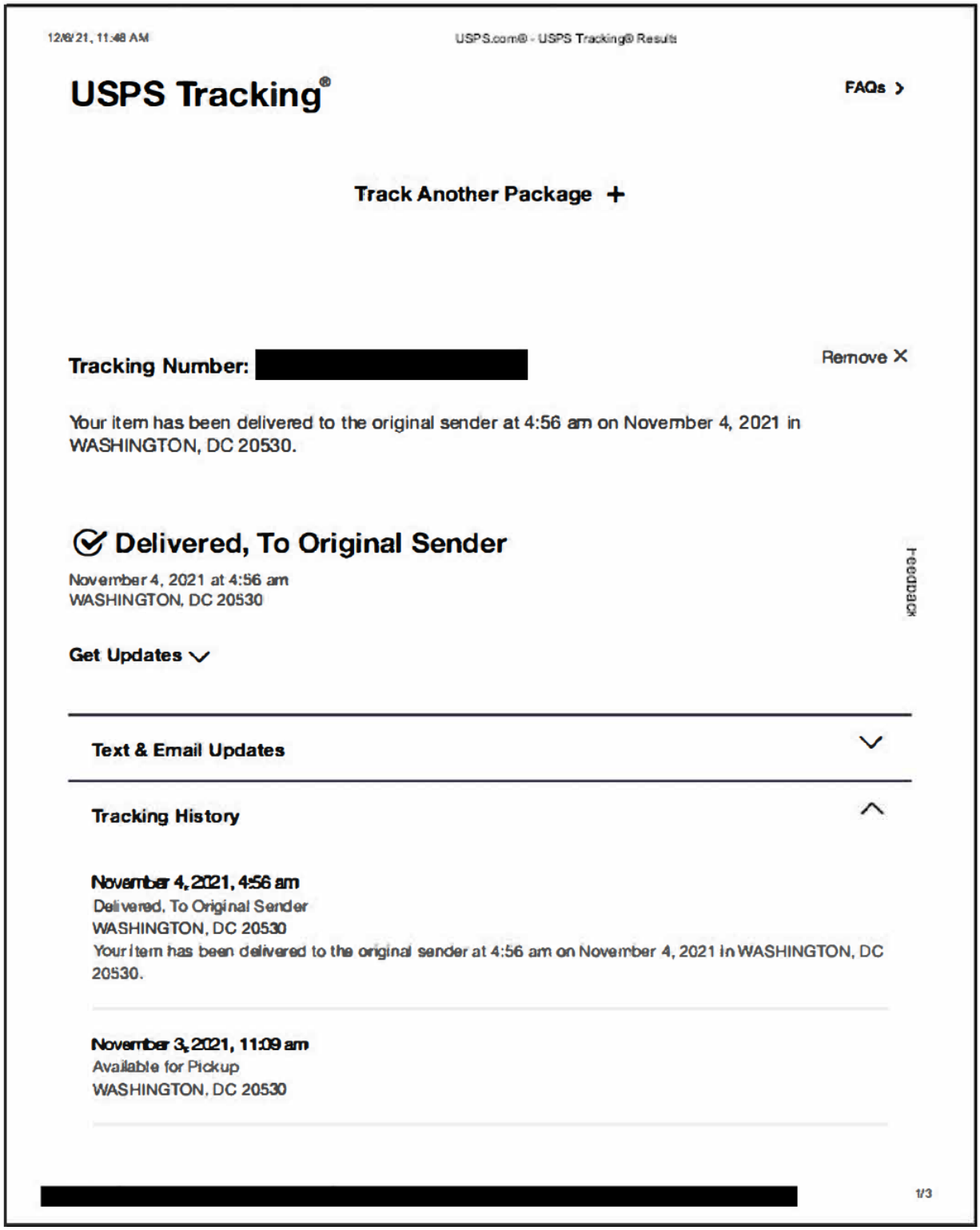
Exhibit 5: DOJ's Email to First Technology Undeliverable – Permanent Fatal Errors

From: Mail Delivery Subsystem
To: mahreen-nasir@mironezone.com
Subject: Undeliverable: First Technology Development, Inc. 2014 LOA
Date: Wednesday, September 29, 2021 2:25:31 PM
Attachments: First Technology Development Inc. 2014 LOA.msg

The original message was received at Wed, 29 Sep 2021 18:20:26 GMT
from [10.187.137.62]
----- The following addresses had permanent fatal errors -----
<mahreen-nasir@mironezone.com>
(reason: 550 Host unknown)
----- Transcript of session follows -----
550 5.1.2 <mahreen-nasir@mironezone.com>... Host unknown (Name server: mironezone.com.: host not found)

E.O. 13913, SEC. 8 RESTRICTED INFORMATION REDACTED / FOR PUBLIC INSPECTION

Exhibit 6: USPS Tracking for Certified Letter to Humble, TX Address



12/8/21, 11:48 AM USPS.com® - USPS Tracking® Results

USPS Tracking®

FAQs >

Track Another Package +

Tracking Number: [redacted]

Remove ×

Your item has been delivered to the original sender at 4:56 am on November 4, 2021 in WASHINGTON, DC 20530.

Delivered, To Original Sender

November 4, 2021 at 4:56 am
WASHINGTON, DC 20530

Feedback

Get Updates

Text & Email Updates

Tracking History

November 4, 2021, 4:56 am
Delivered, To Original Sender
WASHINGTON, DC 20530
Your item has been delivered to the original sender at 4:56 am on November 4, 2021 in WASHINGTON, DC 20530.

November 3, 2021, 11:09 am
Available for Pickup
WASHINGTON, DC 20530

[redacted]

1/3

November 3, 2021, 7:04 am
Out for Delivery
WASHINGTON, DC 20018

November 3, 2021, 6:53 am
Arrived at Post Office
WASHINGTON, DC 20018

November 2, 2021
In Transit to Next Facility

October 29, 2021, 7:18 pm
Departed USPS Regional Facility
NORTH HOUSTON TX DISTRIBUTION CENTER

October 27, 2021, 4:58 pm
Unclaimed/Being Returned to Sender
HUMBLE, TX 77338

October 22, 2021, 1:17 pm
Forwarded
HUMBLE, TX

October 21, 2021, 1:49 pm
Arrived at USPS Regional Facility
NORTH HOUSTON TX DISTRIBUTION CENTER

October 19, 2021, 10:10 pm
Arrived at USPS Regional Facility
GAITHERSBURG MD DISTRIBUTION CENTER

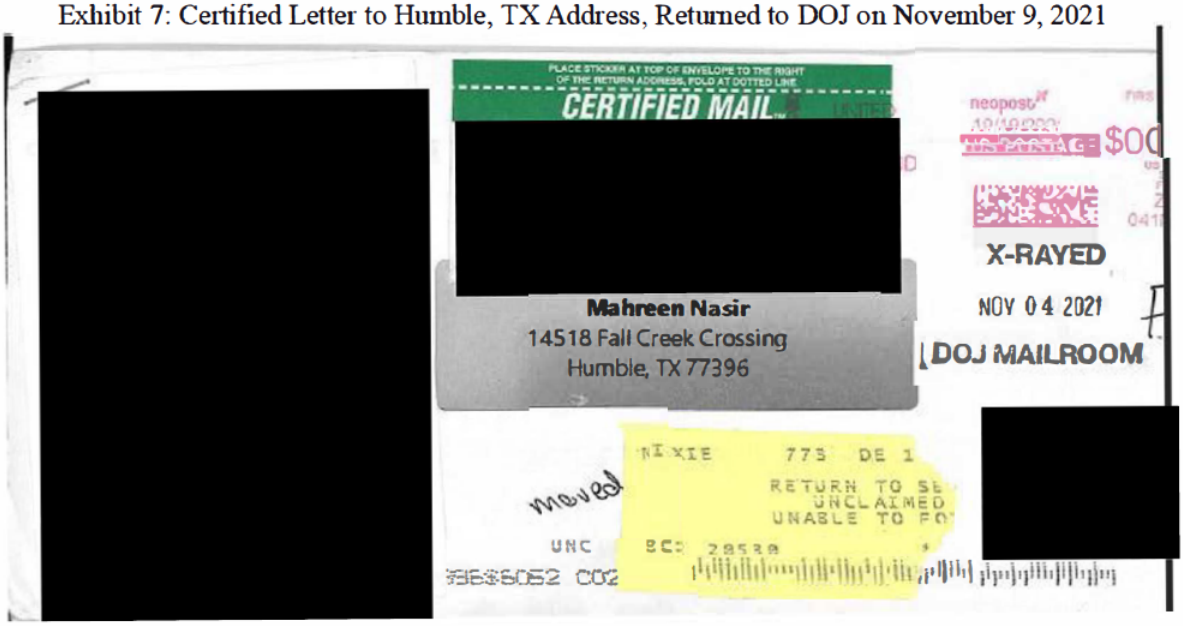
Feedback

Product Information

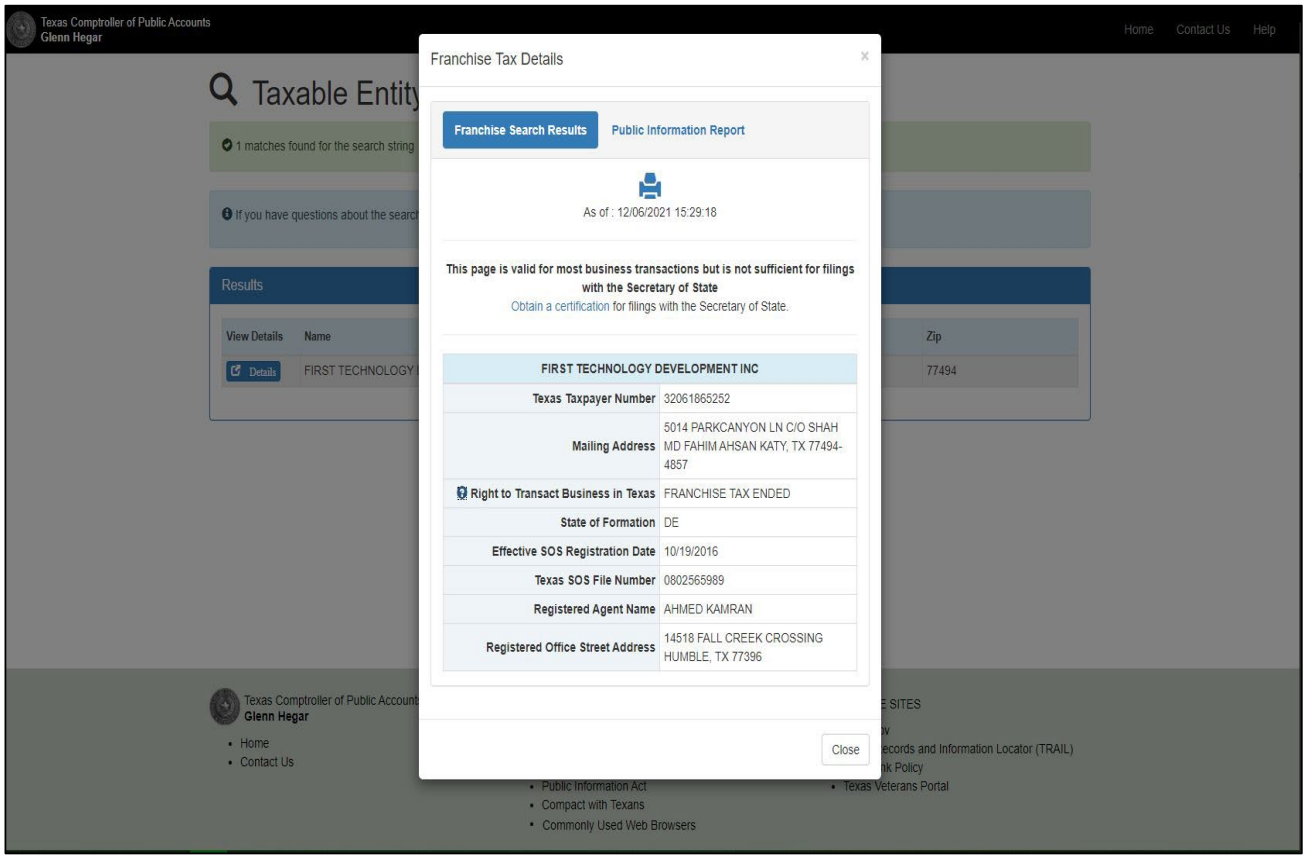
See Less

[redacted]

Exhibit 7: Certified Letter to Humble, TX Address, Returned to DOJ on November 9, 2021

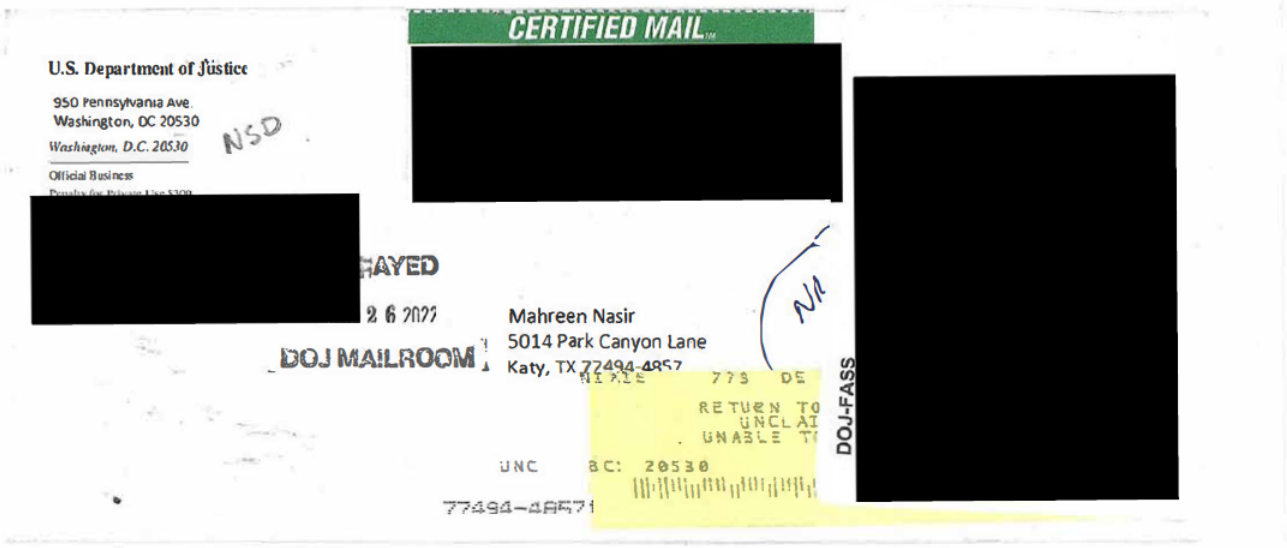


E.O. 13913, SEC. 8 RESTRICTED INFORMATION REDACTED / FOR PUBLIC INSPECTION
Exhibit 8: Texas Comptroller of Public Accounts, website entry for First Technology Development Inc



E.O. 13913, SEC. 8 RESTRICTED INFORMATION REDACTED / FOR PUBLIC INSPECTION

Exhibit 9: Certified Letter to Katy, TX Address, Returned to DOJ on January 26, 2022



E.O. 13913, SEC. 8 RESTRICTED INFORMATION REDACTED / FOR PUBLIC INSPECTION

Exhibit 10: State of Texas Termination of Registration Filed May 29, 2020 for First Technology Development, Inc.

Form 612
(Revised 05/11)
Return in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512 463-5555
FAX: 512 463-5709
Filing Fee: See instructions

This space reserved for office use

FILED
In the Office of the
Secretary of State of Texas
MAY 29 2020
Corporations Section

Termination of Registration

Entity Information

The name of the foreign filing entity as registered in this state is:
First Technology Development Inc.

The date of registration of the foreign filing entity is: 10/19/2016

The file number issued to the entity by the secretary of state is: 0802565989

Termination of Existence

The existence or separate existence of the foreign filing entity has terminated because of dissolution, termination, merger, conversion, or other circumstances. The entity files this evidence of its termination with the secretary of state in order to terminate the registration of the entity in Texas.

Certificate Evidencing Termination

☑ Attached hereto is a certificate from an authorized governmental official of the entity's jurisdiction of formation evidencing the termination of the entity's existence or separate existence.

Effectiveness of Filing (Select either A, B, or C.)

A. ☑ This document becomes effective when the document is filed by the secretary of state.

B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: _____

C. ☐ This document takes effect upon the occurrence of the future event or fact, other than the passage of time. The 90th day after the date of signing is: _____
The following event or fact will cause the document to take effect in the manner described below:

_____

_____

RECEIVED
MAY 29 2020
Secretary of State

Form 612 3

Execution

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date: 05-21-2020

Company Directors

Signature and title of authorized person(s) (see instructions)

Form 612 4

Exhibit 11: Secretary of State of the State of Delaware Certification of Dissolution of First Technology Development Inc., filed January 17, 2020

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF DISSOLUTION OF "FIRST TECHNOLOGY DEVELOPMENT INC.", FILED IN THIS OFFICE ON THE SEVENTEENTH DAY OF JANUARY, A.D. 2020, AT 11 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

Jeffrey W. Bullock, Secretary of State

5250662 8100
SR# 20200371031

You may verify this certificate online at corp.delaware.gov/authver.shtml

Authentication: 202383697
Date: 02-13-20

State of Delaware
Secretary of State
Division of Corporations
Delivered 11:00 AM 01/17/2020
FILED 11:00 AM 01/17/2020
SR 20200371831 - File Number 5250462

STATE OF DELAWARE
CERTIFICATE OF DISSOLUTION
(SECTION 275)

The corporation organized and existing under the General Corporation Law of the State of Delaware, hereby certifies as follows:

1. The dissolution of First Technology Development Inc.

has been duly authorized by the Board of Directors and Stockholders in accordance with subsections (a) and (b) of Section 275 or by unanimous consent of Stockholders in accordance with subsection (c) of Section 275 of the General Corporation Law of the State of Delaware.

2. The date of filing of the Corporation's original Certificate of Incorporation in Delaware was 11/30/2012

3. The date the dissolution was authorized is 12/31/2018

4. The names and addresses of the directors and officers of the corporation are as follows:

NAME	TITLE	ADDRESS
Ruslan Nasir	President	[redacted]
Mahreen Nasir	Vice Presiden	

By: Mahreen
Authorized Officer

Name: Mahreen Nasir
Print or Type

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 24-833
Released: August 16, 2024

NOTICE OF INTERCONNECTED VOIP NUMBERING AUTHORIZATION GRANTED

WC Docket No. 24-132

The Wireline Competition Bureau has granted the application listed in this notice pursuant to the Commission's streamlined procedures for interconnected VoIP numbering authorization applications.[1]

> Interconnected VoIP Numbering Authorization Application filed by Verification Technologies, LLC Pursuant to Section 52.15(g)(3) of the Commission's Rules, WC Docket No. 24-132 (April 19, 2024), Public Notice, DA 24-702 (WCB July 18, 2024).

Effective Grant Date: August 17, 2024

Please contact DAA@fcc.gov, Margoux Newman at Margoux.Newman@fcc.gov or Jordan Marie Reth at Jordan.Reth@fcc.gov for further information.

-FCC-

[1] *See* 47 CFR § 52.15(g)(3).

PUBLIC NOTICE

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

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

DA 24-834
Released: August 16, 2024

COMMENTS INVITED ON SECTION 214 APPLICATION(S) TO DISCONTINUE DOMESTIC NON-DOMINANT CARRIER TELECOMMUNICATIONS AND/OR INTERCONNECTED VOIP SERVICES

WC Docket No(s). 24-246

Comments Due: September 2, 2024

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 **September 16, 2024**, 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

[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.").

Notice, or the release date(s) of any further public notice(s) or order(s) announcing final Commission action, as 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 **September 2, 2024**.[5] 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.[6] 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 paper copies must file an original and one copy of each filing. Such filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[7] 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

[5] Comments are normally due 15 days after the Commission releases public notice of the proposed discontinuance. 47 CFR § 63.71(a). For purposes of computation of time, if the comment deadline falls on a weekend or officially recognized Federal legal holiday, however, comments will be due on the next business day. See 47 CFR § 1.4(e) and (j).

[6] *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

[7] 47 CFR § 1.1200 *et seq*.

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 & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

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): CenturyLink Communications, LLC (CenturyLink)**
WC Docket No. 24-246, Comp. Pol. File No. 1938
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2224-246*%22))
Affected Service(s) – Business VoIP, Digital Home Phone, and Simple VoIP
Service Area(s) – Alabama, Arkansas, Arizona, Colorado, Florida, Iowa, Idaho, Indiana, Kansas, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, Wyoming, Florida and New Mexico
Authorized Date(s) – on or after September 17, 2024
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau
Note: CenturyLink specifies that it seeks authority to discontinue Business VoIP in Alabama, Arkansas, Arizona, Colorado, Florida, Iowa, Idaho, Indiana, Kansas, Michigan, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin and Wyoming. CenturyLink also explains that it seeks authority to discontinue Digital Home Phone and Simple VoIP in Florida and New Mexico because it inadvertently failed to notify two customers in an earlier application that was filed in WC Docket No. 24-91.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: https://www.fcc.gov

DA 24-835
Released: August 16, 2024

WIRELINE COMPETITION BUREAU ANNOUNCES COUNTIES WHERE CONDITIONAL FORBEARANCE FROM THE LIFELINE VOICE OBLIGATION APPLIES

WC Docket No. 11-42

By this Public Notice, the Wireline Competition Bureau (Bureau) announces the counties in which conditional forbearance from the obligation to offer Lifeline-supported voice service applies, pursuant to the Commission's *2016 Lifeline Order*.[1] This forbearance applies only to the Lifeline voice obligation of eligible telecommunications carriers (ETCs) that are designated for purposes of receiving both high-cost and Lifeline support (high-cost/Lifeline ETCs), and not to Lifeline-only ETCs.[2] The Appendix lists the counties where the Commission's conditional forbearance from high-cost/Lifeline ETCs' Lifeline voice obligation will apply effective on October 15, 2024.

The *2016 Lifeline Order* established conditional forbearance from Lifeline voice obligations in targeted areas where certain competitive conditions are met.[3] To accomplish this forbearance, the Commission directed the Bureau to release a yearly public notice announcing the counties in which the competitive conditions are met.[4] In particular, the Commission granted forbearance from high-cost/Lifeline ETCs' obligation to offer and advertise Lifeline voice service in counties where the following conditions are met: (1) 51% of Lifeline subscribers in the county are obtaining broadband Internet access service; (2) there are at least three other providers of Lifeline broadband Internet access service that each serve at least 5% of the Lifeline broadband subscribers in that county; and (3) the ETC does not actually receive federal high-cost universal service support.[5]

The counties listed in the Appendix meet the two competitive conditions;[6] and for ETCs that are

[1] *Lifeline and Link Up Reform and Modernization et al.*, WC Docket Nos. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4082-4093, paras. 335-60 (2016) (*2016 Lifeline Order*).

[2] *Id.* at 4078-79, para. 325.

[3] *Id.* at 4079, para. 326.

[4] *Id.* at 4093, para. 360.

[5] *Id.* at 4082-83, 4090-93, paras. 335, 354-60.

[6] Using National Lifeline Accountability Database and Lifeline Claims System data as of April 2024, approximately 89% of the counties identified in the Appendix were also eligible for this conditional forbearance in 2023. The remaining 11% of the counties newly met both competitive conditions in 2024. There are also 55 counties that are no longer eligible for conditional forbearance because they did not meet the two competitive conditions in 2024.

(continued….)

receiving high-cost support in these counties, the forbearance applies only in areas within the county where the ETC does not receive high-cost support.[7] We note that this forbearance does not grant relief from the Lifeline voice obligation as to those Lifeline subscribers that the high-cost/Lifeline ETC serves as of the date of this Public Notice.[8] Additionally, this forbearance does not preclude ETCs from electing to provide and receive reimbursement for Lifeline-discounted voice service.[9]

This forbearance will apply in the counties identified in the Appendix of this Public Notice, to the extent that ETCs are not receiving federal high-cost universal service support in those areas, until 60 days after the Bureau issues a Public Notice in 2025 updating the list of counties in which the Commission's conditional forbearance applies.[10]

For further information, please contact Samuel Lewis, Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-2659, or at Samuel.Lewis@fcc.gov.

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See Wireline Competition Bureau Announces Counties Where Conditional Forbearance From the Lifeline Voice Obligation Applies, Public Notice, DA 23-561 (WCB 2023).

[7] *2016 Lifeline Order* at 4093, para. 359.

[8] *Id.* at 4083, 4085, paras. 335, 340.

[9] *Id.* at 4085, para. 342.

[10] *Id.* at 4093, para. 360.

APPENDIX

Counties and County Equivalents, by State, Where Conditional Forbearance of Lifeline Voice Obligation Applies

STATE	COUNTY
AL	AUTAUGA COUNTY
AL	BALDWIN COUNTY
AL	BARBOUR COUNTY
AL	BIBB COUNTY
AL	BLOUNT COUNTY
AL	BULLOCK COUNTY
AL	BUTLER COUNTY
AL	CALHOUN COUNTY
AL	CHAMBERS COUNTY
AL	CHEROKEE COUNTY
AL	CHILTON COUNTY
AL	CHOCTAW COUNTY
AL	CLARKE COUNTY
AL	CLAY COUNTY
AL	CLEBURNE COUNTY
AL	COFFEE COUNTY
AL	COLBERT COUNTY

STATE	COUNTY
AL	CONECUH COUNTY
AL	COOSA COUNTY
AL	COVINGTON COUNTY
AL	CRENSHAW COUNTY
AL	CULLMAN COUNTY
AL	DALE COUNTY
AL	DALLAS COUNTY
AL	DEKALB COUNTY
AL	ELMORE COUNTY
AL	ESCAMBIA COUNTY
AL	ETOWAH COUNTY
AL	FAYETTE COUNTY
AL	FRANKLIN COUNTY
AL	GENEVA COUNTY
AL	GREENE COUNTY
AL	HALE COUNTY
AL	HENRY COUNTY
AL	HOUSTON COUNTY

STATE	COUNTY
AL	JACKSON COUNTY
AL	JEFFERSON COUNTY
AL	LAMAR COUNTY
AL	LAUDERDALE COUNTY
AL	LAWRENCE COUNTY
AL	LEE COUNTY
AL	LIMESTONE COUNTY
AL	LOWNDES COUNTY
AL	MACON COUNTY
AL	MADISON COUNTY
AL	MARENGO COUNTY
AL	MARION COUNTY
AL	MARSHALL COUNTY
AL	MOBILE COUNTY
AL	MONROE COUNTY
AL	MONTGOMERY COUNTY
AL	MORGAN COUNTY
AL	PERRY COUNTY

STATE	COUNTY
AL	PICKENS COUNTY
AL	PIKE COUNTY
AL	RANDOLPH COUNTY
AL	RUSSELL COUNTY
AL	ST. CLAIR COUNTY
AL	SHELBY COUNTY
AL	SUMTER COUNTY
AL	TALLADEGA COUNTY
AL	TALLAPOOSA COUNTY
AL	TUSCALOOSA COUNTY
AL	WALKER COUNTY
AL	WASHINGTON COUNTY
AL	WILCOX COUNTY
AL	WINSTON COUNTY
AK	COPPER RIVER CENSUS AREA
AZ	APACHE COUNTY
AZ	COCHISE COUNTY
AZ	GILA COUNTY
AZ	GRAHAM COUNTY
AZ	GREENLEE COUNTY
AZ	LA PAZ COUNTY
AZ	MARICOPA COUNTY
AZ	MOHAVE COUNTY
AZ	PIMA COUNTY
AZ	PINAL COUNTY
AZ	SANTA CRUZ COUNTY
AZ	YAVAPAI COUNTY
AZ	YUMA COUNTY
AR	ARKANSAS COUNTY
AR	ASHLEY COUNTY
AR	BAXTER COUNTY
AR	BENTON COUNTY
AR	BOONE COUNTY
AR	BRADLEY COUNTY
AR	CALHOUN COUNTY
AR	CARROLL COUNTY
AR	CHICOT COUNTY
AR	CLARK COUNTY
AR	CLAY COUNTY
AR	CLEBURNE COUNTY
AR	CLEVELAND COUNTY
AR	COLUMBIA COUNTY
AR	CONWAY COUNTY
AR	CRAIGHEAD COUNTY
AR	CRAWFORD COUNTY
AR	CRITTENDEN COUNTY
AR	CROSS COUNTY
AR	DALLAS COUNTY
AR	DESHA COUNTY
AR	DREW COUNTY
AR	FAULKNER COUNTY
AR	FRANKLIN COUNTY
AR	FULTON COUNTY
AR	GARLAND COUNTY
AR	GRANT COUNTY
AR	GREENE COUNTY
AR	HEMPSTEAD COUNTY
AR	HOT SPRING COUNTY
AR	HOWARD COUNTY
AR	INDEPENDENCE COUNTY
AR	IZARD COUNTY
AR	JACKSON COUNTY
AR	JEFFERSON COUNTY
AR	JOHNSON COUNTY
AR	LAFAYETTE COUNTY
AR	LAWRENCE COUNTY

STATE	COUNTY
AR	LEE COUNTY
AR	LINCOLN COUNTY
AR	LITTLE RIVER COUNTY
AR	LOGAN COUNTY
AR	LONOKE COUNTY
AR	MADISON COUNTY
AR	MARION COUNTY
AR	MILLER COUNTY
AR	MISSISSIPPI COUNTY
AR	MONROE COUNTY
AR	MONTGOMERY COUNTY
AR	NEVADA COUNTY
AR	NEWTON COUNTY
AR	OUACHITA COUNTY
AR	PERRY COUNTY
AR	PHILLIPS COUNTY
AR	PIKE COUNTY
AR	POINSETT COUNTY
AR	POLK COUNTY
AR	POPE COUNTY
AR	PRAIRIE COUNTY
AR	PULASKI COUNTY

STATE	COUNTY
AR	RANDOLPH COUNTY
AR	ST. FRANCIS COUNTY
AR	SALINE COUNTY
AR	SCOTT COUNTY
AR	SEARCY COUNTY
AR	SEBASTIAN COUNTY
AR	SEVIER COUNTY
AR	SHARP COUNTY
AR	STONE COUNTY
AR	UNION COUNTY
AR	VAN BUREN COUNTY
AR	WASHINGTON COUNTY
AR	WHITE COUNTY
AR	WOODRUFF COUNTY
AR	YELL COUNTY
CA	ALAMEDA COUNTY
CA	ALPINE COUNTY
CA	AMADOR COUNTY
CA	BUTTE COUNTY
CA	CALAVERAS COUNTY
CA	COLUSA COUNTY
CA	CONTRA COSTA COUNTY

STATE	COUNTY
CA	DEL NORTE COUNTY
CA	EL DORADO COUNTY
CA	FRESNO COUNTY
CA	GLENN COUNTY
CA	HUMBOLDT COUNTY
CA	IMPERIAL COUNTY
CA	INYO COUNTY
CA	KERN COUNTY
CA	KINGS COUNTY
CA	LAKE COUNTY
CA	LASSEN COUNTY
CA	LOS ANGELES COUNTY
CA	MADERA COUNTY
CA	MARIN COUNTY
CA	MARIPOSA COUNTY
CA	MENDOCINO COUNTY
CA	MERCED COUNTY
CA	MODOC COUNTY
CA	MONO COUNTY
CA	MONTEREY COUNTY
CA	NAPA COUNTY
CA	NEVADA COUNTY

STATE	COUNTY
CA	ORANGE COUNTY
CA	PLACER COUNTY
CA	PLUMAS COUNTY
CA	RIVERSIDE COUNTY
CA	SACRAMENTO COUNTY
CA	SAN BENITO COUNTY
CA	SAN BERNARDINO COUNTY
CA	SAN DIEGO COUNTY
CA	SAN FRANCISCO COUNTY
CA	SAN JOAQUIN COUNTY
CA	SAN LUIS OBISPO COUNTY
CA	SAN MATEO COUNTY
CA	SANTA BARBARA COUNTY
CA	SANTA CLARA COUNTY
CA	SANTA CRUZ COUNTY
CA	SHASTA COUNTY
CA	SISKIYOU COUNTY
CA	SOLANO COUNTY
CA	SONOMA COUNTY
CA	STANISLAUS COUNTY
CA	SUTTER COUNTY
CA	TEHAMA COUNTY

STATE	COUNTY
CA	TULARE COUNTY
CA	TUOLUMNE COUNTY
CA	VENTURA COUNTY
CA	YOLO COUNTY
CA	YUBA COUNTY
CO	ADAMS COUNTY
CO	ALAMOSA COUNTY
CO	ARAPAHOE COUNTY
CO	ARCHULETA COUNTY
CO	BACA COUNTY
CO	BENT COUNTY
CO	BOULDER COUNTY
CO	BROOMFIELD COUNTY
CO	CHAFFEE COUNTY
CO	CHEYENNE COUNTY
CO	CLEAR CREEK COUNTY
CO	CONEJOS COUNTY
CO	COSTILLA COUNTY
CO	CROWLEY COUNTY
CO	CUSTER COUNTY
CO	DELTA COUNTY
CO	DENVER COUNTY

STATE	COUNTY
CO	DOLORES COUNTY
CO	DOUGLAS COUNTY
CO	EAGLE COUNTY
CO	ELBERT COUNTY
CO	EL PASO COUNTY
CO	FREMONT COUNTY
CO	GARFIELD COUNTY
CO	GILPIN COUNTY
CO	GRAND COUNTY
CO	GUNNISON COUNTY
CO	HUERFANO COUNTY
CO	JACKSON COUNTY
CO	JEFFERSON COUNTY
CO	KIOWA COUNTY
CO	KIT CARSON COUNTY
CO	LAKE COUNTY
CO	LA PLATA COUNTY
CO	LARIMER COUNTY
CO	LAS ANIMAS COUNTY
CO	LINCOLN COUNTY
CO	LOGAN COUNTY
CO	MESA COUNTY

STATE	COUNTY
CO	MOFFAT COUNTY
CO	MONTEZUMA COUNTY
CO	MONTROSE COUNTY
CO	MORGAN COUNTY
CO	OTERO COUNTY
CO	OURAY COUNTY
CO	PARK COUNTY
CO	PHILLIPS COUNTY
CO	PITKIN COUNTY
CO	PROWERS COUNTY
CO	PUEBLO COUNTY
CO	RIO BLANCO COUNTY
CO	RIO GRANDE COUNTY
CO	ROUTT COUNTY
CO	SAGUACHE COUNTY
CO	SAN MIGUEL COUNTY
CO	SEDGWICK COUNTY
CO	SUMMIT COUNTY
CO	TELLER COUNTY
CO	WASHINGTON COUNTY
CO	WELD COUNTY
CO	YUMA COUNTY

STATE	COUNTY
CT	MIDDLESEX COUNTY
DE	KENT COUNTY
DE	NEW CASTLE COUNTY
DC	DISTRICT OF COLUMBIA
FL	BAKER COUNTY
FL	GILCHRIST COUNTY
FL	HAMILTON COUNTY
FL	HOLMES COUNTY
FL	LAFAYETTE COUNTY
FL	LEON COUNTY
FL	MARTIN COUNTY
FL	NASSAU COUNTY
FL	PINELLAS COUNTY
FL	PUTNAM COUNTY
FL	SUWANNEE COUNTY
FL	UNION COUNTY
GA	APPLING COUNTY
GA	ATKINSON COUNTY
GA	BACON COUNTY
GA	BAKER COUNTY
GA	BALDWIN COUNTY
GA	BANKS COUNTY

STATE	COUNTY
GA	BARROW COUNTY
GA	BARTOW COUNTY
GA	BEN HILL COUNTY
GA	BERRIEN COUNTY
GA	BIBB COUNTY
GA	BLECKLEY COUNTY
GA	BRANTLEY COUNTY
GA	BROOKS COUNTY
GA	BRYAN COUNTY
GA	BULLOCH COUNTY
GA	BURKE COUNTY
GA	BUTTS COUNTY
GA	CALHOUN COUNTY
GA	CAMDEN COUNTY
GA	CANDLER COUNTY
GA	CARROLL COUNTY
GA	CATOOSA COUNTY
GA	CHARLTON COUNTY
GA	CHATHAM COUNTY
GA	CHATTAHOOCHEE COUNTY
GA	CHATTOOGA COUNTY
GA	CHEROKEE COUNTY

STATE	COUNTY
GA	CLARKE COUNTY
GA	CLAY COUNTY
GA	CLAYTON COUNTY
GA	CLINCH COUNTY
GA	COBB COUNTY
GA	COFFEE COUNTY
GA	COLQUITT COUNTY
GA	COLUMBIA COUNTY
GA	COOK COUNTY
GA	COWETA COUNTY
GA	CRAWFORD COUNTY
GA	CRISP COUNTY
GA	DADE COUNTY
GA	DAWSON COUNTY
GA	DECATUR COUNTY
GA	DEKALB COUNTY
GA	DODGE COUNTY
GA	DOOLY COUNTY
GA	DOUGHERTY COUNTY
GA	DOUGLAS COUNTY
GA	EARLY COUNTY
GA	ECHOLS COUNTY

STATE	COUNTY
GA	EFFINGHAM COUNTY
GA	ELBERT COUNTY
GA	EMANUEL COUNTY
GA	EVANS COUNTY
GA	FANNIN COUNTY
GA	FAYETTE COUNTY
GA	FLOYD COUNTY
GA	FORSYTH COUNTY
GA	FRANKLIN COUNTY
GA	FULTON COUNTY
GA	GILMER COUNTY
GA	GLASCOCK COUNTY
GA	GLYNN COUNTY
GA	GORDON COUNTY
GA	GRADY COUNTY
GA	GREENE COUNTY
GA	GWINNETT COUNTY
GA	HABERSHAM COUNTY
GA	HALL COUNTY
GA	HANCOCK COUNTY
GA	HARALSON COUNTY
GA	HARRIS COUNTY

STATE	COUNTY
GA	HART COUNTY
GA	HEARD COUNTY
GA	HENRY COUNTY
GA	HOUSTON COUNTY
GA	IRWIN COUNTY
GA	JACKSON COUNTY
GA	JASPER COUNTY
GA	JEFF DAVIS COUNTY
GA	JEFFERSON COUNTY
GA	JENKINS COUNTY
GA	JOHNSON COUNTY
GA	JONES COUNTY
GA	LAMAR COUNTY
GA	LANIER COUNTY
GA	LAURENS COUNTY
GA	LEE COUNTY
GA	LIBERTY COUNTY
GA	LINCOLN COUNTY
GA	LONG COUNTY
GA	LOWNDES COUNTY
GA	LUMPKIN COUNTY
GA	MCDUFFIE COUNTY

STATE	COUNTY
GA	MCINTOSH COUNTY
GA	MACON COUNTY
GA	MADISON COUNTY
GA	MARION COUNTY
GA	MERIWETHER COUNTY
GA	MILLER COUNTY
GA	MITCHELL COUNTY
GA	MONROE COUNTY
GA	MONTGOMERY COUNTY
GA	MORGAN COUNTY
GA	MURRAY COUNTY
GA	MUSCOGEE COUNTY
GA	NEWTON COUNTY
GA	OCONEE COUNTY
GA	OGLETHORPE COUNTY
GA	PAULDING COUNTY
GA	PEACH COUNTY
GA	PICKENS COUNTY
GA	PIERCE COUNTY
GA	PIKE COUNTY
GA	POLK COUNTY
GA	PULASKI COUNTY

STATE	COUNTY
GA	PUTNAM COUNTY
GA	QUITMAN COUNTY
GA	RABUN COUNTY
GA	RANDOLPH COUNTY
GA	RICHMOND COUNTY
GA	ROCKDALE COUNTY
GA	SCHLEY COUNTY
GA	SCREVEN COUNTY
GA	SEMINOLE COUNTY
GA	SPALDING COUNTY
GA	STEPHENS COUNTY
GA	STEWART COUNTY
GA	SUMTER COUNTY
GA	TALBOT COUNTY
GA	TALIAFERRO COUNTY
GA	TATTNALL COUNTY
GA	TAYLOR COUNTY
GA	TELFAIR COUNTY
GA	TERRELL COUNTY
GA	THOMAS COUNTY
GA	TIFT COUNTY
GA	TOOMBS COUNTY

STATE	COUNTY
GA	TOWNS COUNTY
GA	TREUTLEN COUNTY
GA	TROUP COUNTY
GA	TURNER COUNTY
GA	TWIGGS COUNTY
GA	UNION COUNTY
GA	UPSON COUNTY
GA	WALKER COUNTY
GA	WALTON COUNTY
GA	WARE COUNTY
GA	WARREN COUNTY
GA	WASHINGTON COUNTY
GA	WAYNE COUNTY
GA	WEBSTER COUNTY
GA	WHEELER COUNTY
GA	WHITE COUNTY
GA	WHITFIELD COUNTY
GA	WILCOX COUNTY
GA	WILKES COUNTY
GA	WILKINSON COUNTY
GA	WORTH COUNTY
HI	HAWAII COUNTY

STATE	COUNTY
HI	HONOLULU COUNTY
HI	KAUAI COUNTY
HI	MAUI COUNTY
ID	ADA COUNTY
ID	ADAMS COUNTY
ID	BANNOCK COUNTY
ID	BEAR LAKE COUNTY
ID	BENEWAH COUNTY
ID	BINGHAM COUNTY
ID	BLAINE COUNTY
ID	BOISE COUNTY
ID	BONNER COUNTY
ID	BONNEVILLE COUNTY
ID	BOUNDARY COUNTY
ID	BUTTE COUNTY
ID	CAMAS COUNTY
ID	CANYON COUNTY
ID	CARIBOU COUNTY
ID	CASSIA COUNTY
ID	CLEARWATER COUNTY
ID	CUSTER COUNTY
ID	ELMORE COUNTY

STATE	COUNTY
ID	FRANKLIN COUNTY
ID	FREMONT COUNTY
ID	GEM COUNTY
ID	GOODING COUNTY
ID	IDAHO COUNTY
ID	JEFFERSON COUNTY
ID	JEROME COUNTY
ID	KOOTENAI COUNTY
ID	LATAH COUNTY
ID	LEMHI COUNTY
ID	LEWIS COUNTY
ID	LINCOLN COUNTY
ID	MADISON COUNTY
ID	MINIDOKA COUNTY
ID	NEZ PERCE COUNTY
ID	ONEIDA COUNTY
ID	OWYHEE COUNTY
ID	PAYETTE COUNTY
ID	POWER COUNTY
ID	SHOSHONE COUNTY
ID	TETON COUNTY
ID	TWIN FALLS COUNTY

STATE	COUNTY
ID	VALLEY COUNTY
ID	WASHINGTON COUNTY
IL	ADAMS COUNTY
IL	ALEXANDER COUNTY
IL	BOND COUNTY
IL	BOONE COUNTY
IL	BROWN COUNTY
IL	BUREAU COUNTY
IL	CALHOUN COUNTY
IL	CARROLL COUNTY
IL	CASS COUNTY
IL	CHAMPAIGN COUNTY
IL	CHRISTIAN COUNTY
IL	CLARK COUNTY
IL	CLAY COUNTY
IL	CLINTON COUNTY
IL	COLES COUNTY
IL	COOK COUNTY
IL	CRAWFORD COUNTY
IL	CUMBERLAND COUNTY
IL	DEKALB COUNTY
IL	DE WITT COUNTY

STATE	COUNTY
IL	DOUGLAS COUNTY
IL	DUPAGE COUNTY
IL	EDWARDS COUNTY
IL	EFFINGHAM COUNTY
IL	FAYETTE COUNTY
IL	FORD COUNTY
IL	FRANKLIN COUNTY
IL	FULTON COUNTY
IL	GREENE COUNTY
IL	GRUNDY COUNTY
IL	HANCOCK COUNTY
IL	HARDIN COUNTY
IL	HENDERSON COUNTY
IL	HENRY COUNTY
IL	IROQUOIS COUNTY
IL	JACKSON COUNTY
IL	JASPER COUNTY
IL	JEFFERSON COUNTY
IL	JERSEY COUNTY
IL	JO DAVIESS COUNTY
IL	JOHNSON COUNTY
IL	KANE COUNTY
IL	KANKAKEE COUNTY
IL	KENDALL COUNTY
IL	KNOX COUNTY
IL	LAKE COUNTY
IL	LASALLE COUNTY
IL	LAWRENCE COUNTY
IL	LEE COUNTY
IL	LIVINGSTON COUNTY
IL	LOGAN COUNTY
IL	MCDONOUGH COUNTY
IL	MCHENRY COUNTY
IL	MCLEAN COUNTY
IL	MACON COUNTY
IL	MACOUPIN COUNTY
IL	MADISON COUNTY
IL	MARION COUNTY
IL	MARSHALL COUNTY
IL	MASON COUNTY
IL	MASSAC COUNTY
IL	MENARD COUNTY
IL	MERCER COUNTY
IL	MONROE COUNTY
IL	MONTGOMERY COUNTY
IL	MORGAN COUNTY
IL	MOULTRIE COUNTY
IL	OGLE COUNTY
IL	PEORIA COUNTY
IL	PERRY COUNTY
IL	PIATT COUNTY
IL	PIKE COUNTY
IL	POPE COUNTY
IL	PULASKI COUNTY
IL	PUTNAM COUNTY
IL	RANDOLPH COUNTY
IL	RICHLAND COUNTY
IL	ROCK ISLAND COUNTY
IL	ST. CLAIR COUNTY
IL	SANGAMON COUNTY
IL	SCHUYLER COUNTY
IL	SCOTT COUNTY
IL	SHELBY COUNTY
IL	STARK COUNTY
IL	STEPHENSON COUNTY
IL	TAZEWELL COUNTY

STATE	COUNTY
IL	UNION COUNTY
IL	VERMILION COUNTY
IL	WABASH COUNTY
IL	WARREN COUNTY
IL	WASHINGTON COUNTY
IL	WAYNE COUNTY
IL	WHITESIDE COUNTY
IL	WILL COUNTY
IL	WILLIAMSON COUNTY
IL	WINNEBAGO COUNTY
IL	WOODFORD COUNTY
IN	ADAMS COUNTY
IN	ALLEN COUNTY
IN	BARTHOLOMEW COUNTY
IN	BENTON COUNTY
IN	BLACKFORD COUNTY
IN	BOONE COUNTY
IN	BROWN COUNTY
IN	CARROLL COUNTY
IN	CASS COUNTY
IN	CLARK COUNTY
IN	CLAY COUNTY
IN	CLINTON COUNTY
IN	CRAWFORD COUNTY
IN	DAVIESS COUNTY
IN	DEARBORN COUNTY
IN	DECATUR COUNTY
IN	DEKALB COUNTY
IN	DELAWARE COUNTY
IN	DUBOIS COUNTY
IN	ELKHART COUNTY
IN	FAYETTE COUNTY
IN	FLOYD COUNTY
IN	FOUNTAIN COUNTY
IN	FRANKLIN COUNTY
IN	FULTON COUNTY
IN	GIBSON COUNTY
IN	GRANT COUNTY
IN	GREENE COUNTY
IN	HAMILTON COUNTY
IN	HANCOCK COUNTY
IN	HARRISON COUNTY
IN	HENDRICKS COUNTY
IN	HENRY COUNTY
IN	HOWARD COUNTY
IN	HUNTINGTON COUNTY
IN	JACKSON COUNTY
IN	JASPER COUNTY
IN	JAY COUNTY
IN	JEFFERSON COUNTY
IN	JENNINGS COUNTY
IN	JOHNSON COUNTY
IN	KNOX COUNTY
IN	KOSCIUSKO COUNTY
IN	LAGRANGE COUNTY
IN	LAKE COUNTY
IN	LAPORTE COUNTY
IN	LAWRENCE COUNTY
IN	MADISON COUNTY
IN	MARION COUNTY
IN	MARSHALL COUNTY
IN	MARTIN COUNTY
IN	MIAMI COUNTY
IN	MONROE COUNTY
IN	MONTGOMERY COUNTY
IN	MORGAN COUNTY

STATE	COUNTY
IN	NEWTON COUNTY
IN	NOBLE COUNTY
IN	OHIO COUNTY
IN	ORANGE COUNTY
IN	OWEN COUNTY
IN	PARKE COUNTY
IN	PERRY COUNTY
IN	PIKE COUNTY
IN	PORTER COUNTY
IN	POSEY COUNTY
IN	PULASKI COUNTY
IN	PUTNAM COUNTY
IN	RANDOLPH COUNTY
IN	RIPLEY COUNTY
IN	RUSH COUNTY
IN	ST. JOSEPH COUNTY
IN	SCOTT COUNTY
IN	SHELBY COUNTY
IN	SPENCER COUNTY
IN	STARKE COUNTY
IN	STEUBEN COUNTY
IN	SULLIVAN COUNTY

STATE	COUNTY
IN	SWITZERLAND COUNTY
IN	TIPPECANOE COUNTY
IN	TIPTON COUNTY
IN	UNION COUNTY
IN	VANDERBURGH COUNTY
IN	VERMILLION COUNTY
IN	VIGO COUNTY
IN	WABASH COUNTY
IN	WARREN COUNTY
IN	WARRICK COUNTY
IN	WASHINGTON COUNTY
IN	WAYNE COUNTY
IN	WELLS COUNTY
IN	WHITE COUNTY
IN	WHITLEY COUNTY
IA	ADAIR COUNTY
IA	ADAMS COUNTY
IA	APPANOOSE COUNTY
IA	AUDUBON COUNTY
IA	BENTON COUNTY
IA	BLACK HAWK COUNTY
IA	BOONE COUNTY

STATE	COUNTY
IA	BREMER COUNTY
IA	BUCHANAN COUNTY
IA	BUENA VISTA COUNTY
IA	BUTLER COUNTY
IA	CALHOUN COUNTY
IA	CARROLL COUNTY
IA	CASS COUNTY
IA	CEDAR COUNTY
IA	CERRO GORDO COUNTY
IA	CHEROKEE COUNTY
IA	CHICKASAW COUNTY
IA	CLARKE COUNTY
IA	CLAY COUNTY
IA	CLAYTON COUNTY
IA	CLINTON COUNTY
IA	CRAWFORD COUNTY
IA	DALLAS COUNTY
IA	DAVIS COUNTY
IA	DECATUR COUNTY
IA	DELAWARE COUNTY
IA	DES MOINES COUNTY
IA	DICKINSON COUNTY

STATE	COUNTY
IA	DUBUQUE COUNTY
IA	EMMET COUNTY
IA	FAYETTE COUNTY
IA	FLOYD COUNTY
IA	FRANKLIN COUNTY
IA	FREMONT COUNTY
IA	GREENE COUNTY
IA	GRUNDY COUNTY
IA	GUTHRIE COUNTY
IA	HAMILTON COUNTY
IA	HANCOCK COUNTY
IA	HARDIN COUNTY
IA	HARRISON COUNTY
IA	HENRY COUNTY
IA	HOWARD COUNTY
IA	HUMBOLDT COUNTY
IA	IDA COUNTY
IA	IOWA COUNTY
IA	JACKSON COUNTY
IA	JASPER COUNTY
IA	JEFFERSON COUNTY
IA	JOHNSON COUNTY

STATE	COUNTY
IA	JONES COUNTY
IA	KEOKUK COUNTY
IA	KOSSUTH COUNTY
IA	LEE COUNTY
IA	LINN COUNTY
IA	LOUISA COUNTY
IA	LUCAS COUNTY
IA	LYON COUNTY
IA	MADISON COUNTY
IA	MAHASKA COUNTY
IA	MARION COUNTY
IA	MARSHALL COUNTY
IA	MILLS COUNTY
IA	MITCHELL COUNTY
IA	MONONA COUNTY
IA	MONROE COUNTY
IA	MONTGOMERY COUNTY
IA	MUSCATINE COUNTY
IA	O'BRIEN COUNTY
IA	OSCEOLA COUNTY
IA	PAGE COUNTY
IA	PALO ALTO COUNTY

STATE	COUNTY
IA	PLYMOUTH COUNTY
IA	POCAHONTAS COUNTY
IA	POLK COUNTY
IA	POTTAWATTAMIE COUNTY
IA	POWESHIEK COUNTY
IA	RINGGOLD COUNTY
IA	SAC COUNTY
IA	SCOTT COUNTY
IA	SHELBY COUNTY
IA	SIOUX COUNTY
IA	STORY COUNTY
IA	TAMA COUNTY
IA	TAYLOR COUNTY
IA	UNION COUNTY
IA	VAN BUREN COUNTY
IA	WAPELLO COUNTY
IA	WARREN COUNTY
IA	WASHINGTON COUNTY
IA	WAYNE COUNTY
IA	WEBSTER COUNTY
IA	WINNEBAGO COUNTY
IA	WINNESHIEK COUNTY

STATE	COUNTY
IA	WOODBURY COUNTY
IA	WORTH COUNTY
IA	WRIGHT COUNTY
KS	ALLEN COUNTY
KS	ANDERSON COUNTY
KS	ATCHISON COUNTY
KS	BOURBON COUNTY
KS	BROWN COUNTY
KS	BUTLER COUNTY
KS	CHASE COUNTY
KS	CHAUTAUQUA COUNTY
KS	CHEROKEE COUNTY
KS	CHEYENNE COUNTY
KS	CLARK COUNTY
KS	CLAY COUNTY
KS	CLOUD COUNTY
KS	COFFEY COUNTY
KS	COWLEY COUNTY
KS	CRAWFORD COUNTY
KS	DECATUR COUNTY
KS	DICKINSON COUNTY
KS	DONIPHAN COUNTY
KS	DOUGLAS COUNTY
KS	ELK COUNTY
KS	ELLIS COUNTY
KS	ELLSWORTH COUNTY
KS	FRANKLIN COUNTY
KS	GEARY COUNTY
KS	GOVE COUNTY
KS	GRAHAM COUNTY
KS	GREENWOOD COUNTY
KS	HARVEY COUNTY
KS	HASKELL COUNTY
KS	JACKSON COUNTY
KS	JEFFERSON COUNTY
KS	JEWELL COUNTY
KS	JOHNSON COUNTY
KS	KINGMAN COUNTY
KS	KIOWA COUNTY
KS	LABETTE COUNTY
KS	LEAVENWORTH COUNTY
KS	LINCOLN COUNTY
KS	LINN COUNTY
KS	LOGAN COUNTY
KS	LYON COUNTY
KS	MCPHERSON COUNTY
KS	MARSHALL COUNTY
KS	MEADE COUNTY
KS	MIAMI COUNTY
KS	MITCHELL COUNTY
KS	MONTGOMERY COUNTY
KS	MORRIS COUNTY
KS	NEMAHA COUNTY
KS	NEOSHO COUNTY
KS	NESS COUNTY
KS	NORTON COUNTY
KS	OSAGE COUNTY
KS	OSBORNE COUNTY
KS	OTTAWA COUNTY
KS	PAWNEE COUNTY
KS	PHILLIPS COUNTY
KS	POTTAWATOMIE COUNTY
KS	PRATT COUNTY
KS	RAWLINS COUNTY
KS	RENO COUNTY
KS	REPUBLIC COUNTY

STATE	COUNTY
KS	RICE COUNTY
KS	RILEY COUNTY
KS	ROOKS COUNTY
KS	RUSH COUNTY
KS	RUSSELL COUNTY
KS	SALINE COUNTY
KS	SCOTT COUNTY
KS	SEDGWICK COUNTY
KS	SHAWNEE COUNTY
KS	SHERMAN COUNTY
KS	STAFFORD COUNTY
KS	SUMNER COUNTY
KS	THOMAS COUNTY
KS	TREGO COUNTY
KS	WABAUNSEE COUNTY
KS	WASHINGTON COUNTY
KS	WILSON COUNTY
KS	WOODSON COUNTY
KS	WYANDOTTE COUNTY
KY	ADAIR COUNTY
KY	ALLEN COUNTY
KY	ANDERSON COUNTY
KY	BALLARD COUNTY
KY	BARREN COUNTY
KY	BATH COUNTY
KY	BELL COUNTY
KY	BOONE COUNTY
KY	BOURBON COUNTY
KY	BOYD COUNTY
KY	BOYLE COUNTY
KY	BRACKEN COUNTY
KY	BREATHITT COUNTY
KY	BRECKINRIDGE COUNTY
KY	BULLITT COUNTY
KY	BUTLER COUNTY
KY	CALDWELL COUNTY
KY	CALLOWAY COUNTY
KY	CAMPBELL COUNTY
KY	CARLISLE COUNTY
KY	CARROLL COUNTY
KY	CARTER COUNTY
KY	CASEY COUNTY
KY	CHRISTIAN COUNTY
KY	CLARK COUNTY
KY	CLAY COUNTY
KY	CLINTON COUNTY
KY	CRITTENDEN COUNTY
KY	CUMBERLAND COUNTY
KY	DAVIESS COUNTY
KY	EDMONSON COUNTY
KY	ELLIOTT COUNTY
KY	ESTILL COUNTY
KY	FAYETTE COUNTY
KY	FLEMING COUNTY
KY	FLOYD COUNTY
KY	FRANKLIN COUNTY
KY	FULTON COUNTY
KY	GALLATIN COUNTY
KY	GARRARD COUNTY
KY	GRANT COUNTY
KY	GRAVES COUNTY
KY	GRAYSON COUNTY
KY	GREEN COUNTY
KY	GREENUP COUNTY
KY	HANCOCK COUNTY
KY	HARDIN COUNTY

STATE	COUNTY
KY	HARLAN COUNTY
KY	HARRISON COUNTY
KY	HART COUNTY
KY	HENDERSON COUNTY
KY	HENRY COUNTY
KY	HICKMAN COUNTY
KY	HOPKINS COUNTY
KY	JACKSON COUNTY
KY	JEFFERSON COUNTY
KY	JESSAMINE COUNTY
KY	JOHNSON COUNTY
KY	KENTON COUNTY
KY	KNOTT COUNTY
KY	KNOX COUNTY
KY	LARUE COUNTY
KY	LAUREL COUNTY
KY	LAWRENCE COUNTY
KY	LEE COUNTY
KY	LESLIE COUNTY
KY	LETCHER COUNTY
KY	LEWIS COUNTY
KY	LINCOLN COUNTY

STATE	COUNTY
KY	LIVINGSTON COUNTY
KY	LOGAN COUNTY
KY	LYON COUNTY
KY	MCCRACKEN COUNTY
KY	MCCREARY COUNTY
KY	MCLEAN COUNTY
KY	MADISON COUNTY
KY	MAGOFFIN COUNTY
KY	MARION COUNTY
KY	MARSHALL COUNTY
KY	MARTIN COUNTY
KY	MASON COUNTY
KY	MEADE COUNTY
KY	MENIFEE COUNTY
KY	MERCER COUNTY
KY	METCALFE COUNTY
KY	MONROE COUNTY
KY	MONTGOMERY COUNTY
KY	MORGAN COUNTY
KY	MUHLENBERG COUNTY
KY	NELSON COUNTY
KY	NICHOLAS COUNTY

STATE	COUNTY
KY	OHIO COUNTY
KY	OLDHAM COUNTY
KY	OWEN COUNTY
KY	OWSLEY COUNTY
KY	PENDLETON COUNTY
KY	PERRY COUNTY
KY	PIKE COUNTY
KY	POWELL COUNTY
KY	PULASKI COUNTY
KY	ROBERTSON COUNTY
KY	ROCKCASTLE COUNTY
KY	ROWAN COUNTY
KY	RUSSELL COUNTY
KY	SCOTT COUNTY
KY	SHELBY COUNTY
KY	SIMPSON COUNTY
KY	SPENCER COUNTY
KY	TAYLOR COUNTY
KY	TODD COUNTY
KY	TRIGG COUNTY
KY	TRIMBLE COUNTY
KY	UNION COUNTY

STATE	COUNTY
KY	WARREN COUNTY
KY	WASHINGTON COUNTY
KY	WAYNE COUNTY
KY	WEBSTER COUNTY
KY	WHITLEY COUNTY
KY	WOLFE COUNTY
KY	WOODFORD COUNTY
LA	ACADIA PARISH
LA	ALLEN PARISH
LA	ASCENSION PARISH
LA	ASSUMPTION PARISH
LA	AVOYELLES PARISH
LA	BEAUREGARD PARISH
LA	BIENVILLE PARISH
LA	BOSSIER PARISH
LA	CADDO PARISH
LA	CALCASIEU PARISH
LA	CALDWELL PARISH
LA	CAMERON PARISH
LA	CATAHOULA PARISH
LA	CLAIBORNE PARISH
LA	CONCORDIA PARISH
LA	DE SOTO PARISH
LA	EAST BATON ROUGE PARISH
LA	EAST CARROLL PARISH
LA	EAST FELICIANA PARISH
LA	EVANGELINE PARISH
LA	FRANKLIN PARISH
LA	GRANT PARISH
LA	IBERIA PARISH
LA	IBERVILLE PARISH
LA	JACKSON PARISH
LA	JEFFERSON PARISH
LA	JEFFERSON DAVIS PARISH
LA	LAFAYETTE PARISH
LA	LAFOURCHE PARISH
LA	LASALLE PARISH
LA	LINCOLN PARISH
LA	LIVINGSTON PARISH
LA	MADISON PARISH
LA	MOREHOUSE PARISH
LA	NATCHITOCHES PARISH
LA	ORLEANS PARISH
LA	OUACHITA PARISH
LA	PLAQUEMINES PARISH
LA	POINTE COUPEE PARISH
LA	RAPIDES PARISH
LA	RED RIVER PARISH
LA	RICHLAND PARISH
LA	SABINE PARISH
LA	ST. BERNARD PARISH
LA	ST. CHARLES PARISH
LA	ST. HELENA PARISH
LA	ST. JAMES PARISH
LA	ST. JOHN THE BAPTIST PARISH
LA	ST. LANDRY PARISH
LA	ST. MARTIN PARISH
LA	ST. MARY PARISH
LA	ST. TAMMANY PARISH
LA	TANGIPAHOA PARISH
LA	TENSAS PARISH
LA	TERREBONNE PARISH
LA	UNION PARISH
LA	VERMILION PARISH
LA	VERNON PARISH
LA	WASHINGTON PARISH

STATE	COUNTY
LA	WEBSTER PARISH
LA	WEST BATON ROUGE PARISH
LA	WEST CARROLL PARISH
LA	WEST FELICIANA PARISH
LA	WINN PARISH
ME	ANDROSCOGGIN COUNTY
ME	AROOSTOOK COUNTY
ME	CUMBERLAND COUNTY
ME	FRANKLIN COUNTY
ME	HANCOCK COUNTY
ME	KENNEBEC COUNTY
ME	KNOX COUNTY
ME	LINCOLN COUNTY
ME	OXFORD COUNTY
ME	PENOBSCOT COUNTY
ME	PISCATAQUIS COUNTY
ME	SAGADAHOC COUNTY
ME	SOMERSET COUNTY
ME	WALDO COUNTY
ME	WASHINGTON COUNTY
ME	YORK COUNTY
MD	ALLEGANY COUNTY
MD	ANNE ARUNDEL COUNTY
MD	BALTIMORE COUNTY
MD	CALVERT COUNTY
MD	CAROLINE COUNTY
MD	CARROLL COUNTY
MD	CECIL COUNTY
MD	CHARLES COUNTY
MD	DORCHESTER COUNTY
MD	FREDERICK COUNTY
MD	GARRETT COUNTY
MD	HARFORD COUNTY
MD	HOWARD COUNTY
MD	KENT COUNTY
MD	MONTGOMERY COUNTY
MD	PRINCE GEORGE'S COUNTY
MD	QUEEN ANNE'S COUNTY
MD	ST. MARY'S COUNTY
MD	SOMERSET COUNTY
MD	TALBOT COUNTY
MD	WASHINGTON COUNTY
MD	WICOMICO COUNTY
MD	WORCESTER COUNTY
MD	BALTIMORE CITY
MA	BARNSTABLE COUNTY
MA	BERKSHIRE COUNTY
MA	BRISTOL COUNTY
MA	DUKES COUNTY
MA	ESSEX COUNTY
MA	FRANKLIN COUNTY
MA	HAMPDEN COUNTY
MA	HAMPSHIRE COUNTY
MA	MIDDLESEX COUNTY
MA	NANTUCKET COUNTY
MA	NORFOLK COUNTY
MA	PLYMOUTH COUNTY
MA	SUFFOLK COUNTY
MA	WORCESTER COUNTY
MI	ALCONA COUNTY
MI	ALGER COUNTY
MI	ALLEGAN COUNTY
MI	ALPENA COUNTY
MI	ANTRIM COUNTY
MI	ARENAC COUNTY
MI	BARAGA COUNTY

STATE	COUNTY
MI	BARRY COUNTY
MI	BAY COUNTY
MI	BENZIE COUNTY
MI	BERRIEN COUNTY
MI	BRANCH COUNTY
MI	CALHOUN COUNTY
MI	CASS COUNTY
MI	CHARLEVOIX COUNTY
MI	CHEBOYGAN COUNTY
MI	CHIPPEWA COUNTY
MI	CLARE COUNTY
MI	CLINTON COUNTY
MI	CRAWFORD COUNTY
MI	DELTA COUNTY
MI	DICKINSON COUNTY
MI	EATON COUNTY
MI	EMMET COUNTY
MI	GENESEE COUNTY
MI	GLADWIN COUNTY
MI	GOGEBIC COUNTY
MI	GRAND TRAVERSE COUNTY
MI	GRATIOT COUNTY

STATE	COUNTY
MI	HILLSDALE COUNTY
MI	HOUGHTON COUNTY
MI	HURON COUNTY
MI	INGHAM COUNTY
MI	IONIA COUNTY
MI	IOSCO COUNTY
MI	IRON COUNTY
MI	ISABELLA COUNTY
MI	JACKSON COUNTY
MI	KALAMAZOO COUNTY
MI	KALKASKA COUNTY
MI	KENT COUNTY
MI	KEWEENAW COUNTY
MI	LAKE COUNTY
MI	LAPEER COUNTY
MI	LEELANAU COUNTY
MI	LENAWEE COUNTY
MI	LIVINGSTON COUNTY
MI	LUCE COUNTY
MI	MACKINAC COUNTY
MI	MACOMB COUNTY
MI	MANISTEE COUNTY

STATE	COUNTY
MI	MARQUETTE COUNTY
MI	MASON COUNTY
MI	MECOSTA COUNTY
MI	MENOMINEE COUNTY
MI	MIDLAND COUNTY
MI	MISSAUKEE COUNTY
MI	MONROE COUNTY
MI	MONTCALM COUNTY
MI	MONTMORENCY COUNTY
MI	MUSKEGON COUNTY
MI	NEWAYGO COUNTY
MI	OAKLAND COUNTY
MI	OCEANA COUNTY
MI	OGEMAW COUNTY
MI	ONTONAGON COUNTY
MI	OSCEOLA COUNTY
MI	OSCODA COUNTY
MI	OTSEGO COUNTY
MI	OTTAWA COUNTY
MI	PRESQUE ISLE COUNTY
MI	ROSCOMMON COUNTY
MI	SAGINAW COUNTY

STATE	COUNTY
MI	ST. CLAIR COUNTY
MI	ST. JOSEPH COUNTY
MI	SANILAC COUNTY
MI	SCHOOLCRAFT COUNTY
MI	SHIAWASSEE COUNTY
MI	TUSCOLA COUNTY
MI	VAN BUREN COUNTY
MI	WASHTENAW COUNTY
MI	WAYNE COUNTY
MI	WEXFORD COUNTY
MN	AITKIN COUNTY
MN	ANOKA COUNTY
MN	BECKER COUNTY
MN	BELTRAMI COUNTY
MN	BENTON COUNTY
MN	BIG STONE COUNTY
MN	BLUE EARTH COUNTY
MN	BROWN COUNTY
MN	CARLTON COUNTY
MN	CARVER COUNTY
MN	CASS COUNTY
MN	CHIPPEWA COUNTY
MN	CHISAGO COUNTY
MN	CLAY COUNTY
MN	CLEARWATER COUNTY
MN	COOK COUNTY
MN	COTTONWOOD COUNTY
MN	CROW WING COUNTY
MN	DAKOTA COUNTY
MN	DODGE COUNTY
MN	DOUGLAS COUNTY
MN	FARIBAULT COUNTY
MN	FILLMORE COUNTY
MN	FREEBORN COUNTY
MN	GOODHUE COUNTY
MN	GRANT COUNTY
MN	HENNEPIN COUNTY
MN	HOUSTON COUNTY
MN	HUBBARD COUNTY
MN	ISANTI COUNTY
MN	ITASCA COUNTY
MN	JACKSON COUNTY
MN	KANABEC COUNTY
MN	KANDIYOHI COUNTY
MN	KOOCHICHING COUNTY
MN	LAC QUI PARLE COUNTY
MN	LAKE COUNTY
MN	LAKE OF THE WOODS COUNTY
MN	LE SUEUR COUNTY
MN	LINCOLN COUNTY
MN	LYON COUNTY
MN	MCLEOD COUNTY
MN	MAHNOMEN COUNTY
MN	MARSHALL COUNTY
MN	MARTIN COUNTY
MN	MEEKER COUNTY
MN	MILLE LACS COUNTY
MN	MORRISON COUNTY
MN	MOWER COUNTY
MN	MURRAY COUNTY
MN	NICOLLET COUNTY
MN	NOBLES COUNTY
MN	NORMAN COUNTY
MN	OLMSTED COUNTY
MN	OTTER TAIL COUNTY
MN	PENNINGTON COUNTY

STATE	COUNTY
MN	PINE COUNTY
MN	PIPESTONE COUNTY
MN	POLK COUNTY
MN	POPE COUNTY
MN	RAMSEY COUNTY
MN	RED LAKE COUNTY
MN	REDWOOD COUNTY
MN	RENVILLE COUNTY
MN	RICE COUNTY
MN	ROCK COUNTY
MN	ROSEAU COUNTY
MN	ST. LOUIS COUNTY
MN	SCOTT COUNTY
MN	SHERBURNE COUNTY
MN	SIBLEY COUNTY
MN	STEARNS COUNTY
MN	STEELE COUNTY
MN	STEVENS COUNTY
MN	SWIFT COUNTY
MN	TODD COUNTY
MN	TRAVERSE COUNTY
MN	WABASHA COUNTY

STATE	COUNTY
MN	WADENA COUNTY
MN	WASECA COUNTY
MN	WASHINGTON COUNTY
MN	WATONWAN COUNTY
MN	WILKIN COUNTY
MN	WINONA COUNTY
MN	WRIGHT COUNTY
MN	YELLOW MEDICINE
MS	ADAMS COUNTY
MS	ALCORN COUNTY
MS	AMITE COUNTY
MS	ATTALA COUNTY
MS	BENTON COUNTY
MS	BOLIVAR COUNTY
MS	CALHOUN COUNTY
MS	CARROLL COUNTY
MS	CHICKASAW COUNTY
MS	CHOCTAW COUNTY
MS	CLAIBORNE COUNTY
MS	CLARKE COUNTY
MS	CLAY COUNTY
MS	COAHOMA COUNTY

STATE	COUNTY
MS	COPIAH COUNTY
MS	COVINGTON COUNTY
MS	DESOTO COUNTY
MS	FORREST COUNTY
MS	FRANKLIN COUNTY
MS	GEORGE COUNTY
MS	GREENE COUNTY
MS	GRENADA COUNTY
MS	HANCOCK COUNTY
MS	HARRISON COUNTY
MS	HINDS COUNTY
MS	HOLMES COUNTY
MS	HUMPHREYS COUNTY
MS	ISSAQUENA COUNTY
MS	ITAWAMBA COUNTY
MS	JACKSON COUNTY
MS	JASPER COUNTY
MS	JEFFERSON COUNTY
MS	JEFFERSON DAVIS COUNTY
MS	JONES COUNTY
MS	KEMPER COUNTY
MS	LAFAYETTE COUNTY

STATE	COUNTY
MS	LAMAR COUNTY
MS	LAUDERDALE COUNTY
MS	LAWRENCE COUNTY
MS	LEAKE COUNTY
MS	LEE COUNTY
MS	LEFLORE COUNTY
MS	LINCOLN COUNTY
MS	LOWNDES COUNTY
MS	MADISON COUNTY
MS	MARION COUNTY
MS	MARSHALL COUNTY
MS	MONROE COUNTY
MS	MONTGOMERY COUNTY
MS	NESHOBA COUNTY
MS	NEWTON COUNTY
MS	NOXUBEE COUNTY
MS	OKTIBBEHA COUNTY
MS	PANOLA COUNTY
MS	PEARL RIVER COUNTY
MS	PERRY COUNTY
MS	PIKE COUNTY
MS	PONTOTOC COUNTY
MS	PRENTISS COUNTY
MS	QUITMAN COUNTY
MS	RANKIN COUNTY
MS	SCOTT COUNTY
MS	SHARKEY COUNTY
MS	SIMPSON COUNTY
MS	SMITH COUNTY
MS	STONE COUNTY
MS	SUNFLOWER COUNTY
MS	TALLAHATCHIE COUNTY
MS	TATE COUNTY
MS	TIPPAH COUNTY
MS	TISHOMINGO COUNTY
MS	TUNICA COUNTY
MS	UNION COUNTY
MS	WALTHALL COUNTY
MS	WARREN COUNTY
MS	WASHINGTON COUNTY
MS	WAYNE COUNTY
MS	WEBSTER COUNTY
MS	WILKINSON COUNTY
MS	WINSTON COUNTY
MS	YALOBUSHA COUNTY
MS	YAZOO COUNTY
MO	ADAIR COUNTY
MO	ANDREW COUNTY
MO	ATCHISON COUNTY
MO	AUDRAIN COUNTY
MO	BARRY COUNTY
MO	BARTON COUNTY
MO	BATES COUNTY
MO	BENTON COUNTY
MO	BOLLINGER COUNTY
MO	BOONE COUNTY
MO	BUCHANAN COUNTY
MO	BUTLER COUNTY
MO	CALDWELL COUNTY
MO	CALLAWAY COUNTY
MO	CAMDEN COUNTY
MO	CAPE GIRARDEAU COUNTY
MO	CARROLL COUNTY
MO	CARTER COUNTY
MO	CASS COUNTY
MO	CEDAR COUNTY

STATE	COUNTY
MO	CHARITON COUNTY
MO	CHRISTIAN COUNTY
MO	CLARK COUNTY
MO	CLAY COUNTY
MO	CLINTON COUNTY
MO	COLE COUNTY
MO	COOPER COUNTY
MO	CRAWFORD COUNTY
MO	DADE COUNTY
MO	DALLAS COUNTY
MO	DAVIESS COUNTY
MO	DEKALB COUNTY
MO	DENT COUNTY
MO	DOUGLAS COUNTY
MO	DUNKLIN COUNTY
MO	FRANKLIN COUNTY
MO	GASCONADE COUNTY
MO	GENTRY COUNTY
MO	GREENE COUNTY
MO	GRUNDY COUNTY
MO	HARRISON COUNTY
MO	HENRY COUNTY

STATE	COUNTY
MO	HICKORY COUNTY
MO	HOLT COUNTY
MO	HOWARD COUNTY
MO	HOWELL COUNTY
MO	IRON COUNTY
MO	JACKSON COUNTY
MO	JASPER COUNTY
MO	JEFFERSON COUNTY
MO	JOHNSON COUNTY
MO	KNOX COUNTY
MO	LACLEDE COUNTY
MO	LAFAYETTE COUNTY
MO	LAWRENCE COUNTY
MO	LEWIS COUNTY
MO	LINCOLN COUNTY
MO	LINN COUNTY
MO	LIVINGSTON COUNTY
MO	MCDONALD COUNTY
MO	MACON COUNTY
MO	MADISON COUNTY
MO	MARIES COUNTY
MO	MARION COUNTY

STATE	COUNTY
MO	MERCER COUNTY
MO	MILLER COUNTY
MO	MISSISSIPPI COUNTY
MO	MONITEAU COUNTY
MO	MONROE COUNTY
MO	MONTGOMERY COUNTY
MO	MORGAN COUNTY
MO	NEW MADRID COUNTY
MO	NEWTON COUNTY
MO	NODAWAY COUNTY
MO	OREGON COUNTY
MO	OSAGE COUNTY
MO	OZARK COUNTY
MO	PEMISCOT COUNTY
MO	PERRY COUNTY
MO	PETTIS COUNTY
MO	PHELPS COUNTY
MO	PIKE COUNTY
MO	PLATTE COUNTY
MO	POLK COUNTY
MO	PULASKI COUNTY
MO	PUTNAM COUNTY

STATE	COUNTY
MO	RALLS COUNTY
MO	RANDOLPH COUNTY
MO	RAY COUNTY
MO	REYNOLDS COUNTY
MO	RIPLEY COUNTY
MO	ST. CHARLES COUNTY
MO	ST. CLAIR COUNTY
MO	STE. GENEVIEVE COUNTY
MO	ST. FRANCOIS COUNTY
MO	ST. LOUIS COUNTY
MO	SALINE COUNTY
MO	SCHUYLER COUNTY
MO	SCOTLAND COUNTY
MO	SCOTT COUNTY
MO	SHANNON COUNTY
MO	SHELBY COUNTY
MO	STODDARD COUNTY
MO	STONE COUNTY
MO	SULLIVAN COUNTY
MO	TANEY COUNTY
MO	TEXAS COUNTY
MO	VERNON COUNTY
MO	WARREN COUNTY
MO	WASHINGTON COUNTY
MO	WAYNE COUNTY
MO	WEBSTER COUNTY
MO	WORTH COUNTY
MO	WRIGHT COUNTY
MO	ST. LOUIS CITY
MT	BEAVERHEAD COUNTY
MT	BIG HORN COUNTY
MT	BLAINE COUNTY
MT	DAWSON COUNTY
MT	FERGUS COUNTY
MT	GALLATIN COUNTY
MT	GOLDEN VALLEY COUNTY
MT	GRANITE COUNTY
MT	JUDITH BASIN COUNTY
MT	LAKE COUNTY
MT	LEWIS AND CLARK COUNTY
MT	LINCOLN COUNTY
MT	PHILLIPS COUNTY
MT	PONDERA COUNTY
MT	ROOSEVELT COUNTY
MT	ROSEBUD COUNTY
MT	STILLWATER COUNTY
MT	TOOLE COUNTY
NE	ADAMS COUNTY
NE	ANTELOPE COUNTY
NE	BOX BUTTE COUNTY
NE	BROWN COUNTY
NE	BUFFALO COUNTY
NE	BURT COUNTY
NE	BUTLER COUNTY
NE	CASS COUNTY
NE	CEDAR COUNTY
NE	CHASE COUNTY
NE	CHERRY COUNTY
NE	CHEYENNE COUNTY
NE	CLAY COUNTY
NE	CUSTER COUNTY
NE	DAKOTA COUNTY
NE	DAWES COUNTY
NE	DAWSON COUNTY
NE	DIXON COUNTY
NE	DODGE COUNTY

STATE	COUNTY
NE	DOUGLAS COUNTY
NE	DUNDY COUNTY
NE	FILLMORE COUNTY
NE	FRANKLIN COUNTY
NE	FRONTIER COUNTY
NE	FURNAS COUNTY
NE	GAGE COUNTY
NE	GREELEY COUNTY
NE	HALL COUNTY
NE	HAMILTON COUNTY
NE	HARLAN COUNTY
NE	HITCHCOCK COUNTY
NE	HOLT COUNTY
NE	HOWARD COUNTY
NE	JEFFERSON COUNTY
NE	KEITH COUNTY
NE	KIMBALL COUNTY
NE	LANCASTER COUNTY
NE	LINCOLN COUNTY
NE	MADISON COUNTY
NE	MERRICK COUNTY
NE	MORRILL COUNTY

STATE	COUNTY
NE	NEMAHA COUNTY
NE	NUCKOLLS COUNTY
NE	OTOE COUNTY
NE	PAWNEE COUNTY
NE	PHELPS COUNTY
NE	PIERCE COUNTY
NE	PLATTE COUNTY
NE	POLK COUNTY
NE	RED WILLOW COUNTY
NE	RICHARDSON COUNTY
NE	SALINE COUNTY
NE	SARPY COUNTY
NE	SAUNDERS COUNTY
NE	SCOTTS BLUFF COUNTY
NE	SEWARD COUNTY
NE	SHERMAN COUNTY
NE	STANTON COUNTY
NE	THAYER COUNTY
NE	VALLEY COUNTY
NE	WASHINGTON COUNTY
NE	WAYNE COUNTY
NE	WEBSTER COUNTY

STATE	COUNTY
NE	YORK COUNTY
NV	CHURCHILL COUNTY
NV	CLARK COUNTY
NV	ELKO COUNTY
NV	ESMERALDA COUNTY
NV	EUREKA COUNTY
NV	HUMBOLDT COUNTY
NV	LANDER COUNTY
NV	LINCOLN COUNTY
NV	LYON COUNTY
NV	MINERAL COUNTY
NV	NYE COUNTY
NV	PERSHING COUNTY
NV	STOREY COUNTY
NV	WASHOE COUNTY
NV	WHITE PINE COUNTY
NV	CARSON CITY
NJ	ATLANTIC COUNTY
NJ	BERGEN COUNTY
NJ	BURLINGTON COUNTY
NJ	CAMDEN COUNTY
NJ	CAPE MAY COUNTY

STATE	COUNTY
NJ	CUMBERLAND COUNTY
NJ	ESSEX COUNTY
NJ	GLOUCESTER COUNTY
NJ	HUDSON COUNTY
NJ	HUNTERDON COUNTY
NJ	MERCER COUNTY
NJ	MIDDLESEX COUNTY
NJ	MONMOUTH COUNTY
NJ	MORRIS COUNTY
NJ	OCEAN COUNTY
NJ	PASSAIC COUNTY
NJ	SALEM COUNTY
NJ	SOMERSET COUNTY
NJ	SUSSEX COUNTY
NJ	UNION COUNTY
NJ	WARREN COUNTY
NM	CATRON COUNTY
NM	CIBOLA COUNTY
NM	DE BACA COUNTY
NM	GRANT COUNTY
NM	GUADALUPE COUNTY
NM	HARDING COUNTY

STATE	COUNTY
NM	HIDALGO COUNTY
NM	LEA COUNTY
NM	LINCOLN COUNTY
NM	LOS ALAMOS COUNTY
NM	RIO ARRIBA COUNTY
NM	SANDOVAL COUNTY
NM	SIERRA COUNTY
NM	SOCORRO COUNTY
NM	TAOS COUNTY
NM	TORRANCE COUNTY
NM	UNION COUNTY
NY	ALBANY COUNTY
NY	ALLEGANY COUNTY
NY	BRONX COUNTY
NY	BROOME COUNTY
NY	CATTARAUGUS COUNTY
NY	CAYUGA COUNTY
NY	CHAUTAUQUA COUNTY
NY	CHEMUNG COUNTY
NY	CHENANGO COUNTY
NY	CLINTON COUNTY
NY	COLUMBIA COUNTY

STATE	COUNTY
NY	CORTLAND COUNTY
NY	DELAWARE COUNTY
NY	DUTCHESS COUNTY
NY	ERIE COUNTY
NY	ESSEX COUNTY
NY	FRANKLIN COUNTY
NY	FULTON COUNTY
NY	GENESEE COUNTY
NY	GREENE COUNTY
NY	HAMILTON COUNTY
NY	HERKIMER COUNTY
NY	JEFFERSON COUNTY
NY	KINGS COUNTY
NY	LEWIS COUNTY
NY	LIVINGSTON COUNTY
NY	MADISON COUNTY
NY	MONROE COUNTY
NY	MONTGOMERY COUNTY
NY	NASSAU COUNTY
NY	NEW YORK COUNTY
NY	NIAGARA COUNTY
NY	ONEIDA COUNTY

STATE	COUNTY
NY	ONONDAGA COUNTY
NY	ONTARIO COUNTY
NY	ORANGE COUNTY
NY	ORLEANS COUNTY
NY	OSWEGO COUNTY
NY	OTSEGO COUNTY
NY	PUTNAM COUNTY
NY	QUEENS COUNTY
NY	RENSSELAER COUNTY
NY	RICHMOND COUNTY
NY	ROCKLAND COUNTY
NY	ST. LAWRENCE COUNTY
NY	SARATOGA COUNTY
NY	SCHENECTADY COUNTY
NY	SCHOHARIE COUNTY
NY	SCHUYLER COUNTY
NY	SENECA COUNTY
NY	STEUBEN COUNTY
NY	SUFFOLK COUNTY
NY	SULLIVAN COUNTY
NY	TIOGA COUNTY
NY	TOMPKINS COUNTY
NY	ULSTER COUNTY
NY	WARREN COUNTY
NY	WASHINGTON COUNTY
NY	WAYNE COUNTY
NY	WESTCHESTER COUNTY
NY	WYOMING COUNTY
NY	YATES COUNTY
NC	ALLEGHANY COUNTY
NC	ANSON COUNTY
NC	ASHE COUNTY
NC	AVERY COUNTY
NC	BEAUFORT COUNTY
NC	BERTIE COUNTY
NC	BRUNSWICK COUNTY
NC	BURKE COUNTY
NC	CABARRUS COUNTY
NC	CALDWELL COUNTY
NC	CAMDEN COUNTY
NC	COLUMBUS COUNTY
NC	CRAVEN COUNTY
NC	CUMBERLAND COUNTY
NC	DAVIE COUNTY
NC	DUPLIN COUNTY
NC	EDGECOMBE COUNTY
NC	GREENE COUNTY
NC	GUILFORD COUNTY
NC	HALIFAX COUNTY
NC	HOKE COUNTY
NC	HYDE COUNTY
NC	JONES COUNTY
NC	LEE COUNTY
NC	LENOIR COUNTY
NC	MADISON COUNTY
NC	MITCHELL COUNTY
NC	NASH COUNTY
NC	NEW HANOVER COUNTY
NC	NORTHAMPTON COUNTY
NC	ONSLOW COUNTY
NC	PAMLICO COUNTY
NC	PASQUOTANK COUNTY
NC	PENDER COUNTY
NC	PERQUIMANS COUNTY
NC	PITT COUNTY
NC	POLK COUNTY

STATE	COUNTY
NC	RICHMOND COUNTY
NC	ROBESON COUNTY
NC	SAMPSON COUNTY
NC	SCOTLAND COUNTY
NC	STANLY COUNTY
NC	WATAUGA COUNTY
NC	WAYNE COUNTY
NC	WILKES COUNTY
NC	WILSON COUNTY
NC	YADKIN COUNTY
NC	YANCEY COUNTY
ND	ADAMS COUNTY
ND	BARNES COUNTY
ND	BENSON COUNTY
ND	BOTTINEAU COUNTY
ND	BOWMAN COUNTY
ND	BURKE COUNTY
ND	BURLEIGH COUNTY
ND	CASS COUNTY
ND	CAVALIER COUNTY
ND	DICKEY COUNTY
ND	DUNN COUNTY
ND	EDDY COUNTY
ND	EMMONS COUNTY
ND	FOSTER COUNTY
ND	GOLDEN VALLEY COUNTY
ND	GRAND FORKS COUNTY
ND	GRIGGS COUNTY
ND	HETTINGER COUNTY
ND	KIDDER COUNTY
ND	LAMOURE COUNTY
ND	LOGAN COUNTY
ND	MCHENRY COUNTY
ND	MCINTOSH COUNTY
ND	MCLEAN COUNTY
ND	MERCER COUNTY
ND	MORTON COUNTY
ND	NELSON COUNTY
ND	PEMBINA COUNTY
ND	PIERCE COUNTY
ND	RAMSEY COUNTY
ND	RANSOM COUNTY
ND	RENVILLE COUNTY
ND	RICHLAND COUNTY
ND	ROLETTE COUNTY
ND	SARGENT COUNTY
ND	SHERIDAN COUNTY
ND	STARK COUNTY
ND	STEELE COUNTY
ND	STUTSMAN COUNTY
ND	TOWNER COUNTY
ND	TRAILL COUNTY
ND	WALSH COUNTY
ND	WARD COUNTY
ND	WELLS COUNTY
ND	WILLIAMS COUNTY
OH	ADAMS COUNTY
OH	ALLEN COUNTY
OH	ASHLAND COUNTY
OH	ASHTABULA COUNTY
OH	ATHENS COUNTY
OH	AUGLAIZE COUNTY
OH	BELMONT COUNTY
OH	BROWN COUNTY
OH	BUTLER COUNTY
OH	CARROLL COUNTY

STATE	COUNTY
OH	CHAMPAIGN COUNTY
OH	CLARK COUNTY
OH	CLERMONT COUNTY
OH	CLINTON COUNTY
OH	COLUMBIANA COUNTY
OH	COSHOCTON COUNTY
OH	CRAWFORD COUNTY
OH	CUYAHOGA COUNTY
OH	DARKE COUNTY
OH	DEFIANCE COUNTY
OH	DELAWARE COUNTY
OH	ERIE COUNTY
OH	FAIRFIELD COUNTY
OH	FAYETTE COUNTY
OH	FRANKLIN COUNTY
OH	FULTON COUNTY
OH	GALLIA COUNTY
OH	GEAUGA COUNTY
OH	GREENE COUNTY
OH	GUERNSEY COUNTY
OH	HAMILTON COUNTY
OH	HANCOCK COUNTY

STATE	COUNTY
OH	HARDIN COUNTY
OH	HARRISON COUNTY
OH	HENRY COUNTY
OH	HIGHLAND COUNTY
OH	HOCKING COUNTY
OH	HOLMES COUNTY
OH	HURON COUNTY
OH	JACKSON COUNTY
OH	JEFFERSON COUNTY
OH	KNOX COUNTY
OH	LAKE COUNTY
OH	LAWRENCE COUNTY
OH	LICKING COUNTY
OH	LOGAN COUNTY
OH	LORAIN COUNTY
OH	LUCAS COUNTY
OH	MADISON COUNTY
OH	MAHONING COUNTY
OH	MARION COUNTY
OH	MEDINA COUNTY
OH	MEIGS COUNTY
OH	MERCER COUNTY

STATE	COUNTY
OH	MIAMI COUNTY
OH	MONROE COUNTY
OH	MONTGOMERY COUNTY
OH	MORGAN COUNTY
OH	MORROW COUNTY
OH	MUSKINGUM COUNTY
OH	NOBLE COUNTY
OH	OTTAWA COUNTY
OH	PAULDING COUNTY
OH	PERRY COUNTY
OH	PICKAWAY COUNTY
OH	PIKE COUNTY
OH	PORTAGE COUNTY
OH	PREBLE COUNTY
OH	PUTNAM COUNTY
OH	RICHLAND COUNTY
OH	ROSS COUNTY
OH	SANDUSKY COUNTY
OH	SCIOTO COUNTY
OH	SENECA COUNTY
OH	SHELBY COUNTY
OH	STARK COUNTY

STATE	COUNTY
OH	SUMMIT COUNTY
OH	TRUMBULL COUNTY
OH	TUSCARAWAS COUNTY
OH	UNION COUNTY
OH	VAN WERT COUNTY
OH	VINTON COUNTY
OH	WARREN COUNTY
OH	WASHINGTON COUNTY
OH	WAYNE COUNTY
OH	WILLIAMS COUNTY
OH	WOOD COUNTY
OH	WYANDOT COUNTY
OK	ADAIR COUNTY
OK	ALFALFA COUNTY
OK	ATOKA COUNTY
OK	BECKHAM COUNTY
OK	BLAINE COUNTY
OK	BRYAN COUNTY
OK	CADDO COUNTY
OK	CARTER COUNTY
OK	CHEROKEE COUNTY
OK	CHOCTAW COUNTY

STATE	COUNTY
OK	CLEVELAND COUNTY
OK	COAL COUNTY
OK	COMANCHE COUNTY
OK	COTTON COUNTY
OK	CRAIG COUNTY
OK	CREEK COUNTY
OK	DELAWARE COUNTY
OK	DEWEY COUNTY
OK	ELLIS COUNTY
OK	GARFIELD COUNTY
OK	GARVIN COUNTY
OK	GRADY COUNTY
OK	GRANT COUNTY
OK	GREER COUNTY
OK	HARMON COUNTY
OK	HASKELL COUNTY
OK	HUGHES COUNTY
OK	JACKSON COUNTY
OK	JEFFERSON COUNTY
OK	JOHNSTON COUNTY
OK	KAY COUNTY
OK	KINGFISHER COUNTY

STATE	COUNTY
OK	KIOWA COUNTY
OK	LATIMER COUNTY
OK	LE FLORE COUNTY
OK	LINCOLN COUNTY
OK	LOGAN COUNTY
OK	LOVE COUNTY
OK	MCCLAIN COUNTY
OK	MCCURTAIN COUNTY
OK	MCINTOSH COUNTY
OK	MAJOR COUNTY
OK	MARSHALL COUNTY
OK	MAYES COUNTY
OK	MURRAY COUNTY
OK	MUSKOGEE COUNTY
OK	NOBLE COUNTY
OK	NOWATA COUNTY
OK	OKFUSKEE COUNTY
OK	OKLAHOMA COUNTY
OK	OKMULGEE COUNTY
OK	OSAGE COUNTY
OK	PAWNEE COUNTY
OK	PAYNE COUNTY

STATE	COUNTY
OK	PITTSBURG COUNTY
OK	PONTOTOC COUNTY
OK	POTTAWATOMIE COUNTY
OK	PUSHMATAHA COUNTY
OK	ROGER MILLS COUNTY
OK	ROGERS COUNTY
OK	SEMINOLE COUNTY
OK	SEQUOYAH COUNTY
OK	STEPHENS COUNTY
OK	TEXAS COUNTY
OK	TILLMAN COUNTY
OK	TULSA COUNTY
OK	WAGONER COUNTY
OK	WASHINGTON COUNTY
OK	WASHITA COUNTY
OK	WOODS COUNTY
OK	WOODWARD COUNTY
OR	CLACKAMAS COUNTY
OR	COOS COUNTY
OR	DESCHUTES COUNTY
OR	DOUGLAS COUNTY
OR	JACKSON COUNTY
OR	LANE COUNTY
OR	TILLAMOOK COUNTY
PA	ADAMS COUNTY
PA	ALLEGHENY COUNTY
PA	ARMSTRONG COUNTY
PA	BEAVER COUNTY
PA	BEDFORD COUNTY
PA	BERKS COUNTY
PA	BLAIR COUNTY
PA	BRADFORD COUNTY
PA	BUCKS COUNTY
PA	BUTLER COUNTY
PA	CAMBRIA COUNTY
PA	CAMERON COUNTY
PA	CARBON COUNTY
PA	CENTRE COUNTY
PA	CHESTER COUNTY
PA	CLARION COUNTY
PA	CLEARFIELD COUNTY
PA	CLINTON COUNTY
PA	COLUMBIA COUNTY
PA	CRAWFORD COUNTY
PA	CUMBERLAND COUNTY
PA	DAUPHIN COUNTY
PA	DELAWARE COUNTY
PA	ELK COUNTY
PA	ERIE COUNTY
PA	FAYETTE COUNTY
PA	FOREST COUNTY
PA	FRANKLIN COUNTY
PA	FULTON COUNTY
PA	GREENE COUNTY
PA	HUNTINGDON COUNTY
PA	INDIANA COUNTY
PA	JEFFERSON COUNTY
PA	JUNIATA COUNTY
PA	LACKAWANNA COUNTY
PA	LANCASTER COUNTY
PA	LAWRENCE COUNTY
PA	LEBANON COUNTY
PA	LEHIGH COUNTY
PA	LUZERNE COUNTY
PA	LYCOMING COUNTY
PA	MCKEAN COUNTY

STATE	COUNTY
PA	MERCER COUNTY
PA	MIFFLIN COUNTY
PA	MONROE COUNTY
PA	MONTGOMERY COUNTY
PA	MONTOUR COUNTY
PA	NORTHAMPTON COUNTY
PA	NORTHUMBERLAND COUNTY
PA	PERRY COUNTY
PA	PHILADELPHIA COUNTY
PA	PIKE COUNTY
PA	POTTER COUNTY
PA	SCHUYLKILL COUNTY
PA	SNYDER COUNTY
PA	SOMERSET COUNTY
PA	SULLIVAN COUNTY
PA	SUSQUEHANNA COUNTY
PA	TIOGA COUNTY
PA	UNION COUNTY
PA	VENANGO COUNTY
PA	WARREN COUNTY
PA	WASHINGTON COUNTY
PA	WAYNE COUNTY
PA	WESTMORELAND COUNTY
PA	WYOMING COUNTY
PA	YORK COUNTY
RI	BRISTOL COUNTY
RI	KENT COUNTY
RI	NEWPORT COUNTY
RI	PROVIDENCE COUNTY
RI	WASHINGTON COUNTY
SC	ABBEVILLE COUNTY
SC	AIKEN COUNTY
SC	ALLENDALE COUNTY
SC	ANDERSON COUNTY
SC	BAMBERG COUNTY
SC	BARNWELL COUNTY
SC	BEAUFORT COUNTY
SC	BERKELEY COUNTY
SC	CALHOUN COUNTY
SC	CHARLESTON COUNTY
SC	CHEROKEE COUNTY
SC	CHESTER COUNTY
SC	CHESTERFIELD COUNTY
SC	CLARENDON COUNTY
SC	COLLETON COUNTY
SC	DARLINGTON COUNTY
SC	DILLON COUNTY
SC	DORCHESTER COUNTY
SC	EDGEFIELD COUNTY
SC	FAIRFIELD COUNTY
SC	FLORENCE COUNTY
SC	GEORGETOWN COUNTY
SC	GREENVILLE COUNTY
SC	GREENWOOD COUNTY
SC	HAMPTON COUNTY
SC	HORRY COUNTY
SC	JASPER COUNTY
SC	KERSHAW COUNTY
SC	LANCASTER COUNTY
SC	LAURENS COUNTY
SC	LEE COUNTY
SC	LEXINGTON COUNTY
SC	MCCORMICK COUNTY
SC	MARION COUNTY
SC	MARLBORO COUNTY
SC	NEWBERRY COUNTY

STATE	COUNTY
SC	OCONEE COUNTY
SC	ORANGEBURG COUNTY
SC	PICKENS COUNTY
SC	RICHLAND COUNTY
SC	SALUDA COUNTY
SC	SPARTANBURG COUNTY
SC	SUMTER COUNTY
SC	UNION COUNTY
SC	WILLIAMSBURG COUNTY
SC	YORK COUNTY
SD	CAMPBELL COUNTY
SD	CUSTER COUNTY
SD	DOUGLAS COUNTY
SD	EDMUNDS COUNTY
SD	HANSON COUNTY
SD	HUTCHINSON COUNTY
SD	HYDE COUNTY
SD	KINGSBURY COUNTY
SD	LAKE COUNTY
SD	LYMAN COUNTY
SD	MCCOOK COUNTY
SD	MEADE COUNTY
SD	PERKINS COUNTY
SD	SPINK COUNTY
SD	STANLEY COUNTY
SD	TURNER COUNTY
SD	UNION COUNTY
TN	ANDERSON COUNTY
TN	BEDFORD COUNTY
TN	BENTON COUNTY
TN	BLEDSOE COUNTY
TN	BLOUNT COUNTY
TN	BRADLEY COUNTY
TN	CAMPBELL COUNTY
TN	CANNON COUNTY
TN	CARROLL COUNTY
TN	CARTER COUNTY
TN	CHEATHAM COUNTY
TN	CHESTER COUNTY
TN	CLAIBORNE COUNTY
TN	CLAY COUNTY
TN	COCKE COUNTY
TN	COFFEE COUNTY
TN	CROCKETT COUNTY
TN	CUMBERLAND COUNTY
TN	DAVIDSON COUNTY
TN	DECATUR COUNTY
TN	DEKALB COUNTY
TN	DICKSON COUNTY
TN	DYER COUNTY
TN	FAYETTE COUNTY
TN	FENTRESS COUNTY
TN	FRANKLIN COUNTY
TN	GIBSON COUNTY
TN	GILES COUNTY
TN	GRAINGER COUNTY
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TN	GRUNDY COUNTY
TN	HAMBLEN COUNTY
TN	HAMILTON COUNTY
TN	HANCOCK COUNTY
TN	HARDEMAN COUNTY
TN	HARDIN COUNTY
TN	HAWKINS COUNTY
TN	HAYWOOD COUNTY
TN	HENDERSON COUNTY

STATE	COUNTY
TN	HENRY COUNTY
TN	HICKMAN COUNTY
TN	HOUSTON COUNTY
TN	HUMPHREYS COUNTY
TN	JACKSON COUNTY
TN	JEFFERSON COUNTY
TN	JOHNSON COUNTY
TN	KNOX COUNTY
TN	LAKE COUNTY
TN	LAUDERDALE COUNTY
TN	LAWRENCE COUNTY
TN	LEWIS COUNTY
TN	LINCOLN COUNTY
TN	LOUDON COUNTY
TN	MCMINN COUNTY
TN	MCNAIRY COUNTY
TN	MACON COUNTY
TN	MADISON COUNTY
TN	MARION COUNTY
TN	MARSHALL COUNTY
TN	MAURY COUNTY
TN	MEIGS COUNTY
TN	MONROE COUNTY
TN	MONTGOMERY COUNTY
TN	MOORE COUNTY
TN	MORGAN COUNTY
TN	OBION COUNTY
TN	OVERTON COUNTY
TN	PERRY COUNTY
TN	PICKETT COUNTY
TN	POLK COUNTY
TN	PUTNAM COUNTY
TN	RHEA COUNTY
TN	ROANE COUNTY
TN	ROBERTSON COUNTY
TN	RUTHERFORD COUNTY
TN	SCOTT COUNTY
TN	SEQUATCHIE COUNTY
TN	SEVIER COUNTY
TN	SHELBY COUNTY
TN	SMITH COUNTY
TN	STEWART COUNTY
TN	SULLIVAN COUNTY
TN	SUMNER COUNTY
TN	TIPTON COUNTY
TN	TROUSDALE COUNTY
TN	UNICOI COUNTY
TN	UNION COUNTY
TN	VAN BUREN COUNTY
TN	WARREN COUNTY
TN	WASHINGTON COUNTY
TN	WAYNE COUNTY
TN	WEAKLEY COUNTY
TN	WHITE COUNTY
TN	WILLIAMSON COUNTY
TN	WILSON COUNTY
TX	ANDERSON COUNTY
TX	ANDREWS COUNTY
TX	ANGELINA COUNTY
TX	ARANSAS COUNTY
TX	ARCHER COUNTY
TX	ATASCOSA COUNTY
TX	AUSTIN COUNTY
TX	BAILEY COUNTY
TX	BANDERA COUNTY
TX	BASTROP COUNTY

STATE	COUNTY
TX	BAYLOR COUNTY
TX	BEE COUNTY
TX	BELL COUNTY
TX	BEXAR COUNTY
TX	BLANCO COUNTY
TX	BOSQUE COUNTY
TX	BOWIE COUNTY
TX	BRAZORIA COUNTY
TX	BRAZOS COUNTY
TX	BRISCOE COUNTY
TX	BROOKS COUNTY
TX	BROWN COUNTY
TX	BURLESON COUNTY
TX	BURNET COUNTY
TX	CALDWELL COUNTY
TX	CALHOUN COUNTY
TX	CALLAHAN COUNTY
TX	CAMERON COUNTY
TX	CAMP COUNTY
TX	CARSON COUNTY
TX	CASS COUNTY
TX	CASTRO COUNTY

STATE	COUNTY
TX	CHAMBERS COUNTY
TX	CHEROKEE COUNTY
TX	CHILDRESS COUNTY
TX	CLAY COUNTY
TX	COCHRAN COUNTY
TX	COKE COUNTY
TX	COLEMAN COUNTY
TX	COLLIN COUNTY
TX	COLLINGSWORTH COUNTY
TX	COLORADO COUNTY
TX	COMAL COUNTY
TX	COMANCHE COUNTY
TX	CONCHO COUNTY
TX	COOKE COUNTY
TX	CORYELL COUNTY
TX	CRANE COUNTY
TX	CROSBY COUNTY
TX	CULBERSON COUNTY
TX	DALLAM COUNTY
TX	DALLAS COUNTY
TX	DAWSON COUNTY
TX	DEAF SMITH COUNTY

STATE	COUNTY
TX	DELTA COUNTY
TX	DENTON COUNTY
TX	DEWITT COUNTY
TX	DICKENS COUNTY
TX	DIMMIT COUNTY
TX	DONLEY COUNTY
TX	DUVAL COUNTY
TX	EASTLAND COUNTY
TX	ECTOR COUNTY
TX	ELLIS COUNTY
TX	EL PASO COUNTY
TX	ERATH COUNTY
TX	FALLS COUNTY
TX	FANNIN COUNTY
TX	FAYETTE COUNTY
TX	FISHER COUNTY
TX	FLOYD COUNTY
TX	FORT BEND COUNTY
TX	FRANKLIN COUNTY
TX	FREESTONE COUNTY
TX	FRIO COUNTY
TX	GAINES COUNTY

STATE	COUNTY
TX	GALVESTON COUNTY
TX	GARZA COUNTY
TX	GILLESPIE COUNTY
TX	GOLIAD COUNTY
TX	GONZALES COUNTY
TX	GRAY COUNTY
TX	GRAYSON COUNTY
TX	GREGG COUNTY
TX	GRIMES COUNTY
TX	GUADALUPE COUNTY
TX	HALE COUNTY
TX	HALL COUNTY
TX	HAMILTON COUNTY
TX	HANSFORD COUNTY
TX	HARDIN COUNTY
TX	HARRIS COUNTY
TX	HARRISON COUNTY
TX	HASKELL COUNTY
TX	HAYS COUNTY
TX	HENDERSON COUNTY
TX	HIDALGO COUNTY
TX	HILL COUNTY

STATE	COUNTY
TX	HOCKLEY COUNTY
TX	HOOD COUNTY
TX	HOPKINS COUNTY
TX	HOUSTON COUNTY
TX	HOWARD COUNTY
TX	HUDSPETH COUNTY
TX	HUNT COUNTY
TX	HUTCHINSON COUNTY
TX	JACK COUNTY
TX	JACKSON COUNTY
TX	JASPER COUNTY
TX	JEFF DAVIS COUNTY
TX	JEFFERSON COUNTY
TX	JIM HOGG COUNTY
TX	JIM WELLS COUNTY
TX	JOHNSON COUNTY
TX	JONES COUNTY
TX	KARNES COUNTY
TX	KAUFMAN COUNTY
TX	KENDALL COUNTY
TX	KERR COUNTY
TX	KIMBLE COUNTY

STATE	COUNTY
TX	KLEBERG COUNTY
TX	LAMAR COUNTY
TX	LAMB COUNTY
TX	LAMPASAS COUNTY
TX	LA SALLE COUNTY
TX	LAVACA COUNTY
TX	LEE COUNTY
TX	LEON COUNTY
TX	LIBERTY COUNTY
TX	LIVE OAK COUNTY
TX	LLANO COUNTY
TX	LUBBOCK COUNTY
TX	LYNN COUNTY
TX	MCLENNAN COUNTY
TX	MADISON COUNTY
TX	MARION COUNTY
TX	MATAGORDA COUNTY
TX	MAVERICK COUNTY
TX	MEDINA COUNTY
TX	MENARD COUNTY
TX	MIDLAND COUNTY
TX	MILAM COUNTY

STATE	COUNTY
TX	MILLS COUNTY
TX	MITCHELL COUNTY
TX	MONTAGUE COUNTY
TX	MONTGOMERY COUNTY
TX	MOORE COUNTY
TX	MORRIS COUNTY
TX	NACOGDOCHES COUNTY
TX	NAVARRO COUNTY
TX	NEWTON COUNTY
TX	NOLAN COUNTY
TX	NUECES COUNTY
TX	OCHILTREE COUNTY
TX	OLDHAM COUNTY
TX	ORANGE COUNTY
TX	PALO PINTO COUNTY
TX	PANOLA COUNTY
TX	PARKER COUNTY
TX	PARMER COUNTY
TX	PECOS COUNTY
TX	POLK COUNTY
TX	POTTER COUNTY
TX	RAINS COUNTY

STATE	COUNTY
TX	RANDALL COUNTY
TX	RED RIVER COUNTY
TX	REEVES COUNTY
TX	REFUGIO COUNTY
TX	ROBERTSON COUNTY
TX	ROCKWALL COUNTY
TX	RUNNELS COUNTY
TX	RUSK COUNTY
TX	SAN AUGUSTINE COUNTY
TX	SAN JACINTO COUNTY
TX	SAN PATRICIO COUNTY
TX	SAN SABA COUNTY
TX	SCURRY COUNTY
TX	SHACKELFORD COUNTY
TX	SHELBY COUNTY
TX	SMITH COUNTY
TX	SOMERVELL COUNTY
TX	STARR COUNTY
TX	STEPHENS COUNTY
TX	STONEWALL COUNTY
TX	SWISHER COUNTY
TX	TARRANT COUNTY

STATE	COUNTY
TX	TAYLOR COUNTY
TX	TERRY COUNTY
TX	TITUS COUNTY
TX	TOM GREEN COUNTY
TX	TRAVIS COUNTY
TX	TRINITY COUNTY
TX	TYLER COUNTY
TX	UPSHUR COUNTY
TX	UVALDE COUNTY
TX	VAL VERDE COUNTY
TX	VAN ZANDT COUNTY
TX	VICTORIA COUNTY
TX	WALKER COUNTY
TX	WALLER COUNTY
TX	WASHINGTON COUNTY
TX	WEBB COUNTY
TX	WHARTON COUNTY
TX	WHEELER COUNTY
TX	WICHITA COUNTY
TX	WILBARGER COUNTY
TX	WILLACY COUNTY
TX	WILLIAMSON COUNTY

STATE	COUNTY
TX	WILSON COUNTY
TX	WINKLER COUNTY
TX	WISE COUNTY
TX	WOOD COUNTY
TX	YOUNG COUNTY
TX	ZAPATA COUNTY
TX	ZAVALA COUNTY
UT	BEAVER COUNTY
UT	BOX ELDER COUNTY
UT	CACHE COUNTY
UT	CARBON COUNTY
UT	DAVIS COUNTY
UT	DUCHESNE COUNTY
UT	EMERY COUNTY
UT	GARFIELD COUNTY
UT	GRAND COUNTY
UT	IRON COUNTY
UT	JUAB COUNTY
UT	KANE COUNTY
UT	MILLARD COUNTY
UT	MORGAN COUNTY
UT	PIUTE COUNTY

STATE	COUNTY
UT	RICH COUNTY
UT	SALT LAKE COUNTY
UT	SANPETE COUNTY
UT	SEVIER COUNTY
UT	SUMMIT COUNTY
UT	TOOELE COUNTY
UT	UINTAH COUNTY
UT	UTAH COUNTY
UT	WASATCH COUNTY
UT	WASHINGTON COUNTY
UT	WAYNE COUNTY
UT	WEBER COUNTY
VT	ADDISON COUNTY
VT	BENNINGTON COUNTY
VT	CALEDONIA COUNTY
VT	CHITTENDEN COUNTY
VT	ESSEX COUNTY
VT	FRANKLIN COUNTY
VT	GRAND ISLE COUNTY
VT	LAMOILLE COUNTY
VT	ORANGE COUNTY
VT	ORLEANS COUNTY

STATE	COUNTY
VT	RUTLAND COUNTY
VT	WASHINGTON COUNTY
VT	WINDHAM COUNTY
VT	WINDSOR COUNTY
VA	ACCOMACK COUNTY
VA	ALBEMARLE COUNTY
VA	ALLEGHANY COUNTY
VA	AMELIA COUNTY
VA	AMHERST COUNTY
VA	APPOMATTOX COUNTY
VA	ARLINGTON COUNTY
VA	AUGUSTA COUNTY
VA	BATH COUNTY
VA	BEDFORD COUNTY
VA	BLAND COUNTY
VA	BOTETOURT COUNTY
VA	BRUNSWICK COUNTY
VA	BUCHANAN COUNTY
VA	BUCKINGHAM COUNTY
VA	CAMPBELL COUNTY
VA	CAROLINE COUNTY
VA	CARROLL COUNTY

STATE	COUNTY
VA	CHARLES CITY COUNTY
VA	CHARLOTTE COUNTY
VA	CHESTERFIELD COUNTY
VA	CLARKE COUNTY
VA	CRAIG COUNTY
VA	CULPEPER COUNTY
VA	CUMBERLAND COUNTY
VA	DINWIDDIE COUNTY
VA	ESSEX COUNTY
VA	FAIRFAX COUNTY
VA	FAUQUIER COUNTY
VA	FLOYD COUNTY
VA	FLUVANNA COUNTY
VA	FRANKLIN COUNTY
VA	FREDERICK COUNTY
VA	GILES COUNTY
VA	GLOUCESTER COUNTY
VA	GOOCHLAND COUNTY
VA	GRAYSON COUNTY
VA	GREENE COUNTY
VA	GREENSVILLE COUNTY
VA	HALIFAX COUNTY

STATE	COUNTY
VA	HANOVER COUNTY
VA	HENRICO COUNTY
VA	HENRY COUNTY
VA	HIGHLAND COUNTY
VA	ISLE OF WIGHT COUNTY
VA	JAMES CITY COUNTY
VA	KING AND QUEEN COUNTY
VA	KING GEORGE COUNTY
VA	KING WILLIAM COUNTY
VA	LANCASTER COUNTY
VA	LEE COUNTY
VA	LOUDOUN COUNTY
VA	LOUISA COUNTY
VA	LUNENBURG COUNTY
VA	MADISON COUNTY
VA	MATHEWS COUNTY
VA	MECKLENBURG COUNTY
VA	MIDDLESEX COUNTY
VA	MONTGOMERY COUNTY
VA	NELSON COUNTY
VA	NEW KENT COUNTY
VA	NORTHAMPTON COUNTY

STATE	COUNTY
VA	NORTHUMBERLAND COUNTY
VA	NOTTOWAY COUNTY
VA	ORANGE COUNTY
VA	PAGE COUNTY
VA	PATRICK COUNTY
VA	PITTSYLVANIA COUNTY
VA	POWHATAN COUNTY
VA	PRINCE EDWARD COUNTY
VA	PRINCE GEORGE COUNTY
VA	PRINCE WILLIAM COUNTY
VA	PULASKI COUNTY
VA	RAPPAHANNOCK COUNTY
VA	RICHMOND COUNTY
VA	ROANOKE COUNTY
VA	ROCKBRIDGE COUNTY
VA	ROCKINGHAM COUNTY
VA	RUSSELL COUNTY
VA	SCOTT COUNTY
VA	SHENANDOAH COUNTY
VA	SMYTH COUNTY
VA	SOUTHAMPTON COUNTY
VA	SPOTSYLVANIA COUNTY

STATE	COUNTY
VA	STAFFORD COUNTY
VA	SURRY COUNTY
VA	SUSSEX COUNTY
VA	TAZEWELL COUNTY
VA	WARREN COUNTY
VA	WASHINGTON COUNTY
VA	WESTMORELAND COUNTY
VA	WISE COUNTY
VA	WYTHE COUNTY
VA	YORK COUNTY
VA	ALEXANDRIA CITY
VA	BRISTOL CITY
VA	BUENA VISTA CITY
VA	CHARLOTTESVILLE CITY
VA	CHESAPEAKE CITY
VA	COLONIAL HEIGHTS CITY
VA	COVINGTON CITY
VA	DANVILLE CITY
VA	EMPORIA CITY
VA	FAIRFAX CITY
VA	FALLS CHURCH CITY
VA	FRANKLIN CITY

STATE	COUNTY
VA	FREDERICKSBURG CITY
VA	GALAX CITY
VA	HAMPTON CITY
VA	HARRISONBURG CITY
VA	HOPEWELL CITY
VA	LEXINGTON CITY
VA	LYNCHBURG CITY
VA	MANASSAS CITY
VA	MANASSAS PARK CITY
VA	MARTINSVILLE CITY
VA	NEWPORT NEWS CITY
VA	NORFOLK CITY
VA	NORTON CITY
VA	PETERSBURG CITY
VA	POQUOSON CITY
VA	PORTSMOUTH CITY
VA	RADFORD CITY
VA	RICHMOND CITY
VA	ROANOKE CITY
VA	SALEM CITY
VA	STAUNTON CITY
VA	SUFFOLK CITY

STATE	COUNTY
VA	VIRGINIA BEACH CITY
VA	WAYNESBORO CITY
VA	WILLIAMSBURG CITY
VA	WINCHESTER CITY
WA	ADAMS COUNTY
WA	ASOTIN COUNTY
WA	BENTON COUNTY
WA	CHELAN COUNTY
WA	CLALLAM COUNTY
WA	CLARK COUNTY
WA	COLUMBIA COUNTY
WA	COWLITZ COUNTY
WA	DOUGLAS COUNTY
WA	FRANKLIN COUNTY
WA	GARFIELD COUNTY
WA	GRANT COUNTY
WA	GRAYS HARBOR COUNTY
WA	ISLAND COUNTY
WA	JEFFERSON COUNTY
WA	KING COUNTY
WA	KITSAP COUNTY
WA	KITTITAS COUNTY

STATE	COUNTY
WA	KLICKITAT COUNTY
WA	LEWIS COUNTY
WA	LINCOLN COUNTY
WA	MASON COUNTY
WA	PACIFIC COUNTY
WA	PEND OREILLE COUNTY
WA	PIERCE COUNTY
WA	SAN JUAN COUNTY
WA	SKAGIT COUNTY
WA	SKAMANIA COUNTY
WA	SNOHOMISH COUNTY
WA	SPOKANE COUNTY
WA	STEVENS COUNTY
WA	THURSTON COUNTY
WA	WAHKIAKUM COUNTY
WA	WALLA WALLA COUNTY
WA	WHATCOM COUNTY
WA	WHITMAN COUNTY
WA	YAKIMA COUNTY
WV	BARBOUR COUNTY
WV	BERKELEY COUNTY
WV	BOONE COUNTY
WV	BRAXTON COUNTY
WV	BROOKE COUNTY
WV	CABELL COUNTY
WV	CALHOUN COUNTY
WV	CLAY COUNTY
WV	DODDRIDGE COUNTY
WV	FAYETTE COUNTY
WV	GILMER COUNTY
WV	GRANT COUNTY
WV	GREENBRIER COUNTY
WV	HAMPSHIRE COUNTY
WV	HANCOCK COUNTY
WV	HARDY COUNTY
WV	HARRISON COUNTY
WV	JACKSON COUNTY
WV	JEFFERSON COUNTY
WV	KANAWHA COUNTY
WV	LEWIS COUNTY
WV	LINCOLN COUNTY
WV	LOGAN COUNTY
WV	MCDOWELL COUNTY
WV	MARION COUNTY
WV	MARSHALL COUNTY
WV	MASON COUNTY
WV	MERCER COUNTY
WV	MINERAL COUNTY
WV	MINGO COUNTY
WV	MONONGALIA COUNTY
WV	MONROE COUNTY
WV	MORGAN COUNTY
WV	NICHOLAS COUNTY
WV	OHIO COUNTY
WV	PENDLETON COUNTY
WV	PLEASANTS COUNTY
WV	POCAHONTAS COUNTY
WV	PRESTON COUNTY
WV	PUTNAM COUNTY
WV	RALEIGH COUNTY
WV	RANDOLPH COUNTY
WV	RITCHIE COUNTY
WV	ROANE COUNTY
WV	SUMMERS COUNTY
WV	TAYLOR COUNTY
WV	TUCKER COUNTY

STATE	COUNTY
WV	TYLER COUNTY
WV	UPSHUR COUNTY
WV	WAYNE COUNTY
WV	WEBSTER COUNTY
WV	WETZEL COUNTY
WV	WIRT COUNTY
WV	WOOD COUNTY
WV	WYOMING COUNTY
WI	ADAMS COUNTY
WI	ASHLAND COUNTY
WI	BARRON COUNTY
WI	BAYFIELD COUNTY
WI	BROWN COUNTY
WI	BUFFALO COUNTY
WI	BURNETT COUNTY
WI	CALUMET COUNTY
WI	CHIPPEWA COUNTY
WI	CLARK COUNTY
WI	COLUMBIA COUNTY
WI	CRAWFORD COUNTY
WI	DANE COUNTY
WI	DODGE COUNTY
WI	DOOR COUNTY
WI	DOUGLAS COUNTY
WI	DUNN COUNTY
WI	EAU CLAIRE COUNTY
WI	FLORENCE COUNTY
WI	FOND DU LAC COUNTY
WI	FOREST COUNTY
WI	GRANT COUNTY
WI	GREEN COUNTY
WI	GREEN LAKE COUNTY
WI	IOWA COUNTY
WI	IRON COUNTY
WI	JACKSON COUNTY
WI	JEFFERSON COUNTY
WI	JUNEAU COUNTY
WI	KENOSHA COUNTY
WI	KEWAUNEE COUNTY
WI	LA CROSSE COUNTY
WI	LAFAYETTE COUNTY
WI	LANGLADE COUNTY
WI	LINCOLN COUNTY
WI	MANITOWOC COUNTY
WI	MARATHON COUNTY
WI	MARINETTE COUNTY
WI	MARQUETTE COUNTY
WI	MENOMINEE COUNTY
WI	MILWAUKEE COUNTY
WI	MONROE COUNTY
WI	OCONTO COUNTY
WI	ONEIDA COUNTY
WI	OUTAGAMIE COUNTY
WI	OZAUKEE COUNTY
WI	PEPIN COUNTY
WI	PIERCE COUNTY
WI	POLK COUNTY
WI	PORTAGE COUNTY
WI	PRICE COUNTY
WI	RACINE COUNTY
WI	RICHLAND COUNTY
WI	ROCK COUNTY
WI	RUSK COUNTY
WI	ST. CROIX COUNTY
WI	SAUK COUNTY
WI	SAWYER COUNTY

STATE	COUNTY
WI	SHAWANO COUNTY
WI	SHEBOYGAN COUNTY
WI	TAYLOR COUNTY
WI	TREMPEALEAU COUNTY
WI	VERNON COUNTY
WI	VILAS COUNTY
WI	WALWORTH COUNTY
WI	WASHBURN COUNTY
WI	WASHINGTON COUNTY
WI	WAUKESHA COUNTY
WI	WAUPACA COUNTY
WI	WAUSHARA COUNTY
WI	WINNEBAGO COUNTY
WI	WOOD COUNTY
WY	ALBANY COUNTY
WY	BIG HORN COUNTY
WY	CARBON COUNTY
WY	FREMONT COUNTY
WY	GOSHEN COUNTY
WY	HOT SPRINGS COUNTY
WY	JOHNSON COUNTY
WY	LARAMIE COUNTY

STATE	COUNTY
WY	LINCOLN COUNTY
WY	NATRONA COUNTY
WY	NIOBRARA COUNTY
WY	PLATTE COUNTY
WY	SHERIDAN COUNTY
WY	SUBLETTE COUNTY
WY	SWEETWATER COUNTY
WY	TETON COUNTY
WY	UINTA COUNTY
WY	WASHAKIE COUNTY
WY	WESTON COUNTY
PR	ADJUNTAS MUNICIPIO
PR	AGUADA MUNICIPIO
PR	AGUADILLA MUNICIPIO
PR	AGUAS BUENAS MUNICIPIO
PR	AIBONITO MUNICIPIO
PR	AÑASCO MUNICIPIO
PR	ARECIBO MUNICIPIO
PR	ARROYO MUNICIPIO
PR	BARCELONETA MUNICIPIO
PR	BARRANQUITAS MUNICIPIO
PR	BAYAMÓN MUNICIPIO

STATE	COUNTY
PR	CABO ROJO MUNICIPIO
PR	CAGUAS MUNICIPIO
PR	CAMUY MUNICIPIO
PR	CANÓVANAS MUNICIPIO
PR	CAROLINA MUNICIPIO
PR	CATAÑO MUNICIPIO
PR	CAYEY MUNICIPIO
PR	CEIBA MUNICIPIO
PR	CIALES MUNICIPIO
PR	CIDRA MUNICIPIO
PR	COAMO MUNICIPIO
PR	COMERÍO MUNICIPIO
PR	COROZAL MUNICIPIO
PR	CULEBRA MUNICIPIO
PR	DORADO MUNICIPIO
PR	FAJARDO MUNICIPIO
PR	FLORIDA MUNICIPIO
PR	GUÁNICA MUNICIPIO
PR	GUAYAMA MUNICIPIO
PR	GUAYANILLA MUNICIPIO
PR	GUAYNABO MUNICIPIO
PR	GURABO MUNICIPIO

STATE	COUNTY
PR	HATILLO MUNICIPIO
PR	HORMIGUEROS MUNICIPIO
PR	HUMACAO MUNICIPIO
PR	ISABELA MUNICIPIO
PR	JAYUYA MUNICIPIO
PR	JUANA DÍAZ MUNICIPIO
PR	JUNCOS MUNICIPIO
PR	LAJAS MUNICIPIO
PR	LARES MUNICIPIO
PR	LAS MARÍAS MUNICIPIO
PR	LAS PIEDRAS MUNICIPIO
PR	LOÍZA MUNICIPIO
PR	LUQUILLO MUNICIPIO
PR	MANATÍ MUNICIPIO
PR	MARICAO MUNICIPIO
PR	MAUNABO MUNICIPIO
PR	MAYAGÜEZ MUNICIPIO
PR	MOCA MUNICIPIO
PR	MOROVIS MUNICIPIO
PR	NAGUABO MUNICIPIO
PR	NARANJITO MUNICIPIO
PR	OROCOVIS MUNICIPIO
PR	PATILLAS MUNICIPIO
PR	PEÑUELAS MUNICIPIO
PR	PONCE MUNICIPIO
PR	QUEBRADILLAS MUNICIPIO
PR	RINCÓN MUNICIPIO
PR	RÍO GRANDE MUNICIPIO
PR	SABANA GRANDE MUNICIPIO
PR	SALINAS MUNICIPIO
PR	SAN GERMÁN MUNICIPIO
PR	SAN JUAN MUNICIPIO
PR	SAN LORENZO MUNICIPIO
PR	SAN SEBASTIÁN MUNICIPIO
PR	SANTA ISABEL MUNICIPIO
PR	TOA ALTA MUNICIPIO
PR	TOA BAJA MUNICIPIO
PR	TRUJILLO ALTO MUNICIPIO
PR	UTUADO MUNICIPIO
PR	VEGA ALTA MUNICIPIO
PR	VEGA BAJA MUNICIPIO
PR	VIEQUES MUNICIPIO
PR	VILLALBA MUNICIPIO
PR	YABUCOA MUNICIPIO
PR	YAUCO MUNICIPIO
VI	ST. CROIX ISLAND

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 24-836
Released: August 16, 2024

THE FEDERAL COMMUNICATIONS COMMISSION REFINES SCOPE OF THE DISASTER INFORMATION REPORTING SYSTEM AND THE MANDATORY DISASTER RESPONSE INITIATIVE FOR COMMUNICATIONS IMPACTED BY TROPICAL STORM ERNESTO IN PUERTO RICO AND THE U.S. VIRGIN ISLANDS

The Federal Communications Commission (FCC), in coordination with the Department of Homeland Security Cybersecurity and Infrastructure Security Agency and the Federal Emergency Management Agency, has announced a partial deactivation of the Disaster Information Reporting System (DIRS) and the Mandatory Disaster Initiative (MDRI) for the following areas in Puerto Rico and the U.S. Virgin Islands:

Puerto Rico: Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arecibo, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Camuy, Carolina, Catano, Cayey, Ciales, Cidra, Coamo, Comerio, Dorado,Florida, Guanica, Guayama, Guayanilla, Guaynabo, Gurabo, Hatillo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Las Piedras, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Villalba, Yabucoa y Yauco.[1]

U.S. Virgin Islands: St. Croix and St. Thomas.

Communications providers do not need to provide any additional reporting in DIRS for these areas in Puerto Rico or the U.S. Virgin Islands with respect to Tropical Storm Ernesto. The FCC will, however, continue to monitor the status of communications services and work with providers and government partners in these areas, as needed, to support remaining restoration efforts.

DIRS and the MDRI remain activated in the following municipalities in Puerto Rico and the U.S. Virgin Islands:

Puerto Rico: Canovanas, Ceiba, Corozal, Culebra, Fajardo, Loiza, Luquillo, Naguabo, Rio Grande, and Vieques.

U.S. Virgin Islands: St. John.

Please continue to provide information for the impacted municipalities in which DIRS and the MDRI remain activated.

The FCC continues to monitor this event and may amend the DIRS and MDRI activation areas in the coming days.

[1] *The Federal Communications Commission Announces the Activation of the Disaster Information Reporting System (DIRS) and the Mandatory Disaster Response Initiative (MDRI) for Communications Impacts from Tropical Storm Ernesto in Puerto Rico and the U.S. Virgin Islands,* Public Notice, DA 24-808 (rel. Aug. 13, 2024).

For further information concerning DIRS, please contact:

Michael Caiafa (202) 418-1311, (540) 834-7401 (cell), michael.caiafa@fcc.gov
David Ahn (202) 418-0853, david.ahn@fcc.gov
John Healy (215) 847-8094 (cell), (202) 418-2448, john.healy@fcc.gov
FCC 24/7 Operations Center (202) 418-1122, fccops@fcc.gov

For further information concerning the MDRI, please contact:

Justin Cain, (202) 853-7365, (202) 418-2924, justin.cain@fcc.gov
Logan Bennett, (732) 425-5036, (202) 418-7790, logan.bennett@fcc.gov
FCC 24/7 Operations Center, (202) 418-1122, fccops@fcc.gov

For more information on the FCC's response to Tropical Storm Ernesto, please go to https://www.fcc.gov/Ernesto.

- FCC -

Federal Communications Commission
Washington, D.C. 20554

August 19, 2024

DA 24-837
In Reply Refer to:
1800B3-CEG
Released: August 19, 2024

Ethne Radio Cactus
500 N Meredith Ave
Dumas, TX 79029

Ethne Radio Dumas
PO Box 500
Dumas, TX 79029

Ethne Radio Canyon
PO Box 2320
Canyon, TX 79105

Refugee Advancement Media Project Cactus
500 N Meredith Ave
Dumas, TX 79029

Refugee Advancement Media Project Dumas
500 N Meredith Ave
Dumas, TX 79029

Refugee Advancement Media Project Canyon
2320 4th Ave
Canyon, TX 79105

Refugee Advancement Media Project Amarillo
2303 S Arthur Street
Amarillo, TX 79103

Life Point Church Radio Dumas
500 N Meredith Ave
Dumas, TX 79029

Jim Turvaville
Turbo Tech Services
360 Patton St, PO Box 144
Mobeetie, TX 79061

REC Networks
11541 Riverton Wharf Rd.
Mardela Springs, MD 21837

In re: **Ethne Radio Cactus**
New LPFM, Cactus, Texas
Facility ID No. 788723
Application File No. 232944

Ethne Radio Dumas
New LPFM, Dumas, Texas
Facility ID No. 788777
Application File No. 233114

Refugee Advancement Media Project Cactus
New LPFM, Cactus, Texas
Facility ID No. 788737
Application File No. 232971

Refugee Advancement Media Project Dumas
New LPFM, Dumas, Texas
Facility ID No. 788781
Application File No. 233121

Refugee Advancement Media Project Canyon
New LPFM, Canyon, Texas
Facility ID No. 788743
Application File No. 232986

Life Point Church Radio Dumas
New LPFM, Dumas, Texas
Facility ID No. 788771
Application File No. 233103

Informal Objections

Ethne Radio Canyon
New LPFM, Canyon, Texas
Facility ID No. 788741
Application File No. 232980

Refugee Advancement Media Project Amarillo
New LPFM, Amarillo, Texas
Facility ID No. 788719
Application File No. 232940

Dear Applicant and Objector:

We have before us the eight above-referenced applications (Applications) for construction permits for new low power FM (LPFM) stations located in and around Amarillo, Texas, filed by local outreach organizations (Applicants) affiliated with parent ministry Christian Life Church, Lubbock, Texas (Christian Life).[1] Specifically, we have: (1) an application for a new LPFM station at Cactus, Texas, filed

[1] We note that there is another pending new LPFM application with similarities to the subject Applications, filed by Ethene Radio Amarillo on December 14, 2023 (Application File No. 232933). This application is in a different procedural posture than the subject Applications and therefore is not considered in this letter. However, the requirements discussed herein are required for *all* new LPFM applications.

by Ethne Radio Cactus (Ethne Cactus) on December 14, 2023 (Ethne Cactus Application)[2]; (2) an application for a new LPFM station at Dumas, Texas, filed by Ethne Radio Dumas (Ethne Dumas) on December 15, 2023 (Ethne Dumas Application)[3]; (3) an application for a new LPFM station at Canyon, Texas, filed by Ethne Radio Canyon (Ethne Canyon) on December 14, 2023 (Ethne Canyon Application)[4]; (4) an application for a new LPFM station at Cactus, Texas, filed by Refugee Advancement Media Project Cactus (RAMP Cactus) on December 14, 2023 (RAMP Cactus Application)[5]; (5) an application for a new LPFM station at Dumas, Texas, filed by Refugee Advancement Media Project Dumas (RAMP Dumas) on December 15, 2023 (RAMP Dumas Application);[6] (6) an application for a new LPFM station at Canyon, Texas, filed by Refugee Advancement Media Project Canyon (RAMP Canyon) on December 14, 2023 (RAMP Canyon Application);[7] (7) an application for a new LPFM station at Amarillo, Texas, filed by Refugee Advancement Media Project Amarillo (RAMP Amarillo) on December 14, 2023 (RAMP Amarillo Application);[8] and (8) an application for a new LPFM station at Dumas, Texas, filed by Life Point Church Radio Dumas (Life Point Dumas) on December 15, 2023 (Life Point Dumas Application).[9] We also have informal objections to all of the Applications except the Ethne Canyon and RAMP Amarillo Applications, filed by REC Networks (REC) on January 24, 2024

[2] Application File No. 232944. On January 24, 2024, REC filed an informal objection to the Ethne Cactus Application (Ethne Cactus Objection) (Pleading File No. 236188). On February 9, 2024, Ethne Cactus filed an opposition to the Ethne Cactus Objection (Ethne Cactus Opposition) (Pleading File No. 238675). On February 11, 2024, REC filed a reply to the Ethne Cactus Opposition (Ethne Cactus Reply) (Pleading File No. 238701).

[3] Application File No. 233114. On January 24, 2024, REC filed an informal objection to the Ethne Dumas Application (Ethne Dumas Objection) (Pleading File No. 236198). On February 9, 2024, Ethne Dumas filed an opposition to the Ethne Dumas Objection (Ethne Dumas Opposition) (Pleading File No. 238671). On February 11, 2024, REC filed a reply to the Ethne Dumas Opposition (Ethne Dumas Reply) (Pleading File No. 238703).

[4] Application File No. 232980. On April 26, 2024, the Bureau dismissed the Ethne Canyon Application for a short-spacing violation. *See Broadcast Actions*, Public Notice, Report No. PN-2-240430-01 (MB Apr. 26, 2024) (citing 47 CFR § 73.870(c)). On May 8, 2024, Ethne Canyon filed a petition for reconsideration of this dismissal (Pleading File No. 244566). On August 14, 2024, the Bureau granted the Ethne Canyon's petition for reconsideration, reinstated the Ethne Canyon Application, and returned the application to pending status. *See Ethne Radio Canyon*, Letter Decision, Application File No. 232980 (MB Aug. 14, 2024).

[5] Application File No. 232971. On January 24, 2024, REC filed an informal objection to the RAMP Cactus Application (RAMP Cactus Objection) (Pleading File No. 236190). On February 9, 2024, RAMP Cactus filed an opposition to the RAMP Cactus Objection (RAMP Cactus Opposition) (Pleading File No. 238674). On February 11, 2024, REC filed a reply to the RAMP Cactus Opposition (RAMP Cactus Reply) (Pleading File No. 238702).

[6] Application File No. 233121. On January 24, 2024, REC filed an informal objection to the RAMP Dumas Application (RAMP Dumas Objection) (Pleading File No. 236185). On February 9, 2024, RAMP Dumas filed an opposition to the RAMP Dumas Objection (RAMP Dumas Opposition) (Pleading File No. 238668). On February 11, 2024, REC filed a reply to the RAMP Dumas Opposition (RAMP Dumas Reply) (Pleading File No. 238705).

[7] Application File No. 232986. On January 24, 2024, REC filed an informal objection to the RAMP Canyon Application (RAMP Canyon Objection) (Pleading File No. 236193). On February 9, 2024, RAMP Canyon filed an opposition to the RAMP Canyon Objection (RAMP Canyon Opposition) (Pleading File No. 238672). On February 11, 2024, REC filed a reply to the RAMP Canyon Opposition (RAMP Canyon Reply) (Pleading File No. 238700).

[8] Application File No. 232940. No pleadings were filed against the RAMP Amarillo Application.

[9] Application File No. 233103. On January 24, 2024, REC filed an informal objection to the Life Point Dumas Application (Life Point Dumas Objection) (Pleading File No. 236196). On February 9, 2024, Life Point Dumas filed an opposition to the Life Point Dumas Objection (Life Point Dumas Opposition) (Pleading File No. 238669). On February 11, 2024, REC filed a reply to the Life Point Dumas Opposition (Life Point Dumas Reply) (Pleading File No. 238704).

(collectively, Objections), oppositions to the Objections filed by the Applicants on February 9, 2024 (collectively, Oppositions), and replies to the Objections filed by REC on February 11, 2024 (collectively, Replies). For the reasons set forth below, we grant the Objections and dismiss the eight Applications.

Background. *Applications.* The Applications were filed during the 2023 LPFM filing window.[10] Each Applicant certifies that it is eligible for an LPFM authorization as a nonprofit educational institution or organization in existence at the time it filed the Application.[11] In support of this certification, each Applicant submits a document containing enumerated articles of organization and stating that it is a "non-stock, not-for-profit foundation organized under the laws of the State of Texas" (collectively, Organizational Documents).[12] The eight Organizational Documents are nearly identical, differing only in the organization's name and officers. All of the Organizational Documents recite the same organizational purpose.[13]

In addition, all of the eight Applications initially provided the same phone number and email address for each Applicant.[14] After REC filed the Objections, four of the Applicants amended their Applications to change the applicant phone numbers and email addresses.[15] Also, five of the Applications share the same "operational address" as stated in the respective Organizational Documents—500 Meredith Dr, Dumas, Texas, 79029.[16]

All of the Applicants certify that they are local because their physical headquarters are within 20 miles of the proposed transmitting antenna site.[17] All of the Applicants certify that they have reasonable assurance of site availability from the site owner that their proposed transmitting antenna site will be available for their intended purpose.[18] Three of the Applicants propose to operate from an existing tower

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[10] *See generally, Media Bureau Announces Filing Procedures and Requirements for November 1 – November 8, 2023, Low Power FM Filing Window*, Public Notice, DA 23-642 (MB July 31, 2023) (*Procedures Public Notice*). Based on a request from LPFM advocates, the Bureau subsequently delayed the window until December 6, 2023. *Media Bureau Announces Revised Dates for LPFM New Station Application Filing Window*, Public Notice, DA 23-984 (MB Oct. 17, 2023). The Bureau subsequently extended the close of the window until December 15, 2023. *Media Bureau Announces Extension of LPFM New Station Application Filing Window*, Public Notice, DA 23-1150 (MB Dec. 11, 2023).

[11] *See* Applications, Legal Certifications section, Eligibility Certifications, Question 1.

[12] Organizational Documents at 1.

[13] Organizational Documents at 1. Specifically, the educational purpose cited is "[t]o provide culturally relevant media [t]o support refugees and immigrants in their transition to life in the USA [and t]o influence them through Biblical teaching, Christian worship and compassionate service to love and follow Jesus." *Id*. (internal numbers and punctuation omitted).

[14] In addition, all of the Applications list Jim Turvaville, consulting engineer with Turbo Tech Services, as the sole contact/technical representative.

[15] These amendments were filed on February 12, 2024.

[16] *See* Ethne Cactus, Ethne Dumas, RAMP Cactus, RAMP Dumas, and Life Point Dumas Organizational Documents at 2. Ethne Canyon and RAMP Canyon each lists its "operational address" as "2320 4th Ave, Canyon, TX, 79015." Ethne Canyon and RAMP Canyon Organizational Documents at 2. RAMP Amarillo lists its "operational address" as "2303 S. Arthur, Amarillo, Texas." RAMP Amarillo Organizational Document at 2. Both the Canyon, TX and Amarillo, TX addresses also serve as the proposed transmitter location. *See* Applications, Engineering Exhibits at 1.

[17] *See* Applications, Legal Certifications section, Community-Based Criteria, Question 1.

[18] *See* Applications, Technical Certifications section, Reasonable Site Assurance questions.

in Dumas owned by Potter Trucking, Inc. (Potter Tower).[19] Two of the Applicants propose to operate from an existing radio tower in Dumas owned by South Plains Communications (South Plains Tower).[20] One Applicant, RAMP Amarillo, states that it owns its proposed transmitting site (Amarillo Site).[21] Two other new LPFM applications filed in the 2023 LPFM filing window by Christian Life outreach organizations, which are not under consideration here, also claim to own the Amarillo Site.[22] The remaining two Applicants propose to operate from a building in Canyon (Canyon Site).[23] None of Applicants provide contact details for the owners of their proposed transmitter sites, instead selecting "N/A" in response to the form question requiring certification that the applicant has contacted the site owner or an authorized representative.[24] All of the Applicants certify that no party to their Application has other broadcast interests, including pending applications for LPFM stations.[25]

Pleadings. In the Objections, REC contends that none of the Applicants have established that they are nonprofit educational organizations eligible to hold LPFM licenses.[26] REC states that none of the Applicants are listed as registered non-profit organizations in the public databases maintained by the Texas Secretary of State and Texas Comptroller of Public Accounts.[27] Furthermore, REC argues, the Organizational Documents are not signed and do not include documentation demonstrating legal formation in the State of Texas, such as a letter signed by a local attorney or statutory text explaining how the applicant satisfies state requirements for an unincorporated entity.[28] Absent such legal analysis or formal recognition from the State of Texas, REC concludes, the Applicants have not demonstrated that they are nonprofit educational organizations qualified to hold LPFM licenses.[29] REC also argues that

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[19] ASR Registration Number 1213291. *See* Ethne Dumas, RAMP Dumas, and Life Point Dumas Applications.

[20] ASR Registration Number 1050003. *See* Ethne Cactus and RAMP Cactus Applications.

[21] RAMP Amarillo Application, Engineering Exhibit filed April 1, 2024, at 1.

[22] Specifically, Culture Cross Ministries and Ethne Radio Amarillo also claim to own 2303 S Arthur Drive, Amarillo, Texas. *See* Application File No. 232929, Engineering Exhibit filed April 1, 2024, at 1 (filed December 14, 2023, and granted July 9, 2024) (Culture Cross Ministries Application), and Application File No. 232933, Engineering Exhibit filed April 1, 2024, at 1 (filed December 14, 2023) (Ethne Amarillo Application).

[23] *See* Ethne Canyon and RAMP Canyon Applications.

[24] *See* Applications, Technical Certifications section, Reasonable Site Assurance, Question No. 2. The three-part "Reasonable Site Assurance" questions in the Technical Certifications section of the FCC Form 2100, Schedule 318 require applicants to first certify that they have "reasonable assurance in good faith that the site or proposed structure at the location of its transmitting antenna will be available to the applicant for the applicant's intended purpose." Schedule 318 then includes a second follow-up certification that, if reasonable assurance is not based on the applicant's ownership of the proposed site or structure, the applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure. Applicants are given three response options: "Yes," "No," and "N/A." Only applicants selecting either a "Yes" or "No" response are provided with fields to specify the name and telephone number of the person contacted, and whether that contact is the tower owner, agent or an authorized representative. The "N/A" response option is to be used where the applicant itself owns the proposed site or tower structure and therefore further contact information is unnecessary.

[25] *See* Applications, Legal Certifications section, Ownership Questions.

[26] Objections at 2.

[27] *Id*.

[28] *Id*.

[29] *Id.* at 2 (citing 47 U.S.C. § 397(6)(A) and *Procedures Public Notice* at 5-6; *Applications for Review of Decisions Regarding Six Applications for New Low Power FM Stations*, Memorandum Opinion and Order, 28 FCC Rcd 13390 (2013) (*Six Applications*)). With respect to the Ethne Dumas Application specifically, REC also argues that Ethne

certain "commonalities" present in the Applications—in particular, the same applicant phone number and email address—indicate "prohibited cross-ownership and hidden parties in interest."[30] It also notes that many of the Applicants share a single physical address. REC emphasizes that these shared attributes relate directly to the Applicants' organizational identities, more than, for example, having a similar name or using the same engineering consultant.[31]

In the Oppositions, the Applicants assert that each Applicant is a "Chartered Non-Profit Unincorporated Association under the laws of the State of Texas,"[32] citing to Chapter 252 of the Texas Business Organizations Code, which defines a "nonprofit association" as "an unincorporated organization, other than one created by a trust, consisting of three or more members joined by mutual consent for a common, nonprofit purpose."[33] The Applicants state that under Chapter 252, "an unincorporated nonprofit association is treated as a separate legal entity as opposed to an aggregate of individuals."[34] Applicants argue that although "Parent Ministry, Christian Life Church in Lubbock Texas, has planted refugee related outreach organizations in several Texas communities," each outreach organization has "full legal local organization, specific Educational Purpose related to their people-group outreach, unique staff and full autonomy from the Parent Church."[35] The Organizational Documents describe each Applicant as a "non-stock, not-for-profit foundation organized under the laws of the State of Texas."[36]

In the Replies, REC responds that it "does not dispute the definition of unincorporated associations under Texas law, [but rather that] the applicants failed to provide any information in the four corners of the application or any exhibit that not only cites and quotes the law, but also to explain how the applicant organizations' educational activities are consistent with such laws," adding that "[t]he Commission prefers such statements to be made by an attorney, licensed to practice law in the state."[37] REC reiterates that the use of common emails and phone numbers suggest that "business related to all applicants is handled by a single point of contact, thus suggesting management agreements in violation of § 73.860(e) of the Commission's Rules" and "raises concerns whether the parent organization, Christian Life Church has *de facto* control over the individual applicants' basic policies on programming, personnel and finances."[38] REC further observes that the educational statements provided by the Applicants are

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Dumas fails to satisfy the LPFM localism requirement because it provides a post office box for its contact address. Ethne Dumas Objection at 3 (citing 47 CFR § 73.853(b)). However, since the Ethne Dumas Application states, in its Organizational Document, that its "operating address" is 500 Meredith Drive, Dumas, Texas, we will treat that information as providing a valid headquarters street address.

[30] *Id.* at 3-4. REC identifies ten applications as sharing contact information—the eight Applications, Culture Cross Ministries Application, and Ethene Amarillo Application.

[31] Objections at 3.

[32] Oppositions at 2.

[33] *Id.* at 2 (citing chapter 252 of the Texas Business Organizations Code, Tex. Bus. Orgs. Code Ann. §§ 252.001–.017 (West 2012) (Chapter 252)). Chapter 252 is the codification of the Texas Uniform Unincorporated Nonprofit Association Act, Texas's version of the Uniform Unincorporated Nonprofit Association Act.

[34] *Id*. at 2.

[35] *Id*. at 3.

[36] Organizational Documents at 1.

[37] Replies at 2.

[38] *Id*.

nearly identical, with only slight variations.[39] These identical mission statements indicate, according to REC, a lack of any "local purpose distinguished from the parent organization's national purpose."[40] REC concludes that from a policy standpoint, allowing such an affiliated "LPFM cluster" would not provide "more voices" to each community but would rather put commonly-controlled programming into four different communities.[41]

Discussion. An informal objection must provide properly supported allegations of fact which, if true, would establish a substantial and material question of fact regarding whether grant of the application in question would be consistent with the public interest, convenience and necessity.[42] REC has met this burden.

Unincorporated associations. An LPFM applicant must meet basic eligibility requirements and certify its eligibility to own and operate an LPFM station at the time that it files its FCC Form 2100, Schedule 318 application (LPFM Application).[43] Specifically, each applicant claiming eligibility as a nonprofit educational organization must certify it is a noncommercial educational institution, corporation, foundation, association, or entity that is recognized under state law at the time its LPFM Application is submitted.[44] Each applicant must support this certification with an explanatory exhibit.[45] An LPFM applicant's status as a valid nonprofit organization at the time it files its LPFM Application is fundamental to our determination of the applicant's qualifications to hold an LPFM authorization.[46] Applicants who fail to meet these requirements are subject to dismissal.[47]

An unincorporated association may demonstrate its organizational status either by: (1) registering with a Secretary of State's office, or (2) submitting documents demonstrating it satisfies the definition of an unincorporated nonprofit association under the laws of its relevant jurisdiction.[48] Such documentation

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[39] *Id.* at 3.

[40] *Id.* at 3-4.

[41] Reply at 4.

[42] *See, e.g., WWOR-TV, Inc.,* Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990); *Area Christian Television, Inc.*, Memorandum Opinion and Order, 60 RR 2d 862, 864 (1986). Although informal objections are not generally required to be served on the applicant, in this particular situation the Bureau has instructed objectors to do so. *Media Bureau Provides Guidance on the Processing of Schedule 318 Applications Filed in the LPFM Window*, Public Notice, DA 24-92 (MB 2024). However, because Bureau staff forwarded the Objections to the Applicants as a courtesy, consistent with its practice, the Applicants were not prejudiced by REC's lack of service. Therefore, we do not consider the matter further here.

[43] *See* Instructions for LPFM Application, Legal Certifications section, Eligibility Certifications; 47 CFR §§ 73.853(a)(1) (providing that an LPFM station may be licensed only to, inter alia, nonprofit educational organizations and upon showing that the proposed station will be used for the advancement of an educational program).

[44] *See* LPFM Application, Legal Certifications section, Eligibility Certifications*;* 47 U.S.C. § 397(6)(A); *Procedures Public Notice* at 5-6; *Six Applications*, 28 FCC Rcd at 13397-98, para. 22.

[45] *See* LPFM Application, Legal Certifications section, Eligibility Certifications; *Procedures Public Notice* at 6 (nonprofit educational organizations "must submit complete copies of the documents establishing their nonprofit status, such as corporate charters or articles of incorporation.").

[46] *Six Applications*, 28 FCC Rcd at 13395-96, para. 14.

[47] *Procedures Public Notice* at 6.

[48] *Procedures Public Notice* at 6 (citing *Six Applications*, 28 FCC Rcd at 13397-98, para. 22); *Wynnewood Community Radio Association*, Letter Decision, 29 FCC Rcd 107, 108 (MB 2014).

may, for example, include a letter signed by an attorney licensed to practice in the state where the applicant proposes to operate, the citation and text of a state statute or judicial decision defining unincorporated associations, together with an explanation of how the applicant satisfies such definition, or any other official documentation demonstrating the applicant's existence as an unincorporated nonprofit association.[49]

Here, the Applicants are not incorporated or registered with the Texas Secretary of State as unincorporated associations. Moreover, the Applicants have not provided documentation, such as letters from a qualified attorney, explaining how the Applicants satisfy the definition of an unincorporated association under state law. The Applicants simply cite to Chapter 252 of the Texas statutes, which defines a nonprofit association as "an unincorporated organization, other than one created by a trust, consisting of three or more members joined by mutual consent for a common, nonprofit purpose."[50] The Applicants do not provide any facts or analysis discussing how their organization satisfies this definition. Moreover, in the Organizational Documents, the Applicants describe themselves as "foundations" but do not explain how that classification relates to Chapter 252 or to their claimed status as unincorporated associations. The Applicants have thus failed to demonstrate that they are eligible to hold LPFM licenses as recognized nonprofit unincorporated associations in the State of Texas.

Attributable interests. An LPFM applicant may not hold an attributable interest in any other broadcast station.[51] Here, the Applicants acknowledge that they are "local outreach organizations" of "parent ministry" Christian Life Church.[52] Under the attribution rules applicable to LPFM applicants, broadcast interests of parent and subsidiary organizations are attributable to each other.[53] Therefore, in the absence of an exception or waiver, grant of the Applications would violate the prohibition on a party (Christian Life Church) holding attributable interests in two or more LPFM stations. However, here the Applicants claim that they fall within the LPFM-specific exception to the general attribution rules, set out in section 73.858(b), which states, "A local chapter of a national or other large organization shall not have the attributable interests of the national organization attributed to it provided that the local chapter is separately incorporated and has a distinct local presence and mission."[54] We find that the Applicants do not meet the standard set out in section 73.858(b). First, and most significantly, the Applicants are not separately incorporated and therefore do not satisfy the first prong of section 73.858(b). Second, the many commonalities among the Applications—in particular, the common use of broadcast facilities and headquarters, contact information, and mission statements—suggest a significant degree of organizational

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[49] *See Fondren Community Voices*, Letter Decision, 30 FCC Rcd 3003, 3004-5 (MB 2015) (finding that an applicant's citation to state statute without explanation of how the organization complied with applicable requirements of unincorporated association law was insufficient to demonstrate applicant was recognized as such an entity); *M&M Community Development, Inc.*, Letter Order, 21 FCC Rcd 7983, 7984 (MB 2006) (listing documents that could support an applicant's claim to being an unincorporated association); *Hope Radio of Rolla, Inc.*, Letter Decision, 22 FCC Rcd 4822, 4823 (2007).

[50] Opposition at 2 (citing chapter 252 of the Texas Business Organizations Code, Tex. Bus. Orgs. Code Ann. §§ 252.001–.017 (West 2012) (Chapter 252)). Chapter 252 is the codification of the Texas Uniform Unincorporated Nonprofit Association Act, Texas's version of the Uniform Unincorporated Nonprofit Association Act.

[51] 47 CFR § 73.855(a) ("No authorization for an LPFM station shall be granted to any party if the grant of that authorization will result in any such party holding an attributable interest in two or more LPFM stations").

[52] Organizational Documents at 3.

[53] *Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2224-25, para. 49 (2000) (*First LPFM Order*).

[54] 47 CFR § 73.858(b).

interconnectedness and a lack of a distinct local presence and mission.[55] Therefore, the Applicants have not satisfied the second requirement of demonstrating that they have a distinct local presence and mission distinct from other Applicants and the parent organization Christian Life Church. We also note that in the report and order adopting section 73.858(b), the Commission stated that a local entity must be able to show "a significant membership within the community."[56] This criterion, as well, is not met, as none of the Applicants discusses local membership. For these reasons, we conclude that none of the Applicants has shown that it satisfies the exception set out in section 73.858(b) to the general prohibition on LPFM licensees holding attributable interests in other broadcast stations.

Reasonable assurance of site availability. An applicant for a new LPFM station must have reasonable assurance, at the time of filing, that its specified site will be available for the construction and operation of its proposed facilities.[57] This requirement is satisfied if the applicant provides "[s]ome clear indication from the landowner that [the landowner] is amenable to entering into a future arrangement with the applicant for use of the property as its transmitter site, on terms to be negotiated, and that [the landowner] would give notice of any change of intention."[58] Lack of reasonable assurance of site availability is a "fatal" defect in the NCE services—that is, an NCE applicant may not amend to cure an initial lack of reasonable assurance of site availability.[59] However, we have allowed applicants that actually had reasonable assurance of site availability at the time of filing to amend to provide missing contact information for the site owner or manager.[60]

Here, only one Application, the RAMP Amarillo Application, states that the applicant owns its proposed transmitting site.[61] However, the factual basis for RAMP Amarillo's ownership of its proposed transmitter site is questionable given that two other applicants for LPFM construction permits, Culture

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[55] *Cf. Little Rock Hispanic Education Family Foundation*, Letter Decision, (MB 2016) (*Little Rock*). In *Little Rock*, we found that there was insufficient evidence to find common control where 63 applications shared a common engineering consultant who was also listed as the applicant contact. *Little Rock* is distinguishable here because in this case the common information goes to the identity of the applicant itself (in the case of the applicants' identical contact information and shared facilities) and the formation and mission of each entity (in the case of the identical Organizational Documents). Unlike in *Little Rock*, these similarities cannot be explained by the hiring of a common consultant to complete the administrative or technical aspects of the relevant applications.

[56] *First LPFM Order*, 15 FCC Rcd at 24-25, para. 49 (*First LPRM Order*) (explaining that determination of the LPFM ownership limits will be "similar to existing commercial attribution rules" but creating LPFM-specific exceptions for certain officers and directors and local chapters of national or other large organizations).

[57] *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Report and Order, 34 FCC Rcd 12519, 12542-43, paras. 57-59 (2019) (*NCE Procedures Order*).

[58] *Elijah Broadcasting Corp*., Memorandum Opinion and Order, 5 FCC Rcd 5350, 5351, para. 10 (1990).

[59] *See, e.g., Port Huron Family Radio, Inc.,* Decision, 4 FCC Rcd 2532, 2535, para. 17 (1989); *Able Radio Corporation*, Memorandum Opinion and Order, 29 FCC Rcd 4363, 4364, para. 3 (2014).

[60] *Electron Benders*, Letter Decision, 2023 WL 8889604, at 4 (MB 2023) ("[Applicant's] failures to certify that it contacted the person possessing control of the site or structure or to provide contact information—unlike failure to actually procure reasonable assurance of site availability—are not fatal defects that cannot be cured by subsequent amendment."). *See supra* note 24.

[61] RAMP Amarillo Application, Engineering Exhibit filed April 1, 2024, at 1.

Cross Ministries[62] and Ethne Radio Amarillo[63] also claim to own the same site. Either these three applicants are not legally distinguishable from each other, or only one owns the site. Because the RAMP Amarillo Application does not provide further documentation or details, we cannot conclude that it is the sole owner of the Amarillo Site and thus exempt from the requirement to provide contact information supporting its certification of reasonable assurance of site availability.

The remaining Applications do not claim to own their proposed transmitting site (i.e., the Potter Tower, South Plains Tower, or Canyon Site), nor do they provide contact details for the relevant site owners. Therefore, these Applicants incorrectly responded "N/A" to the certification that each had obtained reasonable assurance by contacting the owner or person possessing control of the site or structure and failed to provide contact details as clearly instructed on the LPFM Application. For this reason, we find that the remaining seven Applications also have failed to substantiated their certifications regarding reasonable assurance of site availability.

Conclusion. We dismiss the Applications for each of the deficiencies discussed above as a separate and independent basis for dismissal, namely: (1) failure to demonstrate that the Applicants are eligible to hold LPFM license as recognized unincorporated associations under Texas state law; (2) failure to establish that each Applicant is separate and independent from other Applicants and the parent organization so that their respective broadcast interests are not attributable to the other entities; and (3) failure to substantiate each Applicant's certifications that it had reasonable assurance of site availability at the time it filed its Application.[64]

Actions. For the reasons set forth above, IT IS ORDERED that the informal objection filed by REC Networks on January 24, 2024 (Pleading File No. 236188), IS GRANTED and the application for a construction permit for a new LPFM station at Cactus, Texas, filed by Ethne Radio Cactus on December 14, 2023 (Application File No. 232944) IS DISMISSED.

IT IS FURTHER ORDERED that the informal objection filed by REC Networks on January 24, 2024 (Pleading File No. 236198), IS GRANTED and the application for a construction permit for a new LPFM station at Dumas, Texas, filed by Ethne Radio Dumas on December 15, 2023 (Application File No. 233114) IS DISMISSED.

IT IS FURTHER ORDERED that the application for a construction permit for a new LPFM station at Canyon, Texas, filed by Ethne Radio Canyon on December 14, 2023 (Application File No. 232980) IS DISMISSED.

IT IS FURTHER ORDERED that the informal objection filed by REC Networks on January 24, 2024 (Pleading File No. 236190), IS GRANTED and the application for a construction permit for a new

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[62] Culture Cross Ministries Application, Engineering Exhibit filed April 1, 2024, at 1.

[63] Ethne Amarillo Application, Engineering Exhibit filed April 1, 2024, at 1.

[64] For defects that are curable—such as a failure to substantiate a certification of reasonable assurance of site availability where an applicant actually did have such assurance—we note that a dismissed new LPFM applicant has a single opportunity to file a minor curative amendment to its application and a petition for reconsideration requesting reinstatement of the application *nunc pro tunc*. *Procedures Public Notice* at 12 (citing *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, propose only minor changes, and comply with all relevant rules. *Id.* We emphasize that applicants should carefully review any curative amendment to ensure the amendment corrects any and all application defects. The Bureau staff will not reinstate the application of an applicant that is unable to cure *all* acceptability defects (including any defects not previously identified by the Bureau staff). *Id*.

LPFM station at Cactus, Texas, filed by Refugee Advancement Media Project Cactus on December 14, 2023 (Application File No. 232971) IS DISMISSED.

IT IS FURTHER ORDERED that the informal objection filed by REC Networks on January 24, 2024 (Pleading File No. 236185), IS GRANTED and the application for a construction permit for a new LPFM station at Dumas, Texas, filed by Refugee Advancement Media Project Dumas on December 15, 2023 (Application File No. 233121) IS DISMISSED.

IT IS FURTHER ORDERED that the informal objection filed by REC Networks on January 24, 2024 (Pleading File No. 236193), IS GRANTED and the application for a construction permit for a new LPFM station at Canyon, Texas, filed by Refugee Advancement Media Project Canyon on December 14, 2023 (Application File No. 232986) IS DISMISSED.

IT IS FURTHER ORDERED that the application for a construction permit for a new LPFM station at Amarillo, Texas, filed by Refugee Advancement Media Project Amarillo on December 14, 2023 (Application File No. 232940) IS DISMISSED.

IT IS FURTHER ORDERED that the informal objection filed by REC Networks on January 24, 2024 (Pleading File No. 236196), IS GRANTED and the application for a construction permit for a new LPFM station at Dumas, Texas, filed by Life Point Church Radio Dumas on December 15, 2023 (Application File No. 233103) IS DISMISSED.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

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 24-838
Released: August 19, 2024

THE FEDERAL COMMUNICATIONS COMMISSION ANNOUNCES DEACTIVATION OF THE DISASTER INFORMATION REPORTING SYSTEM AND THE MANDATORY DISASTER RESPONSE INITIATIVE FOR TROPICAL STORM ERNESTO IN PUERTO RICO AND THE U.S. VIRGIN ISLANDS

The Federal Communications Commission (FCC) has deactivated its Disaster Information Reporting System (DIRS) and Mandatory Disaster Response Initiative (MDRI) for Tropical Storm Ernesto in coordination with the Cybersecurity and Infrastructure Security Agency and the Federal Emergency Management Agency.[1] During DIRS activations, communications providers that provide service to specified areas submit and update information through DIRS regarding, inter alia, the status of their communications equipment, restoration efforts, and power.[2] During MDRI activations, the Commission requires facilities-based mobile wireless providers that offer service to the disaster-affected area to perform the following functions: (1) provide for reasonable roaming under disaster arrangements when technically feasible; (2) activate mutual aid arrangements with other facilities-based mobile wireless providers for providing aid upon request to those providers during emergencies; (3) take reasonable measures to enhance municipal preparedness and restoration; (4) take reasonable measures to increase consumer readiness and preparation; and (5) take reasonable measures to improve public awareness and stakeholder communications on service and restoration status.[3]

Effective today, **no further reports to DIRS are requested in response to Tropical Storm Ernesto within Puerto Rico and the U.S. Virgin Islands.** Facilities-based mobile wireless providers are no longer required to perform MDRI-related functions for Puerto Rico and the U.S. Virgin Islands in response to Tropical Storm Ernesto.[4] The Network Outage Reporting System reporting obligations under Part 4 of the Commission's rules, which were suspended for providers reporting in DIRS while DIRS was activated, are now again in effect for any new network outages for the area covered by DIRS reporting for Tropical Storm Ernesto.[5]

[1] DIRS is a mandatory, web-based system that communications providers, including wireless, wireline, broadcast, cable and Voice over Internet Protocol providers, use to report communications infrastructure status and situational awareness information during times of crisis. *See* 47 CFR § 4.18 (DIRS); 47 CFR § 4.17 (MDRI).

[2] *See* 47 CFR § 4.18(a) (requiring cable communications, wireline, wireless, and interconnected VoIP providers to report their infrastructure status in DIRS); FCC, Disaster Information Reporting System (DIRS), https://www.fcc.gov/dirs (last visited Aug. 9, 2024).

[3] *See* 47 CFR § 4.17(a)(3)(i)-(v).

[4] Note that the MDRI has been activated in response to Tropical Storm Ernesto in Puerto Rico and the U.S. Virgin Islands. *See FCC Activates DIRS and MDRI in Puerto Rico and USVI for TS Ernesto*, Public Notice, DA 24-808 (Aug. 13, 2024).

[5] 47 CFR § 4.9(a) (cable); 47 CFR § 4.9(e) (wireless); 47 CFR § 4.9(f) (wireline); 47 CFR § 4.9(g) (interconnected VoIP); *see also* 47 CFR § 4.18(a) (suspending NORS requirements for cable, wireless, wireline, and interconnection VoIP providers required to report in DIRS pertaining to any incidents arising during the DIRS activation and that are timely reported in DIRS).

The FCC will, however, continue to monitor the status of communications services and work with providers and government partners, as needed, to support remaining restoration efforts.

If there are major changes, whether improvements or setbacks, to the status of communications in the affected area, the FCC asks communications providers to supply that information directly to FCC personnel at the contact information below as these events occur. The FCC continues to be available to address emergency communications needs related to Tropical Storm Ernesto 24 hours per day, seven days per week through our 24-hour operations center, which can be reached at 202-418-1122 or fccops@fcc.gov. This combination of measures will provide the Commission with the necessary situational awareness as service restoration continues.

The FCC appreciates the cooperation of all the communications providers that submitted data to DIRS and that participated in the MDRI in the aftermath of Tropical Storm Ernesto. In disaster situations, information on the operational status of communications services provides critical situational awareness and supports effective emergency response and restoration efforts and participation in the MDRI ensures effective coordination and planning to maintain and restore network connectivity. The FCC published its final daily communications status report for Tropical Storm Ernesto today, August 19, 2024.

For further information concerning DIRS, please contact:

Michael Caiafa (202) 418-1311, (540) 834-7401 (cell), michael.caiafa@fcc.gov
David Ahn (571) 232-8487 (cell), (202) 418-0853, david.ahn@fcc.gov
FCC 24/7 Operations Center – (202) 418-1122, fccops@fcc.gov

For further information concerning the MDRI, please contact:

Justin Cain, (202) 853-7365, (202) 418-2924, justin.cain@fcc.gov
Logan Bennett, (732) 425-5036, (202) 418-7790, logan.bennett@fcc.gov
FCC 24/7 Operations Center, (202) 418-1122, fccops@fcc.gov

For more information on the FCC's response to Tropical Storm Ernesto, please go to www.fcc.gov/Ernesto.

- FCC -

PUBLIC NOTICE

Federal Communications Commission
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News Media Information 202 / 418-0500
Internet: https://www.fcc.gov

DA 24-839
Released: August 20, 2024

WIRELINE COMPETITION BUREAU ISSUES PARTICIPANT CLOSE-OUT USER GUIDE AND UPDATES FREQUENTLY ASKED QUESTIONS (FAQ) FOR THE SECURE AND TRUSTED COMMUNICATIONS NETWORKS REIMBURSEMENT PROGRAM

WC Docket No. 18-89

By this Public Notice, the Wireline Competition Bureau announces that it has published a new User Guide for Form 5640, covering the participant Close-Out process, as well as an updated version of the Frequently Asked Questions document for the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program). These and other important documents related to the Reimbursement Program are available on the FCC's website at https://www.fcc.gov/supplychain/reimbursement. We encourage Reimbursement Program recipients to regularly consult the Reimbursement Program webpage for updates. Recipients with questions may contact the Fund Administrator Help Desk by email at SCRPFundAdmin@fcc.gov or by calling (202) 418-7540 from 9:00 AM ET to 5:00 PM ET, Monday through Friday, except for Federal holidays.

- FCC -

Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions*

Table of Contents

About the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) 2

Applying to the Reimbursement Program 4

Eligible Expenses 11

Initial Cost Estimates 17

Application Decisions and Allocations 21

Modifications to FCC Form 5640 Part C Information 22

RRD Plans, Timelines, and Deadlines 24

Reimbursement Claim Requests & Payment Process 27

Reporting, Compliance Monitoring, and Investigations 37

Glossary

Bureau: The Wireline Competition Bureau within the Federal Communications Commission

FCC: Federal Communications Commission (also "the Commission")

FA: Fund Administrator

Reimbursement Program: Secure and Trusted Communications Networks Reimbursement Program

FCC Form 5640 Part C: FCC Form 5640 Part C Application Request for Funding Allocation

FCC Form 5640 Part G or Reimbursement Claim Request: FCC Form 5640 Part G Reimbursement Claim Request

FRN: FCC Registration Number

RRD: Removal, Replacement and Disposal

Secure Networks Act: Secure and Trusted Communications Networks Act of 2019

Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions*

Note: Any information, guidance, or advice provided in this FAQ constitutes informal guidance and should not be considered a final or binding FCC determination by FCC staff.[1]

About the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program)

What is the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program)?

The Secure Networks Act directs the FCC to establish the Reimbursement Program. The Reimbursement Program aims to secure the nation's communications supply chain and protect national security by reimbursing eligible providers of advanced communications service for the removal, replacement, and disposal of communications equipment and services that pose a threat to the security of our nation's communications networks.

Specifically, the Reimbursement Program reimburses providers of advanced communications services with ten million or fewer customers for costs reasonably incurred for the removal, replacement, and disposal of covered communications equipment or services that pose a national security risk. Currently, covered communications equipment or services are limited to communications equipment or services produced or provided by Huawei Technologies Company (Huawei) and/or ZTE Corporation (ZTE) that were obtained by providers on or before June 30, 2020.

Who is eligible to participate in the Reimbursement Program?

To be eligible to participate in the Reimbursement Program, you must be an advanced communications service provider[2] (Provider) with ten million or fewer customers that obtained Huawei and/or ZTE equipment and/or services on or before June 30, 2020. The term "advanced communications service" means high-speed switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology with connection

[1] *See Applications of Mary Ann Salvatoriello, John Boyd, Holly Hill Broad. Co., Suzanne M. Wilson*, Memorandum Opinion and Order, 6 FCC Rcd 4705, 4708, para. 22 (1991). In addition to new content, this document contains updates to previous FAQs posted by the Bureau.

[2] A provider of advanced communications service that applies to the Reimbursement Program and is approved for an allocation is referred to in the Secured Networks Act and the Commission's rules as a "Recipient." Because this FAQ addresses phases of the Reimbursement Program that occur both before and after an application is approved, for ease of reference, applicants to the Reimbursement Program and Recipients are referred to collectively as "Providers."

speeds of at least 200 kbps in either direction. Providers of advanced communications service could include schools, libraries or health care providers, or consortiums thereof, to the extent they provide such facilities-based broadband service to end users.

To determine whether a Provider has ten million or fewer customers, 'customers' means those customers of the Provider and customers of any affiliate of that Provider that receive advanced communications services from the affiliate or Provider as of the date the Reimbursement Program application is filed. Providers may be asked to upload supporting documentation to prove their eligibility based on these criteria.

How does the Reimbursement Program work?

Generally, the Reimbursement Program follows the high-level steps below:

a. *Providers* – Confirm eligibility to participate in the Reimbursement Program based on eligibility requirements and identify covered Huawei and/or ZTE equipment and/or services in the network.

b. *Providers* – When the filing window opens, complete the FCC Form 5640 Application Request for Funding Allocation (FCC Form 5640 Part C) using the online filing portal, inclusive of eligibility and cost estimate information and associated supporting documentation.

c. *Bureau & Fund Administrator* – Review applications to determine completeness, eligibility, and reasonableness of cost estimates.

d. *Bureau* – Grant or deny applications.

e. *Bureau* – Issue funding allocations to eligible Providers based on approved cost estimate submissions and notify Providers of their allocation amount.

f. *Providers* – Obtain funding allocations from the Bureau. Submit any needed modification requests, Reimbursement Claim Requests, and supporting documentation as actual costs are incurred.

g. *Bureau & Fund Administrator* – Review Reimbursement Claim Requests based on actual invoices submitted and approve or deny requests as they are received.

h. *Department of Treasury* – Issues reimbursement payments for approved Reimbursement Claim Requests.

i. *Providers* – Complete removal, replacement, and disposal (RRD) project within the mandated term.

j. *Providers* – File all Reimbursement Claim Requests by the Reimbursement Claim Request deadline.

k. *Bureau & Fund Administrator* – Confirm equipment and/or service removement, replacement, and disposal, perform audit, and close out activities with Providers.

How is the Reimbursement Program funded?

The Reimbursement Program is funded by a $1.9 billion appropriation in the Consolidated Appropriations Act, 2021 (CAA).

Where can Providers find more information about the Reimbursement Program?

Additional information about the Reimbursement Program can be found on the Program website at www.fcc.gov/supplychain.

Providers may also contact the Reimbursement Program Fund Administrator email address at SCRPFundAdmin@fcc.gov with questions regarding the application and reimbursement request process or regarding actual submissions. Providers may also contact the Reimbursement Program Fund Administrator by calling (202) 418-7540 from 9:00 AM ET to 5:00 PM ET, Monday through Friday, except for Federal holidays.

Applying to the Reimbursement Program

When and how do Providers apply to the Reimbursement Program?

Reimbursement Program applications must be submitted during a filing window announced by the Bureau. At that time, Providers may utilize FCC Form 5640 Part C, accessed via an online portal accessible at fcc.gov/supplychain to submit their applications. Providers that do not submit an application during a filing window established by the Bureau cannot participate in the Reimbursement Program.

To date, the Bureau has announced and opened one application window for the Reimbursement Program. That application window opened on October 29, 2021 and closed on January 28, 2022. Any future application filing windows will be announced by the Bureau via a Public Notice.

All applications filed during a particular filing window will be treated as if they were simultaneously received once the filing window closes. The Bureau will not attach a preference to applications submitted early. Requests received outside of the filing window will not be accepted. The Bureau and Fund Administrator will begin reviewing applications for eligibility and cost reasonableness only after the filing window has closed.

How can Providers prepare for the application process?

Reimbursement Program funding allocations are based on cost estimates submitted by Providers for costs reasonably incurred for the removal, replacement, and disposal of the covered communications equipment and services in their networks. Providers interested in participating in the Reimbursement Program should inventory such equipment and service in their networks and begin familiarizing themselves with Reimbursement Program requirements.

For instance, Providers that intend to submit an FCC Form 5640 Part C are encouraged to visit the Reimbursement Program website, fcc.gov/supplychain, to obtain more information about the Reimbursement Program and eligibility requirements. Providers should also review Section 4 of the Secure Networks Act,[3] the *2020 Supply Chain Order*,[4] *2021 Supply Chain Order*,[5] the *Finalized Forms Procedures PN*,[6] and the *Cost Catalog,* and then begin to compile any vendor quotes, invoices, and other documentation in preparation for their application submission.

Providers should also confirm they are registered in SAM.gov. The SAM.gov Entity Registration Status Tracker provides information on existing registrations and the registration process. Providers are urged to initiate the registration process, or confirm their existing status, early as registration may take some time to complete.

[3] 47 U.S.C. § 1603.

[4] *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 (2020) (*2020 Supply Chain Order*).

[5] *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 (2021) (*2021 Supply Chain Order*).

[6] *Wireless Competition Bureau Finalizes Application Filings, Procedures, Cost Catalog, and Replacement List for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 12190 at 12212-14, paras. 66-70.(WCB Aug. 3, 2021) (*Finalized Forms Procedures PN*).

Are there any limitations with respect to number of locations, equipment, or cost estimate submissions that will impact how a Provider must complete their FCC Form 5640 Part C?

Yes. Due to system limitations, Providers that anticipate exceeding any of the following limits will need to submit multiple applications using different FCC Registration numbers such that no one application exceeds any of these limits:

- Locations: 1,000
- Equipment: 1,000 items (combined existing and replacement equipment)
- Cost Estimates: 20,000

Though the maximum number of locations and equipment entries permitted for upload into the templates is 1,000, we recommend that Providers only upload up to 500 locations and equipment entries at a time to avoid system performance issues. Providers attempting to upload more than 500 locations and equipment entries with any one batch upload are likely to face significantly degraded system performance. To submit multiple applications, Providers may either submit separate applications for their subsidiaries (as opposed to submitting one application at the holding company level) or create multiple FRNs associated with one entity EIN/TIN. These approaches will allow the Provider to stay under the limitations listed above and also allow for having multiple people working on their submissions during the filing window as only one person can be in an individual application at any one time.

If Providers choose to create additional/multiple FRNs, they should:

- Provide an attachment of all related FRNs that should be considered during the review period;
- Provide the same required eligibility and cost estimate attachments with each application to prevent any delay in the review of each application;
- Use a consistent naming convention when establishing the new FRNs that indicates the FRNs are associated, e.g., Providers may organize their applications geographically, by distribution layer, or any other logical manner and use FRN naming conventions that reflects that decision; and
- Use the same 'Real Party in Interest' FRN for each Provider FRN.

Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions*

How can a Provider create multiple FRNs for use in creating multiple applications?

Providers creating multiple FRNs for use in creating multiple FCC Form 5640 Applications should use the same TIN in the TIN field of each FRN registration filing. Providers may start the CORES registration process by visiting https://apps.fcc.gov/coresWeb/publicHome.do.

During the filing window, can multiple users work on a single Provider's FCC Form 5640 Part C at the same time?

No. Only one user can work inside any one application at a time. Providers concerned about their ability to complete the application within the filing window or Providers with applications that will exceed 1,000 locations, 1,000 equipment items (combined existing and replacement), or 20,000 cost estimates may do one of the following, as applicable:

1. Providers with multiple eligible subsidiaries should apply at the subsidiary level, as opposed to the Holding Company level, using the FRN of each subsidiary for separate applications. This will allow unique users to work on each application and could avoid any given application reaching the limitations listed above.
2. Providers may also create multiple FRNs associated with one entity EIN/TIN. This will allow the Provider to create multiple applications, one for each FRN, enabling unique users to work on each application. The FCC Form 5640 Part C will also allow for Excel batch uploads for the locations, equipment, and cost estimate sections of the application. These templates can be completed offline, outside the SCRP Filing Portal, so that multiple users can work within the same template, or on multiple versions of the same template, and then combine. The completed batch files can then be uploaded into the FCC Form 5640 application.

What forms of documentation will be required as part of my application to support eligibility and documentation of existing covered communications equipment and services?

FCC Form 5640 Part C contains a number of questions related to eligibility and documentation of the Provider's Huawei and/or ZTE equipment and services obtained on or before June 30, 2020 that is eligible for the Reimbursement Program.

Provider of Advanced Communications Service. Whether a provider is an eligible provider of advanced communications service will be validated using FCC Form 477 Local Telephone

Competition and Broadband Reporting filing information.[7] Providers that have not recently filed an FCC Form 477 should be prepared to provide supporting documentation demonstrating their status as an eligible Provider of advanced communications service. Supporting documentation could include:

- Information from the Provider's website describing services provided to customers;
- A catalog of services provided to customers; or
- Annual public financial reports demonstrating number of customers and/or broadband services provided.

Covered Huawei and/or ZTE Equipment. To be eligible for the Reimbursement Program, Providers must show they have in their networks Huawei and/or ZTE equipment or service that was obtained on or before June 30, 2020. The FCC Form 5640 Part C requires Providers to identify their existing Huawei and/or ZTE equipment (e.g., identifying make, model, and serial number when available) and date when such equipment or service was obtained. The required supporting documentation could include:

- Architecture or network configuration diagram(s);
- Equipment inventory lists with asset level identification (e.g., serial number(s));
- Equipment specifications for existing equipment;
- Purchase orders or other documentation (e.g., invoices) that provide equipment specifications and date purchased; or
- Photographs of equipment.

What forms of documentation will be required to support cost estimates?

Documentation to support cost estimates will be requested as part of your FCC Form 5640 Part C. During the filing window, Providers may use the Cost Catalog embedded in FCC Form 5640 Part C to support requests if quotes or other documentation are not available at the time of submission. However, vendor quotes must be provided for costs not included in the Cost Catalog or for estimates that differ from the average cost estimates listed in the

[7] All facilities-based broadband providers are required to file data with the FCC twice a year, using the FCC Form 477, on where they offer Internet access service at speeds exceeding 200 kbps in at least one direction.

Cost Catalog. Also, vendor quotes must be provided for eligible expenses before the Provider will be reimbursed for actual costs.

What equipment or service location information are Providers required to provide in their application?

Each equipment or service will need to correlate to a specific location. Providers are required to upload specific location information for each site, including:

- Location name;
- Latitude of location (using WGS84 datum for latitude coordinates);
- Longitude of location (using WGS84 datum for longitude coordinates);
- Location address (Number & Street, City, State, and Zip Code);
- Location address if no postal address is available (a location description is permissible in situations where a postal address is not available); and
- Type of site location (i.e., cell site, mobile switching center, central office, network operations center, headquarters, or other (if selecting "other" a brief description is required)).

This applies both to cell sites and office locations that may be the location for network core equipment.

Multiple locations and existing equipment can be added via bulk upload.

NOTE: Bulk upload for locations and equipment is not possible after initial application submission. See "Modifications to FCC Form 5640 Part C Information" section for guidance relevant to post-application acceptance.

Is it possible to batch upload site locations, equipment, and cost estimates in the application?

Yes. Excel templates are available for download within the FCC Form 5640 Part C to allow Providers to bulk upload multiple locations and existing and replacement equipment and/or services as well as cost estimates for replacement equipment. Cost estimates can *only* be entered via Excel batch upload and must be consolidated into one Excel template prior to uploading into FCC Form 5640 Part C.

NOTE: Bulk upload for locations and equipment is not possible after initial application submission. See "Modifications to FCC Form 5640 Part C Information" section for guidance relevant to post-application acceptance.

Should Providers file at the holding company level or the individual/subsidiary level?

Providers are encouraged to submit a single, consolidated application at the holding company level (as long as doing so will not result in an application that exceeds 1,000 locations, 1,000 equipment/services items or 20,000 cost estimates); however, they are permitted to submit at the individual/subsidiary level.

If applying at the subsidiary level, Providers will be required to identify their holding company FRN under the "Real Party in Interest" Information section of FCC Form 5640 Part C.

If applying at the holding company level, Providers will need to provide a listing of the FRNs of the subsidiaries covered by their application. This can be included as an attachment in the application. In this case, the Provider's FRN and the "Real Party of Interest" FRN will be the same.

What Provider information is automatically considered confidential in the FCC Form 5640 Part C application?

Consistent with the Freedom of Information Act (FOIA) and the FCC's implementing rules, the FCC will treat certain information in the FCC Form 5640 Part C as presumptively confidential and will withhold such information from routine public inspection, including:

- Detailed accounting information on the covered communications equipment or services removed, replaced, and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds;
- Vendor price quotes;
- Invoices submitted with the FCC Form 5640 Part G;
- Equipment or services location, including address, latitude/longitude, etc.;
- Removal or replacement plans that include sensitive information;
- Specific equipment or service type; and
- Other provider-specific information;
- Specific timeline for the permanent removal, replacement, and disposal of covered communications equipment and services.

For additional information on what information is considered "confidential," please consult the Finalized Form Procedures Public Notice.[8]

When seeking confidential treatment for information contained in attachments categorized as "Other," the Provider must also upload a request for confidentiality providing the justification as to why the information is entitled to confidential treatment. The request for confidentiality will be made publicly available. Attachments including information for which confidential treatment is sought, and granted, will be withheld from routine public inspection. Redacted versions of the attachments (if provided) and attachments not indicated as containing confidential information will be subject to routine public inspection.

Do Providers have the option to submit confidential versions of their timeline and plan documentation?

Providers' timeline and plan documentation will be considered presumptively confidential and will be withheld from the public search portal regardless of whether the Provider requests confidential treatment of those documents, consistent with the language in the *Finalized Form Procedures Public Notice*.[9] FCC Form 5640 Part C provides Providers the option to request confidential treatment for these attachments, but they will be treated as confidential regardless of how the Provider addresses that section of FCC Form 5640 Part C. When prompted for a redacted version of these documents, Providers can choose to provide a redacted version or simply attach a blank document to meet the system requirement for an attachment in that section.

For additional information on requests for confidentiality, please consult the *FCC Form 5640 User Guide*.

Eligible Expenses

What costs are eligible for reimbursement from the Reimbursement Program?

The Reimbursement Program will reimburse eligible Providers of advanced communications services for costs reasonably incurred for the removal, replacement, and disposal of their Huawei and/or ZTE equipment and services obtained on or before June 30, 2020. RRD costs incurred prior to April 17, 2018 will not be reimbursable. Though

[8] *Finalized Forms Procedures PN*, 36 FCC Rcd at 12212-14, paras. 66-70.

[9] *Finalized Forms Procedures PN*, 36 FCC Rcd at 12213-14, para. 69.

reimbursement claims can be submitted 120 days after the expiration of the RRD term, costs incurred after the expiration of the RRD term are ineligible for reimbursement.

The FCC considers the cost of replacement facilities 'reasonable' if the replacement facilities are comparable to those in use by the Provider prior to the removal, replacement, and disposal of covered communications equipment or services. Consideration of 'costs reasonably incurred' may necessarily be decided on a case-by-case basis by the Bureau based on information provided as part of the application process.

The FCC recognizes that comparable replacements for older network equipment or services may not be available in the marketplace, necessitating some flexibility. For example, the FCC has said that replacing older mobile wireless networks with a 4G LTE equipment or service that is 5G ready will be treated as a comparable replacement. For additional information on comparable replacements and the treatment of technology upgrades, see the *2021 Supply Chain Order*.[10]

The Bureau developed a Cost Catalog that contains categories of costs expected to be incurred in the RRD process and provides a detailed list of the core and non-core equipment and services eligible for reimbursement (and their associated predetermined estimated costs). Providers may rely on the average cost estimates identified in the Cost Catalog when completing their FCC Form 5640 Part C during the filing window. For costs not covered by the Cost Catalog, or if Providers want to use a cost estimate that differed from the Cost Catalog, they must provide an individualized cost estimate supported by a vendor quote. The Cost Catalog can be found on the Reimbursement Program website.

Although Providers are encouraged to consult the Cost Catalog prior to submitting their applications, the Cost Catalog should not be used as the basis for cost estimates when submitting a request to modify a cost estimate after an application for reimbursement has been approved (post-approval modifications are addressed in more detail below).

What costs are not eligible for reimbursement from the Reimbursement Program?

The Fund Administrator and Bureau will review all costs to ensure adherence to program guidelines and determine reasonableness. Costs ineligible for reimbursement include, but are not limited to, the following:

Technology Upgrades. Reimbursement Claim Requests will be reviewed by the Fund Administrator and the Commission for eligibility and reasonableness. The Bureau will only

[10] *2021 Supply Chain Order*, 36 FCC Rcd at 11992-95, pars. 86-92.

issue allocations and disbursements up to the amount of a comparable replacement using a "costs reasonably incurred" standard. Costs incurred above and beyond the reasonable cost of a comparable replacement will be borne by the Provider. Examples of technology changes that the Commission has said are technology upgrades and not comparable replacements are as follows:

- Replacement of a microwave backhaul with fiber backhaul or replacing last-mile fixed wireless links with fiber-to-the-premises (FTTP); and
- Replacement of fixed wireless links or RAO networks with fiber.

When Reimbursement Program Providers seek to replace eligible covered communications equipment or services with a technology upgrade in excess of the costs of a comparable replacement, they will need to provide price quotes for a comparable replacement with their FCC Form 5640 Part C and may not rely on the cost estimates contained in the Cost Catalog to estimate the cost of a comparable replacement. For additional information on submitting reimbursement claims for technology upgrades, please consult the *FCC Form 5640 User Guide*.

Customer Premises Equipment. Separately, the Commission has determined that the replacement of non-Huawei and/or non-ZTE mobile handsets and other customer premises equipment, including Internet of Things devices, used by end users to access and utilize advanced communications services are not reasonably necessary to the removal, replacement, and disposal of covered communications equipment or service. Accordingly, costs associated with the removal, replacement, and disposal of non-Huawei and/or non-ZTE customer premises equipment are ineligible for reimbursement under the Reimbursement Program.[11] The replacement of covered Huawei and/or ZTE CPE may be eligible for reimbursement, however, where "essential to the provision of advanced communications service."[12] In addition, the Bureau has said, citing the Commission's language in the *2021 Supply Chain Order*, that wired (Wi-Fi) and wireless routers that constitute customer premises equipment (CPE) are not reimbursable under the Program.[13]

[11] *See 2021 Supply Chain Order*, 36 FCC Rcd 11958, 11996, para. 94.

[12] *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, Order, DA 21-1339, para. 7 (*Order on Clarification*).

[13] *Wireless Competition Bureau Finalizes Application Filings, Procedures, Cost Catalog, and Replacement List for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 12190 at 1224, para.100 (WCB Aug. 3, 2021) (*Finalized Forms Procedures PN*).

Are expenses related to financing a line of credit or bridge loan reimbursable?

There may be instances when a Provider began the removal, replacement, and disposal process prior to applying for and receiving their funding allocation from the Reimbursement Program and obtained a line of credit or bridge loan to do so. In such instances, the origination fees, commitment fees, and other fees and expenses associated with that loan may be reimbursable *up until the time of allocation*. These costs will be considered on a case-by-case basis, and Providers will need to submit supporting documentation, including a brief cover letter, detailing the need for the line of credit or bridge loan, how that funding is being utilized, and demonstrating that reimbursement is being sought only for fees incurred pre-allocation. All such fees incurred after a Provider receives its allocation will carry a presumption of being unreasonable and accordingly, will not be reimbursed.

Are temporary/interim facilities reimbursable?

Yes, if a Provider requires interim facilities to meet its removal, replacement, or disposal term or avoid prolonged down-time during the transition, then interim facilities may be reimbursable. Circumstances will be considered on a case-by-case basis, but no Reimbursement Program funds may be used to purchase, obtain, or maintain Huawei or ZTE communications equipment or services.

Is construction of a new tower reimbursable?

Costs associated with a new tower may be reimbursable and will be considered on a case-by-case basis. If a structural analysis of a tower concludes that the tower cannot be reinforced to support a new piece of equipment, the Provider should determine whether there are other options available, besides constructing a new tower, that will allow it to complete its equipment replacement within its RRD term. Any Provider seeking reimbursement for tower construction will be required to submit documentation, such as a statement signed by and with the seal of an accredited structural engineer, certifying the results of a tower study, along with the Provider's cost estimate to erect the new tower.

Can Providers be reimbursed for vendor travel expenses? If so, how should travel expenses for reimbursement be submitted?

Vendor travel expenses (e.g., meals, airfare, mileage) not included in a vendor's rates are eligible for reimbursement provided they are reasonable. All stand-alone travel expenses submitted for reimbursement must be itemized. Consistent with Internal Revenue Service guidelines, Providers must also submit receipts for any travel expense greater than $75.00

and all lodging expenses. As such, please include receipts for travel expenses as an attachment to the particular reimbursement request on the FCC Form 5640 Part G with which the travel expense is associated, in addition to the underlying invoice for the service rendered (general information on the submission of Reimbursement Claim Requests is provided below).

Alternatively, expenses for meals and incidentals can be billed on a per diem basis. The per diem amount should be in accordance with the approved government per diem rates in effect with the work that was performed (available at the GSA website) for the location where the work was completed. Note that lodging may not be billed on a per diem basis and those expenses must be supported by a receipt or invoice.

Can a Provider be reimbursed for the cost of in-house labor?

The cost of the salary of an internal employee for the time he or she works exclusively on tasks directly related to the Providers RRD project may be reimbursable. Providers will be required to submit documentation showing hourly rates, time spent on the RRD project, and other information that will allow the Fund Administrator, and any Reimbursement Program auditors, to verify the cost incurred by the Provider.

Note that overhead and ongoing business expenses not directly attributable to the removal, replacement, and disposal of Huawei and/or ZTE communications equipment or services, that would be incurred regardless of participation in the Reimbursement Program are not reimbursable. Examples of non-reimbursable overhead costs include general business operations, administrative, accounting, rent, utilities, insurance, and normal system maintenance not directly attributable to the Provider's RRD program. For instance, if an employee was hired specifically to manage Reimbursement Program compliance, their salary and benefits may be reimbursable, but only that portion of the salary (i.e., hours) directly related to the Reimbursement Program. Hours working on general business operations not related to the Reimbursement Program will not be reimbursable.

Providers are not permitted to sell services to themselves, and employees of a Provider are not permitted to sell consulting services to that Provider.

Are maintenance and support costs for existing Huawei and ZTE equipment and services eligible for Reimbursement Program support?

No. Costs associated with maintaining the Huawei and ZTE communications equipment and/or services that the Reimbursement Program was created to eliminate are not eligible for reimbursement.

Are project management expenses eligible for Reimbursement Program support?

Project management expenses that are limited to the removal, replacement, and disposal of Huawei and/or ZTE communications equipment or services, and not related to overhead or on-going business expenses that would be incurred irrespective of the Provider's participation in the Reimbursement Program may be reimbursable. Project management services may include both reimbursement-related project management services (e.g., FCC Form 5640 planning, preparation, and filing support, invoice processing, documentation collection and completion) and 'in-the-field' technical project management services (i.e., vendor turnkey or bundled, technical management of on-site equipment removal, replacement, and disposal projects). Note that the project management Cost Catalog categories (in particular 5.7.1 and 5.7.3) are only applicable to costs for 'in-the-field' technical project management services.

How will reimbursement for disposal costs performed prior to the release of the FCC's guidance on disposal best practices be considered?

The FCC addressed this question in the Disposal Guidance PN.[14] Providers of advanced communications services that removed and disposed of covered communications equipment or services prior to the release of this PN on September 30, 2021, could not have known the best practices provided in Appendix A of that PN. Accordingly, the Commission will take this into account when evaluating a Provider's compliance with Section 1.50004(j) for disposal efforts occurring prior to the release of these best practices and may grant Reimbursement Program Claim Requests for disposal costs incurred that were not mentioned in the PN. The Commission expects Providers have acted reasonably, however, in carrying out the safe and secure disposal of covered communications equipment and services and have retained sufficient documentation to verify the disposal efforts taken.

Can the cost of replacing non-Huawei and/or ZTE (i.e., "third-party") network equipment that is not compatible with replacement equipment be reimbursable?

Yes. Third-party network equipment that is not compatible with replacement equipment and rendered useless due to the replacement of covered equipment with incompatible replacement equipment may be eligible for reimbursement under the Reimbursement

[14] *Wireline Competition Bureau Announces Best Practices for Equipment Disposal and Revises FCC Form 5640 Certifications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 14061 (WCB Sep. 30, 2021) (*Disposal Guidance PN*).

Program. To be considered eligible, the costs associated with the replacement of such equipment must be reasonably necessary to the removal, replacement, and disposal of covered communications equipment and service. However, the cost of replacing non-Huawei and/or ZTE CPE is ineligible for reimbursement.[15]

Initial Cost Estimates

What is the purpose of submitting cost estimates?

Approved cost estimates will serve as the basis for Reimbursement Program allocation determinations, as well as a basis for the review of subsequent Reimbursement Claim Requests. A Provider's allocation is the amount of funding set aside from the Reimbursement Program for the Provider to draw against as costs are incurred.

To help the Bureau and Fund Administrator determine an approvable estimate amount for purposes of calculating a Provider's allocation, Providers must identify in their application both their existing equipment and/or services and the replacement equipment and/or services they intend to purchase or have purchased to complete their removal, replacement, and disposal project. Providers may only receive funding disbursements for actual costs incurred that are found reasonable, up to the amount of their funding allocation. The Bureau and Fund Administrator will review each cost estimate for reasonableness and ensure that the cost estimate is supported by either the Cost Catalog or vendor quotes and invoices. If additional information is needed, Providers will receive a Request for Information (RFI) for clarification or additional information via the online portal. In order to provide a timely response to any RFIs, please ensure that the Contact Information provided in the application is up-to-date and accurate.

Can Providers include contingency amounts in their estimates?

No, contingency amounts will not be accepted as part of a Provider's cost estimate submission. After allocation issuance, Providers can revise their cost estimates through a modification filing if they learn of additional expenses or if they need to change previously provided cost estimates.

[15] *See* *Finalized Forms Procedures Public Notice*, 36 FCC Rcd at 12220-21, para. 90.; *Order on Clarification*, DA 21-1339, paras. 6-7.

If a cost estimate has been approved during the initial estimate review phase, will all invoices associated with that cost estimate also be considered reimbursable?

During the estimate review phase, the Bureau and Fund Administrator will conduct a detailed review of all estimates submitted and request further information as needed. Invoice Submissions undergo a separate, thorough review process even if the cost estimate has already been approved.

When a Reimbursement Program Provider later submits a Reimbursement Claim Request for an expense that was approved during the cost estimate review phase, that submission will be reviewed for sufficiency of documentation (e.g., a valid vendor invoice) and consideration of whether the Provider has made any changes in its transition plan as indicated through other submissions or cost estimate modifications.

If the actual cost of the equipment or service has changed from what the Provider originally estimated, or the Provider purchases equipment or services that are different from what it reported when submitting its initial cost estimates, the Provider must modify its estimate to reflect the updated understanding of expenses. The Bureau and Fund Administrator will review this documentation and recommend payment for the modified expenses that are deemed reasonable. Providers will only be reimbursed for reasonable expenses actually incurred up to the amount of their allocation even if their plans change or actual costs exceed their amount of the funding allocation.

What documentation is required when submitting cost estimates for in-house labor?

If a Provider intends to use in-house labor to perform tasks related to the Reimbursement Program, this cost may be eligible for reimbursement if adequately supported. All internal labor costs that a Provider expects to incur in conjunction with the Reimbursement Program and for which it intends to seek reimbursement must be included in its cost estimate. When filing cost estimates not based on the Cost Catalog, internal labor costs should be estimated on a per hour basis for each Reimbursement Program-related task, providing both an estimate of labor hours to be incurred for each Reimbursement Program-related task and the internal labor rate to be used. The cost estimate for each task will equal the estimate of the total hours per task multiplied by the per hour internal labor rate, which may include salary and benefits. As with all cost estimates, Providers must certify that the estimates are made in good faith.

If a Provider's cost estimate includes internal labor costs, it should upload the following

supporting documentation to its estimate:

- A listing of the tasks it expects to perform during the Reimbursement Program, including the estimated hours per task, the internal labor rate to be applied, and the total dollar amount for the task.
- A breakdown of how each internal labor rate is calculated, showing the salary and benefits.

In its review, the Bureau and Fund Administrator will exercise their discretion to determine the reasonableness of hours and/or labor rates. Providers should be prepared to provide justification if additional information is requested as to why the total labor amount entered is above that listed in the Cost Catalog by the Fund Administrator. During the reimbursement period or at account closing, the Bureau and/or Fund Administrator may request additional supporting information for internal labor costs, such as payroll, human resources, or financial records.

How should Providers submit cost estimates for truck rolls or self-install services (Cost Catalog Index 5.49.0)?

Prior versions of the Cost Catalog incorrectly indicated that the cost estimates range and averages identified for truck rolls or self-install services (Cost Catalog Index 5.49.0) were per end user. The cost estimates range and averages instead, however, should be provided for the total estimated cost for the truck rolls or self-installs needed in a local service area, not the cost for truck roll or self-install to each individual end user location. Removal of the "(per end-user)" unit of measurement for cost estimates for truck rolls or self-install services is reflected in the *Cost Catalog*.

How should Providers enter cost estimates when replacing more than one unit of equipment or services?

If the quantity of replacement equipment or services is greater than one, and the Provider is using the Cost Catalog average, the Provider must ***manually*** update Column J (est_cost) of the SCRP Excel Upload Cost Estimates Template to reflect the total cost estimate of all units of the equipment or service being replaced. For equipment, the Provider should also update the "Quantity of Replacement Equipment" (Column P) with the quantity of equipment that this cost estimate includes. Also for equipment, this cost estimate number would reflect the product of multiplying Column I (cost_catalog_avg) by Column O (quantity_of_replacement_equipment). For services, Providers should pay close attention to

the unit of measure in the Cost Catalog and reflect the appropriate number in Column J, "Provide Estimate of Costs (in USD)" (for the quantity of services required.

NOTE: This response applies to initial cost estimates. Post application acceptance, Recipients cannot use the Cost Catalog average as a basis for cost estimates. See section, "Modifications to FCC Form 5640 Part C Information" for further guidance.

How should Providers submit cost estimates for project management services?

The Project Management categories in the Cost Catalog (in particular 5.7.1 and 5.7.3) are only applicable to costs for "in-the-field" technical project management services. Reimbursement Program-related project management services (e.g., FCC Form 5640 planning, preparation and filing support, invoice processing, documentation collection and completion) are not included in the Cost Catalog and should, therefore, be submitted by indicating that the cost estimate average is not included in the Cost Catalog and providing the estimated costs and required supporting documentation. Estimates will be reviewed for reasonableness based on the description of services provided relative to the total cost and technical aspects of the project; consideration of the timing of the Provider's removal, replacement, and disposal project; and consideration of the appropriateness of the rate provided given the type of work described.

The rates for "reimbursement-related" project management services are anticipated to be lower than those included in the Cost Catalog, which are intended to apply to "in-the-field" technical project management services.

How often can Providers revise cost estimates before the Bureau issues a decision on their FCC Form 5640 Part C applications?

During the application filing window, Providers may revise their cost estimates as many times as needed. Once the window closes, however, Providers cannot amend their cost estimates unless: (1) specifically asked to revise their estimate(s) in response to a RFI from the Reimbursement Program Fund Administrator; or (2) the Provider has notified the Reimbursement Program Fund Administrator of its intent to amend its application and has contacted the Fund Administrator Help Desk via email or phone. As a general matter, amendments made to an FCC Form 5640 Part C that would result in an increase to the total cost estimate after the close of an application window will be denied.

Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions*

Application Decisions and Allocations

When do Providers find out if they are eligible to participate in the Reimbursement Program?

Providers that submitted applications during the October 29, 2021 - January 28, 2022 filing window and were approved for an allocation received notifications from the Bureau on July 15, 2022. The Bureau also announced the approvals via a Public Notice.[16]

If the Bureau opens another application filing window, Providers that submit applications and are deemed eligible will similarly receive notifications from the Bureau at the end of the application review period.

Providers deemed ineligible to participate in the Reimbursement Program will receive communication(s) throughout the application review period and will be provided an opportunity to cure any application defects prior to a final determination.

How can Providers find their allocation amounts?

Providers that were approved for an allocation on July 15, 2022 were notified of their allocation amounts. Allocation information was also announced via a Public Notice on July 18, 2022 and is available to Providers via the SCRP Online Portal. As Providers submit reimbursement claims and receive funding disbursements, they can monitor their remaining allocation balance by reviewing their Program Participant File in the SCRP Online Portal.

How are allocations determined?

Costs estimates are submitted by Providers as part of the application process for purposes of determining overall Reimbursement Program Fund demand and funding allocations. Approved cost estimates serve as the basis for Reimbursement Program allocation determinations. A Provider's allocation is the amount of funding set aside from the Reimbursement Program for the Provider to draw against as costs are actually incurred. To help the Bureau and Fund Administrator determine a Provider's approved estimate amount, Providers are required to identify in their application both their existing equipment and/or services and the replacement equipment and/or services they intend to

[16] *Wireline Competition Bureau Announces the Grant of Applications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 22-774 (WCB Jul. 18, 2022).

purchase or have purchased to complete their RRD project. Reimbursement Program Providers can only receive funding disbursements for actual reasonable costs incurred, up to the amount of their funding allocation.

May Providers purchase or otherwise obtain covered communications equipment or services after applications for reimbursement are approved?

No. The Secure Networks Act prohibits Providers from purchasing, renting, leasing, or otherwise obtaining covered communications equipment or services using funds from any source (including reimbursement funds or funds from private sources) after the date that their applications to the Reimbursement Program are approved.[17]

Modifications to FCC Form 5640 Part C Information

What modifications must and may be made after a Provider receives an allocation?

Providers are required to submit modified cost estimates if their actual costs differ from previously approved line-item amounts or if an initial line-item estimate was based on a Cost Catalog average rather than a vendor or supplier quote. To do this, Providers must modify their cost estimate by submitting a SCRP Modification of Application for Funding Request filing via the SCRP Online Portal and provide the rationale for the modified costs before a Reimbursement Claim Request for the new amount can be considered.

Providers may also submit modification filings to:

- Update certain aspects of line items and itemized expenses, such as providing required details about replacement equipment and services;
- Update the removal, replacement, and disposal timeline and plan submitted with the Provider's application; and
- Update location information for covered equipment and replacement equipment.

While Providers may submit requests to modify the removal, replacement, and disposal timelines and plans submitted with their applications (more information on RRD timelines and plans is provided below), Providers must still complete the permanent removal, replacement, and disposal of covered communications equipment or services within one year from the initial disbursement of funds. The submission or approval of a modification

[17] 47 U.S.C. §§ 1603(c)(2)(B), 1603(d)(4)(B)(i).

request, including any updates to a timeline or plan, will not extend the deadline by which Providers must complete the permanent removal, replacement, and disposal of all covered communications equipment or services.

Further, per the Secure Networks Act, Providers will be required to certify in their Final Certifications that they have "permanently removed from the communications network of the recipient, replaced, and disposed of . . . all covered communications equipment or services that were in the network of the recipient as of the date of the submission of the application of the recipient for the reimbursement[.]"[18] Accordingly, Providers are required to remove, replace, and dispose of all covered communications equipment and services in their networks as of the date of the submission of the application and may not use this modification process to alter that date.

How do Providers submit requests to modify FCC Form 5640 Part C information after an application has been approved?

Please see the Secure and Trusted Communications Networks Reimbursement Program FCC Form 5640 Part G and Modifications of FCC Form 5640 Part C User Guide, available here.

Do Providers have the ability to batch upload their site locations, equipment, and cost estimates when submitting modification requests?

Batch upload is available for cost estimate modifications. Excel templates are available for download to allow Providers to bulk upload modifications to multiple cost estimates. While batch upload is not available to modify equipment or location information, Providers can modify equipment and location details on an individual basis.

What forms of documentation will be required to support modified cost estimates?

When modifying FCC Form 5640 Part C post-allocation, Providers must include actual vendor quotes, contracts, or invoices to support their cost estimates and may not use the average cost from the Cost Catalog.

[18] 47 U.S.C. § 1603(d)(6)(A).

What will be required to document a modification pertaining to existing covered equipment or services?

See the section "Applying to the Reimbursement Program" above for information that a Provider may need to submit to support a modification pertaining to existing Huawei and/or ZTE equipment or services eligible for the Reimbursement Program.

Can a Provider use a modification request to request confidential treatment of previously submitted FCC Form 5640 Part C information?

If Providers determine an attachment should have been marked as confidential after submitting their application, they may submit an SCRP Modification of Application for Funding Request filing, which will allow the Provider to update the information in its FCC Form 5460 Part C for which confidential treatment is sought. However, if and until the modification filing is approved, the information not marked confidential will be publicly available.

How should Providers enter cost estimates when replacing more than one unit of equipment or services?

If the quantity of replacement equipment or services is greater than one, the Provider must *manually* update the "Provide Estimate of Costs (in USD)" (Column K) of the SCRP Excel Upload Cost Estimates Template to reflect the cost estimate associated with *all* units of the equipment or service being replaced. For equipment, the Provider should also update the "Quantity of Replacement Equipment" (Column P) with the quantity of equipment that this cost estimate includes. For services, Providers should pay close attention to the unit of measure in the Cost Catalog and reflect the appropriate expense in "Provide Estimate of Costs (in USD)" (Column K) for the quantity of services required.

RRD Plans, Timelines, and Deadlines

What is an RRD plan and an RRD timeline?

Providers are required to certify in their FCC Form 5640 Part C applications that they have developed: (1) a plan for the permanent removal, replacement, and disposal of the covered communications equipment and services in their communications networks; and (2) a specific timeline for the RRD work. Providers are required to submit their RRD timelines and plans as part of their applications and then certify in their Final Certifications that they have complied with those timelines.

What is the deadline for completing an RRD plan?

Providers must complete the removal, replacement, and disposal of the covered communications equipment and services in their networks within one year of the initial disbursement of reimbursement funds to the Provider.

How should a Provider with multiple applications/FRNs calculate its RRD term?

RRD terms are set on a per-application basis. When a disbursement for any cost actually incurred pursuant to an approved application is made, the one-year RRD term will begin for all work to be completed pursuant to that application. If a Provider submitted multiple applications that were approved, the RRD term for each application will be determined based on when the first disbursement is made for each application.

Are Providers obligated to complete 100% of their RRD projects if they do not receive 100% allocation?

Per the Secure Networks Act, a Provider must submit a Final Certification certifying, among other things, that it "has permanently removed from the communications network of the recipient, replaced, and disposed of . . . all covered communications equipment or services that were in the network of the recipient as of the date of the submission of the application of the recipient for the reimbursement[.]"[19] Accordingly, Providers are expected to remove, replace, and dispose of all Huawei and/or ZTE communications equipment and services in their networks as of the date of the submission of the application even if they receive a prorated allocation from the Reimbursement Program due to funding constraints.

We remind Providers that are eligible telecommunications carriers (ETC) seeking universal service funding that they remain subject to the requirements of section 54.11 of the Commission's rules,[20] which requires ETCs to certify that they do not use covered communications equipment or services prior to receiving a universal service funding commitment or support. This certification requirement goes into effect in February 2023.

Can an RRD term be extended?

Both the Secure Networks Act and the Commission's rules authorize limited extensions of the one-year RRD term.[21] The Commission may grant a general extension of the one-year

[19] 47 U.S.C. § 1603(e)(4)(A)(iii); *see also* 47 CFR § 1.50004(m)(1).

[20] 47 CFR § 54.11.

[21] Secure Networks Act § 4(d)(6)(B)-(C); 47 CFR § 1.50004(h).

term by a period of six months to all Reimbursement Program recipients if the Commission: (1) finds the supply of replacement communications equipment or services needed by the recipients to achieve the purposes of the Reimbursement Program is inadequate to meet the needs of the recipients; and (2) provides notice and detailed justification for granting the extension to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.[22] The need for a general extension may be informed by periodic status updates filed with the Commission, in which Providers are asked to address the availability of commercial equipment.

In addition, the Bureau may grant individual extensions of a time period not to exceed six months on a case-by-case basis.[23] A Provider requesting such an extension must show that, due to no fault of its own, it is unable to complete the permanent removal, replacement, and disposal by the end of the RRD term.[24] Providers can submit Term Extension requests via the SCRP Online Portal using FCC Form 5640 Part H2 Term Extension Request. Requests must include a detailed justification for their request, and Providers requesting an extension may include documentation supporting the request for the extension. Providers also must download a pdf version of their FCC Form 5640 Part H2 Term Extension Request by submitting the form through the SCRP Online Portal, opening it from their Program Participant File, and clicking on the "Print" button on the top right of the page. Providers must then make these requests available to the public by filing them in the Commission's Electronic Comment Filing System (ECFS) at WC Docket No. 18-89. If the filing contains confidential information, the Provider must submit a request to obtain confidential treatment of that information pursuant to section 0.459 of the Commission's rules. For information about how to submit a filing in ECFS, including information about submitting a confidential filing, please refer to https://www.fcc.gov/ecfs/help/ecfs.

To date, the Commission has not granted a general extension of the one-year RRD term. Though several commenters requested such an extension prior to the opening of the Reimbursement Program filing window, the Bureau found that such requests were premature when the Reimbursement Program had not yet commenced.[25] Further, the

[22] 47 CFR § 4.50004(h).

[23] *2020 Supply Chain Order*, 35 FCC Rcd at 14354, para 17.

[24] 47 CFR § 1.50004(h)(1).

[25] *Finalized Forms Procedures PN*, 36 FCC Rcd at 12210, para. 59.

Bureau found that granting such an extension, at that time, was "counter to Congress' intent of having a one-year term."[26]

Reimbursement Claim Requests & Payment Process

When can Providers begin submitting invoices for reimbursement?

Providers can submit invoices for reimbursement (Reimbursement Claim Requests) after their allocations have been approved.

Providers must file at least one FCC Form 5640 Part G no later than one year after the FCC approved their FCC Form 5640 Part C. Failure to file within the one-year period will result in the FCC reclaiming the Provider's funding allocation. Providers can continue to file Reimbursement Claim Requests during the RRD term and up until 120 days following the end of the Provider's RRD term. Providers may also submit modifications during the 120 days following the expiration of their RRD term to the extent they are necessary to process related reimbursement claims. Providers should note, however, that costs incurred after expiration of the RRD term are not eligible for reimbursement.

How can Providers submit Reimbursement Claims for actual costs incurred?

Providers can submit Reimbursement Claims via the SCRP Online Portal using FCC Form 5640 Part G and will need to include supporting invoices and other cost documentation with the submission. Detailed guidance can be found in the Secure and Trusted Communications Networks Reimbursement Program FCC Form 5640 Part G and Modifications of FCC Form 5640 Part C User Guide available here.

Providers can submit multiple Reimbursement Claim Requests via the SCRP Online Portal as they incur expenses throughout the reimbursement period. Providers are required to link actual costs incurred and the supporting invoice documentation to their itemized cost estimates. Providers must submit invoices through the SCRP Online Portal as attachments to their FCC Form 5640 Part G.

What standard will be applied to determine whether a cost is reimbursable?

The FCC uses a "costs reasonably incurred" standard when determining whether a cost is reimbursable. This standard focuses on whether the cost is reasonably incurred for the removal, replacement, and disposal of Huawei and/or ZTE equipment and services. In

[26] *Id.*

evaluating the replacement equipment or service, the Commission focuses on reasonable costs for a comparable replacement. For an additional discussion on the difference between a comparable replacement and a technology upgrade for purposes of the Reimbursement Program, see the *2021 Supply Chain Order*.[27]

A Provider's Reimbursement Claim Request will be evaluated by the Fund Administrator and the Bureau based on information provided by the Provider in their FCC Form 5640 Part G filing. To determine whether the expense was "reasonably incurred," they will consider whether the cost is typically incurred when transitioning from covered communications equipment and services to a replacement, the costs submitted in relation to alternative equipment and services, and the capabilities and functions performed by the replacement equipment and services as compared to the equipment and services removed. The Fund Administrator and the Bureau will use comparisons to the price ranges in the Cost Catalog, review supporting invoice documentation provided, and consider any additional justification or explanation submitted by the Provider. The approval process is designed to ensure reasonably incurred expenses are paid while at the same time guarding against waste, fraud, and abuse associated with the disbursement of federal funding.

What supporting detail is required for reimbursement of expenses?

When submitting a Reimbursement Claim Request, Providers will need to provide a vendor or supplier quote associated with the invoice in the Reimbursement Claim Request. Providers will be required to link actual costs incurred and the supporting invoice documentation to their itemized cost estimates.

Supporting documentation of the expense incurred must include a valid invoice, receipt, or other form of documentation that explains the nature and cost of the expense.

Specifically, invoices submitted by Providers for reimbursement must include the following information:

- Name of the vendor providing the service or equipment
- Invoice number (assigned by the vendor)
- Invoice date

[27] *2021 Supply Chain Order*, 36 FCC Rcd at 11992-95, paras. 86-92.

- Payment due date (Providers should use the payment terms to calculate and document the payment due date on the invoice if this information is not originally included)
- Employer Identification Number (EIN) or Taxpayer Identification Number (TIN) of the vendor
- Description of the service provided or equipment purchased
- Explanation of why the expense is reimbursable under Reimbursement Program guidelines (which may be included in a cover letter)
- Total invoice amount
- Name of the Provider and Provider FRN
- If costs are associated with a specific site location, include Location ID

Note: Providers may not use a Cost Catalog average as documentation of an incurred expense.

Do Providers need to revise cost estimates if the actual cost differs from the previously approved amount?

Yes. Providers will be required to submit a revised cost estimate, by filing a SCRP Modification of Application for Funding Request, providing a detailed justification for cost estimate changes (increases or decreases) before a claim different from a previously approved amount, at the line item level, will be considered. Providers will be notified via the SCRP Online Portal by the Fund Administrator through a RFI if a revision is required. Reimbursement will not be made in excess of a Provider's available allocation amount. Invoices exceeding the available allocation in whole or in part may be submitted as a Reimbursement Claim Request. An invoice that exceeds the available allocation in part will be reviewed for reasonableness and forwarded for payment solely with respect to the amount of the allocation that remains available. An invoice that exceeds the available allocation in whole will not be reviewed for reasonableness or forwarded for payment unless and until a subsequent allocation is made by the FCC. If a subsequent allocation is not issued by the FCC, those pending Reimbursement Claim Requests in excess of the Provider's allocation amount will be denied.

If an element of the approved cost estimate was based on the Cost Catalog price, does the Provider need to submit a copy of the vendor quote, contract, or invoice before requesting reimbursement?

Yes, Reimbursement Program Providers must submit a copy of the vendor quote, contract, or invoice supporting a cost estimate by filing a SCRP Modification of Application for Funding Request before filing FCC Form 5640 Part G for any claims for which the estimated costs were based on the Cost Catalog.

What documentation is required when seeking reimbursement for invoices for in-house labor?

For internal labor costs to be reimbursable, they must be entirely related to the Provider's RRD project When seeking reimbursement for internal labor, Providers must provide details on a per-hour basis for each Reimbursement Program-related task, providing the labor hours incurred for each Reimbursement Program-related task, the internal labor rate used, and a total cost. The total cost for each task should therefore equal the total hours per task multiplied by the per-hour internal labor rate. Internal labor rates may include salary and benefits.

Specifically, when submitting a Reimbursement Claim Request for internal labor, a Provider should provide the following documents (in place of an invoice from a third-party vendor):

- A report detailing the employee name, the employee hourly/labor rates, a description of the work performed for each Program-related task, the number of hours worked, the date(s) of hours worked, and the resulting dollar cost.
    - This report should include an invoice number, invoice date, vendor name and EIN/TIN, and Provider name.
- Copies of employee timesheets or paystubs (or Internal Revenue Service Form W-2 or Wage and Tax Statements) showing hours worked on each Program-related task, each day. Timesheet hours must match the totals reported by the task above. Timesheets may come from either the Provider's time and expense reporting systems or can be manually prepared using spreadsheets or other means.

In their review, the FCC and Fund Administrator will exercise their discretion in determining the reasonableness of hours and/or labor rates. Providers should be prepared to provide justification if additional information is requested by the Fund Administrator.

Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions*

Do professional services need to be performed prior to being submitted for reimbursement?

Providers may only seek reimbursement for costs actually incurred. Professional services refer to different types of activities such as legal services, engineering professional services, and project management. Project management can include both reimbursement-related project management services (e.g., FCC Form 5640 planning, preparation, and filing support, invoice processing, and documentation collection and completion) and "in-the-field" technical project management services (i.e., vendor turnkey or bundled, technical management of on-site equipment removal, replacement, and disposal projects).

All professional services, excluding "in-the-field" project management services, must be completed before the associated cost is submitted for reimbursement.

"In-the-field" project management services might entail contracts that include interval payments due for future performance periods. Providers may submit Reimbursement Claims for the costs incurred under these contracts provided that the invoices show that payment is owed and due on particular dates. Providers must submit a contract or quote with reasonable and explicit payment terms (e.g., down payment, progress payments, final payment, etc.) in addition to supporting documentation that details the various line items included in the services being provided and indicates whether or not those services have already been provided or are still anticipated to be provided. We remind Providers that all services under the contract must be completed before 100% of the contract expense can be reimbursed.

Please refer to the Cost Catalog for a detailed list of the professional services eligible for reimbursement. For purposes of estimating cost using the Cost Catalog for the initial funding allocation request, Project Management (in particular 5.7.1 and 5.7.3) was limited to estimated costs for "in-the-field" technical project management services.

Does equipment have to be delivered prior submitting invoice for reimbursement?

Providers may submit invoices for equipment prior to receiving the equipment. However, the invoice must show that payment is owed and due on a particular date. All invoices must contain a payment due date in addition to the other metadata requested in the FCC Form 5640. Providers should use an invoice's payment terms to calculate and document the payment due date on the invoice if this information is not originally included. When submitting a reimbursement claim for prepayment of equipment, Providers must submit a valid quote or purchase order that includes reasonable and explicit payment and delivery

terms (e.g., down payment, installment payments, final delivery, etc.). We remind Providers that equipment must be delivered before 100% of the expense can be reimbursed.

What supporting detail is required for reimbursement of professional services?

All requests for reimbursement for professional services must be accompanied by a supporting vendor invoice.

- Time and Material Billing – All professional services (e.g., legal work and reimbursement-related project management services), excluding engineering professional services or "in-the-field" technical project management, must be billed as time and materials and not as a fixed fee. For services performed on a "time and materials" basis, the invoice must identify the individual(s) who completed the work, specify the hours and dates worked by the individual(s), the associated rate(s) per hour, and a detailed description of each activity performed by each person.
- Providers are strongly encouraged to provide documentation that includes detailed activity descriptions by day. However, when that level of detail is not available, a list of activities performed over a period of time may be accepted, as long as that period of time does not exceed one month. Invoices will be reviewed for reasonableness based on description of services provided relative to the total cost and technical aspects of the project; consideration of the timing of the Provider's removal, replacement, and disposal project; and consideration of the rate of the individual(s) relative to the type of work performed. For example, invoices covering a variety of legal services and that also include "reimbursement-related" services (e.g., FCC Form 5640 planning, preparation and filing support, invoice processing, documentation collection and completion) should demonstrate a difference in the rate charged by lawyers performing legal services and other professionals performing FCC Form 5640 planning, preparation, and filing support.
- Fixed Fee Billing – Specific engineering professional services that result in work products or deliverables (e.g., system design, vendor selection, technical bid support, and subcontractor retention and management) may be billed to a Provider as a fixed fee. For professional services billed as fixed fee, the Provider must submit a copy of the vendor invoice and quote that provides a cost and activity "build-up" to support the expense. Fixed fee invoices must specify the

time-period covered by the invoice, a description of the services rendered, and the amount due.

Are Providers required to provide a cover letter when submitting reimbursement claims?

Providers are not required to submit a cover letter; however, there are certain scenarios that warrant the provisioning of additional details about the expense(s) for which reimbursement is sought through a cover letter. These scenarios may include:

- If any required invoice details are not included by the vendor on its invoice (please refer to "What supporting detail is required for reimbursement of expenses?" for a list of required invoice details).
- If a partial payment is requested. A Provider may request a partial payment due to:
    - An equipment or service upgrade for which it is only requesting reimbursement for the amount associated with a comparable equipment or service;
    - A non-reimbursable cost included on the invoice but not requested for reimbursement; or
    - An invoice that is split across multiple applications.
- If an invoice submission is not clearly related to the cost category in which it is submitted.

When submitting a cover letter, please be sure it includes the corresponding invoice number, vendor name, and Provider FRN.

If a Provider has a RRD plan that requires a vendor to perform work that is both eligible and ineligible for reimbursement, how should the Provider delineate those expenses in the documentation it submits to support its Reimbursement Claim Request?

Providers must clearly delineate the work the vendor performed, as reflected in the invoice, that the Provider believes is reimbursable. Providers may provide this explanation by submitting a cover letter, clearly marking up the invoice to highlight reimbursable costs, and/or any other means that will indicate the reimbursable costs included on the invoice.

How will the review process for reimbursement claims be impacted if a Provider has an active SCRP Modification of Application for Funding Request?

When a Provider's application has an active modification that is under review or has been issued an RFI, the review process for reimbursement claims that include cost estimates directly related to the modification will be paused until the modification is approved or approved in part.

When will Providers receive reimbursement payments?

Reimbursement Claim Requests will be reviewed by the Fund Administrator and approved or denied by the FCC. Approved Reimbursement Claims Requests will be forwarded to the U.S. Treasury for disbursement. Providers will receive reimbursements via Automated Clearing House payments from the U.S. Treasury into the bank account they identify via the DUNS number on file.

There are many variables that affect the timing of receipt of payments, including documentation provided and any additional documentation that may be requested. Providers can facilitate timely processing of requests by ensuring the accuracy of all information entered in their application, attaching any explanatory and/or documentary materials needed to justify an expense, and responding timely to any requests for information from the Fund Administrator. The Provider also must have a registered SAM.gov Unique Entity ID (UEI) code so approved payments can be transferred to the Provider's bank account. Provider disbursements are subject to the Treasury Offset Program. In the event that a Provider is listed on the Do Not Pay Listing, the Treasury Department can garnish the disbursement to offset the Provider's liability to the Federal Government. Any variance between the approved disbursement by the FCC and the amount received by the Provider could be due to Treasury's internal policies and procedures related to the Offset Program.

How does a Provider submit bank account information to receive payment(s)?

Providers were required to register in SAM.gov prior to submitting their FCC Form 5640 Part C, to verify they were eligible to receive funding from the U.S. Government. Once registration was completed, SAM.gov issued a UEI, which is used to properly route disbursements.

Providers are required to ensure their SAM.gov registration remains active throughout their participation in the Reimbursement Program. Without an active registration with

SAM.gov, Providers will not receive disbursements from the Treasury Department. This is imperative to receiving reimbursements in a timely fashion.

Must invoices be paid in full prior to submitting them for reimbursement?

No. Reimbursements can be made on a cost incurred basis as evidenced by a valid invoice. Providers do not need to pay an invoice before submitting it for reimbursement. The invoice must show that a valid payment is owed and due on a particular date. All invoices must contain a payment due date in addition to the other metadata requested in the FCC Form 5640. Providers should use an invoice's payment terms to calculate and document the payment due date on the invoice if this information is not originally included.

Many reimbursable expenses will be billed and owed in installments. Providers can submit invoices and other cost documentation as payment of each installment is requested by the vendor. The SCRP Online Portal permits Providers to specify the portion of the invoice for which they are requesting reimbursement. For example, if 10% of the total amount of the sales order is reflected on the invoice with a specific date due, the FCC Form 5640 Part G allows Providers to request reimbursement for only that 10% that is due, and to return to the expense to add further cost documentation to the same cost estimate line item when additional installments become due.

Will Reimbursement Program funds received by Providers be subject to income tax?

The Commission does not provide tax advice. The IRS did, however, release a letter providing tax guidance on various factual scenarios regarding Providers in the FCC's broadcast incentive auction reimbursement program.[28] While the factual scenarios do not exactly match the scenarios involved in the Reimbursement Program, the guidance provided may prove helpful in understanding the tax consequences and considerations when receiving Reimbursement Program support. As noted in the IRS letter, those seeking determinations on a specific factual pattern can request a private letter ruling from the IRS national office.[29]

[28] *See* https://ecfsapi.fcc.gov/file/60001012319.pdf (Appx., Letter from IRS to Howard Symons dated July 3, 2014).

[29] Revenue Procedure 2014-1, 2014-1 Internal Revenue Bulletin 1.

What happens if Providers do not use all money disbursed for the equipment or services included in a reimbursement claim?

Reimbursed amounts that are either unused, returned to a Provider by a vendor, or subsequently found to be ineligible based on supplemental information must be returned to the Reimbursement Program. Providers must work with the Fund Administrator to return these funds.

What happens if Providers do not use all of their allocation before their programmatic invoice submission deadline?

Per the FCC's rules, following the expiration of the Reimbursement Claim Request deadline, any unclaimed funding allocated to a Provider will revert to the Reimbursement Program fund for potential allocation to other Reimbursement Program Recipients.[30]

Each FCC Form 5640 Part C that is filed and granted will receive its own separate funding allocation. As the Wireline Competition Bureau has made clear, "once the Bureau makes a funding allocation determination, the Bureau will not adjust the funding allocation amount even if there is a change in the participant's plans or if actual costs exceed estimated costs."[31] The FCC will allow for reallocation of unclaimed funds among affiliated Reimbursement Program participants post-allocation, notwithstanding the limitations on funding allocations discussed above.

To reallocate unclaimed funding, the participant will need to access their Program Participant file in the SCRP Online Portal to initiate an Allocation Transfer Request. The participant must specify (a) the application from which to transfer funds; (b) the application to receive the transferred funds; and (c) the amount.

How will the FCC handle transactions for RRD work between entities with common ownership?

It is anticipated that Recipients and their vendors will be separate entities free from financial or ownership relationships. There may, however, be instances when Recipients and vendors have common ownership. To assist the FCC and Fund Administrator in guarding the Reimbursement Program against fraud, waste, and abuse, Recipients may be asked to follow additional procedures or provide additional supporting documentation when potential transactions between entities with common ownership are identified

[30] 47 CFR § 1.50004(g)(2).

[31] *See Finalized Form Procedures PN*, 36 FCC Rcd at 12204-05, para. 41.

during the invoice review process. Additional procedures or documentation will seek to ensure that Recipients receive reimbursement only for actual expenses incurred and that neither Recipients nor their employees benefit monetarily from the Reimbursement Program, which would constitute an abuse of Reimbursement Program rules. Though specific circumstances may vary and will be handled on a case-by-case basis when common ownership is identified, Recipients will be instructed to bill the expense appropriately based on the expense type and at cost, providing supporting documentation demonstrating a monetary transaction has taken place between the two entities and that no mark-up has been applied.

Can Providers add all invoices as one attachment and refer to the same attachment for every invoice submission?

Providers must only include one invoice when uploading to the invoice .pdf attachment field, although additional supporting documentation such as a cover letter or quote may also be included in the same attachment and the invoice may include multiple line items related to different portions of the Provider's RRD plan. Providers may not combine multiple invoices into a single document that is uploaded as the invoice .pdf attachment. Each incurred cost must be submitted as its own reimbursement claim with its own specific related supporting documentation inclusive of an invoice and any other additional support such as cover letter, quote, etc.

Additional supporting documentation for a particular invoice may be added to the Attachment Metadata section.

Reporting, Compliance Monitoring, and Investigations

What reports are Providers required to file once applications for reimbursement have been approved?

There are two reports that all Providers must file on a periodic basis. First, Providers must file status updates with the Commission every ninety days beginning on the date that their application for a reimbursement is approved. The first status updates from all Providers were due on October 13, 2022, with each subsequent status update due every 90 days thereafter. Status updates must report on the work the Provider is performing to permanently remove, replace, and dispose of their covered communications equipment and services, including the efforts undertaken and the challenges encountered in performing that work. The status updates must also state whether the Provider has: (1) fully complied with, or is in the process of complying with, all requirements of the

Reimbursement Program; (2) fully complied with, or is in the process of complying with, the commitments made in the Provider's application; (3) permanently removed from its communications network, replaced, and disposed of, or is in the process of permanently removing, replacing, and disposing of, all covered communications equipment or services that were in the Provider's network as of the date of the submission of the Provider's application; and (4) fully complied with, or is in the process of complying with, the timeline submitted by the Provider in their application. Each status update must include a certification that affirms the information in the update is accurate. Status updates must be filed every ninety days until the Provider notifies the Commission of the completion of the permanent removal, replacement and disposal of the covered communications equipment or service in its Final Certification. Status updates will be made public and will be posted on the FCC's website no earlier than 30 days after submission. The obligation to submit a status update applies to all Providers, including those that have not yet submitted a Reimbursement Claim Request.

Second, once a Provider receives an initial disbursement from the Reimbursement Program, it must begin filing spending reports with the Commission twice a year, by February 10 and August 10. Spending reports must state how the reimbursement funds disbursed to the Provider have been spent, including a detailed accounting of the covered communications equipment or services permanently removed and disposed of and the replacement equipment or services purchased, rented, leased, or otherwise obtained using reimbursement funds. Providers must file a final spending report following their submission of the Final Certification that shows the expenditure of all funds received as compared to the estimated costs identified in their FCC Form 5640 Part C applications. This final spending report must be filed no later than 60 days after the expiration of the Provider's reimbursement claim request deadline.

Where does a Provider file status updates?

An additional section of FCC Form 5640, Part K, is now available via the SCRP Online Portal. This is the mechanism through which Providers will submit status updates.

Where does a Provider file spending reports?

An additional section of FCC Form 5640, Part L, is available via the SCRP Online Portal. This is the mechanism through which Providers will submit spending reports.

Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions*

What is the Final Certification requirement and how are Final Certifications filed?

No later than ten days after the conclusion of a Provider's RRD term, the Provider must submit a Final Certification to the Commission that indicates whether the Provider has fully complied with (or is in the process of complying with): (1) all terms and conditions of the Reimbursement Program; (2) the commitments the Provider made in its application for eligibility in the Reimbursement Program; and (3) the timeline the Provider submitted as part of its application for eligibility in the Reimbursement Program. This certification must also indicate whether the Provider has permanently removed, replaced, and disposed of all covered communications equipment and services that were in the Provider's network as of the date of the submission of the application for eligibility in the Reimbursement Program. Providers must submit this Final Certification via the SCRP Online Portal.

Will Providers be subject to audits or other investigations?

Providers may be subject to a variety of audits, site visits, and proof of payment requests to assist the FCC and Fund Administrator in assessing whether Providers are complying with the requirements of the Secure Networks Act, the Commission's rules, and program procedures and guard the Reimbursement Program against fraud, waste, and abuse.

Audits may be conducted by various oversight bodies, including but not limited to, the FCC, the Fund Administrator, Office of Inspector General (OIG), Government Accountability Office (GAO), or U.S. Department of Treasury. A Reimbursement Program participant has an ongoing obligation to cooperate with program audits and investigations and to retain documentation supporting its requests for reimbursement for a period that extends 10 years after the date the Provider receives its final payment from the Reimbursement Program Fund.

Reimbursements will only be made for actual costs incurred as evidenced by a legitimate third-party invoice provided as documented evidence. Each reimbursement claim submission requires the Reimbursement Program participant to certify to its accuracy and compliance with the Reimbursement Program and FCC rules, and any applicable federal statutes. Should an audit reveal that a Provider submitted false or inaccurate information when submitting a Reimbursement Claim Request for which it subsequently received a disbursement of funds or that the Provider used reimbursement funds for expenses unrelated to its RRD project, the Provider will be required to return such funds to the FCC.

Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions*

What documentation should Providers retain in order to comply with Reimbursement Program requirements?

In the *2020 Supply Chain Order*, the Commission advised Providers to retain all documentation related to their requests for funding reimbursement for actual expenses incurred (including relevant invoices and receipts) for a period of ten years. As such, Providers should retain documentation for each step of the removal, replacement, and disposal process in order to verify compliance with this requirement (e.g., records concerning the type, quantity, and location of existing covered communication equipment and services, records concerning the purchase of replacement equipment). As it relates to disposal efforts in particular, Providers should:

- Retain shipping or transportation documentation, including detailed inventories supported by an affidavit, dates, locations, transportation service provider name, and means of transportation.
- Retain certificates of media disposition and certificates of destruction that will help Program Recipients and the Commission verify compliance with their disposal and verification obligations.
- Maintain a chain of custody for removed covered communications equipment awaiting destruction or recycling.
- Maintain a detailed inventory of all items removed from a site. This inventory should be dated by the date of removal, include how the items are being destroyed, where the equipment is being shipped, and the means of transportation to the recyclers. This documentation could take the form of short affidavits, receipts for storage facilities, affidavits attesting to the storage conditions, and photographic or video documentation.
- Have the disposal company maintain sufficient documentation evidencing the destruction of the equipment. At a minimum, the disposal company should be able to provide the Provider with a certificate of destruction, where applicable.

Providers are also advised to maintain records to verify compliance with other requirements of the Secure Networks Act and the FCC's rules, including, but not limited to, copies of reports that are required to be submitted to the FCC and records substantiating any statements of fact in petitions or other requests for relief submitted to the FCC.

How does a Provider submit a credit memo?

There may be scenarios in which a Provider will need to submit a credit memo for vendor billing adjustments/true-ups, change orders, Recipient submission corrections, etc., related

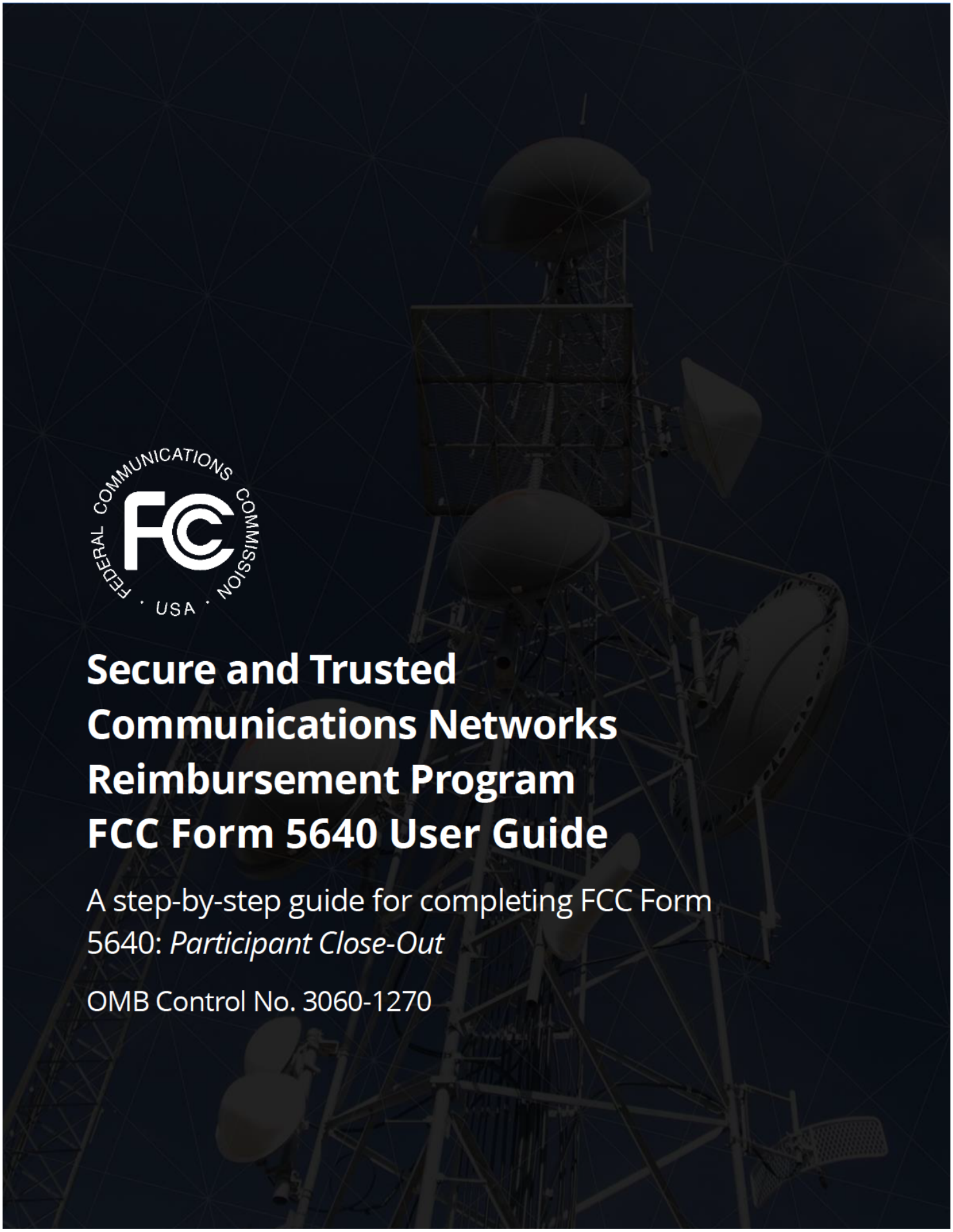
to invoices that have previously been approved and paid. Providers can submit credit memos via FCC Form 5640 Part G in the SCRP Online Portal. When submitting a credit memo, the Provider will follow the same process as submitting a reimbursement claim request by entering the credit amount (i.e., a negative amount) in the "Total Invoice Amount" field of the Invoice Information section of FCC Form 5640 Part G and adding the relevant invoice items as negative amounts. Providers must also include a cover letter as supporting documentation explaining why the credit memo is being submitted. The total credit amount will be liquidated by reducing the amounts paid for future invoice submissions. If the Provider does not have additional invoices to offset the credits, the FCC and Fund Administrator will work with the Provider to set up a receivable to recoup the funds during the Provider's close out process which can be paid via www.fcc.gov/feefiler.

What steps does a Provider need to take once it has completed all RRD activities and submitted all invoices for which it intends to seek reimbursement?

Once a Provider has notified the FCC and Fund Administrator that it has 1) completed all RRD activities by filing FCC Form 5640 Part M: Final Certification and has 2) submitted all invoices, the Provider can return to the SCRP Online Portal to initiate the close-out process. Once the Provider initiates the close-out process, the FCC and Fund Administrator will commence closing out the Provider's reimbursement account by conducting a review of the Provider's account, provide a Financial Reconciliation Statement, and request proof of payment for certain invoices. Detailed guidance can be found in the Secure and Trusted Communications Networks Reimbursement Program FCC Form 5640 Participant Close-Out User Guide on the Reimbursement Program website.

What should Providers do if they determine an invoice is missing or was rejected when reviewing the Financial Reconciliation Statement provided during the close out process?

If the Provider determines a missing or rejected invoice for work performed or equipment delivered prior to their RRD Expiration Date and the Provider is still within their 120-day reimbursement claim submission deadline, the Provider will be allowed to submit an additional reimbursement claim request for the invoice. After the invoice has been reviewed and processed, the Provider will receive a revised Financial Reconciliation Statement.



Secure and Trusted Communications Networks Reimbursement Program FCC Form 5640 User Guide

A step-by-step guide for completing FCC Form 5640: *Participant Close-Out*

OMB Control No. 3060-1270

Table of Contents

Background 3
Purpose and Scope of this User Guide 4
Instructions for Completing Participant Close-Out 4

Background

The Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), as amended, directed the Federal Communications Commission (FCC or Commission) to establish the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program or SCRP).[1] The purpose of the Reimbursement Program is to reimburse providers of advanced communications services with ten million or fewer customers for costs reasonably incurred in the removal, replacement, and disposal of communications equipment or services produced or provided by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE) (or their parents, subsidiaries, or affiliates) and obtained on or before June 30, 2020 (Covered Communications Equipment or Services).[2]

In the *2020 Supply Chain Order*, the Commission adopted rules for the Reimbursement Program, which are codified in section 1.50004 of its rules.[3] The Commission revised these rules in the *2021 Supply Chain Order* and provided additional guidance on the application and reimbursement process in the *Finalized Reimbursement Process Public Notice*, including FCC Form 5640 Part C: Application Request for Funding Allocation (FCC Form 5640 Part C) and a Catalog of Eligible Expenses and Estimated Costs (Cost Catalog), and separately on the disposal process.[4]

On July 15, 2022, the Wireline Competition Bureau (Bureau) issued decisions approving and denying applications submitted for Reimbursement Program support. Applicants that were

[1] Secure and Trusted Communications Act of 2019, Pub. L. No. 116-124, 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601-1609) (Secure and Trusted Communications Networks Act); Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 901, 134 Stat. 1182 (2020) (CAA).

[2] *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, 11965-78, 11992-96, paras. 18-46, 85-94 (2021) (*2021 Supply Chain Order*); *see also 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, 14309-10, paras. 51-54 (2020) (*2020 Supply Chain Order*) (interpreting "communications equipment or service").

[3] 47 CFR § 1.50004; *2020 Supply Chain Order*, 35 FCC Rcd at 14374-83, Appx. A.

[4] *2021 Supply Chain Order*, at Appx. A; *Wireline Competition Bureau Finalizes Application Filings, Procedures, Cost Catalog, and Replacement List for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 12190 (WCB Aug. 3, 2021) (*Finalized Reimbursement Process Public Notice*); *Wireline Competition Bureau Announces Best Practices for Equipment Disposal and Revises FCC Form 5640 Certifications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, 36 FCC Rcd 14061 (WCB Sept. 30, 2021).

approved to receive an allocation (Recipients)[5] received an approval email from the Bureau and the Bureau announced these allocations in a July 18, 2022 Public Notice.[6]

Purpose and Scope of this User Guide

This document is a guide for Recipients to consult when completing the Participant Close-Out process in the Supply Chain Reimbursement Program Online Portal. When the Recipient has submitted a FCC Form 5640 Part M: Final Certification notifying the FCC and Fund Administrator that it has completed all Removal, Replacement, and Disposal (RRD) obligations, and has submitted all invoices, the FCC and Fund Administrator will commence closing out the Recipient's Reimbursement Program account.[7] During the process of closing out the account, the FCC and Fund Administrator will conduct a review of the Recipient's account and require invoice proof of payments.

This User Guide provides informal guidance intended to assist Recipients as they proceed with this Reimbursement Program process and does not constitute legal advice. Recipients remain solely responsible for reviewing and complying with all statutory provisions, rules, FCC precedent, and program procedures.

Instructions for Completing Participant Close-Out

As noted above, after confirming completion of their Removal, Replacement, and Disposal (RRD) Term obligations through submission of the FCC Form 5640 Part M: Final Certification, and has submitted all invoices, Recipients can return to the SCRP Online Portal to initiate the close-out process.

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[5] The Secure Networks Act defines "recipient" as "any provider of advanced communications service the application of which for a reimbursement under the [Reimbursement] Program has been approved by the Commission, regardless of whether the provider has received reimbursement funds." 47 U.S.C. § 1608(11); *see also* 47 CFR § 1.50001 ("The term 'Reimbursement Program recipient' or 'recipient' means any eligible advanced communications service provider that has requested via application and been approved for funding in the Reimbursement Program, regardless of whether the provider has received reimbursement funds.").

[6] *Wireline Competition Bureau Announces the Grant of Applications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 22-774 (WCB July 18, 2022).

[7] Recipients must file a final certification to the Commission within 10 days following the expiration of the Removal, Replacement, and Disposal process. 47 CFR § 1.50004(m). If that final certification states that the Recipient is still in the process of meeting its Removal, Replacement, and Disposal obligations, the Recipient must subsequently file an updated certification stating that it has fully complied with all such obligations, *id.*, § 1.50004(m)(2), and should do so within sixty (60) days after the initial deadline for submitting a final certification. *2021 Supply Chain Order*, 36 FCC Rcd at 12000, para. 104.

Initiating the Close-Out Process

To initiate the Participant-Close Out process, Recipients will log into the SCRP Online Portal and navigate to their *Program Participant File*. After opening this file, the Recipient will click "Create New Filing" then click **Participant Close-Out** (Figure 1). A pop-up box will appear to confirm the Recipient wants to begin the SCRP Program Participant Close-Out process (Figure 2) and the Recipient will click "Submit" to initiate the close-out process. Please note, the Fund Administrator will initiate the close-out process if the Recipient does not initiate it via the SCRP Online Portal prior to the expiration of the reimbursement claim deadline.

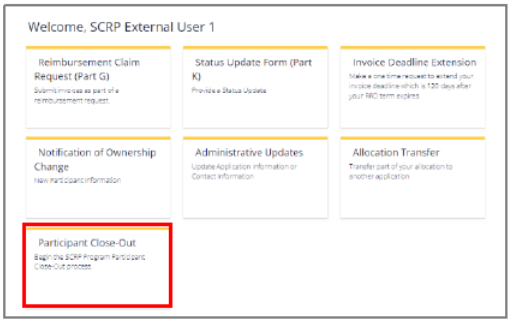


Figure 1: Participant Close-Out

Please note, the Participant Close-Out option will not appear if the close-out process has previously been initiated.

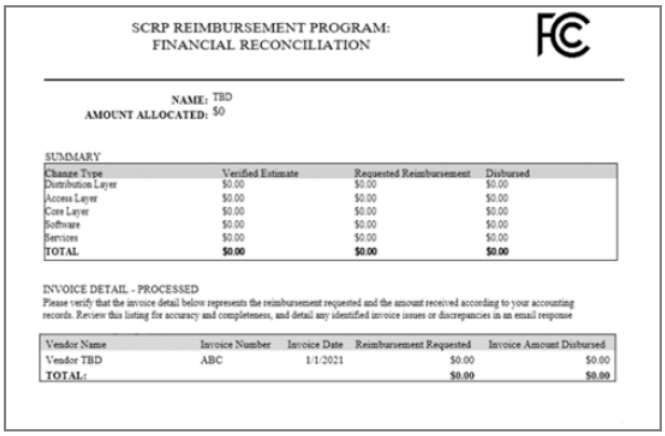


Figure 2: Close-Out Pop Up

Once the Recipient initiates the Participant Close-Out process, the Fund Administrator will prepare the Recipient's close-out package and send an email to the point of contact listed in the Recipient's application with a Financial Reconciliation Statement and a request for submission of proof of payments. The Financial Reconciliation Statement will include a detailed summary of the approved estimates, allocated amount, requested amounts, disbursed amounts, and, if applicable, outstanding credit memos (Figure 3).

Please ensure that the **point of contact listed is easily contactable** through the information provided in the Program Participant File should the FCC or Fund Administrator need to follow up with any questions.

Guidance on making changes to Filing Contact Information can be found in the FCC Form 5640 Administrative Updates User Guide.



SCRP REIMBURSEMENT PROGRAM:
FINANCIAL RECONCILIATION

NAME: TBD
AMOUNT ALLOCATED: $0

SUMMARY

Change Type	Verified Estimate	Requested Reimbursement	Disbursed
Distribution Layer	$0.00	$0.00	$0.00
Access Layer	$0.00	$0.00	$0.00
Core Layer	$0.00	$0.00	$0.00
Software	$0.00	$0.00	$0.00
Services	$0.00	$0.00	$0.00
TOTAL	**$0.00**	**$0.00**	**$0.00**

INVOICE DETAIL - PROCESSED

Please verify that the invoice detail below represents the reimbursement requested and the amount received according to your accounting records. Review this listing for accuracy and completeness, and detail any identified invoice issues or discrepancies in an email response

Vendor Name	Invoice Number	Invoice Date	Reimbursement Requested	Invoice Amount Disbursed
Vendor TBD	ABC	1/1/2021	$0.00	$0.00
TOTAL:			**$0.00**	**$0.00**

Figure 3: Sample Close-Out Financial Reconciliation Statement

Recipients can access the Financial Reconciliation Statement and request for submission of proof of payments via the SCRP Online Portal by navigating to *SCRP Filings* within their Program Participant File and locating their SCRP Participant Close-out filing (Figure 4). To download an attachment, the Recipient will click the the blue 'Download Attachment' link next to the applicable attachment (Figure 5).

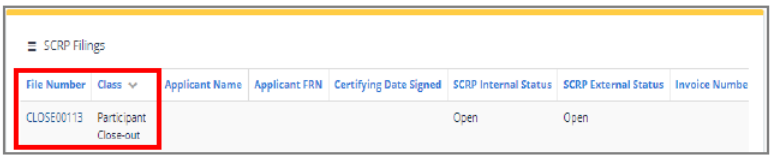


Figure 4: SCRP Filings



Figure 5: Download Close-Out Attachments

Completing the Close-Out Process

The Recipient should review the Financial Reconciliation Statement for completeness and accuracy to determine concurrence. Please note, Recipients have 30 calendar days to review the Financial Reconciliation Statement and provide supporting documentation to confirm proof of payment for outstanding reimbursement claims.

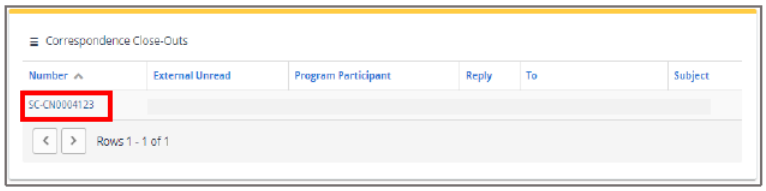


Figure 6: Correspondence Close-Outs

If the Financial Reconciliation Statement requires modifications or adjustments, the Recipient must notify the Fund Administrator. To request modifications or adjustments to the Financial Reconciliation Statement, the Recipient will navigate to the 'Correspondence Close-Outs' table located in their Program Participant File by selecting the row with the appropriate correspondence (Figure 6). After opening the correspondence record, the Recipient will navigate to the 'Activity' section of the Correspondence Close-Out page, type their message in the text box, then click the blue 'Post' button (Figure 7). The FCC and Fund Administrator will review the proposed modifications and adjustments to determine if they are reasonable and properly supported and send a revised Financial Reconciliation Statement to the Recipient via email.

Upon request, Recipients can be provided an Excel version of their Financial Reconciliation Statement and Proof of Payment Request to support their review.

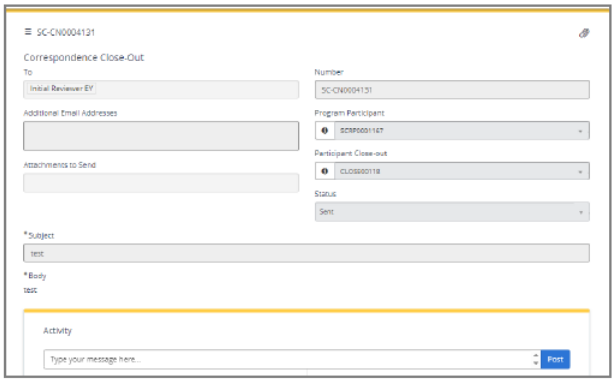


Figure 7: Correspondence Close-Out Activity

Once the Recipient determines concurrence with the Financial Reconciliation Statement, the Recipient Certifying Official must provide a signature and submit the requested proof of payments. The Recipient should also provide all necessary supporting documentation. All documentation should be in PDF and/or Excel format.

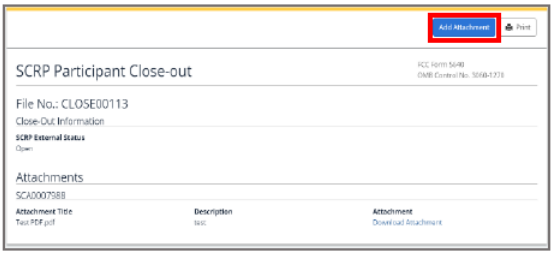


Figure 8: Add Attachments

Recipients can upload the completed Financial Reconciliation Statement and requested proof of payments, as well as any additional documentation they believe may be beneficial to the review of their close-out filing via the SCRP Online Portal by clicking the blue 'Add Attachments' button in their SCRP Participant Close-out filing (Figure 8). If uploading documentation here, a pop-up box will provide Recipients with the opportunity to select the 'Choose File' button, describe what the document is about, then 'Submit' (Figure 9).

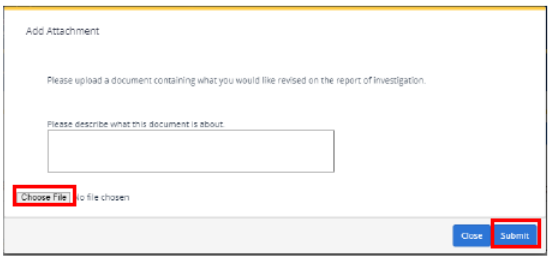


Figure 9: Choose File and Submit

Recipients can also upload their documentation via the 'Correspondence Close-Outs' table located in their Program Participant File by selecting the row with the appropriate correspondence (Figure 10). If uploading documentation here, the Recipient will select the paperclip icon to add attachments (Figure 11).



Figure 11: Add Attachments

Finalizing the Close-Out Process

If the Fund Administrator determines the Recipient was reimbursed for more than Total Actuals Approved (i.e., overpayment), the Recipient will be required to return the fund amounts owed to the FCC. Please note, Recipients must return the excess funds within 30 days. A revised Financial Reconciliation Statement will be sent to the Recipient once the funds are returned to the FCC and the Recipient must review, certify, and submit the revised reconciliation to the Fund Administrator.

Recipients will receive a final close-out letter via the SCRP Online Portal after the FCC and Fund Administrator complete the review of the requested close-out documentation notifying them of their account's closing and their ongoing obligation to cooperate with Program audits and investigations. Recipients are required to retain documentation supporting its requests for reimbursement for a period that extends 10 years after the date they received their final payment from the Program.

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 24-840
Released: August 20, 2024

DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF LIPAN TELEPHONE CO., INC. TO HILLIARY ACQUISITION TEXAS II, LLC

WC Docket No. 24-178

By this Public Notice, the Wireline Competition Bureau (Bureau) grants the application filed by Lipan Telephone Co., Inc. (Lipan), and Hilliary Acquisition Texas II, LLC (Hilliary) (collectively, Applicants), pursuant to section 214 of the Communications Act of 1934 (Act), as amended, and sections 63.03-04 of the Commission's rules,[1] requesting consent for the transfer of control of Lipan to Hilliary.[2]

On July 16, 2024, 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.

Lipan, a privately held Texas corporation and Eligible Telecommunications Carrier (ETC), provides local exchange telephone services, including interstate exchange access, as an incumbent local exchange carrier (LEC), as well as broadband Internet services to residential consumers and business customers in Erath, Hood, Palo Pinto, and Parker Counties in the State of Texas.[4] Lipan is wholly owned by parent holding company Lipan Telecommunications Inc. (LTI), which in turn is wholly-owned and controlled by John M. Howard, a U.S. citizen who is also President of Lipan.[5] Lipan currently receives cost-based high-cost universal service fund support through the Connect America Fund Broadband Loop Support (CAF-BLS) and High-Cost Loop Support (HCLS)

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

[2] Application filed for the Consent to Transfer Control of Lipan Telephone Co., Inc., to Hilliary Acquisition Texas II, LLC, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-178 (filed on June 10, 2024) (Application). Applicants filed a supplement to the Application on July 11, 2024. Letter from Robert A. Silverman, Counsel to Hilliary Acquisition Texas II, LLC, and James Howard, Counsel to Lipan Telephone Co., Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-178 (filed on July 11, 2024) (Supplement). Applicants also filed an application to transfer control of Lipan's international 214 authorization. Application at 11. 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 Lipan Telephone Co., Inc., to Hilliary Acquisition Texas II, LLC*, WC Docket No. 24-178, Public Notice, DA 24-687 (WCB 2024).

[4] Application at 1-2.

[5] *Id*.

mechanisms.[6]

Hilliary, an Oklahoma limited liability holding company, does not itself provide telecommunications services and was newly formed to acquire a controlling interest in Lipan.[7] Hilliary is wholly owned by Hilliary Acquisition Corp. 2016, LLC, an Oklahoma limited liability company that is owned in equal parts by Edward E. Hilliary, Jr., Dustin J. Hilliary, Michael J. Hilliary, and Douglas J. Hilliary, all U.S. citizens each individually holding a 25% membership interest.[8] Hilliary is affiliated with several companies that provide local exchange and interexchange services in Oklahoma, Texas, and Iowa.[9] In Oklahoma, the affiliated companies are: Medicine Park Telephone Company, Inc. (Medicine Park), an incumbent LEC; Oklahoma Western Telephone Company, Inc. (Oklahoma Western), an incumbent LEC; Phoenix Long Distance, Inc., an interexchange carrier; Wichita Online, LLC, a competitive LEC and interexchange carrier; Oklahoma Fiber Network, LLC, an interexchange carrier; Southern Plains Cable, LLC (Southern Plains), a competitive LEC and interexchange carrier; Texhoma Fiber, LLC (Texhoma), an interexchange carrier; and Southwest Oklahoma Telephone Company (Southwest), an incumbent LEC.[10] In Texas, the affiliated companies are: Tatum Telephone Company, Inc., an incumbent LEC; Electra Telephone Company, Inc., an incumbent LEC; and Border to Border Communications, Inc. (Border to Border), an incumbent LEC.[11] In Iowa, the affiliated company is Prairieburg Telephone Company, Inc.(Prairieburg), an incumbent LEC.[12] Among Hilliary's affiliates, some receive model-based high cost support and others receive cost-based support. Hilliary's affiliates receiving model-based high-cost universal service support are: Texhoma, Oklahoma Western, and Southern Plains, receiving Connect America Fund (CAF) Phase II Auction support; and Medicine Park, Oklahoma Western, and Southwest, receiving Enhanced Alternative Connect America Cost Model (A-CAM) support.[13] Hilliary's affiliates receiving cost-based high-cost universal service support are: Prairieburg, receiving HCLS; and Electra, Tatum, and Border to Border, receiving CAF-BLS and HCLS.[14]

Pursuant to the terms of the proposed transaction, Hilliary will purchase all outstanding shares of Lipan stock from LTI and, upon consummation, Lipan will be 100% controlled by Hilliary.[15] Applicants assert that this transaction will have not have an impact on competition in domestic telecommunications markets.[16] Applicants also state that Hilliary's plans to expand the

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[6] *Id*. at 7.

[7] *Id*. at 2.

[8] *Id*. Dustin J. Hilliary is the managing member of Hilliary. *Id.* at 3.

[9] *Id*. at 2. Applicants provide further ownership information on each of Hilliary's affiliates that provide domestic telecommunications services in their application and supplement. *Id*. at 7-11; Supplement at 1.

[10] Application at 2, 7-9; Supplement at 1.

[11] Application at 2, 10-11.

[12] *Id.* at 2, 9. Applicants state that other than what is disclosed in the Application, neither Hilliary nor any of its affiliates hold a 10% or greater interest in any other provider of domestic telecommunications services. Supplement at 2.

[13] *Id*. at 1; Application at 8-9.

[14] Application at 9-11.

[15] *Id*. at 2-3, 5.

[16] *Id*. at 12.

high quality communications service offerings in Texas will benefit consumers.[17] Further, Applicants assert that there are no service area overlaps or adjacencies between Lipan and Hilliary and its subsidiaries and affiliates.[18] Accordingly, Applicants aver that the proposed transaction is consistent with the public interest, convenience, and necessity.[19]

We find that grant of the Application, subject to Applicants' continuing compliance with the *Hargray/ComSouth* condition,[20] will serve the public interest, convenience, and necessity.[21] 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 Hilliary's compliance with the condition described above.[22]

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

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[17] *Id*. at 12.

[18] Supplement at 1.

[19] Application at 12; Supplement at 2-3. In the *Hargray/ComSouth Order*, the Commission found that "the combination of two companies that receive high-cost universal service support under different mechanisms, one fixed and one cost-based, could result in potential harm to the Commission's goal of ensuring that limited universal service resources are distributed efficiently and effectively" as a result of the companies having an incentive to shift costs from the model-based support company to the cost-based support company. *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc. for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket No. 18-52, Memorandum Opinion and Order, 33 FCC Rcd 4780, 4784, para. 19 (2018) (*Hargray/ComSouth Order*). Following consummation of the proposed transaction, Lipan, which is a recipient of cost-based universal service support, will be affiliated with companies through Hilliary that receive universal service support under the different mechanisms of fixed model-based support and cost-based support. Application at 9-11; Supplement at 1-2. Similar to other transactions involving certain Hilliary affiliates that receive universal service support under the different mechanisms of fixed model-based support and cost-based support, to mitigate the potential for cost shifting, we grant the Application subject to the continued application of the *Hargray/ComSouth* condition capping the combined operating expenses of the post-consummation company's rate of return affiliates. *Domestic Section 214 Application Granted*, WC Docket No. 21-378, Public Notice, 36 FCC Rcd 16139 & n.4 (WCB 2021); *Domestic Section 214 Application Granted for the Transfer of Control of Prairieburg Telephone Company, Incorporated*, WC Docket No. 21-30, Public Notice, 36 FCC Rcd 5672, 5673-74 & n.7 (WCB 2021) (both citing *Hargray/ComSouth Order*, 33 FCC Rcd at 4784, para. 19 and granting the transfer of a cost-based, average schedule support company to Hilliary Acquisition Iowa, LLC, subject to the condition in the *Hargray/ComSouth Order*, and citing previous acquisitions by Hilliary also subject to the condition); *see also Domestic Section 214 Application Granted for the Transfer of Control of Hargray Acquisition Holdings, LLC and its Subsidiaries to Cable One, Inc*., WC Docket No. 21-69, Public Notice, DA 21-502, at 3-4 (WCB 2021) (granting the application subject to the continued application of the *Hargray/ComSouth* condition to the applicants).

[20] Applicants have acknowledged the continuing applicability of the mixed support condition. Supplement at 2.

[21] *See* 47 U.S.C. § 214(a); 47 CFR § 63.03.

[22] Within 30 days of closing the proposed transactions, Applicants must notify USAC so that it can make any appropriate changes to the High Cost Universal Broadband (HUBB) on-line location reporting portal for universal service recipients. In addition, we direct Applicants to submit, in the domestic section 214 docket, WC Docket No. 24-178, a notice that the proposed transaction has closed with the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.

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 Megan Danner, Wireline Competition Bureau, Competition Policy Division, at megan.danner@fcc.gov.

-FCC-

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 24-841
Released: August 20, 2024

DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE ACQUISITION OF CERTAIN ASSETS OF SOUTHWEST ARKANSAS TELECOMMUNICATIONS AND TECHNOLOGY, INC., D/B/A FOUR STATES FIBER BY SOUTH CENTRAL CONNECT, LLC

WC Docket No. 24-92

By this Public Notice, the Wireline Competition Bureau grants an application filed by Southwest Arkansas Telecommunications and Technology, Inc. d/b/a Four States Fiber (SATT or Assignor) and South Central Connect, LLC (South Central Connect or Assignee) (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 certain assets of SATT to South Central Connect.[2] We also address the conditional authorization of Rural Digital Opportunity Fund (RDOF) support associated with this transaction.

On June 7, 2024, 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

SATT, an Arkansas corporation, is a designated Eligible Telecommunications Carrier (ETC) that provides interconnected VoIP-based voice and high-speed broadband services in portions of Arkansas, Oklahoma, and Texas.[4] On February 14, 2022, the Commission authorized SATT to receive

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

[2] Joint Application Domestic Section 214 Authorization For the Consent to Assign Certain Assets of Southwest Arkansas Telecommunications and Technology, Inc., d/b/a Four States Fiber to South Central Connect, LLC, WC Docket No. 24-92 (filed on Mar. 25, 2024) (Application). Applicants filed supplements to the Application on April 18, 2024 and May 29, 2024. Letter from Todd B. Lantor, Counsel for South Central Connect, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-92 (filed Apr. 18, 2024) (Apr. 18 Supplement); Letter from Todd B. Lantor, Counsel for South Central Connect, LLC to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-92 (filed May 29, 2024) (May 29 Supplement). Any action on this application is without prejudice to other pending applications before the Commission.

[3] *See Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Southwest Arkansas Telecommunication and Technology, Inc., d/b/a Four States Fiber by South Central Connect, LLC*, WC Docket No. 24-92, Public Notice, DA 24-541 (WCB 2024) (Public Notice).

$47,605,335.30 in RDOF support in Arkansas, which included the Census Block Group (Assigned CBG) that Applicants now seek authority to transfer,[5] as well as additional RDOF support in Louisiana and Oklahoma.[6] SATT is a wholly-owned subsidiary of Southwest Arkansas Electric Cooperative Corporation, a rural electric cooperative that is owned by its members.[7]

South Central Connect, an Arkansas limited liability company, is a designated ETC that provides high-speed, fiber-optic Internet and voice service in south central Arkansas.[8] South Central Connect is a wholly-owned subsidiary of South Central Arkansas Electric Cooperative, Inc., a rural electric cooperative that is owned by its members.[9] On April 15, 2021, the Commission authorized South Central Connect to receive $20,040,966.40 in RDOF support in Arkansas.[10] South Central Connect also receives Connect America Fund Phase II Auction support in Arkansas.[11]

Pursuant to the terms of the Asset Purchase Agreement and Plan of Merger, SATT will, upon grant of the Application by the Commission, transfer the RDOF obligations and all related past and future RDOF support associated with the Assigned CBG to South Central Connect.[12] Specifically, SATT will transfer the RDOF support and related buildout and service obligations associated with the Assigned CBG.[13] Applicants state that, post-consummation, South Central Connect will undertake deployment of the RDOF-supported network and integrate such activities and operations into its own ongoing operations and RDOF deployment.[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

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[4] Application at 2.

[5] *See* Application at 1 (identifying the CBG to be transferred as Census Block Group No. 050979532003); *see also* May 29, 2024 Supplement (acknowledging the estimated number of locations to be served at 453 locations for this CBG).

[6] *See Rural Digital Opportunity Fund Support Authorized for 2,576 Winning Bids*, AU Docket Nos. 23-34, 17-182, WC Docket Nos. 19-126, 10-90, Public Notice, 37 FCC Rcd 1617, Attach. A (Authorized Long-Form Applicants and Winning Bids) (2022).

[7] Application at 2.

[8] *Id.* at 3.

[9] *Id*.

[10] *See Rural Digital Opportunity Fund Support Authorized for 1,345 Winning Bids*, AU Docket Nos. 23-34, 17-182, WCB Docket Nos. 19-126, 10-90, Public Notice, 37 FCC Rcd 4897, Attach. A (Authorized Long-Form Applicants and Winning Bids) (2022) (*RDOF Eighth Authorization Public Notice*). The Arkansas Public Service Commission granted a petition filed by South Central Connect to expand its ETC designation to include, *inter alia*, portions of the Assigned CBG where it would be eligible to receive RDOF and Lifeline support upon approval of this transaction. *See* Petition of South Central Connect, LLC for Expanded Designation Area as a High-Cost and/or Low-Income Eligible Telecommunications Carrier, Order, Arkansas PSC Docket No. 24-009-U (Apr. 29, 2024).

[11] April 18 Supplement at 3.

[12] Application at 4.

[13] *Id*. at 1, 4.

[14] *Id.* at 4; *id*. at 13 (Certification of Colby C. Wells, Chief Executive Officer (Mar. 25, 2024)) (certifying that, upon consummation of the proposed transfer, South Central Connect will use all RDOF support associated with CBG No. 050979532003 as well as all other RDOF support that South Central Connect has been separately authorized to receive, in accordance with applicable FCC rules).

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 SATT "has no subscribers in the Assigned CBG. Accordingly, the transaction will not result in any loss of impairment of service for either Applicant's subscribers and will have no adverse effect on competition."[18] Because South Central Connect is not acquiring any of SATT's telecommunications assets, services, or customers other than all RDOF support associated with the Assigned CBG,[19] and the Commission previously determined that South Central Connect is qualified to receive RDOF support,[20] we expect no potential harm to existing customers to result from the transaction.

Second, South Central Connect commits to meeting all public interest and performance obligations associated with the receipt of the transferred RDOF support,[21] and the record indicates that South Central Connect has the technical, financial, and managerial expertise to do so.[22] In this regard, South Central Connect attests that it "assumes responsibility for complying with applicable universal service fund requirements and Commission rules, regardless of any preexisting or reasonably foreseeable conditions in any areas in the [Assigned CBG] that could negatively impact the Company's ability to meet its obligations in the future."[23] Applicants maintain that South Central Connect has "both the necessary industry experience and requisite financial means to take on the responsibility of deploying RDOF-supported voice and broadband service,"[24] and that South Central Connect "is not taking on any debt repayment obligations or otherwise increasing substantially its costs to deploy service and will

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[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, 36 FCC Rcd 16994, 17001, para. 21 (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*, 36 FCC Rcd at 17001, 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*, 36 FCC Rcd at 17001, 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 2.

[19] *Id*.

[20] *See RDOF Eighth Authorization Public Notice,* 37 FCC Rcd 4897, Attach. A.

[21] May 29 Further Supplement at 2.

[22] Application at 5-7.

[23] May 29 Further Supplement at 3.

[24] Application at 5.

continue to have the same access to financial resources following consummation of this transaction."[25] In addition, Applicants have confirmed that "[t]he transaction will not result in any adverse alteration to the buildout plans."[26] Further, Applicants state that "There will be no changes in the fiber-to-the-premises technology being used by both Applicants in executing their respective RDOF buildout plans."[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 proposed transaction will infuse capital and human resources, and as a result, "consumers will be able to receive RDOF services in the Assigned CBG more quickly than if Assignor retained the Assigned CBG."[31] Further, Applicants assert that "the transaction will also accelerate Assignee's ongoing efforts to expand broadband service to unserved areas."[32] Applicants state that South Central Connect is well-positioned geographically to serve the Assigned CBG and previously launched gigabit-tier broadband and voice services to its existing customers, thus demonstrating that is "capable of providing gigabit-tier speeds" to satisfy its RDOF buildout milestones.[33] Applicants assert that "[the transaction will not result in any adverse alteration to the buildout plans Assignor and Assignee submitted to the Commission to be authorized to receive RDOF funding," and that "[t]here will be no changes in the fiber-to-the-premises technology being used by both Applicants in executing their respective RDOF buildout plans."[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 Act.[36] In light of South Central Connect's commitments to meet all of its federal high-cost support obligations[37] and the fact that South Central Connect is already approved to receive RDOF support in nearby areas of Arkansas, 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

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[25] *Id*. at 6.

[26] *Id.*

[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 6.

[32] *Id*. at 7.

[33] *Id*. at 5-6.

[34] *Id*. at 6.

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

[36] *See Verizon-TracFone Order*, 36 FCC Rcd at 17002, 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 5-7.

likely to yield some benefits, we find, on balance, that the proposed transaction serves the public interest.

Conditional Authorization of RDOF Support

As stated above, we have found that South Central Connect has sufficiently demonstrated its managerial, financial, and technological capabilities to meet its RDOF obligations to serve the Assigned CBG, and accordingly, we conditionally authorize South Central Connect to receive the support associated with the Assigned CBG (approximately $1,823,970.00), to be added to its existing authorized amount, conditioned upon satisfaction of the following prerequisites within three months from the release date of this public notice: 1) approval of an irrevocable letter of credit securing the requisite amount of support for the Assigned CBG; 2) submission and approval of a new supporting Bankruptcy Opinion Letter; and 3) submission of a notice of consummation of the transaction in the Commission's Electronic Comment Filing System (ECFS) under WC Docket Nos. 24-92.[38] Applicants should also email a copy of this notice directly to Dennis Johnson at dennis.johnson@fcc.gov and to Nissa Laughner at nissa.laughner@fcc.gov. South Central Connect should submit the LOC and the supporting Bankruptcy Opinion Letter directly to USAC for review and approval.

If and when all of these prerequisites are satisfied, the authorization of South Central Connect to receive the support associated with the Assigned CBG will become effective.[39] At that time, USAC will transfer all future support payments (and any withheld payments) to South Central Connect as of the next month following the authorization or as soon as reasonably practical thereafter. The Bureau will announce the date that this authorization became effective in a monthly release. Pending the effective date of South Central Connect's authorization, SATT must maintain its irrevocable letter of credit securing the support for the Assigned CBG and will retain sole responsibility for complying with the universal service fund requirements for the Assigned CBG. All support and transferrable assets associated with the Assigned CBG must be transferred from SATT to South Central Connect, including any disbursements for the Assigned CBGs received by SATT pending the effective date of South Central's authorization.

We remind South Central Connect that that once it satisfies all conditions of authorization, it assumes sole responsibility for complying with universal service fund requirements and Commission rules, regardless of any preexisting or reasonably foreseeable conditions that could impact its ability to meet its obligations in the future, including technical, marketplace, and on-th-ground conditions.[40] Indeed, any carrier seeking authorization to receive high cost support pursuant to a section 214 authorization must conduct the proper due diligence prior to consummation of the transaction and, in doing so, must assume all risks and consequences of noncompliance with program requirements, including default recovery of support and potential forfeiture penalties.[41] In addition, South Central Connect must meet all administrative, performance, and deployment obligations and deadlines, including

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[38] We note that South Central Connect has already obtained an ETC designation for the Assigned CBG. *See* supra note 10.

[39] If Applicants fail to consummate the transaction within this time frame, they must file notice of the failure within 10 calendar days of the end of such time frame in the Commission's Electronic Comment Filing System (ECFS) under WC Docket Nos. 24-92. If South Central Connect does not meet one or more of the conditions before the three month period specified above expires, the Bureau will reassess its qualifications for authorization.

[40] *See, e.g.*, *Authorization of Atlink Services, LLC to Receive Connect America Fund (CAF) Phase II Auction Support Transferred from Cherokee Telephone Company Pursuant to a Commission Approved Transaction*, WC Docket No. 10-90, Public Notice, 37 FCC Rcd 6158, 6159 (WCB 2022).

[41] *See Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 717-18, para. 68 (stressing that it is RDOF bidders' "sole responsibility" to complete due diligence by conducting adequate research and analysis before participating in the RDOF auction); *id*. at 725, para. 84 (requiring RDOF short-form applicants to certify that they are solely responsible for compliance with all RDOF requirements).

the requirement to deploy voice and broadband service meeting minimum standards to the requisite number of locations by specific service milestones.[42]

Grant of Application

We find, upon consideration of the record, that the proposed transfer will serve the public interest, convenience, and necessity.[43] This grant of the Application is conditioned as set out in this Public Notice. This Application is granted in conjunction with the conditional authorization of South Central Connect to receive RDOF support as set out in this Public Notice.

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.[44]

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice.[45] 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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[42] Specifically, RDOF support recipients must deploy service to an increasing percentage of the CAM-estimated number of locations as of December 31st of each year beginning with a 40% milestone as of the third year of receiving support (2025), 60% as of the fourth year (2026), 80% as of the fifth year (2027), and 100% as of the sixth year (2028). 47 CFR § 54.802(c); *Rural Digital Opportunity Fund Order,* 35 FCC Rcd at 709-12, paras. 45-55. The Commission will then adjust the initial defined deployment obligation assigned to each RDOF support recipient based on its determination of the number of locations within the supported area without an increase or decrease in support, subject to a 35% margin. 47 CFR § 54.802(c); *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 710-11, paras. 49-50.

[43] *See* 47 U.S.C. § 214(a); 47 CFR § 63.03.

[44] The Bureau has provided a summary of the various obligations of authorized RDOF support recipients in prior authorization public notices. As stated in these public notices, the summary is not intended to be comprehensive, and all authorized parties are responsible for conducting the due diligence required to comply with universal service fund requirements and the Commission's rules. *See RDOF Eighth Authorization Public Notice,* 37 FCC Rcd 4897-4906.

[45] We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 24-92 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	)	
	)	
AT&T Enterprises, LLC	)	File No.: EB-SED-24-00036024
	)	CD Acct. No.: 202432100008
	)	FRN: 0034298919
	)	
	)	

ORDER

Adopted: August 26, 2024 **Released: August 26, 2024**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether AT&T Enterprises, LLC, successor-in-interest to AT&T Enterprises, Inc., and AT&T Corp.,[1] (AT&T) failed to deliver 911 calls to, and to timely notify, Public Safety Answering Points (PSAPs) during a 911 outage on August 22, 2023. Congress has made emergency communication services a national priority, and the Commission has repeatedly emphasized that robust and reliable 911 service must be available nationwide. It is therefore incumbent upon the Commission to ensure that telecommunications carriers provide reliable 911 service at all times and timely notify PSAPs of relevant 911 outages. To settle this matter, AT&T will implement a three-year compliance plan and will pay a $950,000 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 AT&T's compliance with the Commission's 911 rules, including sections 4.9(f), 4.9(h), 9.4, 9.10(b), and 9.11(b)(2)(ii) of the Commission's rules.[2]

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

4. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) of the Act, 47 U.S.C. § 154(i), and the authority delegated by sections 0.111 and 0.311 of the Commission's rules, 47 CFR §§ 0.111, 0.311, the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED**.

[1] On May 1, 2024, AT&T Corp. merged with and into AT&T Enterprises, Inc., with AT&T Enterprises, Inc. as the surviving entity. On May 2, 2024, AT&T Enterprises, Inc. was converted into a limited liability company, AT&T Enterprises, LLC. AT&T Enterprises, LLC is an indirect, wholly owned subsidiary of AT&T Inc. *See* Letter from AT&T Services, Inc., to Spectrum Enforcement Division, FCC Enforcement Bureau (June 20, 2024) (on file in EB-SED-24-00036024).

[2] 47 CFR §§ 9.4, 9.10(b), 9.11(b)(2)(ii), 4.9(f), 4.9(h).

[3] *See id.* § 1.93(b).

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 Cindy Manheim, Assistant Vice President – Senior Legal Counsel, AT&T Services, Inc., 7277 – 164th Avenue NE, Redmond, Washington 98052.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of	)	
	)	
AT&T Enterprises, LLC	)	File No.: EB-SED-24-00036024
	)	CD Acct. No.: 202432100008
	)	FRN: 0034298919
	)	
	)	

CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) and AT&T Enterprises, LLC (AT&T or Company),[1] by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's Investigation into whether AT&T violated sections 4.9(f), 4.9(h), 9.4, 9.10(b), and 9.11(b)(2)(ii) of the Rules in connection with the failure to transmit approximately 400 calls to 911 and to make timely notifications to eight Public Safety Answering Points (PSAPs) as part of an outage experienced by AT&T on August 22, 2023, in parts of Illinois, Kansas, Texas, and Wisconsin. To resolve this matter, AT&T agrees to implement a compliance plan and pay a $950,000 civil penalty.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:

(a) "911 Rules" means sections 4.9(f), 4.9(h), 9.4, 9.10(b), 9.11(b)(2)(ii) of the Rules and other Communications Laws governing the design, operation, and delivery of 911 calls to PSAPs, and associated PSAP notifications.

(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) "AT&T" or "Company" means AT&T Enterprises, LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(e) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.

(f) "CD Acct No." means account number 202432100008, associated with payment obligations described in paragraph 18 of this Consent Decree.

(g) "Commission" and "FCC" mean the Federal Communications Commission and all of its bureaus and offices.

[1] On May 1, 2024, AT&T Corp. merged with and into AT&T Enterprises, Inc., with AT&T Enterprises, Inc. emerging as the surviving entity. On May 2, 2024, AT&T Enterprises, Inc. was converted into a limited liability company, AT&T Enterprises, LLC. AT&T Enterprises, LLC is an indirect, wholly owned subsidiary of AT&T Inc. *See* Letter from AT&T Services, Inc., to Spectrum Enforcement Division, FCC Enforcement Bureau (June 20, 2024) (on file in EB-SED-24-00036024).

[2] 47 U.S.C. § 151 *et seq.*

(h) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which AT&T is subject by virtue of its business activities, including but not limited to the 911 Rules.

(i) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 13.

(j) "Covered Employees" means all employees and agents of AT&T who perform, supervise, oversee, or manage the performance of, duties that relate to AT&T's responsibilities under the 911 Rules.

(k) "Effective Date" means the date by which both the Bureau and AT&T have signed the Consent Decree and the Bureau has released an Adopting Order.

(l) "Investigation" means the investigation commenced by the Bureau in EB-SED-24-00036024 regarding whether AT&T violated the 911 Rules.

(m) "Operating Procedures" means the standard internal operating procedures and compliance policies established by AT&T to implement the Compliance Plan.

(n) "Parties" means AT&T and the Bureau, each of which is a "Party."

(o) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

3. Sections 9.4, 9.10(b), and 9.11(b)(2)(ii) of the Rules require telecommunications carriers, commercial mobile radio service (CMRS) providers, and interconnected Voice over Internet Protocol (VoIP) service providers, respectively, to transmit all 911 calls to a PSAP or other appropriate entity.[3] At the time of the outage, AT&T was a telecommunications carrier in parts of Illinois, Kansas, Texas, and Wisconsin, as well as a wireless service provider and an interconnected VoIP service provider in parts of Illinois, Texas, and Wisconsin.[4] In addition, section 4.9(f) of the Rules require wireline service providers to notify potentially affected PSAPs (as defined in section 4.5(e)) of outages as soon as possible.[5] Further, section 4.9(h) of the Rules requires covered 911 service providers to notify potentially affected PSAPs (as defined in section 4.5(e)) of outages as soon as possible but no later than 30 minutes.[6]

4. On August 22, 2023, AT&T experienced a 911 outage in parts of Illinois, Kansas, Texas, and Wisconsin. The 911 outage occurred during business-as-usual testing of portions of AT&T's 911 network.[7] During the testing, an AT&T contractor's technician inadvertently disabled a portion of the network and AT&T's system did not automatically adjust to accommodate the disabled portion of the network,[8] resulting in the outage.[9] The testing was not associated with a planned Change Management (CM) activity and, consequently, was outside the scope of AT&T's 911 CM governance process for planned maintenance activities.[10] As a result, the testing did not undergo stringent reviews with technical

[3] 47 CFR §§ 9.4, 9.10(b), 9.11(b)(2)(ii).

[4] Response to Letter of Inquiry from AT&T Corp., to Spectrum Enforcement Division, FCC Enforcement Bureau, at 3-4 (Feb. 16, 2024) (on file in EB-SED-24-00036024) (AT&T LOI Response).

[5] 47 CFR §§ 4.5 (e), 4.9(f).

[6] *Id*.

[7] AT&T LOI Response at 10.

[8] *Id.* at 18.

[9] *Id.* at 10.

[10] *Id*.

support teams as part of a planned maintenance window.[11] The 911 outage lasted for 1 hour and 14 minutes, from 11:55 AM Central Time (CT) to 1:09 PM CT on August 22, 2023, and resulted in over 400 failed 911 calls.[12] AT&T sent timely initial notifications to 307 of the 315 potentially affected PSAPs about the 911 outage.[13] However, AT&T failed to timely notify eight potentially affected PSAPs.[14] AT&T was a covered 911 service provider for all PSAPs except one where notification was untimely provided.[15] For the one PSAP where AT&T was not a covered 911 service provider, AT&T was the wireline originating service provider. AT&T hereby acknowledges that it is responsible for complying with applicable Rules regardless of any alleged failures by its contractor.[16]

5. On January 17, 2024, the Bureau issued a Letter of Inquiry (LOI) to AT&T directing it to submit a sworn written response relating to the disruption of 911 service in August 2023.[17] AT&T timely responded to the Bureau's LOI on February 16, 2024.[18]

6. AT&T 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

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

8. **Jurisdiction**. AT&T 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.

9. **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.

10. **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, AT&T 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 AT&T concerning the matters that were the subject of the Investigation, or to set for hearing the question of

[11] *Id*. at 20.

[12] *Id.* at 6, 11-12.

[13] *Id.* at 24.

[14] *Id.* at 24-25.

[15] *Id*. at 7.

[16] *See* 47 U.S.C. § 217 (providing that the carrier is liable for an act or omission of an agent or employee acting within the scope of their employment); *see also Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; Improving 911 Reliability; New Part 4 of Commission's Rules Concerning Disruptions to Communications*, Second Report and Order, 37 FCC Rcd 13847, 13854, para. 13 (2022) (quoting *Eure Family Limited Partnership*, Memorandum Opinion and Order, 17 FCC Rcd 21861, 21863-64 (2002) (citing *MTD, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 34, 35 (1991), *Wagenvoord Broadcasting Co.*, Memorandum Opinion and Order, 35 FCC 2d 361 (1972)).

[17] Letter of Inquiry from Spectrum Enforcement Division, FCC Enforcement Bureau to AT&T Corp. (Jan. 17, 2024) (on file in EB-SED-24-00036024) (AT&T LOI).

[18] AT&T LOI Response.

AT&T'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.[19]

11. **Admission**. AT&T admits for the purpose of this Consent Decree, and in express reliance on the provisions of paragraph 10 herein, that its actions described in paragraph 4 herein, are a true and accurate description of the facts underlying the Investigation.

12. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, AT&T shall designate a vice president or above with the requisite corporate, budget, 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 AT&T 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 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. The Compliance Officer must report at least every six months to AT&T's Chief Compliance Officer on AT&T's efforts during the relevant period to comply with the terms and condition of this Consent Decree.

13. **Compliance Plan**. For purposes of settling the matters set forth herein, AT&T agrees that it shall, within the dates set out below, develop and implement a Compliance Plan designed to ensure future compliance with the 911 Rules and the terms and conditions of this Consent Decree. By the dates set forth below, and continuing during the Term of this Consent Decree, AT&T shall develop and implement—or improve upon where they already exist—processes in the evolving 911 environment promptly to (1) *Govern* the Company's risk management strategies, expectations, and policies to identify, protect against, detect, respond to, and recover from 911 outages; (2) *Identify* risks that could result in 911 outages; (3) *Protect* against such risks; (4) *Detect* 911 outages when they occur; (5) *Respond* to such 911 outages with remedial actions; and (6) *Recover* from such 911 outages as soon as practicable. With respect to the 911 Rules, AT&T will implement, at a minimum, the following procedures:

(a) **Operating Procedures**. Within thirty (30) calendar days after the Effective Date, AT&T shall establish Operating Procedures that all Covered Employees shall follow to help ensure that AT&T complied with the 911 Rules. The Operating Procedures shall include, but are not limited to, the following:

i. **Develop Compliance Checklist**. AT&T shall develop a compliance checklist that describes the steps for AT&T to follow to comply with the 911 Rules.

ii. **Review and Update AT&T's PSAP Notification Procedures**. AT&T shall establish and implement Operating Procedures (including, as necessary, reviewing and revising any existing procedures) to ensure that AT&T has the ability promptly to identify PSAPs potentially impacted by a network outage, including, without limitation, localized or multi-state outages, and to notify such PSAPs, as required under the 911 Rules. To the extent AT&T does not possess the contact information of a PSAP necessary to timely implement the PSAP notification system for that PSAP, AT&T shall use its best efforts to contact such PSAP within sixty (60) calendar days of the Effective Date to request contact information for outage situations. AT&T shall review and update its list of PSAP contact information on at least an annual basis. Additionally, beginning on the first anniversary of the Effective Date and continuing annually for the remainder of the Term of this Consent Decree, AT&T shall (a) review such procedures to identify modifications that could reduce the time needed to identify and notify potentially impacted

[19] *See* 47 CFR § 1.93(b).

PSAPs, and (b) within thirty (30) days of such review, implement any such modifications as are economically feasible.

iii. **Enhanced Monitoring Following Network Modification**. AT&T shall establish and implement Operating Procedures (including, as necessary, reviewing and revising existing procedures) to provide that, for a period of fourteen (14) days following any modification to Legacy Network Gateways (LNGs) with the potential to impact the transmission of 911 calls and associated data, AT&T shall employ enhanced network monitoring to ensure that AT&T is immediately alerted to any degradation or interruption of 911 service as a result of such network modifications.

iv. **Implement Best Practices Relating to Testing During and Outside Maintenance Windows**. AT&T shall establish and implement Operating Procedures (including, as necessary, reviewing and revising any existing procedures) for testing done during and outside maintenance windows. The Operating Procedures shall, at a minimum, adhere to the following FCC Communications Security, Reliability, and Interoperability Council (CSRIC) best practices, and any future revisions thereto, relating to the use of methods of procedures during maintenance windows: 13-12-0693 ("Network Operators, Service Providers, Property Managers and Public Safety should emphasize the use of Methods of Procedures (MOPs), vendor monitoring, and performing work on in-service equipment during low traffic periods (i.e., maintenance window)").

v. **Review and Implement New or Revised Best Practices**. Within ninety (90) calendar days of the release by CSRIC of any new and applicable best practices relating to 911 service, AT&T shall evaluate and incorporate, where appropriate, such new best practices into the Operating Procedures and shall establish a timeline for their implementation not to exceed one hundred and eighty (180) days following the release of such new and applicable best practices.

vi. **Perform Risk Assessments**: AT&T shall maintain and regularly review and revise as necessary a risk-assessment program designed to identify, assess, and remediate risks to AT&T's ability to transmit 911 calls, including third-party or vendor risks, with specific attention to those issues that were identified as the root cause of the outage that is the subject of this Investigation. AT&T shall utilize an industry recognized risk control methodology that provides, at a minimum, that:

1. AT&T shall assess and document, at least annually, key metrics for compliance with the 911 Rules.
2. AT&T will assess those controls and mitigation strategies on a regular basis, which shall be at least annually, and implement any remediation measures necessary to address any identified risks.
3. AT&T shall assess, at least annually, internal and external risks to the reliability and resiliency of AT&T's 911 network and its ability to transmit and deliver 911 calls consistent with the 911 Rules.
4. AT&T shall assess, at least annually, the sufficiency and effectiveness of any safeguards implemented as a result of the risk assessments performed to address any identified risks and timely modify such safeguards as appropriate.

(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 AT&T's

compliance with the 911 Rules. AT&T shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. AT&T shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

(c) **Compliance Training Program**. AT&T 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 AT&T's obligation to report any noncompliance with the 911 Rules under paragraph 14 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 ninety (90) 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 sixty (60) calendar days after the date such person becomes a Covered Employee. AT&T 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.

14. **Reporting Noncompliance**. AT&T shall report any material 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. If additional investigation is required by AT&T, AT&T may provide an updated noncompliance report within fifteen (15) calendar days after the initial report of material non-compliance. Such reports shall include a detailed explanation of: (i) each instance of such noncompliance; (ii) the steps that AT&T 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 AT&T has taken or will take to prevent the recurrence of any such noncompliance. Such noncompliance reports shall include an affidavit or declaration consistent with section 1.16 of the Rules and be subject to the accuracy requirements of section 1.17 of the Rules.[20] All reports of noncompliance shall be submitted electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, via EB-SED-Response@fcc.gov.

15. **Compliance Reports**. AT&T 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 AT&T'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 AT&T, stating that the Compliance Officer has personal knowledge that AT&T: (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 14 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

[20] *Id.* §§ 1.16, 1.17.

Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.[21]

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of AT&T, 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 AT&T 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 AT&T 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 EB-SED-Response@fcc.gov.

16. **Termination Date**. Unless stated otherwise, the requirements set forth in paragraphs 12 through 15 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

17. **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 Act[22] against AT&T 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 AT&T with the Communications Laws.

18. **Civil Penalty**. AT&T will pay a civil penalty to the United States Treasury in the amount of nine hundred fifty thousand dollars ($950,000) within thirty (30) calendar days of the Effective Date. AT&T 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).[23] Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. AT&T shall send electronic notification of payment to 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/cores/userLogin.do, Automated Clearing House (ACH) 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:[24]

- 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 FCC Form 159[25] or printed CORES form[26] must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed

[21] *Id.* § 1.16.

[22] 47 U.S.C. § 208.

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

[24] For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6).

[25] FCC Form 159 is accessible at https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159.

[26] 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/cores/userLogin.do.

to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in FCC 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).[27] 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.

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

20. **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 AT&T.

21. **Waivers**. As of the Effective Date, AT&T 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. AT&T 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 AT&T nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and AT&T shall waive any statutory right to a trial *de novo*.

[27] Instructions for completing the form may be obtained at http://www.fcc.gov/Forms/Form159/159.pdf.

AT&T hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[28] relating to the matters addressed in this Consent Decree.

22. **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.

23. **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.

24. **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 AT&T does not expressly consent) that provision will be superseded by such Rule or order.

25. **Successors and Assigns**. AT&T agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

26. **Final Settlement**. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding regarding any compliance or noncompliance with the requirements of the Communications Laws.

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

28. **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.

29. **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.

[28] *See* 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

30. **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

_____
Corey Anthony
SVP – Engineering and Operations
AT&T Services, Inc.

_____
Date

DA 24-843

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Curtis Tyree
WIFAST, LLC
200 W Forsyth St
Jacksonville, FL 32204

CITATION AND ORDER

File No. EB-IHD-24-00036699

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to WIFAST, LLC (Company or WIFAST) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to WIFAST's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, WIFAST violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject WIFAST to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit broadband service availability data in the BDC system twice during every calendar year; the first filing is

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that WIFAST is a facilities-based provider of fixed broadband internet access service. To the extent that WIFAST made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. WIFAST failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

WIFAST has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned WIFAST on June 13, 2013; and OEA emailed WIFAST on March 23, 2023 and July 19, 2023 using the contact information that WIFAST registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent WIFAST a letter warning that failure to file the required

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to WIFAST (Mar. 23, 2023, 12:42 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to WIFAST (Jul. 19, 2023, 3:04 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to WIFAST (Jul. 12, 2023) (warning Company of potential violations of a Commission rule).

availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, WIFAST has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, WIFAST is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules we **ORDER WIFAST to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If WIFAST believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why WIFAST believes it does not need to file BDC data. We advise WIFAST that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, WIFAST continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation,

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.[15]

WIFAST may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to WIFAST's place of business. The Commission Field Office nearest WIFAST is located in Miami, Florida.[16] If WIFAST requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If WIFAST prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. WIFAST should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

[16] *See* 47 U.S.C. § 503(b)(5).

DA 24-844

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Granberry Ward
Community Cable and Broadband LLC
10366 AL-5
Brent, AL 35034

CITATION AND ORDER

File No. EB-IHD-24-00036670

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to Community Cable and Broadband LLC (Company or CCB) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to CCB's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, CCB violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject CCB to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

broadband service availability data in the BDC system twice during every calendar year; the first filing is due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that CCB is a facilities-based provider of fixed broadband internet access service. To the extent that CCB made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. CCB failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

CCB has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned CCB on June 6, 2023, and left a message; and OEA emailed CCB on March 23, 2023 and July 19, 2023 using the contact information that CCB registered in the BDC system. Subsequently, the

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to CCB (Mar. 23, 2023, 12:42 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to CCB (Jul. 19, 2023, 3:04 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to CCB (Jul. 11, 2023) (warning Company of potential violations of a Commission rule).

Commission's Enforcement Bureau sent CCB a letter warning that failure to file the required availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, CCB has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, CCB is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, we **ORDER CCB to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If CCB believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why CCB believes it does not need to file BDC data. We advise CCB that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, CCB continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation,

[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.[15]

CCB may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to CCB's place of business.[16] The Commission Field Office nearest CCB is located in Atlanta, GA. If CCB requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If CCB prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. CCB should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.govor call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

[16] *See* 47 U.S.C. § 503(b)(5).

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Jordan Goff
Simple Fiber Communications LLC
2701 Brown Trl
Bedford, TX 76021

CITATION AND ORDER

File No. EB-IHD-24-00036693

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to Simple Fiber Communications LLC (Company or Simple Fiber) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to Simple Fiber's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, Simple Fiber violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject Simple Fiber to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit broadband service availability data in the BDC system twice during every calendar year; the first filing is

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that Simple Fiber is a facilities-based provider of fixed broadband internet access service. To the extent that Simple Fiber made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. Simple Fiber failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

Simple Fiber has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned Simple Fiber on June 13, 2023; and OEA emailed Simple Fiber on March 23, 2023 and July 19, 2023 using the contact information that Simple Fiber registered in the BDC system. Subsequently,

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to Simple Fiber (Mar. 23, 2023, 1:08 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to Simple Fiber (Jul. 19, 2023, 3:09 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to Simple Fiber (Jul. 12, 2023) (warning Company of potential violations of a Federal Communications Commission Rule).

the Commission's Enforcement Bureau sent Simple Fiber a letter warning that failure to file the required availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, Simple Fiber has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, Simple Fiber is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER Simple Fiber to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If Simple Fiber believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why Simple Fiber believes it does not need to file BDC data. We advise Simple Fiber that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, Simple Fiber continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and

[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.[15]

Simple Fiber may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Simple Fiber's place of business. The Commission Field Office nearest Simple Fiber is located in Dallas, Texas.[16] If Simple Fiber requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Simple Fiber prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. Simple Fiber should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

[16] *See* 47 U.S.C. § 503(b)(5).

DA 24-846

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Jeff Shaffer
FiberSpark Inc.
950 Danby Rd., Suite 75
Ithaca, NY 14850

CITATION AND ORDER

File No. EB-IHD-24-00036674

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to FiberSpark Inc. (Company or FiberSpark) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to FiberSpark's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, FiberSpark violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on two occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject FiberSpark to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit broadband service availability data in the BDC system twice during every calendar year; the first filing is

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that FiberSpark is a facilities-based provider of fixed broadband internet access service. To the extent that FiberSpark made facilities-based fixed broadband service available to any location as of December 31, 2022 or June 30, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023 or September 15, 2023,[9] respectively. FiberSpark failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

FiberSpark has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned FiberSpark on June 8, 2023; and OEA emailed FiberSpark on March 23, 2023 and July 19, 2023 using the contact information that FiberSpark registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent FiberSpark a letter warning that failure to file the required

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to FiberSpark (Mar. 23, 2023, 12:42 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to FiberSpark (Jul. 19, 2023, 3:04 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to FiberSpark (Jul. 11, 2023) (warning Company of potential violations of a Commission rule).

availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, FiberSpark has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, FiberSpark is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER FiberSpark to file the required data as of June 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If FiberSpark believes that it was not required to file for the June 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why FiberSpark believes it does not need to file BDC data. We advise FiberSpark that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, FiberSpark continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation,

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.[15]

FiberSpark may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to FiberSpark's place of business.[16] The Commission Field Office nearest FiberSpark is located in New York, NY. If FiberSpark requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If FiberSpark prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. FiberSpark should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

[16] *See* 47 U.S.C. § 503(b)(5).

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Brandon Rarick
A.C.T.S. LLC
881 E 2700 North Rd
Moweaqua, IL 62550

CITATION AND ORDER

File No. EB-IHD-24-00036657

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to A.C.T.S. LLC (Company or A.C.T.S.) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to A.C.T.S.' broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, A.C.T.S. violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject A.C.T.S. to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit broadband service availability data in the BDC system twice during every calendar year; the first filing is

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that A.C.T.S. is a facilities-based provider of fixed broadband internet access service. To the extent that A.C.T.S. made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. A.C.T.S. failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

A.C.T.S. has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned A.C.T.S. on June 13, 2023 and September 18, 2023; and OEA emailed A.C.T.S. on March 23, 2023 and July 19, 2023 using the contact information that A.C.T.S. registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent A.C.T.S. a letter warning that failure to file

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to A.C.T.S. (Mar. 23, 2023, 12:42 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to A.C.T.S. (Jul. 19, 2023, 3:04 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to A.C.T.S. (Jul. 11, 2023) (warning Company of potential violations of a Commission rule).

the required availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, A.C.T.S. has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, A.C.T.S. is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER A.C.T.S. to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If A.C.T.S. believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why A.C.T.S. believes it does not need to file BDC data. We advise A.C.T.S. that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, A.C.T.S. continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation,

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.[15]

A.C.T.S. may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to A.C.T.S.'s place of business.[16] The Commission Field Office nearest A.C.T.S. is located in Chicago, IL. If A.C.T.S. requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If A.C.T.S. prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. A.C.T.S. should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

[16] *See* 47 U.S.C. § 503(b)(5).

DA 24-848

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Steve Wright
Internet Service, Inc.
22772 18 Mile Rd
Big Rapids, MI 49307

CITATION AND ORDER

File No. EB-IHD-24-00036678

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to Internet Service, Inc. (Company or ISI) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to ISI's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, ISI violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject ISI to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

broadband service availability data in the BDC system twice during every calendar year; the first filing is due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that ISI is a facilities-based provider of fixed broadband internet access service. To the extent that ISI made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. ISI failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

ISI has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics emailed ISI on March 23, 2023 and June 19, 2023, using the contact information that ISI registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent ISI a letter warning that failure to file the required availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to ISI (Mar. 23, 2023, 12:42 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to ISI (Jul. 19, 2023, 3:04 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to ISI (Jul. 11, 2023) (warning Company of potential violations of a Commission rule).

BDC data reporting requirements, ISI has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, ISI is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER ISI to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If ISI believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why ISI believes it does not need to file BDC data. We advise ISI that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, ISI continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include 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 other such matters as justice may require.[15]

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

ISI may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to ISI's place of business.[16] The Commission Field Office nearest ISI is located in Chicago, IL. If ISI requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If ISI prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. ISI should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[16] *See* 47 U.S.C. § 503(b)(5).

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

In the Matter of	)	
	)	
Disclosure and Transparency of Artificial Intelligence-Generated Content in Political Advertisements	)	MB Docket No. 24-211
	)	
	)	

ORDER GRANTING EXTENSION OF TIME TO FILE COMMENTS AND REPLY COMMENTS

Adopted: August 22, 2024 **Released: August 22, 2024**

Comment Date: September 19, 2024
Reply Comment Date: October 11, 2024

By the Chief, Media Bureau:

1. On July 25, 2024, the Commission released a Notice of Proposed Rulemaking (NPRM) initiating a proceeding to provide greater transparency regarding the use of artificial intelligence-generated content in political advertising.[1] The NPRM set deadlines for filing comments and reply comments at 30 and 45 days, respectively, after publication of the NPRM in the Federal Register.[2] That publication occurred on August 5, 2024,[3] and on the same day, the Media Bureau released a Public Notice announcing a comment filing deadline of September 4, 2024, and a reply comment deadline of September 19, 2024.[4]

2. On August 8, 2024, the National Association of Broadcasters and the Motion Picture Association (collectively, Joint Filers) requested an extension of the comment and reply comment filing deadlines until October 4, 2024, and November 4, 2024, respectively.[5] The Joint Filers state that they require additional time to provide meaningful comment on the NPRM because "it raises significant, novel factual and legal issues that will entail extensive fact-finding and research."[6] The Joint Filers further state that while they and their member companies have firsthand, probative information that they can provide to inform many of these issues, the information sources needed to fully respond to the NPRM "will be time consuming and challenging to access, particularly around the August and Labor Day holiday periods when the comments must be prepared and filed."[7]

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[1] *Disclosure and Transparency of Artificial Intelligence-Generated Content in Political Advertisements,* Notice of Proposed Rulemaking, MB Docket No. 24-211, FCC 24-74 (rel. July 25, 2024) (*NPRM*).

[2] *See id.* at 1.

[3] 89 Fed. Reg. 63381 (Aug. 5, 2024).

[4] *Comment and Reply Comment Dates Set for Artificial Intelligence in Political Advertising NPRM*, Public Notice, MB Docket No. 24-211, DA 24-770 (rel. Aug. 5, 2024).

[5] Motion for Extension of Time of the National Association of Broadcasters and the Motion Picture Association, MB Docket No. 24-211 (filed Aug. 8, 2024).

[6] *Id.* at 2.

[7] *Id.* at 5.

3. As set forth in section 1.46(a) of the Commission's rules,[8] the Commission's policy is that extensions of time shall not be routinely granted. In this case, however, we find that the Joint Filers have provided sufficient justification to warrant a brief extension of the comment and reply comment deadlines. An extension will serve the public interest by enabling interested parties to present more complete and thoughtful comments to inform the Commission's deliberations in this proceeding.[8] However, we find that an extension of the comment and reply comment deadlines by 15 days and 22 days, respectively, (rather than the 30 days and 45 days requested by the Joint Filers) is sufficient to allow for the preparation of meaningful comments and reply comments. Accordingly, we grant the Joint Filers' Motion in part and extend the comment deadline to September 19, 2024 and the reply comment deadline to October 11, 2024.

4. Accordingly, **IT IS ORDERED**, that the Motion for Extension of Time filed by the Joint Filers **IS GRANTED** to the extent indicated herein.

5. **IT IS ALSO ORDERED** that the date for filing comments on the Notice of Proposed Rulemaking **IS EXTENDED** to September 19, 2024, and the date for filing reply comments on the Notice of Proposed Rulemaking **IS EXTENDED** to October 11, 2024.

6. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended,[9] and sections 0.204, 0.283 and 1.46 of the Commission's rules.[10]

7. For further information concerning this proceeding, contact Kathy Berthot, Policy Division, Media Bureau, (202) 418-7454, Kathy.Berthot@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer
Chief, Media Bureau

[8] *Id.* at 6.

[9] 47 U.S.C. §§ 154(i), 303(r).

[10] 47 CFR §§ 0.204, 0.283 and 1.46.

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Brad Weast
City Wireless
353 N. Lincoln
Star City, AR 71667

CITATION AND ORDER

File No. EB-IHD-24-00036668

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to City Wireless (Company or City) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to City's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, City violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject City to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit broadband service availability data in the BDC system twice during every calendar year; the first filing is

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that City is a facilities-based provider of fixed broadband internet access service. To the extent that City made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. City failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

City has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned City on June 13, 2023; and OEA emailed City on March 23, 2023 and July 19, 2023 using the contact information that City registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent City a letter warning that failure to file the required availability data in the BDC

[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to City (Mar. 23, 2023, 12:41 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to City (Jul. 19, 2023, 3:04 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to City (Jul. 11, 2023) (warning Company of potential violations of a Commission rule).

violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, City has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, City is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER City to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If City believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why City believes it does not need to file BDC data. We advise City that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, City continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include 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 other such matters as justice may require.[15]

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

City may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to City's place of business.[16] The Commission Field Office nearest City is located in Dallas, TX. If City requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If City prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. City should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[16] *See* 47 U.S.C. § 503(b)(5).

DA 24-851

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Jon Mollhagen
Crazy Communications, LLC
2445 10th Rd.
Lorraine, KS 67459

CITATION AND ORDER

File No. EB-IHD-24-00036672

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to Crazy Communications, LLC (Company or Crazy Communications) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to Crazy Communications' broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, Crazy Communications violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject Crazy Communications to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

broadband service availability data in the BDC system twice during every calendar year; the first filing is due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that Crazy Communications is a facilities-based provider of fixed broadband internet access service. To the extent that Crazy Communications made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. Crazy Communications failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

Crazy Communications has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to Crazy Communications (Mar. 23, 2023, 12:41 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to Crazy Communications (Jul. 19, 2023, 3:08 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to Crazy Communications (Jul. 11, 2023) (warning Company of potential violations of a Commission rule).

(OEA) telephoned Crazy Communications and left a message; and OEA staff emailed Crazy Communications on March 23, 2023 and July 19, 2023 using the contact information that Crazy Communications registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent Crazy Communications a letter warning that failure to file the required availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, Crazy Communications has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, Crazy Communications is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER Crazy Communications to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If Crazy Communications believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why Crazy Communications believes it does not need to file BDC data. We advise Crazy Communications that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, Crazy Communications continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

further adjust the forfeiture reflecting enumerated statutory factors, which include 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 other such matters as justice may require.[15]

Crazy Communications may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Crazy Communications' place of business.[16] The Commission Field Office nearest Crazy Communications is located in Denver, CO. If Crazy Communications requests a teleconference or personal interview, the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Crazy Communications prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. Crazy Communications should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

[16] *See* 47 U.S.C. § 503(b)(5).

DA 24-852

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

William Graham
Gila Broadband LLC
119 CR 5051, Ste A
Concho, AZ 85924

CITATION AND ORDER

File No. EB-IHD-24-00036676

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act),), and sections 1.7001(b) and 1.7004 of the Commission's rules, to Gila Broadband LLC (Company or Gila) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to Gila's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, Gila violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject Gila to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit broadband service availability data in the BDC system twice during every calendar year; the first filing is

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that Gila is a facilities-based provider of fixed broadband internet access service. To the extent that Gila made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. Gila failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

Gila has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned Gila and OEA staff left a message, and emailed Gila on March 23, 2023 and July 19, 2023 using the contact information that Gila registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent Gila a letter warning that failure to file the required availability data in the BDC

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to Gila (Mar. 23, 2023, 12:42 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to Gila (Jul. 19, 2023, 3:09 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to Gila (Jul. 11, 2023) (warning Company of potential violations of a Commission rule).

violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, Gila has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, Gila is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER Gila to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If Gila believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why Gila believes it does not need to file BDC data. We advise Gila that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, Gila continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include 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 other such matters as justice may require.[15]

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

Gila may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Gila's place of business.[16] The Commission Field Office nearest Gila is located in Los Angeles, CA. If Gila requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Gila prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. Gila should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[16] *See* 47 U.S.C. § 503(b)(5).

DA 24-853

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Nicholas R Magarett
Lake Linx Inc.
6146 Lake Isabella Blvd., Ste C
Lake Isabella, CA 93240

CITATION AND ORDER

File No. EB-IHD-24-00036680

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to Lake Linx Inc. (Company or Lake Linx) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to Lake Linx's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, Lake Linx violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on two occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject Lake Linx to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

broadband service availability data in the BDC system twice during every calendar year; the first filing is due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that Lake Linx is a facilities-based provider of fixed broadband internet access service. To the extent that Lake Linx made facilities-based fixed broadband service available to any location as of December 31, 2022 or June 30, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023 or September 15, 2023,[9] respectively. Lake Linx failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

Lake Linx has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned Lake Linx on June 13, 2023; and OEA emailed Lake Linx on March 23, 2023 and July 19, 2023 using the contact information that Lake Linx registered in the BDC system. Subsequently, the

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics (OEA), FCC, to Lake Linx (Mar. 23, 2023, 12:42 PM) (notifying Company of the mandatory BDC filing requirement); Email from OEA, FCC, to Lake Linx (Jul. 19, 2023, 3:04 PM) (notifying Company of its late and/or incomplete BDC filing); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to Lake Linx (Jul. 12, 2023) (warning Company of potential violations of a Commission rule).

Commission's Enforcement Bureau sent Lake Linx a letter warning that failure to file the required availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting requirements, Lake Linx has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, Lake Linx is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER Lake Linx to file the required data as of June 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If Lake Linx believes that it was not required to file for the June 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why Lake Linx believes it does not need to file BDC data. We advise Lake Linx that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, Lake Linx continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include the nature, circumstances, extent, and gravity of the violation,

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.[15]

Lake Linx may respond to this Citation within 30 calendar days from the release date of this Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Lake Linx's place of business.[16] The Commission Field Office nearest Lake Linx is located in Los Angeles, California. If Lake Linx requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Lake Linx prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. Lake Linx should reference the File Number of this Citation and Order in any response.

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need and tell us how to contact you if we need more information. Make your request as early as possible. Last-minute requests will be accepted but may be impossible to fill. Send an e-mail to: FCC504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice).

Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

[16] *See* 47 U.S.C. § 503(b)(5).

DA 24-854

Federal Communications Commission

Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Cameron Lasley
Telecast Communications, LLC
279 Upton Talley Road
Upton, KY 42784

CITATION AND ORDER

File No. EB-IHD-24-00036697

Failure to File Mandatory Broadband Data

Adopted: August 22, 2024 **Released: August 22, 2024**

By the Chief, Investigations and Hearings Division, Enforcement Bureau:

This is an official **CITATION AND ORDER** (Citation) issued pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (the Act), and sections 1.7001(b) and 1.7004 of the Commission's rules, to Telecast Communications, LLC (Company or Telecast) for violations of the Federal Communications Commission's (FCC's or Commission's) rules requiring reporting of data relating to Telecast's broadband internet access service in the Broadband Data Collection (BDC) system. According to our records, Telecast violated sections 1.7001(b) and 1.7004 of the Commission's rules by failing on three occasions to timely submit data about its service to the BDC system.[1] As explained below, continuing failure to comply with Commission rule sections 1.7001 and 1.7004 may subject Telecast to monetary forfeitures.[2]

The Broadband DATA Act requires the Commission to collect broadband service availability data twice per year for use in creating coverage maps,[3] among other things. The Commission updates the National Broadband Map using availability data collected biannually, "as of" June 30 and December 31 of each year, and makes other updates on an ongoing basis as a result of challenge adjudications, verifications and audits, and other updates or corrections.[4] All facilities-based providers of fixed or mobile broadband internet access service (Providers) are required by the Commission's rules to submit broadband service availability data in the BDC system twice during every calendar year; the first filing is

[1] 47 CFR §§ 1.7001(b), 1.7004.

[2] *Id.* § 1.7009(b). *See also id.* § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for each failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[3] 47 U.S.C. § 642(a)(1)(A).

[4] *Establishing the Digital Opportunity Data Collection*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7493-94 at para. 80 (2020); *see also* 47 U.S.C. § 642(c)(3).

due on or before March 1 (reporting data as of December 31 of the prior year) and the second is due on or before September 1 (reporting data as of June 30 of the current year).[5]

In addition to the information required by the Broadband DATA Act, the Commission also collects subscription data for broadband and voice services using FCC Form 477 (Form 477)[6] which is also submitted through the BDC system.[7] Form 477 filings include broadband service speed and subscriber information that the Commission uses to assess the state of broadband availability in the United States, and to take steps to further the goal of increasing that availability.[8]

These data gatherings and submissions in the BDC system are essential for the Commission to publish complete, precise, granular data on the availability of fixed and mobile broadband nationwide. The FCC, other federal agencies, and state and local governments use this data to carefully target funding to bring broadband services to unserved and underserved locations. A broadband provider's failure to report timely and accurate broadband availability significantly hinders the ability of federal, state, and local policymakers to target broadband deployment funds made available through various funding programs as effectively and accurately as possible.

Based on prior filings made by the Company, the Commission is aware that Telecast is a facilities-based provider of fixed broadband internet access service. To the extent that Telecast made facilities-based fixed broadband service available to any location as of December 31, 2022, June 30, 2023, or December 31, 2023, it had a legal obligation to file all required data as of those dates in the BDC system by no later than March 1, 2023, September 15, 2023,[9] or March 1, 2024, respectively. Telecast failed to fulfill its obligations as mandated by Commission rule sections 1.7001(b) and 1.7004.

Telecast has received several notices regarding the requirement to file the Company's BDC availability and subscription data, as well as an official warning letter from the Commission's Enforcement Bureau.[10] Specifically, the Commission's Office of Economics and Analytics (OEA) telephoned Telecast on June 13, 2023; and OEA emailed Telecast on July 19, 2023 using the contact information that Telecast registered in the BDC system. Subsequently, the Commission's Enforcement Bureau sent Telecast a letter warning that failure to file the required availability data in the BDC violates the Commission's rules. Despite receiving multiple notices to comply with the BDC data reporting

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[5] 47 CFR § 1.7004(b); *see also id.* § 1.7001(b).

[6] *Id.* § 1.7001(b). *See also Broadband Providers No Longer Need to File Broadband Deployment Data Through FCC Form 477; Form Subscription Data Must be Filed in the BDC System*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 15032 (2022).

[7] *See generally Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Order, 37 FCC Rcd 14957, 14961, para. 12 (2022).

[8] *See id*; 47 U.S.C. § 1302.

[9] *Broadband Data Collection Filing Deadline for June 30, 2023 Data Extended to September 15, 2023*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 23-640, 2023 WL 5090852 (BDTF Jul. 25, 2023) (granting a limited waiver of section 1.7004(b) of the Commission's rules following a processing error that affected data necessary for providers to produce their submissions).

[10] *Broadband Data Task Force Announces Opening of the Second Broadband Data Collection Filing Window*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 15161 (BDTF 2022); *All Facilities-Based Broadband Internet Access Service Providers Must Timely File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 11-10, 19-195, Enforcement Advisory No. 2022-03, 37 FCC Rcd 7341 (EB 2022); Email from Office of Economics and Analytics, FCC, to Telecast (Jul. 19, 2023, 3:04 PM) (notifying Company of the mandatory BDC filing requirement); Letter from Patrick M. McGrath, FCC Enforcement Bureau, to Telecast (Jul. 12, 2023) (warning Company of potential violations of a Commission rule).

requirements, Telecast has failed to file the broadband service availability data with the BDC system as required by sections 1.7001(b) and 1.7004 of the Commission's rules.

We issue this Citation pursuant to section 503(b)(5) of the Act, which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.[11] Accordingly, Telecast is hereby on notice that it must comply with sections 1.7001(b) and 1.7004 of the Commission's rules or monetary forfeitures may be imposed for violating the Commission's rules.

Accordingly, pursuant to sections 1.7001(b) and 1.7004 of the Commission's rules, we **ORDER Telecast to file the required data as of December 2023 in the BDC system within thirty (30) days from the release date of this Citation.** BDC data must be filed online at https://bdc.fcc.gov/ and instructional resources can be found at https://www.fcc.gov/BroadbandData/resources. If Telecast believes that it was not required to file for the December 2023 filing period, or for any of the other periods enumerated above, because it did not provide broadband service at any location as of these dates or for any other reason, it must send an email within thirty (30) days of the issuance of this Citation to BroadbandDataInquiries@fcc.gov. The email must include the Company's name, service type, 10-digit FRN, and a detailed explanation as to why Telecast believes it does not need to file BDC data. We advise Telecast that it is a violation of section 1.17 of the Commission's rules for any person to make any false or misleading written or oral statement of fact to the Commission.[12]

If after receipt of this Citation and Order, Telecast continues to fail to submit its service data and Form 477 data to the BDC system in compliance with Commission rule sections 1.7001(b) and 1.7004 or otherwise violates the Commission's rules in any manner described in this letter, the Commission may impose monetary forfeitures not to exceed $24,496 for each day of a continuing violation, up to a maximum of $183,718.[13] In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the issuance of this Citation, and the multiple filing periods for which the Company failed to submit BDC availability and Form 477 data in compliance with the Commission's rules.[14] The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include 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 other such matters as justice may require.[15]

Telecast may respond to this Citation within 30 calendar days from the release date of this

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[11] *See* 47 U.S.C § 503(b)(5).

[12] 47 CFR § 1.17.

[13] *See* 47 U.S.C. § 503(b)(2)(D); *Amendment of Section 1.80(b) of the Commission's Rules, Adjustment of Civil Monetary Penalties to Reflect Inflation*, Order, DA 23-1198, 2023 WL 8889597 (EB Dec. 22, 2023); *see also* Annual Adjustment of Civil Monetary Penalties to Reflect Inflation, 89 Fed. Reg. 2148 (Jan. 12, 2024) (setting Jan. 15, 2024 as the effective date for the increases); *see also* 47 CFR § 1.80(b)(11), Table 1 (specifying base forfeiture amounts of $3,000 for failure to file required forms or information, such as Form 477, and $15,000 for each failure to file information required as part of the Digital Opportunity Data Collection, as the BDC was formerly known).

[14] S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (If a person or entity that has been issued a citation by the Commission thereafter engages in conduct for which the citation of the violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently *but also for the conduct for which the citation was originally sent*." (emphasis added)).

[15] *See* 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11).

Citation by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Telecast's place of business. The Commission Field Offices nearest Telecast are located in Chicago, Illinois and Atlanta, Georgia.[16] If Telecast requests a teleconference or personal interview, contact the Enforcement Bureau at IHDTelecom@fcc.gov. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Telecast prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, and via email at IHDTelecom@fcc.gov. Telecast should reference the File Number of this Citation and Order in any response.

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Sincerely,

Patrick M. McGrath
Chief
Investigations and Hearings Division
Enforcement Bureau

[16] *See* 47 U.S.C. § 503(b)(5).

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. 24-855

Report No. SAT-01849 **Friday August 23, 2024**

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-MOD-20230215-00036 E S2983/3018 Space Exploration Holdings, LLC
Modification 08/16/2024 -
Grant of Authority Effective Date: 08/16/2024

Nature of Service: Fixed Satellite Service

On August 16, 2024, the Satellite Programs and Policy Division granted, with conditions, the application of Space Exploration Holdings LLC for modification of the license for its first-generation Starlink constellation consisting of up to 4,408 low-Earth orbit, non-geostationary satellites operating in the fixed-satellite service. Specifically, SpaceX is authorized to modify its operations due to planned changes in satellite hardware, including modification of beam-forming and digital processing equipment to enable narrower beam capabilities. This modification also reflects updates to SpaceX's orbital debris mitigation plan due to planned deployment of larger satellites.

SAT-MOD-20231208-00308 E S3088 Astrobotic Technology, Inc
Modification
Withdrawn Effective Date: 08/19/2024

Nature of Service: Other

SAT-STA-20240708-00151 E S2750 Intelsat License LLC
Special Temporary Authority
Grant of Authority Effective Date: 08/20/2024

On August 20, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Intelsat License LLC, for an additional period of 180 days, to operate Intelsat 16 over a new coverage area in the 11.7-12.2 GHz (space-to-Earth) and 14.0-14.5 GHz (Earth-to-space) frequency bands at the 76.2° W.L. orbital location.

SAT-STA-20240812-00182 E S2382 Intelsat License LLC
Special Temporary Authority
Effective Date:

On August 22, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Intelsat License LLC for an additional period of 30 days, to perform telemetry, tracking and command (TT&C) operations necessary to drift Intelsat 10 from the 177.8° E.L. orbital location to the 66.10° E.L. orbital location using the following center frequencies: 11.6990 GHz, 12.7475 GHz, 12.7485 GHz, 12.7495 GHz (space-to-Earth), 14.0005 GHz, and 14.4995 GHz (Earth-to-space).

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 re Application of	)	
	)	
Southern Broadcasting & Investment Co., Inc.	)	Facility ID No. 61255
	)	NAL/Acct. No. MB-202441410014
For Renewal of License for	)	FRN: 0010695773
Station WBTY(FM)	)	File No. 0000110206
Homerville, Georgia	)	

MEMORANDUM OPINION AND ORDER
AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 23, 2024 **Released: August 23, 2024**

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it the Application[1] of Southern Broadcasting & Investment Co., Inc. (Licensee) for renewal of its license for Station WBTY(FM), Homerville, Georgia (Station). In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)*,[2] we find that Licensee apparently willfully violated section 73.3539[3] of the Commission's rules (Rules) by failing to file a timely license renewal application for the Station. Based upon our review of the facts and the record before us, we conclude that Licensee is apparently liable for a monetary forfeiture in the amount of three thousand dollars ($3,000).

II. BACKGROUND

2. Section 73.3539(a) of the Rules requires that applications for renewal of license for broadcast stations must be filed "not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed."[4] An application for the renewal of the Station's license should have been filed by December 1, 2019, the first day of the fourth full calendar month prior to the Station's April 1, 2020, license expiration date.[5] The Application was not filed until March 30, 2020. The Licensee provides no explanation for its untimely filing of the Application.

III. DISCUSSION

3. *Proposed Forfeiture*. In this case, the Licensee failed to file the Application on or before December 1, 2019, as required by section 73.3539(a) of the Rules. The Application was not received

[1] Application File No. 0000110206 (filed Mar. 30, 2020) (Application).

[2] This *NAL* is issued pursuant to sections 309(k) and 503(b) of the Communications Act of 1934, as amended (Act), and section 1.80 of the 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 Commission's rules. *See* 47 CFR § 0.283.

[3] *See* 47 CFR § 73.3539.

[4] 47 CFR § 73.3539(a).

[5] *See* 47 CFR §§ 73.1020, 73.3539(a).

until March 30, 2020. Moreover, as noted above, Licensee did not provide an explanation for the late filing.

4. This *NAL* is issued pursuant to section 503(b)(1)(B) of the Act. Under that provision, 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.[6] 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.[7] 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,[8] and the Commission has so interpreted the term in the section 503(b) context.[9]

5. The Commission's *Forfeiture Policy Statement* and section 1.80(b)(11) of the Rules establish a base forfeiture amount of $3,000 for the failure to file a required form.[10] 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."[11]

6. In this case, the Licensee failed to file a timely renewal application for the Station and has not provided any explanation for its untimely filing. However, the Licensee did file the Application prior to the expiration of the Station's license. Taking into consideration all of the factors required by section 503(b)(2)(E) of the Act and the Forfeiture Policy Statement, we propose a forfeiture for the full $3,000 amount for the failure to file a timely renewal application.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and sections 0.61, 0.204, 0.283, and 1.80 of the Commission's rules, 47 CFR §§ 0.61, 0.204, 0.283, and 1.80, that Southern Broadcasting & Investment Co., Inc., is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of three thousand dollars ($3,000) for its apparent willful violation of section 73.3539 of the Commission's rules.

8. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) days of the release date of this ***NAL***, Southern Broadcasting & Investment Co., Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. 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),[12] or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted**. Upon payment, Southern Broadcasting & Investment Co., Inc. must send notice that payment has been made to**

[6] 47 U.S.C. § 503(b)(1)(B). *See also* 47 CFR § 1.80(a)(1).

[7] 47 U.S.C. § 312(f)(1).

[8] *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

[9] *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).

[10] *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); 47 CFR § 1.80(b)(11), note to paragraph (b)(11), Section I.

[11] 47 U.S.C. § 503(b)(2)(E); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100; 47 CFR § 1.80(b)(11).

[12] Payments made using CORES do not require the submission of an FCC Form 159.

Alexander.Sanjenis@fcc.gov and Ariane.Rangel@fcc.gov. Below are instructions that payors should follow based on the form of payment selected:[13]

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed FCC 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).[14] 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/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 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/cores/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.

10. The written response 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(g)(3) of the Rules, 47 CFR §§ 1.16 and 1.80(g)(3). The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, Alexander Sanjenis and **MUST INCLUDE** the NAL/Acct. No. referenced above. **A copy must also be emailed to Alexander.Sanjenis@fcc.gov and Ariane.Rangel@fcc.gov to assist in processing the response.**

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
    - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at

[13] 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.

[14] Instructions for completing the form may be obtained at https://www.fcc.gov/Forms/Form159/159.pdf.

9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.[15]

- 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.

11. 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 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 47 U.S.C. § 503(b)(2)(E) support that result.[16]

12. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director-Financial Operations, 45 L Street, NE, Washington, DC 20554.[17] Requests can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service in the manner specified above. A copy of the request must also be sent to **Alexander.Sanjenis@fcc.gov and Ariane.Rangel@fcc.gov**. 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.

13. **IT IS FURTHER ORDERED**, that a copy of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Southern Broadcasting & Investment Co., Inc., P.O. BOX 9, Dupont, GA 31630. A copy will also be sent to Licensee's technical representative, Chris Hall, PO Box P.O. Box 9, Homerville, GA 31630.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

[15] Hand-delivered or messenger delivered paper filings continue to NOT be accepted at FCC Headquarters.

[16] *See, e.g.*, *Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44–45 (2018).

[17] *See* 47 CFR § 1.1914.

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 24-857
Released: August 23, 2024

THE OFFICE OF INTERNATIONAL AFFAIRS ANNOUNCES THAT THE EXECUTIVE BRANCH REVIEW RULES AND THE STANDARD QUESTIONS TAKE EFFECT ON AUGUST 23, 2024

IB Docket No. 16-155

The Office of International Affairs (OIA) of the Federal Communications Commission (Commission) announces that certain rules adopted in the *Executive Branch Review Order*[1] and the *Executive Branch Standard Questions Order*[2] are effective on August 23, 2024.[3] The changes are to Parts 1 and 63 of the Commission's rules (the specific sections are listed below) and affect applications related to international sections 214 authorizations and submarine cable landing licenses, and petitions for declaratory ruling related to foreign ownership under section 310(b) of the Communications Act.[4]

Under the new rules, each applicant or petitioner (together, "Applicant"), among other things, is required to make certain certifications regarding national security and law enforcement requirements in its application and/or petition and "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."[5] The Commission refers to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), the applications for international section 214 authorizations and submarine cable landing licenses and applications to assign,

[1] *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) (*Executive Branch Review 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 (OMD/IB 2020) (*Erratum*) (replacing Appendix B (Final Rules) of the *Executive Branch Review Order*). The amendments to sections 0.261 and 1.47 of the rules and the addition of part 1, subpart CC were effective December 28, 2020. *See* Federal Communications Commission, Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership, 85 Fed. Reg. 76360, 76360, 76381-87 (Nov. 27, 2020); 47 CFR §§ 0.261, 1.47, 1.40001(a)(1), 1.40001(b)-(d), 1.40002, 1.40004.

[2] *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Second Report and Order, 36 FCC Rcd 14848 (2021) (*Executive Branch Standard Questions Order*); *id.* at 14873, para. 54 (directing the then-existing International Bureau to issue a Public Notice informing the public of the effective date of these requirements).

[3] *See* Federal Communications Commission, Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership, 89 Fed. Reg. 68117 (Aug, 23, 2024) (*2024 Executive Branch Review Federal Register Notice*).

[4] 47 U.S.C. §§ 214, 310(b); 47 U.S.C. §§ 34 to 39.

[5] 47 CFR §§ 1.5001(n), 68.18(q). *See Executive Branch Review Order,* 35 FCC Rcd at 10935, 10948-49, paras 19, 58. Only a subset of the certifications apply to broadcast applicants and licensees. *Compare* § 1.5001(n)(1) and §§ 1.5001(n)(2), 63.18(q). *See Executive Branch Review Order,* 35 FCC Rcd at 10955, para. 75.

transfer control, or modify such authorizations and licenses where the Applicant has reportable foreign ownership, and all petitions for section 310(b) foreign ownership rulings.[6] In the *Executive Branch Standard Questions Order*, the Commission adopted a set of Standard Questions that certain Applicants with reportable foreign ownership will be required to answer.[7] The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Under the new rules, an Applicant whose application and/or petition is referred to the Committee must provide:

- Responses to the Standard Questions for its type of application/petition directly to the Committee **prior to or at the same time** that it files the application and/or petition with the Commission;[8] and
- a copy of its application(s) and/or petition subject to review by the Committee **within three (3) business days** after submission to the Commission.[9]

Submission of Materials to the Committee. Copies of the Standard Questions that the Applicant must use to provide its responses and instructions on how to file materials directly with the Committee are on the FCC Webpage: https://www.fcc.gov/international-affairs/requirements-applications-and-petitions-subject-executive-branch-review.

The rule changes noted below are effective on August 23, 2024:

International Section 214 Authorization Rules (OMB Control No. 3060-0686)

- Responses to Standard Questions (47 CFR §§ 1.40003, 63.18(p), 1.40001(a)(3)).
- Exclusion to the Referral to the Committee (47 CFR § 1.40001(a)(2)).
- National Security/Law Enforcement Certifications (47 CFR § 63.18(q)).
- Ownership Disclosure Requirements (47 CFR §§ 63.18(h), 63.24(e)(2), 63.24(f)(2)(i)).
- Revised Requirement to Demonstrate Qualification for Streamlined Processing (47 CFR § 63.12(c)(3)).

Submarine Cable Landing License Rules (OMB Control No. 3060-0944)

- Responses to Standard Questions (47 CFR §§ 1.40003, 1.767(a)(8)(i), 63.18(p), 1.40001(a)(3)).
- Exclusion to the Referral to the Committee (47 CFR § 1.40001(a)(2)).
- National Security/Law Enforcement Certifications (47 CFR §§ 1.767(a)(8)(i), 63.18(q)).
- Ownership Disclosure Requirements (47 CFR § 1.767(a)(8)(i)).
- Application to Executive Branch Agencies (47 CFR §§ 1.767(j), 1.767(a)(11)(i), 63.18(h)).

[6] *Executive Branch Review Order*, 35 FCC Rcd at 10935-38, paras. 24-28 (setting out which types of applications will generally be referred to the Executive Branch, but noting the Commission has the discretion to refer additional types of applications if it finds that the specific circumstances of an application require the input of the Executive Branch); *see also Erratum*, 35 FCC Rcd at 13168-69, para. 7; 47 CFR § 1.40001(a)(1). An applicant for an international section 214 authorization or submarine cable landing license has "reportable foreign ownership" when any foreign owner of the applicant must be disclosed in the application pursuant to section 63.18(h) of the Commission's rules. 47 CFR § 63.18(h); *see Erratum*, 35 FCC Rcd at 13169, 13173-74, paras. 7, 11; 47 CFR § 1.40001(d).

[7] *See generally Executive Branch Standard Questions Order*.

[8] 47 CFR §§ 1.50001(m), 63.18(p). *See Executive Branch Review Order,* 35 FCC Rcd at 10935, 10946, paras 18, 49; *Executive Branch Standard Questions Order*, 36 FCC Rcd at 14849, 14851, paras. 1, 4.

[9] 47 CFR § 1.40003(a)(2).

- Revised Requirement to Demonstrate Qualification for Streamlined Processing (47 CFR § 1.767(k)(5)).
- Quarterly Reporting Requirements (47 CFR § 1.767(l)).

Rules Applicable to Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b) of the Communications Act of 1934, as amended (OMB Control No. 3060-1163)

- Responses to Standard Questions (47 CFR §§ 1.40003, 1.5001(m), 1.40001(a)(3)).
- Exclusion to the Referral to the Committee (47 CFR § 1.40001(a)(2)).
- National Security/Law Enforcement Certifications (47 CFR § 1.5001(n)).

For further information, please contact Arthur Lechtman, Telecommunications and Analysis Division, Office of International Affairs, at 202-418-1465 or Arthur.Lechtman@fcc.gov.

-FCC-

OMB Control No. 3060-0686; OMB Control No. 3060-1163

New 214 Q2 214 Transfer Q2 310 Wireless or Earth Station Q2	New 214 Q2 214 Transfer Q2 310 Wireless or Earth Station Q2	New 214 Q2 214 Transfer Q2 310 Wireless or Earth Station Q2	New 214 Q2 214 Transfer Q2 310 Wireless or Earth Station Q2	New 214 Q2 214 Transfer Q2 310 Wireless or Earth Station Q2	New 214 Q2 214 Transfer Q2 310 Wireless or Earth Station Q2	New 214 Q2 214 Transfer Q2 310 Wireless or Earth Station Q2
Company Name	**Business Address**	**Country of Incorporation (if United States, include state of incorporation)**	**Principal Place of Business**	**General Business Type (*e.g.*, holding company, investment firm)**	**Email Addresses**	**Related Phone Numbers**

New 214 Q1 214 Transfer Q1 310 Wireless or Earth Station Q1	New 214 Q1 214 Transfer Q1 310 Wireless or Earth Station Q1	New 214 Q1 214 Transfer Q1 310 Wireless or Earth Station Q1	New 214 Q1 214 Transfer Q1 310 Wireless or Earth Station Q1
Company Name	**Business Address**	**Principal Place of Business**	**Place of Incorporation**

First Name	Last Name	Aliases	Company Name	Business Address (if applicable)	County of Residence	City of Residence	State of Residence	Date of Birth (e.g., MM/DD/YYYY)	Place of Birth (e.g., State, Country)	SSN	Passport (Issuing Country)	Passport #	Citizenship	Additional Citizenship (if applicable)	US. Lawful Permanent Resident (Yes/No)	Alien Number	Residence Address	Personal Cell Phone Number	Business Phone Number	Home Phone Number	Company Name/Title and Job Classification	Type of Access (e.g., Read + Modify/Write)	Access Begin Date	Physical Facilities/Spaces Accessed (e.g., Main Office, Server Room, Remote Access)	Specific Duties/Responsibilities Requiring Access	Supervisor Name and Phone Number
New 214 Q2, Q17, Q18, Q21 3 M NVTG Q1, Q17, Q18, Q21	New 214 Q2, Q17, Q18, QF 1 24 F ow/m Q2, Q21, Q18, Q21 3 M NVTG QF, Q17, Q18, Q21	New 214 Q2, Q17, Q8 8, QF1 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG Q8, Q17, Q18, Q21	New 214 Q2, Q8 7, Q8, Q21 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG Q2, Q17, Q18, Q21	New 214 Q2, Q17, Q8 Q21 24 F ow/m Q2, Q17, Q18, QF 2 3 M NVTG Q2, Q17, Q18, Q21	New 214 Q2, Q17, Q8 8, Q21 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG Q2, Q17, Q18, Q21	New 214 Q2, Q87, Q8L Q21 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG2, Q17, Q18, Q21	New 214 Q2, Q17, Q8 , QF1 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG QF, Q17, Q18, Q21	New 214 Q2, Q8 7, Q8, Q21 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG2, Q17, Q18, Q21	New 214 Q2, Q17, Q18, Q21 2 M F ow/m Q2, Q17, Q18, Q21 3 M NVTG QF, Q17, Q18, Q21	New2 34 QF, Q17, Q18, Q21 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG Q2, Q17, Q18, QF1	New 214 Q2, Q87, Q8, Q21 24 F ow/m Q2, Q87, Q8L Q21 3 M NVTG Q2, Q17, Q18, Q21	New2 34 QF, Q17, Q18, Q21 24 F w/m Q2, Q87, Q8L Q21 3 M NVTG QF, Q17, Q18, QF1	New 214 Q2, Q87, Q8, Q21 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG Q2, Q17, Q18, Q21	New 214 Q2, Q17, Q18, Q21 24 F ow/m QF, Q17, Q18, Q21 3 M NVTG Q2, Q17, Q18, Q21	New 214 Q2, Q17 24 F ow/m Q2, Q17 3 M NVTG Q2	New 214 Q2, Q17, Q21 24 F ow/m QF, Q17 3 M NVTG Q2, Q8 7, Q8, Q21 3 M NVTG Q2	New 214 Q2, Q17, Q18, QF 1 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG QF, Q17, Q18, Q21	New 214 Q2, Q17, Q18, Q21 24 F ow/m QF, Q17, Q18, Q21 3 M NVTG Q2, Q17, Q18, Q21	New2 34 QF, Q17, Q18, Q21 24 F w/m Q2, Q87, Q8L Q21 3 M NVTG QF, Q17, Q18, QF1	New 214 Q2, Q17, Q8 8, Q21 24 F ow/m Q2, Q17, Q18, Q21 3 M NVTG Q2, Q17, Q18, Q21	New 214 Q2, Q17, Q18, Q21, 4 Mechanism G 24 F ow/m QF, Q17, Q18, Q21 3 M NVTG QF, Q17, Q18, Q21	New 214 Q21 2 M F ow/m Q21 3 M NVTG QF, 2	New 214 Q21 24 F ow/m Q2 3 M NVTG Q21	New 214 Q21 21 M F ow/m Q2, Q17, Q18, Q21 3 M NVTG QF, Q17, Q18, Q21

New 214 Q33 & (Reference(c))	New 214 Q33 & (Reference(c))	New 214 Q33 & (Reference(c))	New 214 Q33 & (Reference(c))
214 Transfer Q32 & (Reference(c))	214 Transfer Q32 & (Reference(c))	214 Transfer Q32 & (Reference(c))	214 Transfer Q32 & (Reference(c))
310 Wireless or Earth Station Q34 & Q(Reference(c))	310 Wireless or Earth Station Q34 & Q(Reference(c))	310 Wireless or Earth Station Q34 & Q(Reference(c))	310 Wireless or Earth Station Q34 & Q(Reference(c))
Company Name	**Make**	**Model**	**Software Version**

New 214 Q33 214 Transfer Q32 310 Wireless or Earth Station Q34	New 214 Q33 214 Transfer Q32 310 Wireless or Earth Station Q34	New 214 Q33 214 Transfer Q32 310 Wireless or Earth Station Q34	New 214 Q33 214 Transfer Q32 310 Wireless or Earth Station Q34
Physical Location (e.g., Address)	**Type (network equipment, data centers, and infrastructure)?**	**Owned or leased - if leased, provide details of the owner(s).**	**Goods & Services provided by Facility Owner(s), if leased.**

New 214 Q33(e) 214 Transfer Q32(e) 310 Wireless or Earth Station 34(e)	New 214 Q33(e) 214 Transfer Q32(e) 310 Wireless or Earth Station 34(e)	New 214 Q33(e) 214 Transfer Q32(e) 310 Wireless or Earth Station 34(e)	New 214 Q33(e) 214 Transfer Q32(e) 310 Wireless or Earth Station 34(e)
Company Name	**Countries from which Operations are Controlled**	**Nature of the Foreign Based Control**	**How are Operations Remotely Controlled?**

New 214 Q20(b) 214 Transfer Q20(b) 310 Wireless or Earth Station Q20(b)	New 214 Q20(b) 214 Transfer Q20(b) 310 Wireless or Earth Station Q20(b)	New 214 Q20(c) 214 Transfer Q20(c) 310 Wireless or Earth Station Q20(c)
Addresses of locations where records will be stored	**Storage Location Countries**	**Purpose of Location and Function within Applicant Business**

New 214 Q20(d) 214 Transfer Q20(d) 310 Wireless or Earth Station Q20(d)	New 214 Q20(b),(d) 214 Transfer Q20(b),(d) 310 Wireless or Earth Station Q20(b), (d)	New 214 Q20(b),(d) 214 Transfer Q20(b),(d) 310 Wireless or Earth Station Q20(b), (d)	New 214 Q20(d) 214 Transfer Q20(d) 310 Wireless or Earth Station Q20(d)
Company Name	**Addresses of locations where records will be remotely accessed/managed via electronic systems**	**Countries from which U.S. Records can be Remotely Accessed/Managed**	**How are U.S. Records Remotely Accessed?**

New 214 Q34
214 Transfer Q33
310 Wireless or Earth Station Q35

New 214 Q34
214 Transfer Q33
310 Wireless or Earth Station Q35

Company Name	Details

9600

New 214 Q35
214 Transfer Q34
310 Wireless or Earth Station Q36

New 214 Q35
214 Transfer Q34
310 Wireless or Earth Station Q36

Company Name	Services

New 214 Q16 214 Transfer Q16 310 Wireless or Earth Station Q16 **Government Customer**	New 214 Q16 214 Transfer Q16 310 Wireless or Earth Station Q16 **Federal, State, or Local Government?**	New 214 Q16 214 Transfer Q16 310 Wireless or Earth Station Q16 **Services Provided or to be Provided**

OMB Control No. 3060-0944

New Cable Q1 Cable Transfer Q1	New Cable Q1 Cable Transfer Q1	New Cable Q1 Cable Transfer Q1	New Cable Q1 Cable Transfer Q1
Company Name	**Business Address**	**Principal Place of Business**	**Place of Incorporation**

Ne wC olle CB, C1H, C1Y	Inve Colle C13, C1B, CB 4, C1Y Col NT ore N C13, C11, C1N, C1H	Inve Colle C1, CBF, CBH, C1Y	Inve Colle C13, CBF, CBH, C1Y	Inve Colle C13, CBF, CBH, C1Y	Inve Colle C13, C1E, C1N, CB7	New Colle C13, C1B, C1H, CBY Colle T ore N CB, C111, C1N, C1BF	Inve Colle C13, C1B, C1H, C11, C1N, C1H	New Colle C13, C1E, C1H, C1Y	New Colle C1, C1B, C1H, C1Y	New Colle WC13, C1B, C1H, C1Y	Inve Colle CB CBH, C1H, C1Y	Inve Colle C13, C1B, CB 4, CBY	New Colle C13, C1B, C1H, C1Y	New Colle C1, C1B, C1H, C1Y	New Colle C13, C1B, C1H, C1Y	Inve Colle C13, CBF, CBH, C1Y Colle T ore N C13, C111, C1N, C1H	Inve Colle WC13, C1B, C1H	Inve Colle N CB, C1B, C1H	Inve Colle C1, CBF, C1H, C1Y	Inve Colle C13, CBF, CBH, C1Y	Inve Colle C13, C1B, CBH, C1Y Colle T ore N C13, C111, C1N, C1H	New Colle N C13, C1B, C1H, CB 4, C1Y	New Colle C13, C1B, CBH, C1Y Colle T ore N C13, C111, C1N, C1H	New Colle C1H	New Colle C1H	New Colle C1H	Inve Colle C13, CBF, CBH, C1Y Colle T ore N C13, C111, C1N, CBH
Colle T ore N C13, C111, C1N, C1H		Colle T ore N C13, C111, C1N, CBH	Colle T ore N C13, C111, C1N, CBF	Colle T ore N C13, C111, C1N, CBF	Colle T ore N C13, C111, C1N, CBF	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N CB, C111, C1N, C1H	Colle T ore N CB, C111, C1N, C1H	Colle T ore N C13, C111, C1N, CBF	Colle T ore N C13, C111, CB 4, CBF	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, CB 4, CBF	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, CB 4, CBF	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, C1H	Colle T ore N C13, C111, C1N, CBF
Fir st Name	Last Name	Ad dress	Comp any Name	Bus ines sEnti ties (If ap plica ble)	Coun try of Residence	City of Residen ce	State of Residence	Date of Birth (E.g., 20/07/1979)	Place of Birth (E.g., Ha ida, Ca nad a)	SIN	Passpo rt (Count ry)	P assport #	Citizenship	Ad d it io nal Citizenship Count ries	U.S. Lawful Permanent Resident (E.g., Yes/No)	Alien Number	Mailing Ad dress	Per ma nent Re sPhon e Nu mber	Business Phone Num ber	Mo bile Phon e Nu mber	Comp any Rela tTo Inve stor Onwards p N	Typ e of Acco unt (E.g., Fund ed Trust/Entity)	Acco unt Ju ris dict ion of Resi de nce (If not in US/Canada, pl ea se in dic ate cou ntry of res idence)	Tr ings Op ent (If Di ab ili ties Ind ap ly (De mon Officers Fore ge Access LEPOC)

New Cable Q3 Cable Transfer Q3	New Cable Q3 Cable Transfer Q3	New Cable Q3 Cable Transfer Q3	New Cable Q3 Cable Transfer Q3	New Cable Q3 Cable Transfer Q3	New Cable Q3 Cable Transfer Q3	New Cable Q3 Cable Transfer Q3	New Cable Q3 Cable Transfer Q3
Company Name	**Business Address**	**Foreign Entity or Foreign-Government controlled Entity?**	**Country of Incorporation (if United States, include state of incorporation)**	**Principal Place of Business**	**General Business Type (*e.g.*, holding company, investment firm, etc.)**	**Email Addresses**	**Phone Numbers**

New Cable Q25, 27, 30, 44 Cable Transfer Q27, 29, 32, 46	New Cable Q25, 27, 30, 44 Cable Transfer Q27, 29, 32, 46	New Cable Q25, 27, 30, 44 Cable Transfer Q27, 29, 32, 46	New Cable Q25, 27, 30, 44 Cable Transfer Q27, 29, 32, 46	New Cable Q25, 27, 30, 44 Cable Transfer Q27, 29, 32, 46	New Cable Q25, 27, 30, 44 Cable Transfer Q27, 29, 32, 46	New Cable Q30 Cable Transfer Q27, 29, 32, 46	New Cable Q30 Cable Transfer Q27, 29, 32, 46
Company Name	**Business Address**	**Country of Incorporation**	**Principal Place of Business**	**General Business Type (e.g., holding company, investment firm, etc.)**	**Phone Numbers**	**Does the company have remote Access/monitoring to the cable network, systems, or records?**	**If Access is given, what is the role of the company and the reason for Access?**

New Cable Q26, 46 Cable Transfer Q28, 49	New Cable Q26, 46 Cable Transfer Q28, 49	New Cable Q26, 46 Cable Transfer Q28, 49	New Cable Q26, 46 Cable Transfer Q28, 49
Company Name	**Model**	**Version Number**	**Functions Supported**

New Cable Q24 Cable Transfer Q26 Company Name	New Cable Q24 Cable Transfer Q26 Address of Facility	New Cable Q24 Cable Transfer Q26 Facility Type (e.g., CLS, NOC, Back-Up NOC, Data Center, Distribution Facility, POP)	New Cable Q24 Cable Transfer Q26 Existing or New Facility?	New Cable Q24 Cable Transfer Q26 Information on any party sharing the facility or equipment

New Cable Q30 Cable Transfer Q32	New Cable Q30 Cable Transfer Q32	New Cable Q30 Cable Transfer Q32
Company Name	**Remote Access/monitoring to the network, systems, or records?**	**What is the role of the company and the reason for Access?**

New Cable Q35(b) Transfer Cable Q37(b)	New Cable Q35(b) Transfer Cable Q37(b)	New Cable Q35(c) Transfer Cable Q37(c)
Addresses of locations where records will be stored	**Storage Location Countries**	**Purpose of Location and Function within Applicant System**

	New Cable Q35(b),(d) Transfer Cable Q37(b), (d)	New Cable Q35(b),(d) Transfer Cable Q37(b), (d)	New Cable Q35(b),(d) Transfer Cable Q37(b), (d)
Company Name	**Addresses of locations where records will be remotely accessed/managed via electronic systems**	**Countries from which U.S. Records can be Remotely Accessed/Managed**	**How are U.S. Records Remotely Accessed?**

New Cable 41
Cable Transfer Q43

New Cable 41
Cable Transfer Q43

Company Name	Details

New Cable Q41
Cable Transfer Q44

New Cable 41
Cable Transfer Q43

Company Name	Details

New Cable Q28 Cable Transfer Q30	New Cable Q28 Cable Transfer Q30	New Cable Q28 Cable Transfer Q30
Government Customer Name	**Federal, State, or Local Government?**	**Services Provided**

OMB Control No. 3060-1163

310 Broadcast Q1	310 Broadcast Q1	310 Broadcast Q1	310 Broadcast Q1
Company Name	**Business Address**	**Principal Place of Business**	**Place of Incorporation**

310 Broadcast Q2	310 Broadcast Q2	310 Broadcast Q2	310 Broadcast Q2	310 Broadcast Q2	310 Broadcast Q2	310 Broadcast Q2	310 Broadcast Q2
Company Name	**Business Address**	**Foreign Entity or Foreign-Government controlled Entity?**	**Country of Incorporation (if United States, include state of incorporation)**	**Principal Place of Business**	**General Business Type (*e.g.*, holding company, investment firm)**	**Email Addresses**	**Related Phone Numbers**

F irst N ame	Last Name	A l ias	Com pany Name	Business Addr ess (if applic able)	Count ry of Residence	Citizenship	Date of Residence	Place of B irth (e.g. MM/YY/YYYY)	Place of R esi dence (E.g. Stad e, Countr y)	SSN	Passport (Countr y)	Passport #	Citizenship	Alt ernate Citizenship Countr ies	U.S. Sociall y Connected Residence (E.g. Yes/No)	A lien Num ber	Residence A ddress	Personal Cell Phone Number	E -address (F ree/ No ether	Home Phone Number	Email	Co mpany Role/Title and/or Ownership %	Tax ref Id ency (E.g. Resid ar Resid/Writte)	A ddit (FAT Physi cal Fo rMini d pay ment Contact or Re cords Indemnity/Wa ebate g # Latit Footer e Electron ical enforcer)	Ti tle ge Ownership Wit n of Mod ogy Ownership (If Yes t Fore gn A ccou t (CFC)

310 Broadcast Q22	310 Broadcast Q22	310 Broadcast Q22	310 Broadcast Q22	310 Broadcast Q22	310 Broadcast Q22	310 Broadcast Q22
Category of Employee (e.g., Publicity Agent, Information-Service Employee, remote sales force, billing support, executives, technical support, content review, content approval)	Where are, or will, those employees be located for purposes of work? (e.g., Country)?	Access to Licensee's Network	Access to Licensee's Business Locations	Access to Licensee's physical facilities, equipment, or network elements owned, controlled, or leased by the Licensee	Access to any production facilities, or equipment, whether under the direct control of either the Licensee or under the control of independent third parties tasked or contracted for services	Access to Customer/listener records of any kind, including billing records, listening platform used (e.g., app, online, subscription service) and other listener profile information, such as geolocation information, listening habits, political or national affiliation, and aggregated or compiled data of customers obtained as a result of the provision of services or acquired from third parties for any purpose.

310 Broadcast Q26	310 Broadcast Q26
Address (complete postal address)	**Location Type (e.g., Facilities, whether owned, leased, used or shared; Broadcast Locations; Edititorial Locations; Data Storage Locations; Locations where content is reviewed, whether or not content is edited).**

310 Broadcast Q27	310 Broadcast Q27
Type of Broadcast License Held (or Applied for) by the Licensee (*e.g.*, radio, television)	**Geographic Area of Service**

310 Broadcast Q34(a)	310 Broadcast Q34(a)	310 Broadcast Q34(a)	310 Broadcast Q34(a)
Physical Addresses of All Storage Facilities	**Storage Location Countries**	**Data Custodian**	**Are Individuals with Access U.S. Citizens or non-U.S. citizens?**

310 Broadcast Q34(b)	310 Broadcast Q34(b)	310 Broadcast Q34(b)	310 Broadcast Q34(b)(i)
Company Name	**Business Address**	**Business Relationship to Licensee**	**What U.S. Customer Data is disclosed to this party?**



Federal Communications Commission
Washington, DC 20554

August 23, 2024

DA 24-858

SMALL ENTITY COMPLIANCE GUIDE

Amendment of the Commission's Rules Regarding
Single Network Future: Supplemental Coverage from Space

FCC 24-28
GN Docket No. 23-65, IB Docket No. 22-271
Released March 15, 2024

In accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, this Small Entity Compliance Guide (Guide) is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide in the above referenced docket and the appropriateness of its application to a particular situation. The Commission will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The Commission may decide to revise this Guide without public notice to reflect changes in its approach to implementing a rule, or it may clarify or update the text of the Guide. Please direct comments and recommendations, or requests for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

Videophone: 1-844-4-FCC-ASL (1-844-432-2275)

Fax: 1-866-418-0232

TABLE OF CONTENTS

I. OBJECTIVES OF THE PROCEEDING 1

II. COMPLIANCE REQUIREMENTS 1

A. Terrestrial Wireless Spectrum Leasing 1

1. Applicability 2

2. Leasing Information Requirements 2

3. Subleasing 2

4. Construction/Performance Requirements 2

B. 911 Service 3

1. Applicability – 911 Service 3

2. Definitions 3

3. Call Transmission Requirements 3

4. Certification and Reporting 3

5. Subscriber Notification 4

C. SCS Entry Criteria and Requirements 5

1. Definitions 5

2. Applications for Space Station and Earth Station Authorizations 5

3. Applications for SCS 5

4. Modification and Automatic Termination of Space Station Authorization 6

5. Technical Requirements 7

III. RECORDKEEPING AND REPORTING REQUIREMENTS 7

IV. IMPLEMENTATION DATE 7

V. INTERNET LINKS 8

I. OBJECTIVES OF THE PROCEEDING

In the *SCS Report and Order*, the Commission adopted rules to facilitate the deployment of supplemental coverage from space (SCS) in an effort to serve several important public interest goals for the Nation: expanding access to communications services, particularly emergency services, in order to broaden connectivity and assistance in more remote places; fostering advancements in the United States' space-based technologies; and augmenting our efforts to advance innovative and efficient use of our nation's spectrum resources.[1] To allow for satellite communications on spectrum previously allocated only to terrestrial services, the Commission modified the United States Table of Frequency Allocations to authorize bi-directional, secondary mobile-satellite service operations in certain spectrum bands that have no primary, non-flexible-use legacy incumbents, Federal or non-Federal. For these bands, the Commission authorized SCS only where one or more terrestrial licensees—together holding all licenses on the relevant channel throughout a defined geographically independent area (GIA)—lease access to their spectrum rights to a participating satellite operator, whose license reflects these frequencies and the geographically independent area in which they will offer SCS. In order to not discourage or delay solutions for supplemental satellite coverage that do not fit within the framework, the Commission noted that it would continue to consider waiver or special temporary authority filings on a case-by-case basis. In recognition that this new offering has the potential to bring life-saving connectivity to remote areas, the Commission also applied interim 911 call and text routing requirements to ensure that help is available to those who need it today while the Commission works toward enabling automatic location-based routing of all emergency communications whether or not there is a terrestrial connection available.

II. COMPLIANCE REQUIREMENTS

The *SCS Report and Order* adopted new and amended rules for SCS entry requirements in: part 1, subpart X, which can be found at 47 CFR § 1.9047; part 2, subpart B, which can be found at 47 CFR § 2.106(a), (d)(33)(i); part 9, subpart C, which can be found at 47 CFR § 9.10(a), (t); and part 25, subparts A, B, and C, which can be found at 47 CFR §§ 25.103, 25.109(f), 25.114(a)(4), 25.115(q), 25.1179(j), 25.125(a)-(e), 25.137(b), (f), 25.161(e), 25.202(k), 25.204(g), 25.208(w).

The SCS rules apply where one or more terrestrial licensees—together holding all licenses on the relevant channel throughout a defined GIA—lease access to their spectrum rights to a participating satellite operator, whose part 25 license reflects these frequencies and the GIA in which they will offer SCS in the following bands:

- 600 MHz: 614-652 MHz and 663-698 MHz;
- 700 MHz: 698-769 MHz, 775 MHz-799 MHz, and 805-806 MHz;
- 800 MHz: 824-849 MHz and 869-894 MHz;
- Broadband PCS: 1850-1915 MHz and 1930-1995 MHz; and
- AWS-H Block: 1915-1920 MHz and 1995-2000 MHz.

In an effort to realize the public interest benefits of SCS as soon as possible, while minimizing the risk of harmful interference, the Commission limited SCS authorizations to the following GIAs: (1) the contiguous United States (CONUS); (2) Alaska; (3) Hawaii; (4) American Samoa; (5) Puerto Rico/U.S. Virgin Islands; and (6) Guam/Northern Mariana Islands. To facilitate the implementation of SCS, the Commission adopted the requirements detailed below.

[1] *Single Network Future: Supplemental Coverage from Space*, GN Docket No. 23-65, IB Docket No. 22-271, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-28 (rel. Mar. 15, 2024) (*SCS Report and Order*).

A. Terrestrial Wireless Spectrum Leasing (47 CFR § 1.9047)

1. *Applicability* – A terrestrial licensee may use the Commission's existing spectrum manager (*see* 47 CFR § 1.9020) or *de facto* transfer (*see* 47 CFR §§ 1.9030 and 1.9035) leasing or subleasing arrangements to enter into a lease with a spectrum lessee in only the bands identified in § 2.106(d)(33)(i) of this chapter for the purpose of meeting the part 25 SCS Entry Criteria. The leasing arrangements may be entered into under a single or multiple co-channel terrestrial licensee format.

    - *Single Terrestrial Licensee* (47 CFR § 1.9047(d)(1)(i)): To meet the SCS entry criteria, a single licensee that holds all co-channel licenses on the relevant band in a GIA may enter into a leasing arrangement with one or more satellite operators.
    - *Multiple Co-Channel Terrestrial Licensees* (47 CFR § 1.9047(d)(1)(ii)): Licensees may also meet the SCS entry criteria where there are multiple co-channel licensees that collectively hold all co-channel licenses in a particular band throughout one of the six GIAs. The licensee may only enter spectrum leasing arrangements where:

        1) One licensee holding a license in the GIA must enter into an individual spectrum leasing arrangement with each of the other co-channel licensees in that GIA. The licensee may then enter into a leasing arrangement with one satellite operator; or

        2) One satellite operator may enter into individual leasing arrangements with each of the relevant co-channel licensees that together hold all co-channel licenses on the relevant band in the GIA.

2. *Leasing Information Requirements* (47 CFR § 1.9047(d)(2)): The spectrum lessees must provide the following information within the current FCC Form 608:

    - A certification that the parties are entering into the leasing arrangement for the purpose of fulfilling the part 25 Entry Criteria;
    - A description of which method, single or multiple terrestrial licensee, the parties are using to meet the part 25 Entry Criteria; and
    - If the parties are using the spectrum leasing arrangement outlined in 47 CFR § 1.9047(d)(1)(ii), the parties must:

        1) Describe the nature of the leasing arrangement(s); and

        2) Demonstrate how the entirety of the GIA is covered by the lease arrangement(s).

3. *Subleasing* (47 CFR § 1.9047(f)): Licensees may also meet the SCS entry criteria by entering into subleases. However, subleasing is not permitted for the purpose of authorizing SCS operations where there are multiple terrestrial licensees jointly leasing their co-channel rights in a given GIA pursuant to § 1.9047(d)(1)(ii).

4. *Construction/Performance Requirements* (47 CFR § 1.9047(g)): A licensee engaged in an SCS arrangement may not attribute to itself the build-out or performance activities of its SCS spectrum lessee(s) for purposes of complying with any applicable performance or build-out requirement.

B. 911 Service (47 CFR § 9.10(a), (t))

1. *Applicability* – 911 Service (47 CFR § 9.10(a))

    - The adopted interim 911 requirements apply to CMRS providers excluding mobile satellite service (MSS) operators, to the extent that they:

        1) Offer real-time, two way switched voice service that is interconnected with the public switched network; and

        2) Use an in-network switching facility that enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls.

    - These requirements are applicable to entities that offer voice service to consumers by purchasing airtime or capacity at wholesale rates from CMRS licensees.

2. *Definitions* – (47 CFR § 9.10(t)(1))

    - SCS 911 calls – 911 calls (as defined in § 9.3) that are carried over satellite facilities pursuant to a CMRS provider's SCS arrangement.

    - SCS 911 text message – a 911 text message (as defined in paragraph (q)(9) of this section) that is carried over satellite facilities pursuant to a CMRS provider's SCS arrangement.

3. *Call Transmission Requirements* – (47 CFR § 9.10(t)(2))

    - For purposes of delivering SCS 911 voice calls and SCS 911 text messages, CMRS providers must either:

        1) Use information regarding the location of a device, including but not limited to device-based location information, to route SCS 911 voice calls and 911 text messages to an appropriate PSAP and transmit the phone number of the device used to send the SCS 911 voice call or 911 text message and available location information to an appropriate PSAP; or

        2) Use an emergency call center, at which emergency call center personnel must determine the emergency caller's phone number and location and then transfer or otherwise direct the 911 caller to an appropriate PSAP.

4. *Certification and Reporting* – (47 CFR § 9.10(t)(3)-(4))

    - Certification (47 CFR § 9.10(t)(4)): A CMRS provider in an SCS arrangement must certify on a one-time basis that neither they nor any third party they rely on to obtain location information or associated data used for compliance with the call transmission requirements of paragraph (t)(2)(i) or (ii) will use such location information or associated data for any non-911 purpose, except with prior express consent or as otherwise permitted or required by law. The certification must state the CMRS provider and any third parties it relies on to obtain location information or associated data used for compliance with paragraph (t)(2)(i) or (ii) have implemented measures sufficient to safeguard the privacy and security of such location information or associated data. These CMRS providers must

submit this one-time certification in ECFS on the due date of the first report made under paragraph (t)(3) of this section.

- Reporting (47 CFR § 9.10(t)(3)): A CMRS provider in an SCS arrangement must maintain records of all SCS 911 voice calls and text messages received on its network and received at its emergency call center.
- By October 15 of each year, each CMRS provider must submit a report to the Commission regarding SCS 911 voice calls and 911 text messages, and its emergency call center data, current as of September 30 of that year.
- These CMRS providers must submit this certification in the FCC's Electronic Comment Filing System (ECFS). These reports must include, at a minimum, the following:
    1) The name and address of the CMRS provider, the address of that CMRS provider's emergency call center, and the contact information of the emergency call center;
    2) The aggregate number of SCS 911 voice calls and 911 text messages received by the network of the CMRS provider that provides SCS service to its end-user subscribers during each month during the relevant reporting period;
    3) The aggregate number of SCS 911 voice calls and 911 text messages received by the emergency call center each month during the relevant reporting period;
    4) The aggregate number of SCS 911 voice calls and 911 text messages received by the emergency call center each month during the relevant reporting period that required forwarding to a PSAP and how many did not require forwarding to a PSAP;
    5) The aggregate number of SCS 911 voice calls that were routed using location information that met the timeliness and accuracy thresholds defined in paragraphs (s)(3)(i)(A) and (B) of this section;
    6) The aggregate number of SCS 911 voice calls and 911 text messages that were routed using location information that did not meet the timeliness and accuracy thresholds defined in paragraphs (s)(3)(i)(A) and (B) of this section; and
    7) An explanation of how the SCS deployment, including network architecture, systems, and procedures, will support routing SCS 911 voice calls and 911 text messages to the geographically appropriate PSAP with sufficient location information in compliance with the call transmission requirements of paragraph (t)(2) of this section.

5. *Subscriber Notification* – (47 CFR § 9.10(t)(5)): Each CMRS provider in an SCS arrangement must specifically advise every subscriber, both new and existing, in writing prominently and in plain language, of the circumstances under which 911 service for all SCS 911 calls, or SCS 911 text messages may not be available via SCS or may be in some way limited by comparison to traditional enhanced 911 service.

C. SCS Entry Criteria and Requirements (47 CFR §§ 25.103, 25.109(f), 25.114(a)(4), 25.115(q), 25.117(j), 25.125(a)-(e), 25.137(b), (f), 25.161(e), 25.202(k), 25.204(g), 25.208(w))

1. *Definitions* – (47 CFR §25.103)

    - GIA – any of the following six areas: (1) CONUS; (2) Alaska; (3) Hawaii; (4) American Samoa; (5) Puerto Rico/U.S. Virgin Islands; and (6) Guam/Northern Mariana Islands.
    - SCS – the provision of coverage to terrestrial wireless subscribers through an arrangement or agreement (see § 1.9047 "special provisions relating to spectrum leasing arrangements involving terrestrial spectrum rights for Supplemental Coverage from Space" of this chapter) between one or more NGSO or GSO operator(s) and one or more terrestrial wireless licensee(s), involving transmissions between space stations and SCS earth stations. NGSO and GSO operators and terrestrial wireless service licensees seeking to provide SCS must be authorized in compliance with the applications for SCS requirements in § 25.125.
    - SCS earth station -- any earth station used for the provision of SCS consistent with § 25.115(q).

2. *Applications for Space Station and Earth Station Authorizations*

    - Space station applications – (47 CFR § 25.114(a)(4)): A § 25.125 SCS application must be submitted on FCC Form 312, Main Form and Schedule S, with attached exhibits as required by paragraph (d) of this section, and must be a comprehensive proposal.
    - Earth station applications – (47 CFR § 25.115(q)): A satellite operator does not need a separate earth station authorization for the provision of SCS. As long as the terrestrial devices connecting to the SCS network are doing so pursuant to an effective part 1 leasing arrangement and operating within the existing parameters of their OET equipment authorization, the terrestrial licensee's license parameters, and applicable part 22, 24, or 27 rules, then these devices will be licensed as earth stations by rule without the need to file a part 25 earth station application.

3. *Applications for SCS* – (47 CFR §25.125(a)-(e))

    - SCS entry criteria – (47 CFR §25.125(a)): An applicant for SCS space station authorization must:
        1) Hold an existing part 25 NGSO or GSO license or grant of U.S. market access, or must be seeking a part 25 NGSO or GSO license or grant of market access; and
        2) Have a lease arrangement(s) pursuant to § 1.9047 with one or more terrestrial wireless licensees(s) that hold, collectively or individually, all co-channel licenses throughout a GIA in a band identified in § 2.106(d)(33)(i) of this chapter.

- SCS application requirements – (47 CFR §25.125(b)): First, the SCS space station application must include the following certifications:
    1) A lease notification(s) or application(s), pursuant to § 1.9047 of this chapter, where a single terrestrial wireless licensee holds or multiple co-channel licensees collectively hold all co-channel licenses within the relevant GIA in the bands identified in § 2.106(d)(33)(i) of this chapter is on file with the Commission;
    2) The current part 25 space station licensee or part 25 grantee of market access for NGSO or GSO satellite operation seeks modification of authority to provide SCS in the same geographic areas covered in the relevant GIA, or the applicant for a part 25 space station license or part 25 grant of market access for NGSO or GSO satellite operation seeks to provide SCS in the same geographic areas covered in the relevant GIA; and
    3) SCS earth stations will qualify as "licensed by rule" earth stations under § 25.115(q). Second, the application must include a comprehensive proposal for the prospective SCS system on FCC Form 312, Main Form and Schedule S, as described in § 25.114, together with the required certifications and include a list of the file and identification numbers associated with the relevant part 1 leasing notification(s), application(s), and FCC Form 601(s), with a brief description of the coverage areas that will be served, domestically and internationally. These SCS applications will not be subject to the processing round procedures or first-come, first-served procedures in §§ 25.137, 25.157, and 25.158.
- Equipment authorization for SCS earth stations – (47 CFR §25.125(c)): Each SCS earth station used to provide SCS must meet the equipment authorization requirements under § 25.125(e) and all equipment authorization requirements for all intended uses of the device pursuant to the procedures specified in part 2 of this chapter and the requirements of at least one of part(s) 22, 24, or 27 of this chapter.
- Effective date and continued operation – (47 CFR §25.125(d)): SCS authorization will be deemed effective in the Commission's records and for purposes of the application of the rules in this section after each of the following requirements is satisfied:
    1) Grant of a part 25 modification application or grant of market access, or an application to launch and operate or market access;
    2) Approval of a part 1 leasing arrangement(s); and (iii) grant of a valid SCS earth station equipment certification under part 2 of this chapter.

4. *Modification and automatic termination of space station authorization*

- Modification – (47 CFR § 25.117(j)): An application for modification of a space station authorization to provide SCS must comply with § 25.125.
- Termination – (47 CFR § 25.161(e)): A space station license to provide SCS will terminate automatically for failure to provide any SCS on all or some of the SCS

authorized frequencies for more than 90 days in the event of termination of the lease arrangement(s) specified in the SCS entry criteria. In this instance, the license will be terminated in whole or in part with respect to the particular frequencies on which SCS has not been operational for more than 90 days in the United States.

5. *Technical requirements*. Space and earth stations providing SCS are subject to the technical rules in parts 2, 22, 24, and 27 of this chapter where applicable – (47 CFR § 25.109(f)).

- Frequencies, frequency tolerance, and emission limits – (47 CFR § 25.202(k)): For space station downlinks operating as SCS, (i) the aggregation of all the downlink emissions outside a licensee's SCS frequency band(s) of operation must not exceed a power flux density of -120 dBW/m^2/MHz at 1.5 meters above ground level; and (ii) if any emissions from a transmitter operating in the SCS service results in harmful interference to users of another radio service, the FCC may require a greater attenuation of the emission than specified in this section.
- Power and out-of-band emission limits for earth stations – (47 CFR § 25.204(g)): Earth stations providing SCS must comply with the power requirements and out-of-band emissions limits corresponding to devices operating in parts 22, 24, or 27 of this chapter (e.g., §§ 22.913, 24.232, 27.50), as required for their operating frequencies.
- Power flux-density and in-band field strength limits – (47 CFR § 25.208(w)): The aggregate field strength at the earth's surface produced by all visible beams and satellites within each satellite constellation providing SCS as they move over any given point or area must meet:
    1) 40 dBμV/m for the 600 MHz, 700 MHz, and 800 MHz bands;
    2) 47 dBμV/m for the AWS and PCS bands; and
    3) Licensees must comply with all applicable provisions and requirements of treaties and other international agreements between the United States government and the governments of other countries, including Canada and Mexico. Absent specific international agreements regarding SCS, licensees must comply with the above limitations.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The rules adopted in the SCS Report and Order contain new or modified information collection requirements for terrestrial licensees and satellite operators. The details and specifics of the reporting and recordkeeping requirements adopted in the SCS Report and Order are discussed in Section II of this guide under the Compliance Requirements.

IV. IMPLEMENTATION DATE

The following rules in the *SCS Report and Order* became effective on May 30, 2024: 47 CFR § 1.9047(a)-(d)(1), (e)-(g); 47 CFR § 2.106(a), (d)(33); 47 CFR § 9.10(a), (t)(1) through (2); and 47 CFR §§ 25.103, 25.109(f), 25.114(a)(4), 25.115(q), 25.1179(j), 25.125(a), (b)(3), (d)-(e), 25.137(b), (f), 25.161(e), 25.202(k), 25.204(g), 25.208(w)).

The following rules in the *SCS Report and Order* require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act: 47 CFR § 1.9047(d)(2), 47 CFR § 9.10(t)(3) through (5), and 47 CFR § 25.125(b)(1) and (2) and (c). These rules shall become effective after the Commission publishes a notice in the Federal Register announcing OMB approval and the relevant effective date.

V. INTERNET LINKS

A copy of the *SCS Report and Order*, is available at:
https://docs.fcc.gov/public/attachments/FCC-24-28A1.pdf

A copy of the *Erratum* is available at:
https://docs.fcc.gov/public/attachments/DOC-401934A1.pdf

A copy of the Federal Register Summary of the *SCS Report and Order* is available at:
https://www.govinfo.gov/content/pkg/FR-2024-04-30/pdf/2024-06669.pdf

Federal Communications Commission
Washington, D.C. 20554

August 23, 2024

DA 24-859

SMALL ENTITY COMPLIANCE GUIDE

Targeting and Eliminating Unlawful Text Messages, Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

FCC 23-21
CG Docket Nos. 02-278, 21-402
Released March 17, 2023

In accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, this Small Entity Compliance Guide (Guide) is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the revised rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation. The FCC will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or it may clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)
Videophone: 1-844-4-FCC-ASL (1-844-432-2275)
Fax: 1-866-418-0232

TABLE OF CONTENTS

I. OBJECTIVES OF THE PROCEEDING 1
II. COMPLIANCE REQUIREMENTS 1
A. Text Blocking Requirements 1
B. Point of Contact Requirements 2
III. RECORDKEEPING AND REPORTING REQUIREMENTS 2
IV. IMPLEMENTATION DATE 2
V. INTERNET LINKS 2

I. OBJECTIVES OF THE PROCEEDING

In the *Targeting and Eliminating Unlawful Text Messages Report and Order (Report and Order)*[1], the Commission required mobile wireless providers to block certain robotext messages that are highly likely to be illegal. The Commission required mobile wireless providers to block texts that purport to be from North American Numbering Plan (NANP) numbers, and that are on a reasonable Do-Not-Originate (DNO) list, at the network level. This may include numbers that purport to be from invalid, unallocated, or unused numbers, and NANP numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked. The Commission also took steps to ensure that any erroneous blocking can be quickly remedied by requiring providers and other entities to maintain a point of contact for texters to report erroneously blocked texts.

Mandatory Blocking of Texts that are Highly Likely to be Illegal. In the *Report and Order*, the Commission adopted its proposal to require mobile wireless providers to block text messages purporting to be from numbers on a reasonable DNO list at the network level, without requiring consumer opt in or opt out. As the Commission previously determined with calls, no reasonable consumer would wish to receive text messages that spoof a number that is not in operation or, worse, purports to be from a well-known, trusted organization that does not send text messages and thus is highly likely to be a scam. The Commission's requirement to block texts that purport to be from numbers on a reasonable DNO list does not include text messages from short codes. The Commission adopted the text blocking rule for several reasons: (i) the texts from such numbers are likely to be illegal; (ii) illegal text messages can have links to malware, a problem that voice calls do not have; (iii) the volume of illegal text messages is increasing, particularly since the Commission has adopted measures to block such voice calls; (iv) consumers expect to receive texts from unfamiliar numbers, such as appointment reminders and for double factor authentication, and therefore are more likely to open such messages even when they do not recognize the sending party; and (v) this approach provides benefits to consumers while imposing minimal burden on mobile wireless providers, many of which already take measures to block illegal text messages from reaching their customers' phones.

Point of Contact. In the *Report and Order*, the Commission required each mobile wireless provider to establish a point of contact for text senders, or have providers require their aggregator partners or blocking contractors to establish such a point of contact. This point of contact will enable texters to contact mobile wireless providers, with the goal of swiftly receiving and resolving complaints of unwarranted blocking of text messages. The Commission adopted certain safeguards to protect providers from unscrupulous texters. The Commission required that mobile wireless providers need only accept blocking complaints from senders that can provide documented, objective evidence of blocking. The Commission also has given providers flexibility to either establish their own point of contact or to require their aggregator partners and blocking contractors to establish such a point of contact, which we would expect could resolve the blocking more quickly than the provider.

II. COMPLIANCE REQUIREMENTS

A. Text Blocking Requirements (47 CFR 64.1200(p))

The *Report and Order* amended section 64.1200(p) of the Commission's rules by adding a blocking requirement:

A mobile wireless provider must block a text message purporting to originate from a NANP number on a reasonable DNO list. To be considered reasonable, the list should not be so limited in scope that it leaves out obvious NANP numbers that could be included with little effort. The do-not-originate list may include only:

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[1] *Targeting and Eliminating Unlawful Text Messages; Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket Nos. 02-278 and 21-402, Report and Order and Further Notice of Proposed Rulemaking, FCC 21-23 (Mar. 17, 2023) (*Report and Order*).

(1) NANP numbers for which the subscriber to the number has requested that texts purporting to originate from that number be blocked;

(2) NANP numbers that are not valid;

(3) Valid NANP numbers that are not allocated to a provider by the NANP Administrator; and

(4) Valid NANP numbers that are allocated to a provider by the NANP Administrator, but are unused, so long as the provider blocking the message is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

B. Point of Contact Requirements (47 CFR 64.1200(r))

The *Report and Order* amends section 64.1200(r) by adding a point of contact requirement:

A mobile wireless provider must provide a point of contact or ensure its aggregator partners or blocking contractors that block text messages on its network provide a point of contact to resolve complaints about erroneous blocking from message senders that can document that their messages have been blocked. Providers may use the same point of contact for voice call blocking and text blocking error complaints.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The Commission's actions in the *Report and Order* created a new recordkeeping or reporting requirement establishing that all mobile wireless providers must maintain a reasonable DNO list, as discussed in section II(A) above.

IV. IMPLEMENTATION DATE

The point of contact rule in the *Report and Order* became effective on May 11, 2023. The Office of Management and Budget (OMB) approved the information collection requirements under the Paperwork Reduction Act (PRA) for the mandatory blocking rule in the *Report and Order* on February 12, 2024, and that rule will be effective September 3, 2024.

V. INTERNET LINKS

A copy of the *Report and Order* is available at: https://docs.fcc.gov/public/attachments/FCC-23-21A1.pdf.

A copy of the Federal Register Summary of the *Report and Order* is available at https://www.govinfo.gov/content/pkg/FR-2023-04-11/pdf/2023-07405.pdf.

A copy of the Federal Register Summary of OMB's approval of the information collection requirements under the PRA is available at https://www.govinfo.gov/content/pkg/FR-2024-03-01/pdf/2024-03957.pdf.

PUBLIC NOTICE

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

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

DA 24-861
Released: August 26, 2024

COMMENTS INVITED ON SECTION 214 APPLICATION(S) TO DISCONTINUE DOMESTIC NON-DOMINANT CARRIER TELECOMMUNICATIONS SERVICES

WC Docket No(s). 24-247

Comments Due: September 10, 2024

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 **September 26, 2024**, 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

[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.").

action, as 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 **September 10, 2024**. 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 paper copies must file an original and one copy of each filing. Such filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission. Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[6] 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.

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[5] *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

[6] 47 CFR § 1.1200 *et seq*.

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).

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): Onvoy, LLC**
WC Docket No. 24-247, Comp. Pol. File No. 1939
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2224-247*%22))
Affected Service(s) – switched long-distance service
Service Area(s) – Minnesota end users in the exchanges served by the participating rural local exchange carriers or their affiliates as specified in the application.
Authorized Date(s) – on or after September 30, 2024
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: https://www.fcc.gov

DA 24-862
Released: September 3, 2024

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

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

Dismissed on Reconsideration[3]

Aurora Academy Charter School, CO, Application No. 231039767, Petition for Reconsideration, CC Docket No. 02-6 (filed Feb. 23, 2024)

Mannheim School District 83, IL, Application No. 241040002, Petition for Reconsideration, CC

[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). Section 54.719(b) 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. Section 54.719(c) 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). 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 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) (*Allan Shivers Library Order*) (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).

Docket No. 02-6 (filed June 27, 2024, supplemented July 3, 2024)

Mannheim School District 83, IL, Application No. 241040028, Petition for Reconsideration, CC Docket No. 02-6 (filed June 27, 2024, supplemented July 3, 2024)

NYSARC, Inc., NYC Chapter (AHRC), NY, Application No. 241040025, Petition for Reconsideration, CC Docket No. 02-6 (filed June 26, 2024)

School Association for Special Education in DuPage County, IL, Application No. 241040041, Petition for Reconsideration, CC Docket No. 02-6 (filed July 2, 2024)

Dismissed on Reconsideration – Untimely[4]

Harvard International Academy Foundation, FL, Application No. 231039320, Petition for Reconsideration, CC Docket No. 02-6 (filed Oct. 30, 2023)

The UCAP School, RI, Application No. 241039950, Petition for Reconsideration, CC Docket No. 02-6 (filed July 12, 2024)

Granted[5]

Discount Calculation[6]

Ascension Lutheran Christian School, IN, Application Nos. 231038858, 231038856, Request for Review, CC Docket No. 02-6 (filed Nov. 28, 2023)

Bet Yaakov of the Jersey Shore, NJ, Application No. 231023854, Request for Review, CC Docket No. 02-6 (filed May 13, 2024)

Pyramid Lake High School, NV, Application No. 241019865, Request for Review, CC Docket No. 02-6 (filed June 27, 2024)

Granting Additional time to Respond to USAC with Information During Invoicing[7]

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[4] *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) (*Rockwood School District Order*) (dismissing petitions for reconsideration because they were filed more than 30 days after the date of the Bureau's decisions).

[5] 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 equipment/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 rule).

[6] *See, e.g., Requests for Review of the Decision of the Universal Service Administrator by Academia Claret et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 21 FCC Rcd 10703, 10708, para. 12 (WCB 2006) (*Academia Claret Order*) (allowing the submission of discount calculation information when the applicant was previously unable to fully comply with the document request within USAC's permitted time period).

[7] *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

(continued….)

TPX Communications (Craven-Pamlico Regional Library), TX, Application No. 221027765, Request for Waiver, CC Docket No. 02-6 (filed Apr. 4, 2024)

Granting on Reconsideration – FCC Form 471 Filed Less than 30 Days Late Due to Unexpected Illness[8]

NLC Christian Academy, IL, Application Nos. 241040035, 241040034, Petition for Reconsideration, CC Docket No. 02-6 (filed July 2, 2024)

Warren City School District, OH, Application No. 241026282, Petition for Reconsideration, CC Docket No. 02-6 (filed June 28, 2024)

Late-Filed FCC Form 471 Applications – Filed Within 14 Days of the Close of the Window[9]

Basis Charter Schools, Inc., AZ, Application No. 241039803, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2024)

Donna Independent School District, TX, Application No. 241002415, Request for Waiver, CC Docket No. 02-6 (filed Apr. 12, 2024)

Palm Desert Branch Library, CA, Application No. 241039639, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2024)

San Diego County Library, CA, Application No. 241028355, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2024)

Ministerial and/or Clerical Errors[10]

(Continued from previous page)
23-48, para. 14 (WCB Jan. 19, 2023) (*Accomack County Public School Order*) (granting requests for review of applicants that had been denied funding during invoicing because they failed to respond to USAC's request for information within the USAC-specified time frame).

[8] *See, e.g., Petitions for Reconsideration by Callisburg Independent School District; School and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order and Order on Reconsideration, 28 FCC Rcd 9459, 9461, para. 5 (WCB 2013) (*Callisburg Independent School District Order*) (granting petition for reconsideration where, upon reconsideration of the record, we do not find that the evidence supports our previous determination); *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Acorn Public Library District, et al., Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Order, 23 FCC Rcd 15474, 15477-78, para. 6 (2008) (*Acorn Public Library Order*) (finding special circumstances exist to justify granting a waiver request where, for example, the E-Rate staff person in a small school district filed an E-Rate application 30 days late or less because of an "unexpected absence due to illness.").

NLC Christian Academy argues on reconsideration that its FCC Form 471 was late because its principal, not the person responsible for managing E-Rate at the academy, suffered an unexpected illness. Although our precedent states that a waiver is warranted when the E-Rate staff person suffers an "unexpected absence due to illness," we find good cause to waive the application deadline in this instance because it was the first year NLC Christian Academy was applying for E-Rate funding and it was unable to timely complete this process for the first time in the principal's absence due to an unexpected illness.

[9] *See, e.g.*, *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. 8 (2010) (*Academy of Math and Science Order*) (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).

Billings Catholic Schools, MT, Application No. 241008300, Request for Waiver, CC Docket No. 02-6 (filed July 3, 2024)

Diboll Independent School District, TX, Application Nos. 231032370, 241005202, Request for Waiver, CC Docket No. 02-6 (filed Aug. 6, 2024)[11]

Marion Comm School District 2, IL, Application No. 241009654, Request for Waiver, CC Docket No. 02-6 (filed Jun. 21, 2024)

Middleton-Cross Plains School District, WI, Application No. 241016176, Request for Waiver, CC Docket No. 02-6 (filed Aug. 5, 2024)

Mount Vernon-Enola School District, AK, Application No. 241036525, Request for Waiver, CC Docket No. 02-6 (filed July 18, 2024)

Ministerial and/or Clerical Errors – FRN Omitted from FCC Form 471 Application[12]

Brick Township Public School District, NJ, Application No. 241035570, Request for Waiver, CC Docket No. 02-6 (filed July 15, 2024)

Citrus County School District, FL, Application No. 241040283, Request for Waiver, CC Docket No. 02-6 (filed July 8, 2024)

Derby Unified School District 260, KS, Application No. 241007751, Request for Waiver, CC Docket No. 02-6 (filed July 15, 2024)

Garner-Hayfield-Ventura Community School District, IA, Application No. 241010303, Request for Waiver, CC Docket No. 02-6 (filed July 29, 2024)

Sylvan Grove Unified School District 299, KS, Application No. 241001421, Request for Waiver, CC Docket No. 02-6 (filed July 12, 2024)

USAC Decision Issued After Invoice Deadline[13]

(Continued from previous page)

[10] *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 17319, 17320, nn. 5, 9, 12 (*Ann Arbor Public Schools Order*) (permitting correction when applicant entered the monthly charge as the annual charge, failed to enter an item from the source list onto the application, and permitting correction when applicant entered the wrong expiration date for a contract).

[11] We grant in part and deny in part Diboll Independent School District's request for waiver. We grant the request for funding for upgraded WAN service. We grant in part and deny in part Diboll's request for funding for upgraded Internet Access. We grant to the extent that funding is corrected to reflect the original Internet Access service (2G $2,000/mo) instead of the cost of the WAN Hub location ($800/mo) but deny the request for funding for upgraded Internet Access for lack of evidentiary support.

[12] *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Archer Public Library et al.; Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Order, 23 FCC Rcd 15518, 15521 n.19 (WCB 2008) (*Archer Public Library Order*) (permitting applicant to correct its FCC Form 471 to conform to the source document). The petitioners did not realize their funding requests were omitted until the FY 2024 application filing window had closed. The petitioners then filed FCC Form 471 applications that were out of window. We direct USAC to add these funding requests to one of the petitioners' timely-filed FY 2024 FCC Form 471 applications or treat the late-filed applications as timely filed.

Lake Dallas Independent School District, TX, Application No. 211023510, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2024)

Waiver of Special Construction Service Delivery Deadline[14]

WANRack, LLC (Richmond Public Schools), VA, Application No. 221003966, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2024)

Denied

FCC Form 470 Waiver Denial[15]

Laramie County School District 1, WY, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed May 22, 2024)

Salem School District, CT, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed May 8, 2024)

Late-Filed FCC Form 471 Applications[16]

Arizona Cultural Academy & College Prep, AZ, Application Nos. 241040100, 241040101, Request for Waiver, CC Docket No. 02-6 (filed May 3, 2024)

Bellwood-Antis Public Library, PA, Application No. 241040266, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2024)

(Continued from previous page)

[13] *See Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 35 FCC Rcd 14426, 14431, para. 15 (2020) (*2020 Invoicing Rule Modification Order*) (authorizing the Bureau to grant a waiver in instances where a program participant was unable to timely submit an invoice because they were awaiting a post-commitment decision from USAC, or received a decision approving a post-commitment request or granting an appeal of a previously denied or reduced funding request after the invoice filing deadline had passed).

[14] *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) (*Grants/Cibola County School District Order*) (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 find that WANRack, LLC was unable to complete implementation for reasons beyond its control and made good faith efforts to comply with Commission rules and procedures. We waive the special construction service delivery deadline and direct USAC to provide the applicant until June 30, 2025 to complete its special construction project.

For these Petitioners, we also waive any associated administrative or procedural deadlines, including the invoice filing deadline, that might be necessary to effectuate our ruling. *See also supra* note 5.

[15] Because there is no deadline for the FCC Form 470, we deny the Petitioner's request for a deadline waiver of an FCC Form 470 that was not filed with enough time to allow for the 28-day competitive bidding period to run before timely filing the FCC Form 471. *See, e.g., Request for Waiver by Cotton Center ISD; Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.,* CC Docket Nos. 96-45, 97-21; Order, 17 FCC Rcd 643, 645, n.14 (CCB 2002) (*Cotton Center ISD Order*) (noting that "The FCC Form 470 merely initiates the process of requesting bids, and unlike the FCC Form 471 application, is not subject to a specified filing period and firm deadline.").

[16] *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 a waiver of the Commission's rules).

Bellwood-Antis School District, PA, Application No. 241040263, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2024)

Compass Charter Middle School, FL, Application No. 241040275, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2024)

Cristo Rey San Diego High School, CA, Application No. 241040371, Request for Waiver, CC Docket No. 02-6 (filed Aug. 6, 2024)

Emmanuel Christian Academy, OH, Application No. 241040271, Request for Waiver, CC Docket No. 02-6 (filed July 4, 2024)

Haskell Independent School District, TX, Application No. 241040305, Request for Waiver, CC Docket No. 02-6 (filed July 15, 2024)

Hutchinson School District 423, MN, Application No. 241040230, Request for Waiver, CC Docket No. 02-6 (filed July 4, 2024)[17]

Northlake Public Library District, IL, Application No. 241040310, Request for Waiver, CC Docket No. 02-6 (filed July 15, 2024)

Rich Hill School District R 4, MO, Application No. 241040273, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2024)

Roanoke City School, AL, Application No. 241040280, Request for Waiver, CC Docket No. 02-6 (filed July 3, 2024)

Saint Francis de Sales School, NV, Application Nos. 241040078, 241040267, Request for Waiver, CC Docket No. 02-6 (filed June 27, 2024)

West Saint Francois County District R4, MO, Application No. 241040308, Request for Waiver, CC Docket No. 02-6 (filed July 12, 2024)

Yorkville School District 115, IL, Application No. 241040047, Request for Waiver, CC Docket No. 02-6 (filed June 26, 2024)

Late-Filed Invoice or Invoice Deadline Extension[18]

Bridgetek Solutions (Dillon County School District Four), SC, Application No. 221037866, Request for Waiver, CC Docket No. 02-6 (filed Mar. 6, 2024)

Holy Trinity Catholic School, PA, Application No. 221019021, Request for Waiver, CC Docket

[17] Hutchinson School District 423 inadvertently listed an incorrect application number in its waiver request. We are including the correct FCC Form 471 number in this Public Notice.

[18] 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) (*Ada School District Order*) (denying requests for waiver of the Commission's invoice filing deadline rule for petitioners that failed to demonstrate extraordinary circumstances for a waiver of the Commission's rules).

No. 02-6 (filed July 7, 2024)

Kernville Union Elementary School District, CA, Application Nos. 171042122, 181023154, 191027482, 201018991, 211024222, 221026408, Request for Waiver, CC Docket No. 02-6 (filed Mar. 7, 2024)

Service Substitution[19]

Community Action Organization of Erie County, NY, Application No. 181036166, Request for Waiver, CC Docket No. 02-6 (filed Dec. 20, 2023)

Untimely Filed Appeals or Waiver Requests[20]

Arlington Christian, OH, Application No. 231039813, Request for Waiver, CC Docket No. 02-6 (filed June 17, 2024)

Bas Mikrah, NY, Application No. 221039585, Request for Waiver, CC Docket No. 02-6 (filed Apr. 15, 2024)

Eden Valley-Watkins ISD #463, MN, Application No. 211034720, Request for Waiver, CC Docket No. 02-6 (filed July 16, 2024)

Ft. George Community Services, Inc., NY, Application No. 221006781, Request for Waiver, CC Docket No. 02-6 (filed Aug. 18, 2024)

Lexington Montessori School, MA, Application No. 231032733, Request for Waiver, CC Docket No. 02-6 (filed July 11, 2024)

Smee School District, SD, Application No. 211032883, Request for Waiver, CC Docket No. 02-6 (filed June 24, 2024)

West Central Area Independent School District 2342, MN, Application Nos. 241039442, 241039449, Request for Waiver, CC Docket No. 02-6 (filed July 3, 2024, supplement filed July 17, 2024)

Rural Health Care Program
WC Docket No. 02-60

Granted

[19] *See, e.g., Requests for Waiver of Sections 54.504(c), 54.504(f), 54.507(c), and 54.507(g) of the Commission's rules by State of Louisiana Department of Education et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 1653, 1668, para. 18 (2010) (denying a service substitution request when it does not meet the Commission's rules for granting a service substitution).

[20] *See, e.g.*, *Requests for Review of the Decisions of the Universal Service Administrator by Agra Public Schools I-134; Schools and Libraries Universal Service Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684, 5688, para. 6 (WCB 2010) (*Agra Public Schools Order*); *Requests for Waiver or Review of Decisions of the Universal Service Administrator by Bound Brook School District; Schools and Libraries Universal Service Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 5823, 5823, para. 1 (WCB 2014) (*Bound Brook School District Order*) (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).

Service Substitution[21]

California Telehealth Network (Southern Humboldt Community Healthcare District and Mayers Memorial Hospital), OR, Request for Review, WC Docket No. 02-60, Funding Request No. RHC20220012027 (filed July 22, 2024)

Waiver of the Invoice Filing Deadline[22]

Preferred Family Healthcare Kirksville S. Jamison St., MO, Request for Waiver, WC Docket No. 02-60, Funding Request No. 19934911 (filed July 6, 2022)

Primary Care of Southwest Georgia Inc. – Quitman, GA, Request for Waiver, WC Docket No. 02-60, Funding Request Number 17243321 (filed Jan. 30, 2019)

Denied

Waiver of the Invoice Filing Deadline[23]

South Central Telcom LLC, KY, Request for Waiver, WC Docket No. 02-60, Funding Request No. 22215661 (filed July 10, 2024; supplement filed July 25, 2024)

Waiver of the 60-Day Appeal Deadline[24]

[21] *See Requests for Waiver of Sections 54.504(c), 54.504(f), 54.507(c), and 54.507(g) of the Commission's Rules, State of Louisiana Department of Education et al.*; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 1653, 1662, para. 17 (2010) (granting service substitution requests meeting the regulatory requirements for service substitutions). *See also* 47 CFR § 54.624 (allowing service substitutions in the RHC Program when: (1) the substitution is provided for in the contract, within the change clause, or constitutes a minor modification; (2) the site is an eligible health care provider and the service is an eligible service under the Telecommunications Program or the Healthcare Connect Fund Program; (3) the substitution does not violate any contract provision or state, Tribal, or local procurement laws; and (4) the requested change is within the scope of the controlling Request for Services, including any applicable RFP used in the competitive bidding process). We grant the requests to substitute Form 462-approved 250 Mbps MPLS service for 200 Mbps for Southern Humboldt Community Healthcare District and 25 Mbps MPLS service for 10 Mbps for Mayers Memorial Hospital.

[22] *See Request for Waiver by NTUA Wireless, LLC; Rural Health Care Universal Service Support Mechanism*, WC Docket No. 02-60, Order, 38 FCC Rcd 2045, 2046-47, para. 5 (WCB 2023) (waiving invoice filing deadline pursuant to Commission's discretionary authority in case in which administrator was seriously ill for three months in an unusual set of circumstances, and hardship had affected the participant). The persons in charge of submitting invoices for Preferred Family Healthcare and Primary Care of Southwest Georgia both fell ill and were unable to complete the submissions in time to meet the invoice filing deadline. Due to these circumstances beyond the control of the affected health care providers, we waive the petitioners' invoice filing deadlines and allow them 120 days from the release of this Public Notice to file invoices.

[23] *See Requests for Waiver or Review of Decision of the Universal Service Administrator by Indiana Telehealth Network,* WC Docket No. 02-60, Order, 33 FCC Rcd 12341, 12343, paras. 4-5 (WCB 2018) (denying a waiver of the invoice filing deadline when the petitioner offered "no reason at all" for why the deadline was missed). South Central Telcom missed the deadline to file an invoice for funding year 2022 but offered no explanation or special circumstances warranting a waiver of the invoice filing deadline.

[24] *See e.g.*, *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket No. 02-60, Public Notice, 34 FCC Rcd 3183, 3197-98, n.7 (WCB 2019) (denying petitioner's request for waiver because the petitioner did not submit an appeal regarding the funding decisions to USAC and its deadline to do so had long passed, and petitioner did not articulate special circumstances for waiving the 60-day appeal deadline in its request for waiver); *Requests for Review of Decisions of the Universal Service*

(continued….)

Heart of Texas Region MHMR Center-Fairfield and Charger Access, LLC, TX, Request for Waiver, WC Docket No. 02-60, No Funding Request Number (filed Apr. 18, 2023)

Weeks Medical Center, NH, Request for Waiver, WC Docket No. 02-60, Funding Request No. RHC20220010238 (filed Feb. 22, 2024)

Dismissed

Dismissed as Moot—Appeal Deadline Waiver Request Resolved by USAC[25]

Washington County Mental Health Services, VT, Request for Waiver, WC Docket No. 02-60, Funding Request No. 18453841 (filed May 14, 2021)

Contribution Methodology
WC Docket No. 06-122

Granted

Request for Waiver of Contributions Obligations on Interstate Loop Revenue for 2018-2023 FCC Forms 499-A[26]

(Continued from previous page)

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 (WCB 2010) (denying appeals on the grounds that the petitioners failed to submit their appeals within 60 days as required by the Commission's rules and failed to show special circumstances necessary for the Commission to waive the deadline). Heart of Texas Region MHMR Center-Fairfield and Charger Access received Funding Commitment Letters for 13 sites for funding year 2022 on either July 14, 2022, or August 18, 2022, but did not submit their appeal seeking to add an additional site until April 18, 2023, several months after the 60-day appeal deadline. Weeks Medical Center received a Funding Commitment Letter on March 30, 2023, which it appealed on August 18, 2023, more than two months after the 60-day appeal deadline. Neither party offers any explanation or special circumstances warranting a waiver of the appeal deadline.

[25] *See, e.g., Requests for Review and/or Requests for Waiver of the Decisions of the Universal Service Administrator by Al Noor High School et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 8223, 8224, para. 2 (WCB 2012) (dismissing as moot requests for review where USAC had taken the action the petitioner requested). Washington County Mental Health Services requested a waiver of the 60-day deadline to file an appeal of its commitment adjustment letter issued by USAC on February 26, 2021. After discovering issues related to the delivery of that letter, USAC, at the direction of the Commission, re-issued the commitment adjustment letter. Washington County Mental Health Services timely appealed the re-issued letter on October 19, 2021, which USAC denied on the merits. We dismiss Washington County's Mental Health Services' appeal as moot following USAC's resolution of the matter.

[26] *Universal Service Contribution Methodology, Gtek Computers & Wireless L.L.C., Request for Review and Contingent Request for Waiver and Renewed Request for Review and Contingent Request for Waiver; NextMetro, LLC d/b/a BroadAspect, Request for Review and Request for Waiver of USAC Decision*, Order, WC Docket No. 06-122, 37 FCC Rcd 4990 (WCB 2022) (*Gtek and NextMetro Order*) (finding that petitioners could have reasonably read the Instructions as exempting them from the FCC Form 499-A filing requirements, thus warranting a waiver of the Commission's contributions rules for the years at issue); *see also Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Dockets Nos. 21-93, 06-122, 18-213, Public Notice, 38 FCC Rcd 975 (WCB 2023) (granting request for waiver of contributions obligations on interstate loop revenue for 2023); *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6 et al., Public Notice, 37 FCC Rcd 13997 (WCB 2022) (granting in part Mark Twain's request for waiver of contributions obligations on interstate loop revenue for 2018-2022); *see also Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6 et al., Public Notice, 38 FCC Rcd 975 (WCB 2023) (*2023 Mark Twain Public Notice*) (granting Mark Twain's request for waiver of contributions obligations on interstate loop revenue for 2023).

Breda Telephone Corporation and Prairie Telephone Company, Inc., Joint Request for Waiver, WC Docket No. 06-122 (filed Feb. 20, 2023)

Request for Waiver of Contributions Obligations on Interstate Loop Revenue for 2023 FCC Form 499-A[27]

Webster-Calhoun Cooperative Telephone Association, Request for Waiver, WC Docket No. 06-122 (filed Feb. 24, 2023)

Citizens Telephone Cooperative, Request for Waiver, WC Docket No. 06-122 (filed Mar. 6, 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.

- FCC -

[27] *See Gtek and NextMetro Order*, 37 FCC Rcd at 4996, para. 13 (waiving the Commission's contributions rules because petitioners could have reasonably believed they were exempt from filing the FCC Form 499-A); *2023 Mark Twain Public Notice*, 38 FCC Rcd at 985 (waiving 2023 interstate loop revenue contribution obligations).

Federal Communications Commission
Washington, D.C. 20554

August 27, 2024

DA 24-863
In Reply Refer to:
1800B3-RFS

UM Enterprise, LLC
c/o John C. Trent , Esq .
Putbrese Hunsaker & Trent, P.C.
200 South Church Street
Woodstock, VA 22664

Charles A Hecht
Technical Consultant
Charles A Hecht & Associates, Inc.
19 Mackenzie Ct
Freehold, NJ 07728

Re: WTOF(AM), Bay Minette, AL
Fac. ID No. 24653
File No: 0000243353

Dear Counsel:

This letter refers to the minor change application (the "Application") of UM Enterprise, LLC (UM Enterprise), licensee of AM station WTOF, 1110 kHz, Bay Minette, Alabama. The Application proposes a community of license modification for WTOF, 1110 kHz, from Bay Minette, Alabama, to Spanish Fork, Alabama, a community located within the Fairhope—Daphne, AL Urbanized Area (UA).[1] For the reasons discussed below, we request an amendment to the Application.

Background. The Application was filed pursuant to section 73.3571(j) of the Commission's rules, which sets forth the requirements for modification of an AM station license to specify a new community of license without providing an opportunity for competing expressions of interest. Among other requirements, an applicant for such a minor modification must demonstrate that the proposed change of community constitutes a preferential arrangement of allotments.[2] We make this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures.*[3] In support of

[1] UM Enterprise states that WTOF is a Class D station, licensed to operate daytime hours only, utilizing a non-directional antenna system with power of 10 kilowatts daytime and 2.5 kilowatts during critical hours. The purpose of this Application is to relocate the transmitter site to the WXQW(AM) site and diplex with WXQW. WTOF proposes to operate on a daytime only basis utilizing a non-directional antenna system with power of 10 kilowatts daytime and 2.2 kilowatts during critical hours. *See* Comprehensive Engineering Exhibit at 2.

[2] *See* 47 C.F.R. § 73.3571(j). *See also Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License"),* Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part,* Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

[3] *Revision of FM Assignment Policies and Procedures,* Second Report and Order, 90 FCC 2d 88 (1982). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

the Application, UM Enterprise claims that the WTOF community of license modification from Bay Minette, Alabama, to Spanish Fort, Alabama is considered an intra-urbanized area proposal since both communities are located within the Mobile, Alabama metropolitan area market.[4]

Discussion. A staff engineering analysis concludes that Bay Minette is not part of any UA while Spanish Fort is located within the Fairhope—Daphne, AL UA.[5] Moreover, the existing facility does not cover any UA whereas the proposed facility covers 98.4% of the Fairhope—Daphne, AL UA and 52% of the Mobile, AL UA utilizing the 2 mV/m contour.[6] The staff engineering analysis indicates that the proposal results in a net population gain of 278,615 persons. The gain area is considered well-served by at least 20 aural reception services while the loss area is considered well-served by at least 16 aural reception services.

Consistent with our *Rural Radio* policies,[7] we find that the community of license modification is considered a rural to urban move into the Fairhope—Daphne, AL and Mobile, AL UAs.[8] In the *Rural Radio* proceeding, the Commission established a rebuttable presumption applicable when a station's proposed community is located within an urbanized area or the station could, through a minor modification application, cover fifty percent or more of an urbanized area. In such cases, we will treat the application as a proposal to serve the entire urbanized area, rather than as a proposal for local service to the proposed named community of license. Applicants may seek Priority (3) status by submitting evidence to rebut the urbanized area service presumption (UASP) established in *Rural Radio*. Such evidence must constitute "a compelling showing (1) that the proposed community is truly independent of the urbanized area, (2) of the community's specific need for an outlet for local expression separate from the urbanized area and (3) the ability of the proposed station to provide that outlet."[9] The required compelling showing may be based on the existing three-pronged *Tuck* test to demonstrate independence,[10] but "the *Tuck* factors, especially the eight-part test of independence, will be more rigorously scrutinized than has sometimes been the case in

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[4] *See* Comprehensive Engineering Exhibit at 4.

[5] Bay Minette (2020 US Census population of 8,107 persons) and Spanish Fort (2020 US Census population of 10,049 persons).

[6] *See* 47 CFR § 73.182(d). Both communities are larger than 2,500 persons. Pursuant to this rule section, the signal strength required for primary groundwave service is 0.5 mV/m for communities under 2,500 population, and 2.0 mV/m for communities of 2,500 or more. Consequently, communities with populations of 2,500 or more, situated between the 2.0 mV/m and 0.5 mV/m groundwave contours, are not considered to receive service from the AM station or proposal in question.

[7] *See Policies to Promote Rural Radio Service and to Streamline Allotment an Assignment Procedures,* Second Report and Order, First Order On Reconsideration, and Second Further Notice of Proposed Rule Making, 26 FCC Rcd 2556, 2575-77, 2772, ¶ ¶ 30, 35, 38, and n.97 (2011) ("*Rural Radio*"); *recon granted in part and denied in part, Policies to Promote Rural Radio Service and to Streamline Allotment and Assignment Procedures,* Second Order on Reconsideration*,* 27 FCC Rcd 12829 (2012).

[8] *Rural Radio* at 2577, ¶ 38.

[9] *Rural Radio* at 2572, ¶ 30.

[10] *See Faye and Richard Tuck, Inc.,* Memorandum Opinion and Order, 3 FCC Rcd 5374, 5378 (1978) ("*Tuck*") (establishing eight factors to determine whether a suburban community is independent of a nearby central city).

the past." In addition to demonstrating independence, a compelling showing requires evidence of the community's need for an outlet for local expression separate from the urbanized area.[11]

Absent a compelling showing, the proposal would be evaluated under the Commission's allotment priorities pursuant to Priority (4), other public interest matters.[12] Under Priority (4), we take into account, transmission services, reception services, population gains, and other information relevant to the public interest. To satisfy the requirements of Priority (4) of the Commission's allotment priorities, further information regarding the public interest must be submitted. Specifically, Applicants need to submit an explanation as to how the proposal advances the revised Section 307(b) priorities. In addition to the required information, the Section 307(b) showing may include any information pertinent to the public interest.[13]

Accordingly, we evaluate the Application under Priority (4). In applying the Commission's allotment priorities, as clarified in the *Rural Radio*, Bay Minette currently has two local services while Spanish Fort is within the Fairhope—Daphne, AL UA that already has numerous local AM and FM stations. Absent a compelling showing, the proposed community of license modification is considered a proposal under Priority (4), serving the Fairhope—Daphne, AL UA in lieu of the community of Spanish Fort, and it does not satisfy Priority (3) of the Commission's allotment priorities, first local service. Under Priority (4), the Commission strongly disfavors removing a second local service to a community larger than 7,500 persons when determining whether a proposed community of license change represents a preferential arrangement of allotments or assignments.[14] We therefore conclude that the retention of a second local service at Bay Minette, a community larger than 7,500 persons, is preferred over an additional service to Fairhope—Daphne, AL UA under Priority (4).

Conclusion. For the reasons discussed above, we request an amendment to the Application to provide additional evidence sufficient to establish that the proposed community of license modification constitutes a preferential arrangement of allotments, as set forth in *Revision of FM Assignment Policies and Procedures,* and further clarified in *Rural Radio*.

[11] *Rural Radio* at 2573, ¶ 30.

[12] *Revision of FM Assignment Policies and Procedures* at n. 3.

[13] *Rural Radio, supra* at 2577, ¶¶ 38 and 39.

[14] *Rural Radio, supra* at 2578, ¶ 39.

Further action on the subject application will be withheld for a period of thirty days from the date of this letter to provide the applicant an opportunity to respond. Furthermore, failure to respond within 30 days will result in the dismissal of the application pursuant to section 73.3568.[15]

Sincerely,

Nazifa Sawez
Assistant Chief
Audio Division
Media Bureau

[15] 47 CFR § 73.3568.

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

In re Application of	)	
	)	
Cobra Broadcasting, LLC - KBRA	)	Facility ID No. 72766
	)	NAL/Acct. No. MB-202441410015
For Renewal of License for	)	FRN: 0013207287
Station KBRA(FM)	)	File No. 0000153357
Freer, Texas	)	

MEMORANDUM OPINION AND ORDER
AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 27, 2024 **Released: August 27, 2024**

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it the Application[1] of Cobra Broadcasting, LLC - KBRA (Licensee) for renewal of its license for Station KBRA(FM), Freer, Texas (Station). In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)*,[2] we find that Licensee apparently willfully violated section 73.3539[3] of the Commission's rules (Rules) by failing to file a timely license renewal application for the Station. Based upon our review of the facts and the record before us, we conclude that Licensee is apparently liable for a monetary forfeiture in the amount of three thousand dollars ($3,000).

II. BACKGROUND

2. Section 73.3539(a) of the Rules requires that applications for renewal of license for broadcast stations must be filed "not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed."[4] An application for the renewal of the Station's license should have been filed by April 1, 2021, the first day of the fourth full calendar month prior to the Station's August 1, 2021, license expiration date.[5] The Application was not filed until July 19, 2021. The Licensee provides no explanation for its untimely filing of the Application.

[1] Application File No. 0000153357 (filed July 19, 2021) (Application).

[2] This *NAL* is issued pursuant to sections 309(k) and 503(b) of the Communications Act of 1934, as amended (Act), and section 1.80 of the 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 Commission's rules. *See* 47 CFR § 0.283.

[3] *See* 47 CFR § 73.3539.

[4] 47 CFR § 73.3539(a).

[5] *See* 47 CFR §§ 73.1020, 73.3539(a).

III. DISCUSSION

3. *Proposed Forfeiture*. In this case, the Licensee failed to file the Application on or before April 1, 2021, as required by section 73.3539(a) of the Rules. The Application was not received until July 19, 2021. Moreover, as noted above, Licensee did not provide an explanation for the late filing.

4. This *NAL* is issued pursuant to section 503(b)(1)(B) of the Act. Under that provision, 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.[6] 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.[7] 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,[8] and the Commission has so interpreted the term in the section 503(b) context.[9]

5. The Commission's *Forfeiture Policy Statement* and section 1.80(b)(11) of the Rules establish a base forfeiture amount of $3,000 for the failure to file a required form.[10] 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."[11]

6. In this case, the Licensee failed to file a timely renewal application for the Station and has not provided any explanation for its untimely filing. However, the Licensee did file the Application prior to the expiration of the Station's license. Taking into consideration all of the factors required by section 503(b)(2)(E) of the Act and the Forfeiture Policy Statement, we propose a forfeiture for the full $3,000 amount for the failure to file a timely renewal application.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and sections 0.61, 0.204, 0.283, and 1.80 of the Commission's rules, 47 CFR §§ 0.61, 0.204, 0.283, and 1.80, that Cobra Broadcasting, LLC - KBRA, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of three thousand dollars ($3,000) for its apparent willful violation of section 73.3539 of the Commission's rules.

8. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) days of the release date of this ***NAL***, Cobra Broadcasting, LLC - KBRA, **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. 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),[12] or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted**. Upon payment,**

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[6] 47 U.S.C. § 503(b)(1)(B). *See also* 47 CFR § 1.80(a)(1).

[7] 47 U.S.C. § 312(f)(1).

[8] *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

[9] *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).

[10] *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); 47 CFR § 1.80(b)(11), note to paragraph (b)(11), Section I.

[11] 47 U.S.C. § 503(b)(2)(E); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100; 47 CFR § 1.80(b)(11).

[12] Payments made using CORES do not require the submission of an FCC Form 159.

Cobra Broadcasting, LLC - KBRA must send notice that payment has been made to Alexander.Sanjenis@fcc.gov and Ariane.Rangel@fcc.gov. Below are instructions that payors should follow based on the form of payment selected:[13]

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed FCC 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).[14] 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/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 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/cores/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.

10. The written response 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(g)(3) of the Rules, 47 CFR §§ 1.16 and 1.80(g)(3). The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, Alexander Sanjenis and **MUST INCLUDE** the NAL/Acct. No. referenced above. **A copy must also be emailed to Alexander.Sanjenis@fcc.gov and Ariane.Rangel@fcc.gov to assist in processing the response.**

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

[13] 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.

[14] Instructions for completing the form may be obtained at https://www.fcc.gov/Forms/Form159/159.pdf.

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.[15]
- 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.

11. 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 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 47 U.S.C. § 503(b)(2)(E) support that result.[16]

12. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director-Financial Operations, 45 L Street, NE, Washington, DC 20554.[17] Requests can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service in the manner specified above. A copy of the request must also be sent to **Alexander.Sanjenis@fcc.gov and Ariane.Rangel@fcc.gov**. 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.

13. **IT IS FURTHER ORDERED**, that a copy of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Cobra Broadcasting, LLC - KBRA, c/o William Fulgham, CEO, 850 Brandon Ave., Jackson, MS 39209.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau

[15] Hand-delivered or messenger delivered paper filings continue to NOT be accepted at FCC Headquarters.

[16] *See, e.g.*, *Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44–45 (2018).

[17] *See* 47 CFR § 1.1914.

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j),	)	MB Docket No. 24-153
Table of Allotments, Television Broadcast	)	RM-11983
Stations (Augusta, Georgia)	)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: August 27, 2024 **Released: August 27, 2024**

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking[1] issued in response to a Petition for Rulemaking filed by Gray Television Licensee, LLC (Gray), the licensee of WRDW-TV (Station or WRDW-TV), Augusta, Georgia (Augusta).[2] Gray requests amendment of the Table of TV Allotments[3] to substitute channel 12 for channel 27. Gray filed comments in support of the Petition, as required by the Commission's rules (rules), reaffirming its interest in the proposed channel substitution and that it will promptly file an application seeking authorization on channel 12.[4] No other comments were received.

2. We conclude that the public interest would be served by substituting channel 12 for channel 27 at Augusta. On May 15, 2021, the Bureau granted a petition for rulemaking submitted by Gray to substitute channel 27 for channel 12 at Augusta for WRDW-TV.[5] Gray was also granted a construction permit to construct a facility on channel 27 at Augusta, but was unable complete construction of the channel 27 facility by the expiration date – June 25, 2024.[6] Thus, Gray requests amendment of the Table of TV Allotments to allow it to continue to operate pursuant to the parameters of its current license on channel 12,[7] and the substitution of channel 12 for channel 27 in the TV Table of Allotments will allow the Station to remain on the air and continue to provide service to viewers within its service area.[8]

3. Gray proposes to utilize its currently licensed parameters and as such we find that channel 12 can be substituted for channel 27 at Augusta as proposed, in compliance with the principal

[1] *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Augusta, Georgia)*, MB Docket No. 24-153, Notice of Proposed Rulemaking, DA 24-559 (MB June 16, 2024).

[2] Petition of Gray Television Licensee, LLC for Rulemaking (filed June 7, 2024) and on file at LMS File No. 00000000245959 (Petition).

[3] 47 CFR § 73.622(j).

[4] Comments of Gray Television Licensee, LLC (rec. July 12, 2024) at 1-2 (Comments). *See also* 47 CFR §§ 1.415, 1.419; *Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

[5] *See Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Augusta, Georgia)*, MB Docket No. 21-49, Report and Order, 36 FCC Rcd 8174 (MB 2021).

[6] LMS File No. 0000150357.

[7] CDBS File No. BLCDT-20090227ABQ.

[8] Petition at 2; Comments at 1.

community coverage requirements of section 73.618(a) of the rules,[9] at coordinates 33-24'-37" N. and 081-50'-36.0" W. In addition, we find that this channel substitution meets the technical requirements set forth in section 73.622(a) of the rules.[10] Accordingly, we will substitute channel 12 for channel 27 with the following specifications:

City and State	Channel	Power (kW)	Antenna HAAT (m)	Service Pop.
Augusta, Georgia	12	20.2	483.6	1,564,584

4. Pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b), and 0.283 of the rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED** that, effective 30 days after the date of publication of this Report and Order in the Federal Register, the Table of TV Allotments, section 73.622(j) of the Commission's rules, 47 CFR § 73.622(j), **IS AMENDED**, with respect to the community listed below, to read as follows:

City and State	Channel No.
Augusta, Georgia	12, 28, 36

5. **IT IS FURTHER ORDERED** that, within 10 days of the effective date of this Report and Order, Gray Television Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 12.

6. **IT IS FURTHER ORDERED** that, pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

7. **IT IS FURTHER ORDERED** that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 24-153 and RM-11983 **SHALL BE TERMINATED** and its docket closed.

8. For further information concerning the proceeding listed above, contact Joyce Bernstein, Video Division, Media Bureau, at Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[9] 47 CFR § 73.618(a) (formerly § 73.623(c)(1)).

[10] 47 CFR § 73.622(a) (formerly §§ 73.616 and 73.623).

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 24-866
August 28, 2024

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES REGION 14 (INDIANA) 700 MHz AND 800 MHz REGIONAL PLANNING COMMITTEES TO HOLD MEETINGS

PS Docket No. 23-237 and WT Docket 02-378

The Region 14 700 MHz and 800 MHz Regional Planning Committees (RPCs) will hold two consecutive RPC meetings on Thursday, September 19, 2024. Beginning at 10:30 AM (EDT), the Region 14 700 MHz RPC meeting will convene via Microsoft TEAMS. The Region 14 800 MHz RPC meeting will convene immediately following the conclusion of the 700 MHz RPC meeting. The purpose of the meetings is to adhere to our regular meeting schedule and continue to revise by-laws and standard operating procedures as the members request.

- To participate via Microsoft TEAMS, click link below:
  - **Join the meeting now**
  - Meeting ID: 269 396 396 47
  - Passcode: Ziuvm2
- **Dial in by phone**
  - +1 317-552-1674,,340999802#; Phone conference ID: 340 999 802#
- **Join on a video conferencing device**
  - Tenant key: indiana@m.webex.com
  - Video ID: 113 789 146 6
  - For organizers: Meeting options | Reset dial-in PIN

The Region 14 RPC meetings are open to the public. All public safety providers in Region 14 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 14 should plan to attend. For further information, please contact:

Larry Turner
IPSC Connection Center (ICC)
Integrated Public Safety Commission
100 N. Senate Avenue, N825
Indianapolis IN 46204
PH: 317-234-1540
Email: ICC@ipsc.in.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 24-867
Released: August 27, 2024

WIRELINE COMPETITION BUREAU SEEKS NOMINATIONS FOR EIGHT BOARD MEMBER POSITIONS ON THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY BOARD OF DIRECTORS

CC Docket Nos. 96-45, 97-21

Nominations Due By: October 28, 2024

Pursuant to section 54.703(c) of the Federal Communications Commission's rules, the Wireline Competition Bureau (Bureau) seeks nominations for the following Board member positions on the Board of Directors of the Universal Service Administrative Company (USAC) listed below for a three-year term.[1] In addition to the six positions that are expiring as a matter of course at the end of this year, the Commission also seeks nominations for two additional vacancies resulting from a resignation and carryover vacancy of USAC Board members.

- Representative for interexchange carriers with annual operating revenues of more than $3 billion (position currently held by Alan Buzacott, Executive Director of Federal Regulatory Affairs, Verizon Communications, Inc.)
- Representative for rural health care providers that are eligible to receive supported services under section 54.601 of the Commission's rules (position currently held by Brent Fontana, Senior Manager, Amazon Web Services)
- Representative for state telecommunications regulators (position currently held by Sarah Freeman, Commissioner, Indiana Utility Regulatory Commission)
- Representative for incumbent local exchange carriers (non-Bell Operating Companies) with more than $40 million in annual revenues (position currently held by Kenneth F. Mason)
- Representative for schools that are eligible to receive discounts pursuant to section 54.501 of the Commission's rules (position currently held by Julie Tritt Schell, State E-Rate Coordinator, Pennsylvania Department of Education)
- Representative for schools that are eligible to receive discounts pursuant to section 54.501 of the Commission's rules (position currently held by Dr. Daniel A. Domenech, Executive Director, American Association of School Administrators)[2]

[1] 47 CFR § 54.703(c).

[2] Dr. Domenech tendered his resignation from the USAC Board of Directors effective December 31, 2024. *See* Letter from Radha Sekar, Chief Executive Officer, Universal Service Administrative Company to Trent Harkrader, Chief, Wireline Competition Bureau and Mark Stephens, Managing Director, Office of Managing Director, Federal Communications Commission, CC Docket Nos. 96-45, 97-21 (Aug. 12, 2024) (attaching letter of resignation of Dr.

(continued….)

- Representative for information service providers (position currently held by Olivia Wein, Senior Attorney, National Consumer Law Center)
- Representative for interexchange carriers with annual operating revenues of $3 billion or less (position currently held by Michael Skrivan)[3]

We are persuaded that having Board members with substantive areas of expertise relevant to running a large and complex organization with such skills as accounting, finance, auditing, procurement, data management and information technology will improve the management, administration and oversight of USAC. If members of the relevant industry or non-industry group fail to reach consensus on a candidate to serve on the Board, or fail to submit a nomination for the particular Board member seat, the Chair of the Federal Communications Commission will select an individual from that industry or non-industry group to serve on the Board as outlined in section 54.703(c)(1).[4]

Pursuant to section 54.703(c)(2) of the Commission's rules, each nomination must be captioned: **"In the Matter of: Nomination for Universal Service Administrative Company Board of Directors, CC Docket Nos. 97-21 and 96-45."**[5] Nominations may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.

- 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.
    - 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, N.E., 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), 202-418-0432 (TTY).

In addition to the electronic or paper filing, copies of each nomination should be submitted to Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, via email Charles.Tyler@fcc.gov. Each nomination should specify the position on the Board of Directors for which such nomination is submitted and should be accompanied by the nominee's professional and biographical information, such as a résumé or professional biography. **All nominations must be filed with the Office of the Secretary by October 28, 2024.**

(Continued from previous page)
Domenech). Pursuant to section 54.703(c) of the Commission's rules, we solicit nominations to fill the remainder of Dr. Domenech's term, which expires on December 31, 2025.

[3] The Commission sought nominations for this position in 2023 but did not receive any. Consistent with section 54.703(c) of the Commission's rules and USAC Bylaws, the incumbent, Michael Skrivan, has continued to serve pending selection of a replacement. Nominations are again invited for this position, which would expire on December 31, 2026.

[4] 47 CFR § 54.703(c)(1).

[5] 47 CFR § 54.703(c)(2).

For further information, please contact Sherry Ross (Sherry.Ross@fcc.gov), Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-1529.

- 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 24-868
Released: September 5, 2024

WIRELESS TELECOMMUNICATIONS BUREAU REFRESHES RECORD ON PERFORMANCE STANDARDS FOR MARITIME RADIOCOMMUNICATIONS EQUIPMENT LISTED IN PART 80 OF THE COMMISSION'S RULES

RM-11765

Comments Due: October 21, 2024
Reply Comments Due: November 4, 2024

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) seeks to refresh the record in this proceeding, with respect to updating the performance standards for maritime radiocommunications equipment incorporated by reference in part 80 of the Commission's rules. Specifically, the Bureau seeks comment on which performance standards need updating and, if an update is recommended, to what standard. A list of the performance standards currently incorporated in part 80 is provided in the Appendix to this Public Notice.

In February 2016, the Radio Technical Commission for Maritime Services (RTCM) filed a Petition for Rulemaking (RTCM Petition) which requested, among other changes, an update to the performance standards and recommendations incorporated in the Commission's rules.[1] The Bureau subsequently issued a Public Notice, seeking public comment on the RTCM Petition.[2] The Bureau notes, however, that several performance standards have been updated since the RTCM Petition and associated comments were submitted. For instance, the Bureau issued a Public Notice on July 15, 2024, notifying the public that the International Maritime Organization (IMO) has updated performance standards associated with various Global Maritime Distress and Safety System (GMDSS) radiocommunications equipment.[3] Accordingly, the Bureau seeks to refresh the record in this proceeding to ensure consideration of the latest version of performance standards referenced in part 80.

[1] Petition of the Radio Technical Commission for Maritime Services for Rulemaking (filed Feb. 16, 2016), https://www.fcc.gov/ecfs/document/60001428341/2 and https://www.fcc.gov/ecfs/document/60001428341/1 (RTCM Petition).

[2] *Wireless Telecommunications Bureau Seeks Comment on Radio Technical Commission for Maritime Services Petition for Rulemaking to Update Part 80 of the Commission's Rules*, RM-11765, Public Notice (WTB 2016).

[3] In June 2019 and April 2022, the IMO updated the performance standards for the following GMDSS radiocommunications equipment: emergency position-indicating radio beacons, maritime safety information and search and rescue related information transmitted by medium frequency (MF) (NAVTEX) and high frequency (HF) radios, search and rescue radar transponders, shipborne very high frequency (VHF) radio installations capable of voice communication and digital selective calling, shipborne MF and MF/HF radio installations, Inmarsat-C ship earth stations, survival craft portable two-way VHF radiotelephone apparatus, aeronautical portable two-way VHF radiotelephone apparatus, and shipborne integrated communication systems. *See Wireless Telecommunications Bureau Highlights Recent Amendments to the International Convention for the Safety of Life at Sea, 1974, Affecting Compulsory Vessels and Vessel Inspectors*, DA 24-682, Public Notice (WTB 2024).

To the extent commenters believe a reference to a standard in our rules should be updated, we ask them to identify: (1) the name of the standard, (2) the specific updated version of the standard that commenters recommend the Commission incorporate into its rules, (3) the rule section(s) where the standard appears, (4) the element(s) of the standard which have been modified from the version currently referenced in part 80, (5) the costs and benefits of referencing the updated standard, (6) the class(es) of vessel to which the standard should apply, (7) implementation challenges (e.g., backwards compatibility, transition timing, equipment update methods), and (8) how updating the standard would serve the public interest.

Further, the Bureau seeks comment on whether the current organization of part 80 aids in the understanding of, compliance with, and updating of performance standards. For example, the RTCM Petition included proposed revisions to section 80.7 that RTCM stated would "allow [for the] updating of all standards referenced in [p]art 80 to be accomplished in [section 80.7] only."[4] RTCM continued that its proposed revision "is intended to simplify the rulemaking process necessary whenever the standards incorporated in this [p]art are routinely updated . . . and to enable these references to be kept up to date."[5] Thus, the Bureau seeks comment on how it should organize part 80 to allow for an expedient incorporation of future updated performance standards. How would referencing all standards in a single rule section impact licensees' use and understanding of the rules and relevant standards?

For consistency, the Bureau has not opened a new docket, but has retained docket number RM-11765.[6] Accordingly, parties should file all comments and reply comments in docket number RM-11765.

Procedural Matters

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).

- 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 hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

[4] RTCM Petition, at 23.

[5] *Id*.

[6] FCC, *Electronic Comment Filing System* (*ECFS)*, https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%22RM-11765%22)+AND+RTCM+AND+date_received:%5b2016-01-01%20TO%202016-12-31%5d) (last visited on Sept. 3, 2024).

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).

Additional Information: For further information regarding this Public Notice, please contact Kathleen Curameng by telephone at 571-435-9424 or by e-mail at Kathleen.Curameng@fcc.gov.

By the Chief, Mobility Division, Wireless Telecommunications Bureau.

- FCC -

APPENDIX
List of Performance Standards

The International Maritime Organization (IMO)	***The International Telecommunication Union (ITU)***	***The International Electrotechnical Commission (IEC)***
IMO Resolution A.525(13)	ITU-R Recommendation M.476-5	IEC 60092-101:1994 + A1:1995
IMO Maritime Safety Committee (MSC) Resolution MSC.148(77)	ITU-R Recommendation M.492-6	IEC 60533:1999(E)
IMO Assembly Resolution A.662(16)	ITU-R Recommendation M.493-13	IEC 60945:2002
IMO Assembly Resolution A.664(16)	ITU-R Recommendation M.540-2	IEC 61097-1:2007(E)
IMO Resolution A.694(17)	ITU-R Recommendation M.541-9	IEC 61097-3:1994
IMO Resolution MSC.149(77)	ITU-R Recommendation M.625-3	IEC 61097-4
IMO Assembly Resolution A.700(17)	ITU-R Recommendation M.628-4	IEC 61097-6:2005(E)
IMO Assembly Resolution A.801(19) Appendix 13, Annex 5	ITU-R Recommendation M.633-3	IEC 61097-7:1996
IMO Assembly Resolution A.802(19)	ITU-R Recommendation M.824-3	IEC 61097-8:1998(E)
IMO Resolution MSC.247(83)	ITU-R Recommendation M.1177-3	IEC 61097-9:1997(E)
IMO Assembly Resolution A.803(19)	ITU-R Recommendation M.1371-3	IEC 61097-10:1999(E)
IMO Resolution MSC.68(68)	ITU-T Recommendation E.161	IEC 61097-12:1996(E)
IMO Assembly Resolution A.804(19)	ITU-T Recommendation E.164.1	IEC 61097-13:2003(E)
IMO Assembly Resolution A.806(19)		IEC 61097-14
IMO Assembly Resolution A.807(19)	***The International Organization for Standardization (ISO)***	IEC 61162-1:2007(E)
IMO Assembly Resolution A.808(19)	ISO Standard 3791	IEC 61993-2:2001(E)
IMO Assembly Resolution A.809(19)		IEC 62238:2003(E)
IMO Assembly Resolution A.810(19)	***The Radio Technical Commission for Maritime Services (RTCM)***	IEC 62287-1:2006(E)
IMO Resolution MSC.56(66)	RTCM Paper 56-95/SC101-STD	IEC 62388
IMO Resolution MSC.120(74)	RTCM Standard 11000.3	
IMO Assembly Resolution A.811(19)	RTCM Standard 11020.1	
IMO Assembly Resolution A.1001(25)	RTCM Standard 12301.1	
IMO Resolution MSC.74(69)		
IMO Resolution MSC.80(70)		
IMO Resolution MSC.191(79)		
IMO Resolution MSC.192(79)		
IMO Circular MSC/Circ.1040		
IMO Resolution MSC.246(83)		
IMO Resolution MSC.A.525(13)		
IMO Resolution A.569(14)		

The International Maritime Organization (IMO)

The International Maritime Organization (IMO)	***Part 80 Regulations Affected***	***Radiocommunication Equipment***
IMO Resolution A.525(13)	§§ 80.7, 80.1101	Narrow Band Direct Printing Telegraph Equipment, NAVTEX
IMO Maritime Safety Committee (MSC) Resolution MSC.148(77)	§§ 80.7, 80.905, 80.1101	Narrow Band Direct Printing Telegraph Equipment, NAVTEX
IMO Assembly Resolution A.662(16)	§§ 80.7, 80.1101	Float-Free Release and Activation Arrangements for Emergency Radio Equipment
IMO Assembly Resolution A.664(16)	§ 80.7	Enhanced Group Call Equipment
IMO Resolution A.694(17)	§§ 80.7, 80.273, 80.1101	Shipborne Radio Equipment, GMDSS
IMO Resolution MSC.149(77)	§§ 80.7, 80.273, 80.1101	Two-Way VHF Radiotelephone Apparatus
IMO Assembly Resolution A.700(17)	§§ 80.7, 80.1101	Narrow Band Direct Printing Telegraph Equipment, HF, MF/HF Radio Equipment
IMO Assembly Resolution A.801(19)	§§ 80.7, 80.1091	GMDSS, INMARSAT Shore-Based Facilities
IMO Assembly Resolution A.802(19)	§§ 80.7, 80.1101	Survival Craft Radar Transponders
IMO Resolution MSC.247(83)	§§ 80.7, 80.1101	Survival Craft Radar Transponders
IMO Assembly Resolution A.803(19)	§§ 80.7, 80.1101	Shipborne VHF Radio Installations, Voice and DSC
IMO Resolution MSC.68(68)	§§ 80.7, 80.1101	Shipborne Radiocommunications Equipment
IMO Assembly Resolution A.804(19)	§§ 80.7, 80.1101	Shipborne MF Radio Installations, Voice and DSC
IMO Assembly Resolution A.806(19)	§§ 80.7, 80.1101	Shipborne MF/HF Radio Installations, Voice, Narrow-Band Direct Printing, and DSC
IMO Assembly Resolution A.807(19)	§§ 80.7, 80.1101	INMARSAT-C Ship Earth Stations, Direct-Printing Communications
IMO Assembly Resolution A.808(19)	§§ 80.7, 80.1101	Ship Earth Stations Capable of Two-Way Communications
IMO Assembly Resolution A.809(19)	§§ 80.7, 80.1101	Two-Way VHF Radiotelephone Apparatus
IMO Assembly Resolution A.810(19)	§§ 80.7, 80.1101	Float-Free Satellite EPIRB
IMO Resolution MSC.56(66)	§§ 80.7, 80.1101	Float-Free Satellite EPIRB
IMO Resolution MSC.120(74)	§§ 80.7, 80.1101	Float-Free Satellite EPIRB

IMO Assembly Resolution A.811(19)	§§ 80.7, 80.1083	Shipborne Integrated Radiocommunication System
IMO Assembly Resolution A.1001(25)	§§ 80.7, 80.1091	Mobile Satellite Communication Systems in the GMDSS, INMARSAT
IMO Resolution MSC.74(69)	§§ 80.7, 80.1101	Universal Shipborne AIS
IMO Resolution MSC.80(70)	§§ 80.7, 80.1101	Radio Communications Equipment, Two-Way VHF Radiotelephone
IMO Resolution MSC.191(79)	§§ 80.7, 80.273, 80.1101	Shipborne Navigational Displays, Shipboard Radar
IMO Resolution MSC.192(79)	§§ 80.7, 80.273, 80.1101	Radar Equipment, Shipboard Radar
IMO Circular MSC/Circ.1040	§§ 80.7, 80.1085	Satellite EPIRB
IMO Resolution MSC.246(83)	§§ 80.7, 80.233	AIS-SART
IMO Resolution MSC.A.525(13)	§§ 80.7, 80.905, 80.1101	NAVTEX, Narrow-Band Direct Printing Telegraph
IMO Resolution A.569(14)	§ 80.1105	Shipborne Radio Equipment, GMDSS

The International Telecommunication Union (ITU)

The International Telecommunication Union (ITU)	***Part 80 Regulations Affected***	***Radiocommunication Equipment***
ITU-R Recommendation M.476-5	§§ 80.7, 80.207, 80.219, 80.225	Direct Printing Telegraph Equipment
ITU-R Recommendation M.492-6	§§ 80.7, 80.142	Direct Printing Telegraph Equipment
ITU-R Recommendation M.493-13	§§ 80.5, 80.7, 80.179, 80.225, 80.1101, 80.1113	Digital Selective Calling (DSC)
ITU-R Recommendation M.540-2	§§ 80.7, 80.905, 80.1101, 80.1135	Automated Direct Printing Telegraph
ITU-R Recommendation M.541-9	§§ 80.5, 80.7, 80.103, 80.179, 80.225, 80.359, 80.1101, 80.1113, 80.1117	DSC
ITU-R Recommendation M.625-3	§§ 80.7, 80.207, 80.225, 80.1125, 80.1127, 80.1131, 80.1133	Direct Printing Telegraph Equipment Employing Automatic Identification
ITU-R Recommendation M.628-4	§§ 80.7, 80.1101, 80.1129	Search and Rescue Transponder
ITU-R Recommendation M.633-3	§§ 80.7, 80.1101	Satellite EPIRB
ITU-R Recommendation M.824-3	§§ 80.7, 80.605	Radar Beacons
ITU-R Recommendation M.1177-3	§§ 80.7, 80. 273, 80.1101	Radar Systems
ITU-R Recommendation M.1371-3	§§ 80.7, 80.1101	Automatic Identification System (AIS)
ITU-T Recommendation E.161	§ 80.7	International Operation--Numbering Plan of the International Telephone Service
ITU-T Recommendation E.164.1	§§ 80.7, 80.1101	International Operation--Numbering Plan of the International Telephone Service

The International Electrotechnical Commission (IEC)

The International Electrotechnical Commission (IEC)	***Part 80 Regulations Affected***	***Radiocommunication Equipment***
IEC 60092-101:1994 + A1:1995	§§ 80.7, 80.1101	Electrical Installation in Ships
IEC 60533:1999(E)	§§ 80.7, 80.1101	Electrical and Electronic Installation in Ships
IEC 60945:2002	§§ 80.7, 80.1101	Maritime Navigation and Radiocommunications Equipment and Systems--General Requirements
IEC 61097-1:2007(E)	§§ 80.7, 80.1101	Search and Rescue Transponder (SART)
IEC 61097-3:1994	§§ 80.7, 80.1101	Digital Selective Calling (DSC)
IEC 61097-4	§§ 80.7, 80.1101	INMARSAT-C Ship Earth Station and INMARSAT Enhanced Group Call
IEC 61097-6:2005(E)	§§ 80.7, 80.1101	Narrowband Direct-Printing Telegraph Equipment, NAVTEX
IEC 61097-7:1996	§§ 80.7, 80.1101	Shipborne VHF Radiotelephone Transmitter and Receiver
IEC 61097-8:1998(E)	§§ 80.7, 80.1101	Shipborne Watchkeeping Receivers, MF-DSC, MF/HF-DSC, VHF-DSC
IEC 61097-9:1997(E)	§§ 80.7, 80.1101	Shipborne Transmitters and Receivers for Use in the MF and HF bands suitable for telephony, DSC, and narrow band direct printing
IEC 61097-10:1999(E)	§§ 80.7, 80.1101	INMARSAT-B Ship Earth Station Equipment
IEC 61097-12:1996(E)	§§ 80.7, 80.1101	Two-Way VHF Radiotelephone Apparatus
IEC 61097-13:2003(E)	§§ 80.7, 80.1101	INMARSAT F77 Ship Earth Station Equipment
IEC 61097-14	§§ 80.7, 80.233	Automatic Identification System (AIS)-SART
IEC 61162-1:2007(E)	§§ 80.7, 80.1101	Digital Interfaces
IEC 61993-2:2001(E)	§§ 80.7, 80.1101	AIS
IEC 62238:2003(E)	§§ 80.7, 80.225, 80.273	VHF Radiotelephone Equipment Incorporating Class "D" DSC
IEC 62287-1:2006(E)	§§ 80.7, 80.231	Class B Shipborne Equipment of the AIS
IEC 62388	§§ 80.7, 80.1101	Shipborne Radar

The International Organization for Standardization (ISO)

The International Organization for Standardization (ISO)	*Part 80 Regulations Affected*	*Radiocommunication Equipment*
ISO Standard 3791	§§ 80.7, 80.1101	Office Machines and Data Processing Equipment

The Radio Technical Commission for Maritime Services (RTCM)

The Radio Technical Commission for Maritime Services (RTCM)	***Part 80 Regulations Affected***	***Radiocommunication Equipment***
RTCM Paper 56-95/SC101-STD	§§ 80.7, 80.225	Digital Selective Calling
RTCM Standard 11000.3	§§ 80.7, 80.1061	406 MHz EPIRBs
RTCM Standard 11020.1	§§ 80.7, 80.277	Ship Security Alert System, COSPAS-SARSAT
RTCM Standard 12301.1	§§ 80.7, 80.364	VHF-FM Digital Small Message Services

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: https://www.fcc.gov

DA 24-869
Released: August 28, 2024

WIRELINE COMPETITION BUREAU ANNOUNCES THE PROPOSED NORTH AMERICAN NUMBERING PLAN ADMINISTRATION FUND SIZE ESTIMATE AND CONTRIBUTION FACTOR FOR OCTOBER 2024 THROUGH SEPTEMBER 2025

CC Docket No. 92-237

In this Public Notice, the Wireline Competition Bureau announces the proposed North American Numbering Plan (NANP) administration fund size estimate and contribution factor for the fiscal year October 1, 2024 through September 30, 2025 (Fiscal Year 2025). Proper funding of NANP administration ensures that consumers will continue to have access to the numbering resources essential to the provision of new services and technologies.

A. Calculating the NANP Administration Fund Size Estimate and Contribution Factor

Pursuant to its contract with the Commission and section 52.16(a) of the Commission's rules, the NANP Billing and Collection Agent, Welch LLP (the B&C Agent), is responsible for calculating, assessing, billing, and collecting payments for numbering administration functions, and for distributing funds to the entities that support these functions (for example, the North American Numbering Plan Administrator (NANPA)).[1] Consistent with this function, the B&C Agent annually develops the projected numbering administration costs and fund size estimate for the upcoming fiscal year.

The B&C Agent allocates a portion of the funding requirement to all NANP member countries[2] for overall administration of the NANP, and also accounts for additional numbering administration services provided by the NANPA to certain member countries, such as the United States,[3] and recovers the costs for such additional services from those countries.

For the funding required from the United States, section 52.17 of the Commission's rules requires that all telecommunications carriers in the United States contribute on a competitively neutral basis to pay such costs,[4] and the B&C Agent collects such payments directly from U.S. carriers.[5] Each year the B&C

[1] 47 CFR § 52.16(a).

[2] The NANP member countries are Anguilla, Antigua and Barbuda, Bahamas, Barbados, Bermuda, British Virgin Islands, Canada, Cayman Islands, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, Sint Maarten, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and the United States (including American Samoa, Puerto Rico, U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands). 47 CFR § 52.5(d).

[3] For the United States, such additional services include administration of central office codes, thousands-block number pooling, and routing numbers (pseudo-Automatic Numbering Identification numbers). *See* 47 CFR §§ 52.15, 52.20.

[4] 47 CFR § 52.17. For purposes of this rule, the term "telecommunications carrier" or "carrier" includes interconnected Voice over Internet Protocol (VoIP) providers as that term is defined in section 52.5(b) of the Commission's rules. 47 CFR § 52.5(b), (i).

Agent develops a contribution factor for U.S. telecommunications carriers designed to collect the projected United States contribution for the upcoming fiscal year. The Commission's rules provide that contributions shall be the product of the carriers' end-user telecommunications revenues for the prior calendar year and the contribution factor, and such contributions shall be no less than $25.[6]

B. Billing and Collection Agent Projection of the Fund Size Estimate and Contribution Factor

On June 27, 2024, the B&C Agent filed a fund size estimate and contribution factor for recovering the cost of NANP Administration for Fiscal Year 2025, in accordance with section 52.16(a) of the Commission's rules.[7] The B&C Agent proposes a funding requirement of $8,639,736 for Fiscal Year 2025, and a contribution factor of 0.0000896 for the collection from U.S. carriers.[8] As detailed in the Filing, the proposed contribution factor is lower than the contribution factor for the prior fiscal year (0.0001047) because of the higher surplus carried over from the prior year.[9] This year's contingency fund is $1,000,000, the same as last year.[10] The funding requirement contemplates a contribution from U.S. carriers totaling $6,766,776, a contribution from Canada of $150,372, contributions from the other member countries totaling $29,312, and application of a $1,693,276 accumulated surplus anticipated from last year.[11] Additional detail about the factors considered by the B&C Agent in establishing the fund size estimate, contribution factor, and contingency fund may be found in the B&C Agent's monthly fund reports.[12]

C. Effective Date of the Fund Size Estimate and Contribution Factor

If the Commission takes no action regarding the proposed fund size estimate and contribution factor within the 14-day period following release of this Public Notice, the fund size estimate and the contribution factor are considered approved by the Commission and become effective for Fiscal Year 2025.[13]

For further information, contact Edward Krachmer, Deputy Chief, Competition Policy Division, Wireline Competition Bureau at Edward.Krachmer@fcc.gov.

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(Continued from previous page)

[5] 47 CFR §§ 52.16(a), 52.17.

[6] 47 CFR § 52.17(a).

[7] Letter from Mark Jackson, Partner, Welch LLP, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 92-237, WC Docket No. 23-1 (filed June 27, 2024) (Filing). Prior to this Filing, the North American Numbering Council reviewed and approved the fund size estimate and contribution factor on June 25, 2024. *Id*. at 4.

[8] *Id*.

[9] *Id*.

[10] *Compare id.* with Letter from Mark Jackson, Partner, Welch LLP, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 92-237, at 4 (filed July 5, 2023).

[11] Filing at 4-5.

[12] *See* North American Numbering Plan Fund, Monthly Fund Reports, https://www.fcc.gov/ecfs/search/search-filings/filing/1062724988671) ((last visited July 1, 2024).

[13] *See, e.g.*, *Wireline Competition Bureau Announces the Proposed North American Numbering Plan Administration Fund Size Estimate and Contribution Factor for October 2023 Through September 2024*, CC Docket No. 92-237, Public Notice, DA 23-675, at 2 (WCB Aug. 10, 2023); *Wireline Competition Bureau Announces the Proposed North American Numbering Plan Administration Fund Size Estimate and Contribution Factor for October 2022 Through September 2023*, CC Docket No. 92-237, Public Notice, 37 FCC Rcd 9359, 9360 (WCB 2022).

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j),	)	MB Docket No. 24-152
Table of Allotments, Television Broadcast	)	RM-11982
Stations (Boise, Idaho)	)	

REPORT AND ORDER
(PROCEEDING TERMINATED)

Adopted: August 28, 2024 **Released: August 28, 2024**

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau has before it a Notice of Proposed Rulemaking[1] issued in response to a Petition for Rulemaking filed by King Broadcasting Company (Petitioner or King Broadcasting), the licensee of KTVB, channel 7, Boise, Idaho (Station or KTVB).[2] The Petitioner has requested the substitution of channel 23 for channel 7 at Boise, Idaho (Boise) in the Table of TV Allotments.[3] TEGNA, Inc., on behalf of its wholly owned subsidiary, King Broadcasting, filed comments in support of the Petition, as required by the Commission's rules (rules), reaffirming King Broadcasting's commitment to apply for channel 23.[4] No other comments were received.

2. We conclude that the public interest would be served by substituting channel 23 for channel 7 at Boise. According to the Petitioner, the channel change will resolve persistent reception complaints it has received from viewers, and substantially improve the community's access to the Station's local news, emergency information, and entertainment programming.[5] The Petitioner states that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances.[6] Additionally, the Petitioner notes that the Commission has observed the large variability in the performance of indoor antennas available to consumers, with most antennas receiving "fairly well at UHF and the substantial majority not so well to very poor at high-VHF."[7] An engineering statement provided by the Petitioner confirms that the proposed channel 23 contour would provide full principal community coverage to Boise and would not cause impermissible interference to any station.[8] In addition, the proposed channel 23 facility will not

[1] *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Boise, Idaho)*, MB Docket No. 24-152, Notice of Proposed Rulemaking, DA 24-558 (MB June 16, 2024) (*NPRM*).

[2] Petition of King Broadcasting Company for Rulemaking (filed May 10, 2024), on file at LMS File No. 0000244645 (Petition). The Petitioner amended on June 3, 2024 to correct a filing deficiency.

[3] 47 CFR § 73.622(j).

[4] TEGNA Inc. Comments, MB Docket No. 24-152 (rec. July 23, 2024) (Comments). TEGNA Inc. filed the comments on behalf of King Broadcasting, which is a wholly owned subsidiary. *See also* 47 CFR §§ 1.415, 1.419; *Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

[5] *NPRM* at para. 2; Comments at 1-2.

[6] *NPRM* at para. 2 and n.6.

[7] *Id.*

[8] *NPRM* at para. 3.

result in any loss of service to existing viewers within the Station's noise limited service contour.[9]

3. As proposed, we find that channel 23 can be substituted for channel 7 at Boise in compliance with the principal community coverage requirements of section 73.618(a) of the rules,[10] at coordinates 43-45'-15.6" N. and 116-05'-59.4" W. In addition, we find that this channel substitution meets the technical requirements set forth in section 73.622(a) of the rules with the following specifications:[11]

City and State	Channel	Power (kW)	Antenna HAAT (m)	Service Pop.
Boise, Idaho	23	1000	805.5	717,472

4. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to section 553(d)(3) of the Administrative Procedure Act.[12] An expedited effective date is necessary in this case to ensure that KTVB can operate with improved service to its viewers as quickly as possible.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b), and 0.283 of the rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED** that, effective immediately upon the date of publication in the Federal Register, the Table of TV Allotments, section 73.622(j) of the Commission's rules, 47 CFR § 73.622(j), **IS AMENDED**, with respect to the community listed below, to read as follows:

City and State	Channel No.
Boise, Idaho	15, 20, *21, 23

6. **IT IS FURTHER ORDERED** that, within 10 days of the effective date of this Order, King Broadcasting Company shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 23.

7. **IT IS FURTHER ORDERED** that, pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

8. **IT IS FURTHER ORDERED** that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 24-152 and RM-11982 **SHALL BE TERMINATED** and its docket closed.

9. For further information concerning the proceeding listed above, contact Joyce Bernstein, Video Division, Media Bureau, at Joyce.Bernsetein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[9] *Id*.

[10] 47 CFR § 73.618(a) (formerly § 73.625(c)(1)).

[11] 47 CFR §§ 73.622(a) (formerly §§ 73.616 and 73.623).

[12] 5 U.S.C. § 553(d)(3).

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

In re Application of	)	
	)	
Panther Communications LLC	)	FRN: 0020573945
	)	Facility ID No. 14897
For Renewal of License for	)	Application File No. 0000239942
Station KWIA(FM)	)	
Newell, Iowa	)	

ORDER

Adopted: August 29, 2024 **Released: August 29, 2024**

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 Panther Communications LLC (Licensee), the licensee for Station KWIA(FM), Newell, Iowa (Station). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal application (Renewal Application) for the Station.[1] 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).[2] 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,[3] and by the authority delegated by Sections 0.61 and 0.283 of the Commission's rules,[4] 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] Application File No. 0000239942 (Filed Feb. 28, 2024).

[2] 47 CFR § 73.3526.

[3] 47 U.S.C. § 154(i)6 154(j), and 503(b).

[4] 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 Panther Communications LLC, c/o Juana O Aguilar, and to its counsel, Aaron Shainis, Esq., Shainis & Peltzman, Chartered, 1850 M Street, NW, Suite 240, Washington, DC 20036.

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.: 0000239942
	)	
Panther Communications LLC	)	FRN: 0020573945
	)	
Licensee of Station KWIA(FM) Newell, Iowa	)	

CONSENT DECREE

1. The Media Bureau of the Federal Communications Commission and Panther Communications LLC (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) "Compliance Plan" means the processes and procedures developed by the Licensee in an effort to ensure compliance with section 73.3526 of the Rules.

(f) "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.

(g) "Effective Date" means the date by which both the Bureau and the Licensee have signed the Consent Decree.

(h) "Investigation" means the Bureau's decision to hold and not process the Renewal Application due to the noncompliance with section 73.3526 of the Rules.

(i) "Licensee" means Panther Communications LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(j) "Online Public Inspection File Rule" means 47 CFR § 73.3526.

(k) "Parties" means the Licensee and the Bureau, each of which is a "Party."

(l) "Renewal Application" means the pending application for renewal of license for Station KWIA(FM), Newell, Iowa (Application File No. 0000239942).

[1] 47 CFR § 73.3526.f

(m) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

(n) "Stations" means Station KWIA(FM), Newell, Iowa.

(o) "Violations" means the Licensee's noncompliance with the Online Public Inspection File Rule.

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 filed the Renewal Application for renewal of the Station's license and disclosed it had not complied with the Online Public Inspection File Rule. Based on the Licensee's noncompliance with the Online Public Inspection File Rule, the Bureau commenced the Investigation and suspended processing the Renewal Application

5. The Bureau and Licensee have negotiated the terms of the Consent Decree that terminates the Investigation into the matters discussed above. As part of the Consent Decree, the Licensee has agreed to maintain a Compliance Plan designed to ensure its future compliance with the Online Public Inspection File Rule noted above for one (1) year after the Effective Date.

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]

[2] *See* 47 CFR § 1.93(b).

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.

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

[3] *See* 47 U.S.C. § 503(b)(2)(E).

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 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 the Station. 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

[4] 47 CFR § 1.16.

its obligations, the Bureau may, within its the 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 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 Act[5] 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

_____August 29, 2024_____
Date

_____
Juana O Aguilar
Panther Communications LLC

_____
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

Juana O Aguilar
Juana O Aguilar
Panther Communications LLC

08/28/2024
Date

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 24-872
August 29, 2024

APPLICATIONS FILED FOR TRANSFER OF CONTROL OF INTELSAT TO SES

Pleading Cycle Established

SB Docket No. 24-267

Comments/Petitions Due: September 30, 2024
Responses to Comments/Oppositions to Petitions Due: October 15, 2024
Replies to Responses/Oppositions Due: October 25, 2024

By this Public Notice, the Space Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology seek comment from interested parties on applications filed pursuant to section 310(d) of the Communications Act of 1934, as amended (the Act),[1] for consent to transfer control of licenses held by Intelsat Holdings S.à.r.l. and its subsidiaries, to SES S.A. (SES, and, together with Intelsat, the Applicants).[2] The Space Bureau also seeks comment on whether the transaction would affect any of the Commission's considerations when Intelsat space stations were granted U. S. market entry.[3]

SES is a satellite connectivity provider headquartered in Luxembourg.[4] Through its affiliates, SES operates a fleet of 43 geostationary satellites and 26 non-geostationary satellites, along with an extensive ground network, all operating primarily in the C-, Ku- and Ka-bands.[5] SES offers satellite capacity, products, and services to customers worldwide, including content distribution and contribution services to cable, broadcast and media companies; satellite connectivity to aircraft and maritime vessels;

[1] 47 U.S.C. § 310(d); *see also* 47 CFR §§ 1.948, 5.79, 25.119.

[2] *See* Description of Transaction and Public Interest Statement, ICFS File No. SAT-T/C-20240530-00117 (filed May 30, 2024) (Narrative). The applications subject to this Public Notice (Applications) are listed in the Attachment to this Public Notice.

[3] 47 CFR § 25.137(g) ("A non-U.S.-licensed satellite operator that acquires control of a non-U.S.-licensed space station that has been permitted to serve the United States must notify the Commission within 30 days after consummation of the transaction so that the Commission can afford interested parties an opportunity to comment on whether the transaction affected any of the considerations we made when we allowed the satellite operator to enter the U.S. market."). For the space station U.S. market access grants held by Intelsat, the Applicants filed notifications of transfer of control prior to consummation of the transaction, although section 25.137(g) permits notification within 30 days after consummation. *Id.*

[4] Narrative at 2.

[5] *Id.*

4G and 5G network expansion and resiliency for mobile operators; direct connectivity to cloud computing data centers; and secure communications for government customers.[6]

SES is publicly traded. The Etat du Grand Duché de Luxembourg (the State of Luxembourg), the Banque et Caisse d'Epargne de l'Etat (BCEE) and the Société Nationale de Crédit et d'Investissement (SNCI) – each of which is a financial institution 100% owned by the State of Luxembourg – hold Class B shares of SES representing a combined effective economic interest of 16.67% and effective voting interest of 33.33%, in addition to each holding a limited number of publicly traded Fiduciary Deposit Receipts ("FDRs").[7] Atlas Infrastructure Partners (UK) Ltd, a U.K. company operating as an investment fund, holds an 11.7% economic interest and a 9.3% voting interest in SES.[8]

Intelsat, headquartered in McLean, Virginia and Luxembourg, is the Commission's largest geostationary satellite licensee and through its affiliates, operates a fleet of 57 geostationary satellites and an associated ground network in the C-, Ku-, and Ka-bands.[9] Intelsat provides communications services to media companies, telecommunications operators, commercial aviation, Internet service providers, and government customers, including voice, video, and data communications.[10]

On May 1, 2024, SES and Intelsat entered into a share purchase agreement pursuant to which SES would acquire 100% of the outstanding shares and assets in Intelsat Holdings S.à.r.l.[11] As a result of the proposed transaction, all of the Commission licenses and grants of U.S. market access held by Intelsat would be transferred to SES.[12]

The Applicants assert that grant of the Applications would serve the public interest, convenience and necessity, deliver public interest benefits, and preserve and enhance competition in relevant markets.[13] The Applicants argue they face robust and growing competition from operators of non-geostationary satellite constellations,[14] from geostationary satellite operators,[15] from multi-orbit system operators and terrestrial-satellite hybrid networks,[16] and from terrestrial providers.[17] The Applicants contend that the merger would enable them to combine their assets to create an optimized network;[18] that

[6] *Id.*

[7] *Id.*, Exh. 4 at 1. The Applicants state that, according to publicly available information as of April 4, 2024, the State of Luxembourg held FDRs representing an economic interest of 1.36% and voting interest of 1.09% in SES. *Id.* According to SNCI's 2022 Annual Report, it held FDRs representing an economic interest of 1.59% and voting interest of 1.27% in SES as of December 31, 2022. *Id.* According to the BCEE Annual Report from 2023, BCEE held FDRs representing an interest of 1.28% in SES as of December 31, 2023. *Id.*

[8] *Id.*, Exh. 4 at 2.

[9] *See id.* at 3.

[10] *Id.*

[11] *Id.* at 3.

[12] *Id.*

[13] *Id.* at 4.

[14] *Id.* at 6-8.

[15] *Id.* at 8-10.

[16] *Id.* at 10-11.

[17] *Id.* at 11-12.

[18] *Id.* at 12-13.

transaction-related synergies would enable the combined company to better invest and innovate,[19] and that the combination would enable the combined company to offer a more expansive suite of solutions to customers over a more robust and reliable network.[20]

GENERAL INFORMATION

The applications identified herein have 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, responses to comments, and replies to responses on or before the dates listed on the first page of this public notice. Comments may be filed in the docket using the Commission's Electronic Comment Filing System (ECFS) or by paper.

- *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.
  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent 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.

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),

[19] *Id.* at 13-14.

[20] *Id.* at 14-22.

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.[21] 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, contact Clay DeCell, Space Bureau, (202) 418-0803, or Patrick Sun, Office of Economics and Analytics, (202) 418-2753.

[21] *See* 47 CFR § 1.45(c).

ATTACHMENT[22]

Part 5 – Experimental Licenses

File Number	Licensee	Lead Call Sign
0027-EX-TU-2024	Intelsat Inflight Licenses LLC	WF2XMC
0028-EX-TU-2024	Intelsat License LLC	WO2XDP

Part 25 – Space Station Licenses

File Number	Licensee	Lead Call Sign
SAT-T/C-20240530-00116	Horizons−3 License LLC	S2947
SAT-T/C-20240530-00117	Intelsat License LLC	S2846

Part 25 – Space Station Grants of U.S. Market Access

File Number	Grantee	Call Sign
SAT-MPL-20240809-00176	Intelsat License LLC	S3058
SAT-MPL-20240809-00177	Intelsat License LLC	S2592
SAT-MPL-20240809-00178	Horizons−1 Satellite LLC	S2475
SAT-MPL-20240809-00179	Horizons−4 Satellite LLC	S3180

Part 25 – Earth Station Licenses

File Number	Licensee	Lead Call Sign
SES-T/C-20240530-01222	Intelsat Inflight Licenses LLC	E150104
SES-T/C-20240603-01221	Intelsat License LLC	E000048

[22] In addition to the current Intelsat authorizations listed in the Applications, the Applicants request that any Commission approval of the Applications include authority for the combined company to acquire control of: (i) any additional licenses and authorizations issued to Intelsat prior to grant of the Applications or during the period required for consummation following grant; and (ii) any applications (including applications for special temporary authority), petitions, or other filings that have been submitted by Intelsat and are pending at the time of consummation of the Proposed Transaction. Narrative at 23.

Part 90 – Industrial/Business Pool Private Wireless License

File Number	Licensee	Lead Call Sign
0011092560	Intelsat License LLC	WQSW724

– FCC –

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

In the Matter of	)	
	)	
Establishing the Digital Opportunity Data Collection	)	WC Docket No. 19-195
	)	
	)	
Modernizing the FCC Form 477 Data Program	)	WC Docket No. 11-10
	)	
	)	
	)	

ORDER GRANTING EXTENSION OF TIME

Adopted: August 30, 2024 **Released: August 30, 2024**

By the Broadband Data Task Force and Office of Economics and Analytics:

1. In this Order, the FCC's Broadband Data Task Force and the Office of Economics and Analytics grant a joint motion filed by CTIA, USTelecom – The Broadband Association, and Competitive Carriers Association (collectively, Joint Petitioners) seeking a three-week extension of time to file comments and reply comments in the above-captioned proceeding.[1] For the reasons stated below, we find that an extension of time is warranted and extend the comment and reply comment dates accordingly.

2. On July 12, 2024, the Commission adopted a *Fourth Further Notice of Proposed Rulemaking* (*Fourth Further Notice*) that sought comment on modifications to enhance the precision of National Broadband Map.[2] The *Fourth Further Notice* set deadlines of 30 days and 60 days after the date of publication in the *Federal Register* for filing comments and reply comments, respectively. Upon publication in the *Federal Register*, the filing deadlines were established as September 16, 2024, for comments and October 15, 2024, for reply comments.[3]

3. In their motion, Joint Petitioners state that the *Fourth Further Notice* raises significant and complex issues about the Broadband Data Collection (BDC) processes that merit detailed comments from the Joint Petitioners, their members, and others directly impacted, and that the subject matter experts at their member companies have been expending significant time and resources preparing their BDC data that are due by September 3, 2024.[4] Joint Petitioners assert that this obligation, together with resource

[1] *See* CTIA, USTelecom – The Broadband Association, and Competitive Carriers Association Joint Motion for Extension of Time to File Comments and Reply Comments, WC Docket No. 19-195 (filed Aug. 23, 2024) https://www.fcc.gov/ecfs/document/108232109302778/1 (Motion).

[2] *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 11-10, 19-195, Fourth Report and Order, Declaratory Ruling, Fourth Further Notice of Proposed Rulemaking, FCC 24-72 (rel. July 12, 2024) (*Fourth Further Notice*).

[3] Federal Communications Commission, Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program, 89 Fed. Reg. 66305 (Aug. 15, 2024). We note that the Federal Register summary included, at the request of the Office of the Federal Register, some nonsubstantive editorial revisions, which included relocating proposed 47 CFR § 1.7006(a) to § 1.7006(h). *Id.* at 66326-27.

[4] Motion at 1-2.

constraints resulting from the Labor Day holiday, warrant an extension of time to file comments and reply comments.[5]

4. As set forth in section 1.46 of the Commission's rules, the Commission does not routinely grant extensions of time for filing comments.[6] In this case, however, an extension is warranted to enable commenters to adequately respond to the issues presented in the *Fourth Further Notice*. The mandatory BDC filing deadline and the intervening federal holiday affect Joint Petitioners' ability to dedicate time and resources to meet the deadlines for both the BDC biannual submission and the *Fourth Further Notice*. Given the importance of receiving both timely and accurate BDC data submissions as well as robust input on the questions raised in the *Fourth Further Notice*, we find there is good cause to grant Joint Petitioners' request for a three week extension.

5. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 0.21, 0.271, and 1.46 of the Commission's rules, 47 CFR §§ 0.21, 0.271, and 1.46, the Motion for Extension of Time to File Comments and Reply Comments filed by the Joint Petitioners is GRANTED.

6. IT IS FURTHER ORDERED that the dates to file comments and reply comments in this proceeding ARE EXTENDED **to October 7, 2024**, and **November 5, 2024**, respectively.

FEDERAL COMMUNICATIONS COMMISSION

Jean L. Kiddoo
Chair, Broadband Data Task Force

Giulia McHenry
Chief, Office of Economics and Analytics

[5] *Id.* at 2-3.

[6] 47 CFR § 1.46.

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. 24-874

Report No. SCL-00482 **Thursday August 29, 2024**

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-20240802-00035 Edge Cable Holdings USA, LLC

On August 28, 2024, we granted the request for special temporary authority (STA) filed by Edge Cable Holdings USA, LLC (Edge USA) for an extension of its current STA to construct, connect, and test at its own risk those portions of the Anjana cable system in U.S. territory prior to the Commission's action of the pending cable landing license application for the Anjana cable system (SCL-LIC-2023-0429-00012). Edge USA acknowledges that grant of the STA will not prejudice action by the Commission on the underlying application and that the STA is subject to cancellation or modification upon notice. Further, Edge USA acknowledges that such STA can be revoked by the Commission on its own motion without a hearing.

The STA expires on February 24, 2025.

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L STREET NE
WASHINGTON D.C. 20554

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DA No. 24-875

Report No. TEL-02390 **Thursday August 29, 2024**

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-214-20240723-00116 E FARMERS CELLULAR TELEPHONE COMPANY, INC.

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action: 08/23/2024

Farmers Cellular Telephone Company, Inc. (Farmers Cellular) filed an application for authority to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2).

Farmers Cellular, an Iowa corporation, is directly owned by Farmers Telephone Company (Farmers) (51% equity and voting) and Iowa RSA #3, Inc. (Iowa #3) (49% equity and voting). Farmers is an Iowa company in which no individual or entity holds a 10% or greater ownership interest. Iowa #3 is wholly owned by United States Cellular Corporation (USCC), both Delaware entities. Telephone and Data Systems, Inc. (TDS), a Delaware corporation, has an approximate 83% equity and 96.2% voting interest in USCC. The Voting Trust - Telephone and Data Systems, Inc., a Delaware entity, has an approximately 56.58% voting interest in TDS. According to the Applicant, no other individual or entity has a 10% or greater direct or indirect ownership interest.

ITC-214-20240723-00117 E IOWA RSA NO. 9 LIMITED PARTNERSHIP

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action: 08/23/2024

Iowa RSA No. 9 Limited Partnership (Iowa RSA 9) filed an application for authority to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2).

Iowa RSA 9 is an Iowa limited partnership. The limited partners of Iowa RSA 9 are: Webster-Calhoun Cooperative Telephone Association (Webster), 24.995% limited partnership interest; Scranton Telephone Company (Scranton), 15.001% limited partnership interest; Schaller Telephone Company (Schaller), 15.001% limited partnership interest; Breda Telephone Corp. (Breda), 15.001% limited partnership interest; Iowa RSA #9, Inc. (Iowa #9), 14.56% limited partnership interest; and Jefferson Telephone Company (Jefferson), 14.542% limited partnership interest. Jefferson Cellular Telephone Company (Jefferson Cellular) holds a 0.9% interest in Iowa RSA 9 as its general partner.

Jefferson has 51% equity and voting interests in Jefferson Cellular, both Iowa companies. United States Cellular Corporation (USCC), a Delaware corporation, holds the other 49% equity and voting interest in Jefferson Cellular.

Iowa #9 is wholly owned by United States Cellular Investment Company, LLC (USCIC), both Delaware entities. USCIC is wholly owned by USCC. Telephone and Data Systems, Inc. (TDS), a Delaware corporation, has an approximate 83% equity and 96.2% voting interest in USCC. The Voting Trust - Telephone and Data Systems, Inc., a Delaware entity, has an approximately 56.58% voting interest in TDS.

Scranton, Webster, Schaller, Jefferson, and Breda are all Iowa entities in which no individual or entity holds a 10% or greater ownership interest. According to the Applicant, no other individual or entity has a 10% or greater direct or indirect ownership interest.

ITC-214-20240723-00118 E IOWA RSA NO. 12 LIMITED PARTNERSHIP

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action: 08/23/2024

Iowa RSA No. 12 Limited Partnership (Iowa RSA 12) filed an application for authority to provide resale service in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2).

Iowa RSA 12 is an Iowa limited partnership. The limited partners of Iowa RSA 12 are: Farmers Mutual Cellular Telephone Company, Inc. (FMCTC), 49% limited partnership interest and 1% interest as the general partner of Iowa RSA 12; Hawkeye Telephone Company (Hawkeye), 25% limited partnership interest; and Oran Mutual Telephone Company (Oran), 25% limited partnership interest.

FMCTC, an Iowa company, has two owners: Jessup Telephone & Television, Inc. (Jessup) (51%) and Iowa RSA # 12 Inc. (Iowa #12) (49%). Jessup is wholly owned by Farmers Mutual Telephone Company (Farmers), both Iowa companies. Iowa RSA 12 is wholly owned by United States Cellular Corporation (USCC), both Delaware corporations. Telephone and Data Systems, Inc. (TDS), a Delaware corporation, has an approximate 83% equity and 96.2% voting interest in USCC. The Voting Trust - Telephone and Data Systems, Inc., a Delaware entity, has an approximately 56.58% voting interest in TDS.

Hawkeye, Oran, and Farmers are all Iowa entities in which no individual or entity holds a 10% or greater ownership interest. According to the Applicant, no other individual or entity has a 10% or greater direct or indirect ownership interest.

ITC-ASG-20240724-00121 E NAL Research Corp.

Assignment

Grant of Authority Date of Action: 08/28/2024

Current Licensee: Blue Sky Network, LLC

FROM: Blue Sky Network, LLC

TO: NAL Research Corp.

On July 24, 2024, NAL Research Corp. (NAL Research), a Virginia corporation, filed a notification of the pro forma assignment of an international section 214 authorization to provide global facilities-based and resale service (ITC-214-20010713-00369), from Blue Sky Network, LLC (BSN) to NAL Research, effective June 21, 2024.

BSN and NAL Research are wholly owned subsidiaries of ACR Group Borrower, LLC (ACR Group Borrower), a Delaware limited liability company. BSN is a direct wholly owned subsidiary of ACR Group Borrower, and NAL Research is an indirect wholly owned subsidiary. In a corporate reorganization, BSN assigned its international section 214 authorization (ITC-214-20010713-00369) to NAL Research.

INFORMATIVE

ITC-214-20230808-00158 Evergreen Connect Corporation

By letter dated August 23, 2024, the Commission was notified that Consolidated Communications of Comerco Company has changed its name to Evergreen Connect Corporation (ECC). In addition, the Commission was notified that Evergreen Washington Connect, LLC (fka Consolidated Communications of Washington Company, LLC), a wholly owned subsidiary of ECC, has changed its name and may provide international telecommunications service under the international section 214 authorization held by ECC, pursuant to section 63.21(h) of the Commission's rules. 47 CFR § 63.21(h).

SURRENDER

ITC-214-19970516-00274 Phonetime Inc.

On August 14, 2024, Phonetime Inc. notified the Commission of the surrender of its international section 214 authorization.

ITC-214-20140318-00104 Sheng Li Telecom International LLC

On August 27, 2024, Sheng Li Telecom International LLC notified the Commission of the surrender of its international section 214 authorization.

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-MSC-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.

(15) Each carrier shall notify the Commission of any change in its contact information. Such notification shall be filed in the file number(s) for the international section 214 authorization(s) through the International Communications Filing System (ICFS).

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, D.C. 20554

In the Matter of	)	
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
	)	
Request for Clarification and Waiver by Lower Yukon School District	)	
	)	

DECLARATORY RULING

Adopted: August 29, 2024 **Released: August 29, 2024**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. The E-Rate program provides support to schools and libraries across the nation to obtain affordable high-speed broadband services, which are essential for students and library patrons to learn, study, take tests, and access all other educational materials in this digital age.[1] Here, the Lower Yukon School District (Lower Yukon), which serves a unique population of students who reside in 10 remote, impoverished villages in a part of rural Alaska with an extremely harsh climate, seeks clarification that broadband service to and within on-campus teacher housing owned by the school district is eligible for E-Rate funding.[2] In this Declaratory Ruling, the Wireline Competition Bureau (Bureau) finds that the district-owned on-campus housing provided for Lower Yukon teachers is a non-instructional facility in which the use of broadband service meets the definition of an educational purpose, and thus such service is eligible for category one and category two E-Rate support. We take this action to further the Commission's goal towards ensuring broadband access for unique student and teacher populations.

II. BACKGROUND

2. The Commission has a long history of providing support for the provision of broadband services for schools and libraries through the E-Rate program, formally known as the schools and libraries universal service support mechanism. The E-Rate program was authorized by Congress as part of the Telecommunications Act of 1996 and created by the Commission in 1997 to, among other things, enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms and libraries.[3] The E-Rate program allows eligible schools, libraries, and consortia of eligible schools and libraries, to request universal service support for telecommunications services, which

[1] 47 U.S.C. § 254(b)(6) ("Elementary and secondary schools and classrooms … should have access to advanced telecommunications services as described in subsection (h)."); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8780, para. 1 (1997) (*First Universal Service Order*).

[2] Request for Clarification and Waiver by Lower Yukon (Alaska) School District, CC Docket No. 02-6, at 7 (filed Sept. 27, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/1092764404084 (Lower Yukon Request). *See also* Letter from Gina Spade, Counsel for Lower Yukon Public Schools, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 02-6 (filed Mar. 22, 2004) (Lower Yukon *Ex Parte*). Lower Yukon's request to waive E-Rate program rules to permit E-Rate support for off-campus student and teacher housing remains pending.

[3] 47 U.S.C. § 254(h)(2)(A); *First Universal Service Order*, 12 FCC Rcd at 9008-15, paras. 436-49.

provide connectivity for eligible schools and libraries.

3. Section 254(h)(1)(B) of the Communications Act of 1934, as amended, (Communications Act) provides that E-Rate discounts be applied to services and equipment used for "educational purposes."[4] In the *Schools and Libraries Second Report and Order* in 2003, the Commission defined "educational purposes" as "activities that are integral, immediate, and proximate to the education of students."[5] In the *Schools and Libraries Sixth Report and Order* in 2010, the Commission adopted E-Rate program rules to allow residential schools that serve unique populations—schools on Tribal lands; schools designed to serve students with medical needs; schools designed to serve students with physical, cognitive, or behavioral disabilities; schools where 35 percent or more of their students are eligible for the national school lunch program; or juvenile facilities—to receive E-Rate funding for supported services provided in the residential areas of those schools.[6]

4. In adopting this rule revision, the Commission recognized that schools that provide residential facilities to meet the needs of these unique student populations often require funding for services to non-instructional facilities in order to effectively do so.[7] Generally, non-instructional facilities are "school buildings without classrooms and library buildings without public areas, such as administrative buildings and data centers."[8] Moreover, the Commission found "that, because these schools also serve as residences to the students, the supported E-[R]ate services will be used primarily, if not exclusively, for educational purposes, and thus support is consistent with our rules and within the purposes of section 254."[9] The Commission amended the E-Rate program rules to "permit [category two] discounts for internal connections in non-instructional buildings of a school or school district where the Commission has found that the use of those services meets the definition of educational purpose."[10]

5. On September 27, 2023, Lower Yukon filed a Request for Clarification and Waiver, in which it asked the Commission to confirm that broadband Internet access for the on-campus housing that the district owns and provides for its teachers is eligible for E-Rate support under the Commission's rules or, in the alternative, requested a waiver of the rules to the extent necessary to permit E-Rate support for

[4] 47 U.S.C. § 254(h)(1)(B).

[5] *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9208-9209, paras. 17-19 (2003) (*Schools and Libraries Second Report and Order*).

[6] *Schools and Libraries Universal Service Support Mechanism*; *A National Broadband Plan For Our Future* CC Docket No. 02-6 and GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18778, para. 31 (2010) (*Schools and Libraries Sixth Report and Order*). In 1997, in the *Universal Service Fourth Order on Reconsideration,* the Commission clarified that E-Rate support is "not available for internal connections in non-instructional buildings used by a school district unless those internal connections are essential for the effective transport of information within instructional buildings. *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, Fourth Order on Reconsideration, Report and Order, 13 FCC Rcd 5318, 5440 at para. 209 (1997) (*Universal Service Fourth Order on Reconsideration*). The 2010 *Schools and Libraries Sixth Report and Order* revised those rules for residential schools that serve unique populations.

[7] *Schools and Libraries Sixth Report and Order*, 12 FCC Rcd at 18778, at para. 30.

[8] *Schools and Libraries Universal Service Support Mechanism*, CC Docket Nos. 02-06, 96-45, 97-21, Report and Order and Further Notice of Proposed Rulemaking, 38 FCC Rcd 6842, 6845, para. 7 (2023).

[9] *Schools and Libraries Sixth Report and Order*, 12 FCC Rcd at 18779, at para. 31. *See also* 47 CFR § 54.500(b) (stating that activities that occur on school property "are presumed to be integral, immediate, and proximate to the education of students").

[10] *Schools and Libraries Sixth Report and Order*, 12 FCC Rcd at 18779, para 31 (amending 47 CFR § 54.502(a)(4)(i) as provided in Appendix A). The language of 47 CFR § 54.502(a)(4)(i) is now found in 47 CFR § 54.502(d)(6).

this on-campus, district-owned teacher housing.[11] Lower Yukon asserts that allowing support to be used in this manner would be consistent with the Commission's *Schools and Libraries Sixth Report and Order* and its precedent on residential facilities for schools serving unique populations.[12]

6. Lower Yukon indicates that it serves 10 remote villages spread across 22,000 square miles in western rural Alaska, most of which is off-road and only accessible by plane. Lower Yukon is considered remote even by Alaskan standards.[13] Lower Yukon explains that its school district endures a harsh climate, including, but not limited to, sub-zero temperatures, regularly occurring blizzards, and flooding, forcing school buildings to close often.[14] In addition, Lower Yukon states that access to the Internet throughout the school year is crucial for students and teachers, because these harsh environmental conditions makes school closures far more common than elsewhere.[15] Lower Yukon concludes that the harsh environmental conditions require teachers, students, or both to frequently remain home, during what would otherwise be a school day. Therefore, Lower Yukon argues that this connectivity is necessary to ensure that teachers can "teach and support their students" during the school day, even when the school buildings are closed.[16]

7. Lower Yukon serves a unique student population. Approximately 2,000 students attend Lower Yukon schools and nearly all of these students are Yupik, a minority native Alaska population.[17] Lower Yukon receives a 90 percent category one discount rate in the E-Rate program.[18] Due to special circumstances that few school districts experience, Lower Yukon explains that it provides on-campus housing to its teachers. This is because most teachers are not local, and recruitment would be even more challenging without on-campus housing because "few if any off-campus rental properties . . . offer the bare minimum standards of plumbing, electricity, and sanitation."[19] Lower Yukon also notes that teachers must return to or stay in the school building after school hours to complete their work when Internet access is required. However, leaving the school late or returning to the school is "burdensome, even potentially dangerous" for teachers due to Alaska's harsh climate and dark winters.[20] Lower Yukon asserts that teachers need broadband service in their on-campus housing because, as Lower Yukon explains, broadband Internet access in the teachers' on-campus housing is necessary to facilitate remote learning, which is essential for the teachers to continue to educate their students during the frequent unfavorable and dangerous weather conditions, and thus serves an educational purpose.[21]

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[11] Lower Yukon Request at 2, 9-10.

[12] *Id.* at 8-9.

[13] *Id*. at 5.

[14] *Id*. at 7.

[15] *Id*.

[16] *Id*. at 10.

[17] *Id*. at 5.

[18] *Id*. For a school to receive a 90 percent category one discount rate, 75 to 100 percent of the student population must be eligible for the national school lunch program. *See* 47 § CFR 54.504(c).

[19] Lower Yukon Request at 8-9.

[20] *Id*. at 9.

[21] *Id*. (explaining that the lack of Internet access in on-campus teacher housing means that teachers "need to stay in the school building after school or come back later in the evening" to complete their work, which is burdensome and may be dangerous in "Alaska's harsh climate and dark winters"); *id*. at 13 (asserting that "[r]emote learning capability is essential to the success of the Lower Yukon's students given their unique challenges that the District's remote location, long winter, and harsh and unpredictable weather presents").

III. DISCUSSION

8. The Bureau may issue a declaratory ruling to terminate a controversy or remove uncertainty.[22] Consistent with the Commission's determination in the *Schools and Libraries Sixth Report and Order*, we find that Lower Yukon's district-owned, on-campus teacher housing is a non-instructional facility in which the use of broadband service serves the educational purposes of a unique student population, and thus, such service is eligible to receive E-Rate category one and category two support.

9. Consistent with the *Schools and Libraries Sixth Report and Order*, we find that Lower Yukon serves a unique school population and thus support may be available for category two services to a school's residential areas.[23] The school population has great need, serving students at the highest discount rate in the E-Rate program, with at least 75 percent of Lower Yukon's student population qualifying for free and reduced lunch. Lower Yukon further explains that nearly all of its 2,000 students are Yupik, a native Alaskan population.[24]

10. We also conclude, consistent with the Commission's findings in the *Schools and Libraries Sixth Report and Order*, that the use of broadband in Lower Yukon's on-campus teacher housing serves an educational purpose. Not only does Lower Yukon serve a unique student population with certain needs specific to the school district, it also faces exceptional challenges caused by Alaska's extreme weather and harsh climate.[25] The transportation, accessibility, and climate challenges in Lower Yukon make it difficult for teachers to live in off-campus housing. As a result, as a practical matter, on-campus teacher housing in this circumstance is a necessity, both because it allows Lower Yukon to recruit teachers, and because its teachers otherwise often would not be able to reach the school campus. In addition, in many instances the weather is so harsh that teachers are effectively confined to their on-campus housing. The dark winters, combined with the freezing temperatures and frequent blizzards, occasionally prevents teachers from safely leaving their on-campus housing to go to the school building during and after school hours. Lower Yukon thus must not only provide on-campus housing for its teachers to meet the uniquely extreme weather conditions faced in this remote school district, but those same conditions require that the teachers have access to broadband service to perform their jobs.[26]

11. We further find that the Lower Yukon students would not have their educational needs met if the teachers did not have access to on-campus housing.[27] Teachers' access to broadband in their on-campus residences provides teachers with the ability to educate their students, access learning materials, and fulfill their teaching responsibilities during the days that the school buildings are inaccessible because of the extreme and harsh Alaskan weather conditions.[28] Thus, as explained by Lower Yukon, broadband access for teachers in on-campus housing is essential for the school district's students' educational success.[29] Moreover, Lower Yukon can connect its district-owned, on-campus teacher housing with minimal cost. Lower Yukon explains that the costs to the E-Rate program would

[22] 47 CFR § 1.2(a); *accord* 5 U.S.C. § 554(e).

[23] *Schools and Libraries Sixth Report and Order*, 12 FCC Rcd at 18779, para. 31 (explaining that a school where 35 percent or more of the students are eligible for the national school lunch program qualifies as a unique student population).

[24] Lower Yukon Request at 5.

[25] *Id*. at 7.

[26] *Id*. at 8-9.

[27] *See id*. at 13.

[28] *Id*. at 8-9.

[29] *Id*. at 13.

consist of one-time costs to connect the teacher housing and ongoing costs associated with inside wiring.[30]

12. This Declaratory Ruling concludes that E-Rate service to Lower Yukon's on-campus teacher housing is necessary for Lower Yukon's unique student population to receive an education because Lower Yukon's severe weather conditions and remote geography prevents students from having their educational needs met during the unusually frequent on-campus school closures. Finally, in determining that broadband service for Lower Yukon's district-owned, on-campus teacher housing facilities is eligible to receive E-Rate support in accordance with 47 CFR § 54.502(d)(6), we emphasize that this finding is limited to Lower Yukon and the unusual factual scenario at issue here. This finding does not alter the obligation of the E-Rate participant to fully comply with all E-Rate rules and procedures.

IV. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED that, pursuant to sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, sections 0.91(b), 0.291, and 1.2 of the Commission's rules, 47 CFR §§ 0.91(b), 0.291, 1.2, and section 5(e) of the Administrative Procedure Act, 5 U.S.C. § 554(e), the Declaratory Ruling IS ADOPTED.

14. IT IS FURTHER ORDERED that this Declaratory Ruling and the obligations set forth therein ARE EFFECTIVE upon release of this document.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

[30] Lower Yukon Request at 9; *see also* Lower Yukon *Ex Parte* at 2.

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

In the Matter of	)	
	)	
LANDER COUNTY GENERAL IMPROVEMENT DISTRICT #1	)	Facility ID No. 19409
	)	NAL/Acct. No. 202441420013
	)	FRN: 0000013623
Application for License to Cover for Television Translator Station K42DZ-D, Battle Mountain, Nevada	)	LMS File No. 0000245261

MEMORANDUM OPINION AND ORDER AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: August 29, 2024 **Released: August 29, 2024**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division (Division) of the Media Bureau has before it the application (Application) of Lander County General Improvement District #1 (LCGID), for license to cover television translator (TV translator) station K42DZ-D, Battle Mountain, Nevada (K42DZ-D or Station).[1] Also before the Division is LCGID's petition for reconsideration (Petition) of the cancellation of the Station's displacement construction permit (Displacement CP).[2] In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* (*NAL*), we find that LCGID apparently willfully violated section 73.3598(a)[3] of the Commission's rules (Rules) by failing to timely file a license to cover application, and willfully and repeatedly violated section 73.1745(a) of the Rules[4] and section 301 of the Communications Act of 1934, as amended (Act),[5] by engaging in unauthorized operation of the Station after its construction permit had expired. Based upon our review of the facts and circumstances before us, we conclude that LCGID is apparently liable for a monetary forfeiture in the amount of one thousand

[1] LMS File No. 0000245261 (Application). Following grant of the Application the Station's new call sign will be K34PP-D. For clarity, we shall continue to refer to the Station by its former call sign.

[2] *See* Petition for Reconsideration of Lander County General Improvement District #1 (May 24, 2024) on file at LMS Pleading File No. 0000245259 (Petition). The Petition was also submitted as an attachment to the Application. *See* LMS File No. 0000054349 (Displacement CP).

[3] 47 CFR § 73.3598(a). At the time the station should have filed its license to cover application, 47 CFR § 74.788 was the controlling rule for TV translator stations relating to construction and the requirement to file a license to cover. Effective October 24, 2022, 47 CFR § 74.788 (2022) was eliminated and found by the Commission to be duplicative with 47 CFR § 73.3598. *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*, Order and Sixth Notice of Proposed Rulemaking, 37 FCC Rcd 8173 (2022); 47 CFR § 74.780(bbb) (making 47 CFR § 73.3598 applicable to all TV translator and LPTV stations). To the extent necessary, we also find that the Licensee violated 47 CFR § 74.788 (2022).

[4] 47 CFR § 73.1745(a).

[5] *See* 47 U.S.C. § 301.

dollars ($1,000). We also, *sua sponte*, grant a waiver of section 73.3598(e) of the Rules,[6] reinstate the Station's construction permit, accept the Station's Application for filing, and will act upon the stations Application by separate Division staff action.

II. BACKGROUND

2. The Station is a TV translator station whose channel 49 facilities were displaced by the Incentive Auction and repacking process. LCGID obtained the Displacement CP to relocate from channel 42 to channel 34, with an expiration date of August 28, 2021. The Station failed to file a license to cover upon completion of the Station's facility and prior to the Displacement CP's expiration date. The Displacement CP was automatically forfeited on August 29, 2021. According to LCGID, the Station completed its displacement facility and began operations on channel 34 in August 2019.[7]

3. On May 24, 2024, over two years after the Displacement CP was forfeited and over four years after construction was completed, LCGID late-filed its Application and filed its Petition seeking reinstatement of the expired Displacement CP and grant of the Application.[8] In its Petition, LCGID explains that LCGID operates with an all-volunteer Board of Directors.[9] Shortly after completing construction of the Station's channel 34 displacement facility, "several changes in Board Members occurred" and the Board Member who had been managing FCC filings passed away.[10] As a result "[t]here was an apparent failure to communicate the construction and turn on of the translator and subsequent filing of license to cover construction application."[11] Beginning in September 2022 LCGID hired an outside contractor to handle all filings moving forward.[12]

4. LCGID argues that the Commission has previously recognized that automatic forfeiture of the authorization of an operating station is a severe penalty which the Commission has been reluctant to impose absent an egregious violation of its rules.[13] LCGID states that the town of Battle Mountain, Nevada (Battle Mountain), which the Station serves, is a small, rural community, set amidst vast tracts of open range and mountain terrain, with a population of approximately 3,700 people.[14] According to LCGID, the community depends on the Station to provide the community over-the-air television stations, including major network affiliates from Reno, Nevada (Reno).[15] The stations in Reno that are rebroadcast by LCGID are more than 150 miles away and due to terrain shielding are not receivable in Battle Mountain without the use of a TV translator station. Viewers in the Station's service area would be left

[6] 47 CFR § 73.3598(e) ("Any construction permit for which construction has not been completed and for which an application for license has not been filed, shall be automatically forfeited upon expiration without any further affirmative cancellation by the Commission."). *See supra* note 3.

[7] Petition at 1.

[8] We note that because the Displacement CP had not yet been canceled in the Commission's Licensing and Management System (LMS), the Station was able to file a license to cover application against its expired permit. Cancellation of a station's forfeited construction permit by Bureau staff in LMS is an administerial function and does not constitute an official Commission action nor require any affirmative cancellation by the Commission. *See Media Bureau Reminds Remaining Low Power Television and Television Translator Stations that the July 13, 2021 Digital Transition Date and Oher Important Deadlines are One Week Away*, Public Notice, 36 FCC Rcd 10364 (MB 2021); 47 CFR §74.788(b) (2022). As a result, failure by Division staff to cancel a forfeited construction permit in LMS does not result in an expired construction permit remaining valid.

[9] Petition at 2-3.

[10] *Id.* at 1.

[11] *Id.*

[12] *Id.* at 3.

[13] *Id.* at 2 citing *Letter to Richard Swift et. al. (KXFT- FM, Manson, Iowa)*, 24 FCC Rcd 13483 (MB 2009).

[14] *Id.* at 2.

[15] *Id.*

without access to the station's being rebroadcast by K42DZ. LCGID argues that it would be in the public interest to forgive its failure to file a timely license to cover and to grant its Application.[16] LCGID supplies copies of its most recent financial statements showing its revenues and expenditures for its fiscal years 2021, 2022, and 2023.[17] In its Petition, LCGID also provided documentary evidence that the Station was constructed in August 2019, as it contends, and that the Station has been operating continuously ever since.[18]

III. DISCUSSION

5. *Notice of Apparent Liability*. Pursuant to section 503(b)(1)(B) of the Act,[19] 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.[20] 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.[21] 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,[22] and the Commission has so interpreted the term in the section 503(b) context.[23] 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."[24]

6. *Apparent Violation*. LCGID admits that it failed to timely file a license to cover as required by section 73.3598(a) of the Rules,[25] and continued operating the Station without a valid instrument of authorization, in violation of section 73.1745(a) of the Rules and section 301 of the Act. LCGID explains and demonstrates that it completed construction of the Station's displacement facility in accordance with its Displacement CP and commenced operation of the Station on channel 34 in August 2019, well before the expiration date for its Displacement CP. LCGID goes on to admit that it overlooked the submission of the Station's license to cover due to an administrative oversight caused by turnover in its Board of Directors, including the passing of one of its Board Members. Although in September 2022 LCGID hired an outside consultant to handle its Commission filings, it was not discovered for another two years that the Station had failed to file a license to cover application for its displacement facility. It is well-settled that administrative oversight is not an excuse for failure to comply with the Commission's rules.[26] Furthermore, applicants and licensees are responsible for the errors or

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[16] *Id.*

[17] *Id.* at Statements of Revenue, Expenditures 2021, 2022, 2023. Based on a calculation by Division staff, LCGID's average gross revenue during the 2021, 2022 and 2023 fiscal years, which run from July 1 to June 30, was $48,802.67. LCGID's revenue is primarily collected through local tax assessments. While normally such information is not provided and considered until the Forfeiture Order stage, we will consider this financial information that has been provided in calculating our proposed forfeiture. *See infra* note 57.

[18] Petition at Exhibits.

[19] 47 U.S.C. § 503(b)(1)(B).

[20] *Id. See also* 47 CFR § 1.80(a)(1).

[21] 47 U.S.C. § 312(f)(1).

[22] *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

[23] *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).

[24] 47 U.S.C. § 312(f)(2).

[25] *See* 47 CFR § 73.3598(a). *See supra* note 3.

[26] *See, e.g.*, *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

(continued….)

oversights of their staff, including contractors.[27] We therefore find that LCGID has apparently violated the Rules and Act and is apparently liable for forfeiture.

7. *Proposed Forfeiture Amount.* The Commission's *Forfeiture Policy Statement* and section 1.80(b)(11) of the Rules establish a base forfeiture amount of $3,000 for the failure to file a required form.[28] The guidelines also specify a base forfeiture amount of $10,000 for construction and operation without an instrument of authorization for the service.[29] 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."[30]

8. When considering a licensee's ability to pay a forfeiture, the Commission will look at things such as: (1) federal tax returns for the most 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.[31] Any claim relating to ability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.[32] In general, a licensee's gross revenues are the best indicator of its ability to pay a forfeiture. The Commission has recognized that, in some cases, other financial indicators, such as net losses, may also be relevant.[33] 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.[34] In considering claims of financial hardship, the range of forfeitures that the Commission has deemed reasonable generally averages about five percent of the violator's gross annual income and has not exceeded eight percent thereof, although a forfeiture equal to five percent of gross revenues has been found to be excessive where a licensee operated at a significant loss.[35]

9. In this case, LCGID filed the Station's license application and engaged in unauthorized operation of the Station over four years after the facility was completed and over two years after the Station's construction permit had expired. LCGID supplied its most recent financial statements in an

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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 and 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).

[27] *See, e.g., Roy E. Henderson*, Memorandum Opinion and Order, 33 FCC Rcd 3385, 3387-88, para. 6 (2018) (rejecting argument that licensee's engineer was to blame for station's unauthorized operations).

[28] *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)(11), Table 1 to paragraph (b)(11).

[29] *Id.* A broadcast station requires an authorization from the Commission to operate. *See* 47 U.S.C. § 301.

[30] 47 U.S.C. § 503(b)(2)(E); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100; 47 CFR § 1.80(b)(11), Table 3 to paragraph (b)(11) and note 2 to paragraph (b)(11).

[31] *See Discussion Radio, Inc.,* Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7441, para. 28 (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).

[32] *Id.*

[33] *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089 (1992).

[34] *Id.*

[35] *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).

effort to demonstrate that levy of a large forfeiture amount would pose an imposition for the licensee which is a small rural TV translator district with limited resources.[36] Taking into consideration all of the factors required by section 503(b)(2)(E) of the Act, section 1.80 of the Rules, and the *Forfeiture Policy Statement*, we find a forfeiture in the amount of $1,000. We find this amount is appropriate given LCGID's history of compliance, substance of its financial statements, nature of its financing, and the unique facts and circumstances presented. While based on the financial documentation provided the forfeiture amount we propose is slightly higher than we have proposed in prior cases,[37] we believe a higher amount is warranted given how late the Station's Application was filed and the amount of time the Station engaged in unauthorized operation. Failing to timely file a license application following construction of a broadcast facility and operation of a facility without a valid authorization – whether consistent with the terms a construction permit or not – stands to undermine the Commission's licensing process, result in potentially harmful interference to other licensed or proposed operations, and create uncertainty in the television band.

10. *Request for Waiver*. LCGID requests that the Displacement CP be reinstated and its Application granted. Section 73.3598 specifies that a license to cover application must be filed upon completion of construction and that a construction permit automatically expires, without affirmative action of the Commission, if the permittee fails to file a license to cover application.[38] A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.[39] Providing relief in instances where a licensee has failed to file an application for license to cover, but clearly completed construction prior to its facility's construction permit expiration date is consistent with Commission precedent.[40] We find that based on the specific facts and circumstances presented here waiver is warranted.

11. According to LCGID, loss of the Station's programming would have an extremely detrimental impact on its community. The Station is a TV translator which is rebroadcasting programming from Reno; however, terrain shielding blocks direct reception of Reno full power television stations. Absent the Station, the programming being rebroadcast from Reno would no longer be available over-the-air. Further, the Station did not make a voluntary decision to change channels. As previously noted, the Station was involuntarily displaced from its prior channel assignment as part of the Incentive Auction and repacking process which was implemented by the Commission at the direction of Congress for the purpose of increasing the availability of spectrum for wireless services. In order to continue serving the public, the Station was required to apply for displacement relief to construct facilities to

[36] Petition at 3.

[37] *See e.g., Methow Valley Communications District,* Forfeiture Order, 38 FCC Rcd 4262 (MB 2023) (paid May 2023) (late-filed license and unauthorized operation of 3 years); *Boundary County TV Translator District*, Memorandum Opinion and Order and Notice of Proposed Liability, DA 23-953 (rel. Oct. 13, 2023) (paid Jan. 2024) (late-filed license and unauthorized operation of less than 2 years); *Garfield TV Club*, Memorandum Opinion and Order and Notice of Proposed Liability, DA 23-807 (MB 2023) (paid Sept. 2023) (late-filed license and unauthorized operation of 3 years).

[38] 47 CFR § 73.3598(a), (e).

[39] *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

[40] *See, e.g.*, *Clear Channel Broadcasting Licenses, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 7153, 7157, para. 11 (2011) (upholding as proper the Media Bureau's practice of processing a late-filed covering license application for facilities fully completed by the construction deadline through the waiver process); *Cranesville Block Company, Inc.*, Letter Order, 27 FCC Rcd 2018, 2019-20 (MB 2012) (dismissing a petition for reconsideration of an expired construction permit as procedurally improper and treating it instead as a request for waiver); *supra* note 37 (citing to cases where rural LPTV or TV translator stations were displaced by the Incentive Auction and repacking process, but sanctioned for failing to timely file an application for license to cover their displacement facilities).

broadcast on a new channel. Based on these facts taken as a whole, we find that permanent loss of the Station would be adverse to the public interest. Nevertheless, enforcement action is warranted for failure to adhere to Commission rules.

12. In light of the facts and circumstances discussed above and our findings that forfeiture is an appropriate sanction for LCGID's apparent violations, we will grant LCGID's Petition, reinstate the Station's Displacement CP, and accept the Station's Application for processing. We will act upon the Application, by separate Division staff action.[41] Our finding here and in other similarly situated cases where the Division has taken enforcement action and waived the Commission's rules in lieu of declining to accept a late filed application for license to cover,[42] does not override our general rules requiring permitees/licensees to construct within the time period set forth in their construction permit,[43] timely file a license to cover application upon completion of their facility and retain valid authorization to operate its facility.[44]

IV. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Act,[45] and sections 0.61, 0.204, 0.283, and 1.80 of the Rules,[46] that Lander County General Improvement District #1 is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of one thousand dollars ($1,000) for its apparent willful violation of section 73.3598(a) of the Rules[47] and

[41] We note the Application was inadvertently granted by Division staff on June 5, 2024. This grant has been rescinded and the Application is now in pending status..

[42] *See supra* note 37.

[43] *See* 47 CFR § 73.3598(e) ("Any construction permit for which construction has not been completed and for which an application for license has not been filed, shall be automatically forfeited upon expiration without any further affirmative cancellation by the Commission.").

[44] We take this opportunity to remind all licensees of their obligation to not only complete construction prior to the expiration of their construction permit, but also to file a license to cover in a timely manner and operate pursuant to valid authorization. Specifically, with regards to LPTV and TV translator stations that were either displaced by the incentive auction repack or required to transition their facility from analog to digital operations in conjunction with the Commission's mandated 2021 LPTV digital transition; we note that the construction permits for such stations, with limited exception, have now long since expired. The application window for LPTV and TV translator stations displaced by the incentive auction closed in May 2018 and the deadline for Stations to convert from analog to digital operations was July 13, 2021. *See Media Bureau Reminds Remaining Low Power Television and Television Translator Stations that the July 13, 2021 Digital Transition Date and Oher Important Deadlines are One Week Away*, Public Notice, 26 FCC Rcd 10364 (MB 2021); *See Incentive Auction Task Force and Media Bureau Announce Post Incentive Auction Special Displacement Window April 10, 2018 Through May 15, 2018, And Make Location and Channel Data Available, Public Notice*, 33 FCC Rcd 1234, 1238 (IATF and MB 2018). The Bureau has also started the process of lifting the current freeze on major modification applications. *See Media Bureau Announces Commencement of First-Come, First-Serve Channel Change Opportunity for Class A Television, LPTV, and TV Translator Stations Beginning on August 20, 2024*, Public Notice, DA 24-498 (rel. May 28, 2024) (permitting the filing of major modifications by Class A, LPTV, and TV translator stations to change channels). Therefore, future cases with similar facts may dictate a different result from the one here. As previously stated, failing to timely file a license application following construction of a broadcast facility and operation of a facility without a valid authorization "stands to undermine the Commission's licensing process, result in potentially harmful interference to other licensed or proposed operations, and create uncertainty in the television band." *Supra* para. 9.

[45] 47 U.S.C. § 503(b).

[46] 47 CFR §§ 0.61, 0.204, 0.283, and 1.80.

[47] 47 CFR § 73.3598(a). *See supra* note 3.

apparent willful and repeated violations of section 73.1745(a) of the Rules[48] and section 301 of the Act.[49]

14. **IT IS FURTHER ORDERED** that section 73.3598(e) of the Rules **IS WAIVED** and the application for license (LMS File No. 0000245261) of K42DZ-D, Battle Mountain, Nevada **IS ACCEPTED FOR FILING** and will be acted upon by separate Division staff action.

15. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Rules,[50] within thirty (30) days of the release date of this ***NAL***, Lander County General Improvement District #1 **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

16. 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),[51] 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 VideoNAL@fcc.gov and Shaun.Maher@fcc.gov. Below are instructions that payors should follow based on the form of payment selected:[52]

- 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).[53] 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/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 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/cores/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

[48] 47 CFR § 73.1745(a).

[49] 47 U.S.C. § 301.

[50] 47 CFR § 1.80.

[51] Payments made using CORES do not require the submission of an FCC Form 159.

[52] 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.

[53] Instructions for completing the form may be obtained at https://www.fcc.gov/Forms/Form159/159.pdf.

"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.

17. 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.[54] 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. Requests can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service in the manner specified below.[55] A copy of the request must also be emailed to VideoNAL@fcc.gov and Shaun.Maher@fcc.gov.

18. The written response 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(g)(3) of the Rules.[56] The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, Shaun Maher, Attorney Advisor, Video Division, Media Bureau, and **MUST INCLUDE** the NAL/Acct. No. referenced above. **A copy must also be emailed to Shaun Maher, Shaun.Maher@fcc.gov to assist in processing the response.**

- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
    - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.[57]
    - 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.

19. 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 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 Act support

[54] *See* 47 CFR § 1.1914.

[55] *See infra* at para. 18.

[56] 47 CFR §§ 1.16 and 1.80(g)(3). We note that we have already reduced the base forfeiture amounts based on information submitted by LCGID. We will look unfavorably upon a request for further reduction or cancellation based on the same information.

[57] Hand-delivered or messenger delivered paper filings continue to NOT be accepted at FCC Headquarters.

that result.[58]

20. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director-Financial Operations, 45 L Street, NE, Washington, DC 20554.[59] Requests can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service in the manner specified above. A copy of the request must also be sent to **Shaun.Maher@fcc.gov**. 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.

21. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Lander County General Improvement District # P.O. Box, 565, Battle Mountain, NV 89820, Attention: Barat Negro, Chairman, and by e-mail to: 3mta3@sbcglobal.net. A copy will also be sent to the Station's contact representative, Susan Hansen at stcl@comcast.net.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[58] 47 U.S.C. § 503(b)(2)(E). *See, e.g.*, *Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44–45 (2018). We note that we have already considered these factors in determining our proposed forfeiture amount and are unlikely to reduce the amount further absent additional unique facts and circumstances. *See supra* paras. 7-9.

[59] *See* 47 CFR § 1.1914.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: https://www.fcc.gov

DA 24-879
Released: August 29, 2024

STREAMLINED RESOLUTION OF REQUESTS UNDER THE SECURE AND TRUSTED COMMUNICATIONS NETWORKS REIMBURSEMENT PROGRAM

WC Docket No. 18-89

By this Public Notice, the Wireline Competition Bureau (Bureau) grants, pursuant to delegated authority, the following petitions requesting to extend certain deadlines under the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program).

As directed by the Secure and Trusted Communications Networks Act of 2019, as amended (Secure Networks Act), the Commission established the Reimbursement Program to reimburse providers of advanced communications service with ten million or fewer customers for reasonable costs incurred in the removal, replacement, and disposal of covered communications equipment or services from their networks that pose a national security risk, i.e., communications equipment or services produced or provided by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE), that were obtained by providers on or before June 30, 2020.[1] The Reimbursement Program is funded by a $1.9 billion congressional appropriation,[2] which is less than the $5.6 billion in collective funds requested by applicants to the program.[3] Because demand exceeded available funding, the Secure Networks Act

[1] Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, § 4(a)-(c), 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601-1609). The Commission adopted rules implementing the Secure Networks Act on December 10, 2020. *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 (2020) (*2020 Supply Chain Order*). On July 13, 2021, the Commission amended its rules, consistent with amendments to the Secure Networks Act included in the Consolidated Appropriations Act, 2021. *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, 11959, para. 2 (2021) (*2021 Supply Chain Order*). The Commission later clarified that, for purposes of the Reimbursement Program, covered communications equipment or services are limited to the communications equipment or services produced or provided by Huawei or ZTE that were obtained by providers on or before June 30, 2020. *See 2021 Supply Chain Order*, 36 FCC Rcd at 11959, 11965, paras. 2 and 18; *see also generally 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).

[2] Consolidated Appropriations Act, 2021, Pub. L. No. 116–260, § 906, 134 Stat. 1182 (2020) (CAA). Section 906 provides that "[t]here is appropriated to the Federal Communications Commission, out of amounts in the Treasury not otherwise appropriated, for fiscal year 2021, to remain available until expended— . . . (2) $1,900,000,000 to carry out the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1601 et seq.), of which $1,895,000,000 shall be used to carry out the program established under section 4 of that Act (47 U.S.C. 1603)."

[3] *See Wireline Competition Bureau Announces the Grant of Applications for the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 22-774, at 1-2 (WCB July 18, 2022) (*SCRP Granted Applications Public Notice*) (explaining that "[e]ach applicant was required to include in its application estimates for the costs that it will reasonably incur for the permanent removal, replacement,

(continued….)

required the Bureau to implement a prioritization scheme where funding was allocated first to approved applicants with 2,000,000 or fewer customers (Priority 1 applicants).[4] Because demand from Priority 1 applicants alone exceeded the congressional appropriation, Commission rules required that allocations to Priority 1 applicants be pro-rated on an equal basis.[5] Consequently, recipients received funding allocations for approximately 39.5% of their reasonable and supported estimated costs for removing, replacing, and disposing of covered communications equipment and services.[6]

Reimbursement Program recipients must complete the removal, replacement, and disposal of covered communications equipment and services within one year from the initial disbursement of funds to the recipient.[7] Pursuant to section 4(d)(6)(C) of the Secure Networks Act, the Commission may grant recipients extensions of this term on an individual basis.[8] The Commission delegated authority to the Bureau to grant or deny individual petitions for an extension of a recipient's term.[9] The Bureau "may grant an extension for up to six months after finding, that due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term" and "may grant more than one extension request to a recipient if circumstances warrant."[10] This can occur, for example, due to the lack of funding to fully reimburse recipients, which can require recipients to revise their plans in ways that cause them to need more time to remove, replace, and dispose of covered equipment, in addition to delays in receiving the necessary equipment to replace their covered equipment, which likewise can require a recipient to need more time to meet its obligations under the Reimbursement Program.[11]

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and disposal of covered communications equipment and services" and identifying that, across all filed applications, applicants sought a total of "approximately $5.6 billion in gross program support").

[4] *See* 47 U.S.C. § 1603(d)(5)(C); 47 CFR § 1.50004(f)(1); *SCRP Granted Applications Public Notice* at 2-3.

[5] The Commission's rules provide that "[i]f there is insufficient funding to fully fund all requests in a particular prioritization category, then the [Bureau] will pro-rate the available funding among all eligible providers in that prioritization category." 47 CFR § 1.50004(f)(1); *see also* 47 U.S.C. § 1603(d)(5)(A) ("[T]he Commission shall make reasonable efforts to ensure that reimbursement funds are distributed equitably among all applicants for reimbursements under the Program according to the needs of the applicants, as identified by the applications of the applicants.").

[6] *See* 47 CFR § 1.50004(f)(1); *see also SCRP Granted Applications Public Notice* at 2-3.

[7] 47 U.S.C. § 1603(d)(6)(A); 47 CFR § 1.50004(h).

[8] *See* 47 U.S.C. § 1603(d)(6)(C).

[9] *See* 47 U.S.C. § 1603(d)(6)(C); 47 CFR § 1.50004(h)(2) ("Individual extensions. Prior to the expiration of the removal, replacement and disposal term, a Reimbursement Program recipient may petition the Wireline Competition Bureau for an extension of the term. The Wireline Competition Bureau may grant an extension for up to six months after finding, that due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term. The Wireline Competition Bureau may grant more than one extension request to a recipient if circumstances warrant.").

[10] 47 CFR § 1.50004(h)(2); *see also 2020 Supply Chain Order*, 35 FCC Rcd at 14354-56, paras. 171, 173 and n.501.

[11] *See*, *e.g.*, *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18-89, Order, DA 23-875, para. 7 (WCB Sept. 22, 2023) (*Stealth Extension Order*) (granting an extension based on supply chain issues); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18-89, Order, DA 23-938, paras. 12-16 (WCB Oct. 10, 2023) (*WorldCell et al. Extension Order*) (granting extensions based in both funding issues and supply chain issues); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-1016, paras. 12-16 (WCB Oct. 27, 2023) (*Point/SI Wireless Extension Order*) (granting extensions based on both funding issues and supply chain issues); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18-89, Order, DA 23-1110, paras. 8-11 (WCB Nov. 28, 2023) (*Triangle Telephone/Triangle Communication Extension Order*) (granting extension of time requests by Triangle Telephone Cooperative Association Inc. and Triangle
(continued….)

The Bureau strongly encourages recipients that intend to file a petition for an extension to do so as promptly as possible after determining that their circumstances meet the standard for an extension established in the statute and the Commission's implementing rules, and well in advance of the recipient's deadline, so the Bureau is able to fully consider and grant or deny the petition before the recipient's term expires. We remind recipients that requests for term extensions must specify both the specific grounds for the request and the underlying facts and circumstances on which the recipient relies in asserting those grounds. The Commission directed the Bureau to review individual extension requests on a case-by-case basis and to consider all factors when evaluating the request.[12] To this end, the facts and circumstances in an individual request should include the specific obstacles faced by the recipient, how they affected the recipient's ability to meet its term deadline, why the inability to meet the deadline exists through no fault of the recipient, and steps taken by the recipient to mitigate the impacts of the obstacles as it works towards meeting its removal, replacement, and disposal obligations. Recipients should also explain whether they expect to meet their new deadline if the Bureau grants their extension request. Consistent with rule 1.50004(h)(2), which permits the Bureau to grant more than one extension request "if circumstances warrant,"[13] recipients making a second or subsequent extension request should ensure that the facts and circumstances described cover the time period since their prior extension request was made and explain progress made since that request. Requests that lack adequate support may be denied or the recipient may be required to provide additional support, which could delay a decision on the request.

The lack of full funding will not necessarily be a sufficient showing for multiple extension requests, as recipients should continually make progress toward completing their projects by the end of their removal, replacement, and disposal term. The Bureau will evaluate the sufficiency of each individual extension request at the time it is filed in determining whether to grant or deny it. We emphasize that a recipient's statutory obligation to complete the permanent removal, replacement, and disposal of covered communications equipment or services exists regardless of the amount of funding it may receive through the Reimbursement Program pursuant to the Secure Networks Act. The Secure Networks Act and the Commission's rules require each Reimbursement Program recipient to remove, replace, and dispose of "all" its covered equipment and services.[14] Similarly, the Reimbursement Program FAQs (at 21) state that "[p]roviders are expected to remove, replace, and dispose of all Huawei and/or ZTE communications equipment and services in their networks as of the date of the submission of the application even if they receive a prorated allocation from the Reimbursement Program due to funding constraints."[15]

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Communication System, Inc. based on supply chain issues); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18-89, Order, DA 23-1196, para. 5 (WCB Dec. 21, 2023) (*GigSky, Inc. Extension Order*) (granting extension of time request by GigSky, Inc. based on funding issues).

[12] *2021 Supply Chain Order*, 36 FCC Rcd at 11998, para. 99.

[13] 47 CFR § 1.50004(h)(2).

[14] 47 U.S.C. § 1603(e)(4)(A)(ii) (recipient must file a final certification to show removal, replacement, and disposal of "all" covered equipment and services); 47 CFR 1.50004(m)(1) (same); *see also* 47 U.S.C. § 1603(d)(4)(A)(i)(I) (applicant must certify it has a plan to remove "any" covered equipment and services); 47 CFR § 1.50004(a)(3)(i)(A) (same).

[15] https://docs.fcc.gov/public/attachments/DA-24-234A2.pdf. Within 10 days following the expiration of the removal, replacement, and disposal term, a recipient must file a final certification with the Commission indicating whether it has fully complied with all terms and conditions of the Reimbursement Program. 47 U.S.C. § 1603(e)(4)(A); 47 CFR § 1.50004(m)(1).

Consistent with the Commission's goal of streamlining its internal review processes,[16] and further pursuant to our delegated authority,[17] we announced in our *January 2024 Streamlined Resolution Public Notice* that we would, with that Public Notice, begin issuing a Public Notice, as necessary but not more frequently than monthly, disposing of pending petitions which seek an extension of an applicants' removal, replacement, and disposal terms, do not involve complicated and/or controversial issues, and can be addressed in a manner consistent with Commission and/or Bureau precedent.[18] Accordingly, we hereby grant the pending petitions listed below for an extension of a recipient's term to remove, replace, and dispose of its covered equipment.[19]

Recipient – Advantage Cellular Systems, Inc., SCRP0001177

> **Grounds for individual term extension** – Advantage Cellular Systems, Inc. (ACS) requests a second six-month extension of its deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) in the above-identified application.[20] ACS asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its September 10, 2024 deadline has, through no fault of its own, been materially affected by supply chain issues. ACS states that, since the Bureau granted its first extension request,[21] "equipment deliveries have been delayed, . . . including [the] delivery of filters for Band 17, Lower C" and that this supply chain delay has impacted its ability to meet its program obligations.[22] ACS further notes that it continues to experience delays in securing "available work crews."[23] Despite these issues, ACS reports progress in its replacement efforts and notes that it is now using a "temporary core" to provide network functionality.[24] The Bureau finds ACS's showing persuasive and that its situation is consistent with the situation of other

[16] *See Report on FCC Process Reform,* GN Docket No. 14-25 (Staff Working Group, Feb. 14, 2014) (*Process Reform Report*).

[17] *See* 47 CFR §§ 0.91, 0.291, 1.50004(h)(2).

[18] *Streamlined Resolution of Requests Under the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 24-88, at 3 (WCB Jan. 31, 2024) (*January 2024 Streamlined Resolution Public Notice*). This approach further speeds the disposition of petitions seeking extension of the removal, replacement, and disposal term and to ensure the continued efficient administration of the Reimbursement Program, while at the same time fulfilling our obligation to thoroughly review the record before us. *Id.* Prior to issuance of the *January 2024 Streamlined Resolution Public Notice*, we had resolved petitions for extensions of recipients' removal, replacement, and disposal terms in stand-alone orders addressing each petition. The Bureau routinely resolves other matters in the manner of the *January 2024 Streamlined Resolution Public Notice*, as appropriate. *See*, *e.g.*, *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) (stating that the Bureau will resolve certain Universal Service Fund matters in a streamlined public notice).

[19] This Public Notice does not take positions on the merits of grounds raised by requestors other than those identified and discussed herein. In addition, we expressly reject any suggestion in the requests that a recipient is required to meet its statutorily mandated removal, replacement, and disposal obligations only if full funding is made available by Congress.

[20] *See* Request of ACS for Extension of Time, WC Docket No. 18-89 (filed Aug. 1, 2024) (Request of ACS).

[21] *Streamlined Resolution of Requests Under the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 24-191, at 3-4 (WCB July 31, 2024).

[22] Request of ACS at 3.

[23] *Id.*

[24] *Id.* at 2-3.

recipients that have been granted extensions on similar grounds of supply chain issues,[25] and accordingly grants the requested extension.

New RRD term expiration date – ACS's deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) IS EXTENDED from September 10, 2024 to March 10, 2025.

Recipient – AST Telecom, LLC d/b/a Bluesky, SCRP0001076

Grounds for individual term extension – AST Telecom, LLC d/b/a Bluesky (Bluesky) requests a second six-month extension of its deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) in the above-identified application.[26] Bluesky asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its October 18, 2024 deadline has, through no fault of its own, been materially affected by supply chain issues. Bluesky states that, since the Bureau granted its first extension request,[27] it has encountered delays in "shipping [covered equipment] long distances by ocean freight from [its] remote island territory" and that the "logistics of ocean transportation (to include weather challenges that may be posed by hurricanes)" necessitate its request.[28] Bluesky also notes that it secured an equipment disposal company in June 2024 but that it could take approximately four to five months from that date before the associated equipment is fully disposed of.[29] Bluesky contends that it attempted, but failed, to find alternate ways of "shortening the shipping and disposal timeline."[30] Despite these issues, ACS reports progress, noting that it "completed the removal and replacement of the covered equipment as of April 30, 2024" even as "further integration and testing must be done for all sites to become operational."[31] The Bureau finds Bluesky's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of supply chain issues,[32] and accordingly grants the requested extension.

New RRD term expiration date – Bluesky's deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) IS EXTENDED from October 18, 2024 to April 18, 2025.

Recipient – Country Wireless LLC, SCRP0001017

Grounds for individual term extension – Country Wireless LLC (Country Wireless) requests a second six-month extension of its deadline to remove, replace, and dispose of covered equipment

[25] *See, e.g., Stealth Extension Order* at 3-5, paras. 6-11; *WorldCell et al. Extension Order* at 7-8, paras. 16-19; *Point/SI Wireless Extension Order* at 6-7, paras. 15-18; *Triangle Extension Order* at 4-5, paras. 8-11; *January 2024 Streamlined Resolution Public Notice* at 4-5.

[26] *See* Request of Bluesky for Extension of Time, WC Docket No. 18-89 (filed Aug. 16, 2024) (Request of Bluesky).

[27] *Streamlined Resolution of Requests Under the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 24-313, at 3-4 (WCB Mar. 29, 2024).

[28] Request of Bluesky at 2.

[29] *Id.* at 3.

[30] *Id.*

[31] *Id.* at 2.

[32] *See, e.g., Stealth Extension Order* at 3-5, paras. 6-11; *WorldCell et al. Extension Order* at 7-8, paras. 16-19; *Point/SI Wireless Extension Order* at 6-7, paras. 15-18; *Triangle Extension Order* at 4-5, paras. 8-11; *January 2024 Streamlined Resolution Public Notice* at 4-5.

and services in its network under 47 CFR § 1.50004(h)(2) in the above-identified application.[33] Country Wireless asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its August 23, 2024 deadline has, through no fault of its own, been materially affected by supply chain issues. Country Wireless states that, since the Bureau granted its first extension request,[34] "the manufacturer of [its] replacement equipment experienced an 8-week delay in shipping between April and June of 2024" and that this supply chain delay "pushed back [its] construction start to mid-August on ten . . . towers."[35] Country Wireless notes that it has attempted to mitigate these delays by prioritizing the replacement of "equipment on towers that do not require extensive and often expensive modifications" and, despite the reported issues, it expects to complete work on the towers described above.[36] The Bureau finds Country Wireless's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of supply chain issues,[37] and accordingly grants the requested extension.

New RRD term expiration date – Country Wireless's deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) IS EXTENDED from August 23, 2024 to February 23, 2025.

Recipient – Inland Cellular LLC, SCRP0001144

Grounds for individual term extension – Inland Cellular LLC (Inland) requests an approximate eight-week first extension of its deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) in the above-identified application.[38] Inland asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its August 8, 2024 deadline has, through no fault of its own, been materially affected by supply chain issues. Inland reports that, while it had "plac[ed] multiple orders for necessary antennas and connectors," a first shipment received in April 2024 included only four of the 56 antennas that it ordered.[39] Inland reports that, while the remaining antennas were eventually delivered months later, in July 2024, the "antenna connectors were not supplied and had to be [separately] ordered."[40] Despite these issues, Inland reports progress, noting that it has "diligently worked to replace and decommission the Huawei equipment," including by "hir[ing] an additional tower crew to expedite" its fulfillment of its equipment replacement obligations.[41] The Bureau finds Inland's showing persuasive and that its situation is consistent

[33] *See* Request of Country Wireless for Extension of Time, WC Docket No. 18-89 (filed Aug. 15, 2024) (Request of Country Wireless).

[34] *Streamlined Resolution of Requests Under the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 24-88, at 5 (WCB Jan. 31, 2024).

[35] Request of Country Wireless at 2.

[36] *Id.* at 1-2.

[37] *See, e.g., Stealth Extension Order* at 3-5, paras. 6-11; *WorldCell et al. Extension Order* at 7-8, paras. 16-19; *Point/SI Wireless Extension Order* at 6-7, paras. 15-18; *Triangle Extension Order* at 4-5, paras. 8-11; *January 2024 Streamlined Resolution Public Notice* at 4-5.

[38] *See* Request of Inland for Extension of Time, WC Docket No. 18-89 (filed Aug. 8, 2024) (Request of Inland).

[39] Request of Inland at 1.

[40] *Id.*

[41] *Id.* at 1-2.

with the situation of other recipients that have been granted extensions on similar grounds of supply chain issues,[42] and accordingly grants the requested extension.

New RRD term expiration date – Inland's deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) IS EXTENDED from August 8, 2024 to September 30, 2024.

Recipient – NE Colorado Cellular Inc, SCRP0001106; SCRP0001107; SCRP0001108; SCRP0001109, SCRP0001116, SCRP0001117

Grounds for individual term extension – NE Colorado Cellular, Inc., dba Viaero Wireless (NE Colorado) requests a second six-month extension of its deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) as to each of the above-identified applications.[43] NE Colorado asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its deadlines of September 9, 2024 (application SCRP0001106) and October 6, 2024 (applications SCRP0001107, SCRP0001108, SCRP0001109, SCRP0001116, and SCRP0001117) has, through no fault of its own, been materially affected by the lack of full funding. Among other things, NE Colorado has "been forced to release some construction crews, leading to project delays," has had to "shift[] the focus of the project to complete the project in clusters, which in turn means that limited progress is being made at some sites," and had to "prioritize where it will send work crews to perform work in order to fully complete the sites already in progress and under construction."[44] NE Colorado reports that, since the Bureau granted its first extension request as to each application,[45] it has taken further steps to mitigate the lack of available funding, including by "continually reevaluating its project plan and timelines," prioritizing the work of crews at sites that are "already in progress and under construction," and working "to complete [its] project in clusters," but that these mitigation steps have also resulted in project delays.[46] Despite these issues, NE Colorado reports overall progress meeting its program obligations, noting that "163 of the 176 sites" associated with one of its vendors are constructed, the completed "deployment of its core equipment located at its network operations centers," that "[a]ll onsite hardware has been delivered, installed, and commissioned," that "Integration and Acceptance Testing is 100% complete[d]" and that all of its "voice and data traffic has been migrated" from Huawei cores.[47]

[42] *See, e.g., Stealth Extension Order* at 3-5, paras. 6-11; *WorldCell et al. Extension Order* at 7-8, paras. 16-19; *Point/SI Wireless Extension Order* at 6-7, paras. 15-18; *Triangle Extension Order* at 4-5, paras. 8-11; *January 2024 Streamlined Resolution Public Notice* at 4-5.

[43] *See* Supplemental Request of NE Colorado Cellular Inc. for Extension of Time, WC Docket No. 18-89 (filed Aug. 20, 2024) (for File No. SCRP0001106) (Request of NE Colorado); *see* Supplemental Request of NE Colorado Cellular Inc. for Extension of Time, WC Docket No. 18-89 (filed Aug. 20, 2024) (for File No. SCRP0001107); *see* Supplemental Request of NE Colorado Cellular Inc. for Extension of Time, WC Docket No. 18-89 (filed Aug. 20, 2024) (for File No. SCRP0001108); *see* Supplemental Request of NE Colorado Cellular Inc. for Extension of Time, WC Docket No. 18-89 (filed Aug. 20, 2024) (for File No. SCRP0001109); Request of NE Colorado Cellular Inc. for Extension of Time, WC Docket No. 18-89 (filed Aug. 20, 2024) (for File No. SCRP0001116); Request of NE Colorado Cellular Inc. for Extension of Time, WC Docket No. 18-89 (filed Aug. 20, 2024) (for File No. SCRP0001117).

[44] Request of NE Colorado Cellular Inc. for Extension of Time, WC Docket No. 18-89, at 2-3 (for File No. SCRP0001117).

[45] *Streamlined Resolution of Requests Under the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 24-191, at 5 (WCB Feb. 29, 2024).

[46] *E.g.*, Request of NE Colorado at 2.

[47] *E.g.*, *id.* at 2.

Additionally, NE Colorado reports that it has completed a number of projects related to electrical issues, shelter upgrades, concrete pads, access road prep, generator replacements, permitting, lease negotiations, and regulatory issues.[48] The Bureau finds NE Colorado's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of the lack of full funding,[49] and accordingly grants the requested extension for each of the above-identified applications.

New RRD term expiration dates – NE Colorado's deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) IS EXTENDED as follows:

- For Application No. SCRP0001106, from September 9, 2024 to March 9, 2025;
- For Application No. SCRP0001107, from October 6, 2024 to April 6, 2025;
- For Application No. SCRP0001108, from October 6, 2024 to April 6, 2025;
- For Application No. SCRP0001109, from October 6, 2024 to April 6, 2025;
- For Application No. SCRP0001116, from October 6, 2024 to April 6, 2025;
- For Application No. SCRP0001117, from October 6, 2024 to April 6, 2025.

* * *

We also, on our own motion, rescind an extension previously granted of a recipient's term to remove, replace, and dispose of its covered equipment and services based on changed circumstances indicating that the recipient completed the work prior to its deadline.

Recipient – Mediacom Communications Corporation, SCRP0001140

Grounds for rescinding a previously granted individual term extension – On July 13, 2024, Mediacom Communications Corporation (Mediacom) requested a three-month extension, from July 15, 2024 to October 15, 2024, of its deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) in the above-identified application.[50] In support of the request, Mediacom noted that it had completed its removal and replacement program obligations and was requesting the extension to ensure that it had sufficient time to complete its disposal program obligations with "very high confidence."[51] On July 31, 2024, the Bureau granted Mediacom's requested three-month extension on this basis.[52] In the intervening time period, on July 25, 2024, Mediacom filed a final certification in the Reimbursement Program's Filing Portal indicating, among other things, that it had in fact completed all of its removal, replacement, and disposal obligations on July 15, 2024. Accordingly, to ensure program efficiency and overall clarity of the record, the three-month extension is moot, and the Bureau hereby rescinds the extension that it previously granted to Mediacom on July 31, 2024.[53] Accordingly, Mediacom's deadline to have removed, replaced, and disposed of covered equipment and services in its network remains July 15, 2024.

[48] *E.g.*, *id.* at 3.

[49] *See, e.g., WorldCell et al. Extension Order* at 5-7, paras. 11-15; *Point/SI Wireless Extension Order* at 5-6, paras. 12-14; *GigSky Extension Order* at 2, paras. 4-5; *January 2024 Streamlined Resolution Public Notice* at 5.

[50] *See* Request of Mediacom for Extension of Time, WC Docket No. 18-89 (filed July 13, 2024).

[51] *Id.* at 5.

[52] *Streamlined Resolution of Requests Under the Secure and Trusted Communications Networks Reimbursement Program*, WC Docket No. 18-89, Public Notice, DA 24-742, at 6-7 (WCB July 31, 2024).

[53] *Id.*

New RRD term expiration date – Mediacom's deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2) IS REVERTED from October 15, 2024 to July 15, 2024.

For additional information concerning this Public Notice, please contact Ty Covey in the Competition Policy Division, Wireline Competition Bureau, at ty.covey@fcc.gov or (202) 418-1372.

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PUBLIC NOTICE

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DA 24-881
Released: August 29, 2024

WIRELINE COMPETITION BUREAU ANNOUNCES COMPLIANCE DATE OF AUGUST 29, 2024 FOR LIFELINE RULES IMPLEMENTING THE SAFE CONNECTIONS ACT

WC Docket Nos. 22-238, 11-42, and 21-450

In November 2023, the Federal Communications Commission (Commission) released a *Report and Order* adopting rules implementing the Safe Connections Act of 2022.[1] Compliance with revisions to the Commission's part 54 rules implementing the emergency Lifeline support provisions of the SCA were delayed until the Office of Management and Budget (OMB) completed a review of information collection requirements.[2] The Commission directed the Wireline Competition Bureau to announce the compliance date for sections 47 CFR 54.403, 54.405, 54.409, 54.410, 54.424, and 54.1800 by Public Notice following OMB approval.[3]

Recently, OMB has completed its review of the Commission's rules implementing the emergency Lifeline support provisions of the SCA. On August 29, 2024, notice of OMB approval and amendments to the provisions was announced in the Federal Register.[4] Accordingly, compliance with the changes to part 54 of the Commission's rule adopted in the *Report and Order* is now required.

For further information, please contact Michael Alonso, Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-7452, or e-mail: Michael.Alonso@fcc.gov.

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[1] *See Supporting Survivors of Domestic and Sexual Violence et al.*, WC Docket No. 11-42 et al., Report and Order, FCC 23-96 (2023) (*Report and Order*); *see also* Safe Connections Act of 2022, Pub. L. No. 117-223, 116 Stat. 2280 (Safe Connections Act or SCA). On December 5, 2023, a summary of the *Report and Order* was published in the Federal Register, and on January 14, 2024, the rules adopted became effective. FCC, *Supporting Survivors of Domestic and Sexual Violence; Lifeline and Link Up Reform Modernization*, 88 Fed. Reg. 84406, 84406 (Dec. 5, 2023) (SCA Final Rule).

[2] SCA Final Rule, 88 Fed. Reg. at 84406; *Report and Order* at 56, para. 102.

[3] *Report and Order* at 56, para. 102.

[4] FCC, *Supporting Survivors of Domestic and Sexual Violence; Lifeline and Link Up Reform Modernization*, 89 Fed. Reg. 70119 (Aug. 29, 2024). Specifically, sections 47 CFR 54.403(a)(5), 54.405(e)(7), 54.409(a)(4), 54.410(j), 54.424(c), and 54.1800(j)(7), which concerned tentative compliance dates, were removed.

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)
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DA No. 24-882

Report No. SAT-01851 **Friday August 30, 2024**

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-MOD-20240823-00191 E S2179 EchoStar Satellite Services L.L.C.
Modification
Withdrawn Effective Date: 08/23/2024

Nature of Service: Fixed Satellite Service

SAT-STA-20240820-00188 E S3066 Intelsat License LLC
Special Temporary Authority
Grant of Authority Effective Date: 08/28/2024

Nature of Service: Fixed Satellite Service

On August 28, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Intelsat License LLC, for an additional period of 60 days, for the Intelsat 40e space station to provide fixed-satellite service in the 18.8-19.3 GHz (space-to-Earth) and 28.6-29.1 GHz (Earth-to-space) frequency bands from the 91.0° 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	)	
	)	
Rural Digital Opportunity Fund Auction	)	WC Docket No. 19-126
	)	
Rural Digital Opportunity Fund (Auction 904)	)	AU Docket No. 20-34

ORDER ON RECONSIDERATION

Adopted: August 30, 2024 **Released: August 30, 2024**

By the Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we address a Petition for Reconsideration[1] (Petition) of the Commission's order[2] affirming our decision to deny Starlink's application to be authorized to receive broadband deployment subsidies from the Rural Digital Opportunity Fund (RDOF or Auction 904).[3] The Petition seeks to reverse the Commission's decision affirming the conclusion by the Wireline Competition Bureau (the Bureau) that Starlink did not demonstrate that it was eligible to receive RDOF support. Alternatively, the Petition seeks a waiver of Commission rules to allow Starlink to receive the RDOF funding it would have received had it been deemed eligible for support. As we discuss in more detail below, we dismiss the Petition on procedural grounds, and we reject the petitioner's request for a waiver.

II. BACKGROUND

2. In January 2020, the Commission announced the RDOF, a multi-round, reverse descending clock auction that favored faster services with lower latency.[4] Providers that could offer service at higher speeds and low latency could receive more funding to provide service in a given area.[5] To ensure that the providers that ultimately received support in a given area were able to deliver the service they committed to offering, the Commission required auction participants to undergo a two-phase application process.[6] Before the auction commenced, potential participants submitted "short-form applications," which allowed Commission staff to conduct a high-level review of participants' technical and financial information.[7] After the auction concluded, winning bidders were required to provide more

[1] Petition of Greg Weisiger for Reconsideration of the Commission's Order regarding Starlink Services, LLC, AU Docket No. 20-34 et al. (filed Jan. 1, 2024) (*Petition*).

[2] *Application for Review of Starlink Services, LLC*, File No. 0009395128, Order on Review, FCC 23-105 (Dec. 12, 2023) (*Starlink Order*).

[3] *See Rural Digital Opportunity Fund Auction Support for 80 Winning Bids Ready to Be Authorized, Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-848, at 8-11 (WCB/OEA Aug. 10, 2022) (*11th RDOF Ready to Authorize/Defaults Public Notice*).

[4] *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686 (2020) (*Rural Digital Opportunity Fund Order*).

[5] *Id.* at 688, para. 5.

[6] *Id.* at 717-18, paras. 67-68.

[7] *Id*.

detailed information in a "long-form application" to allow staff to conduct an in-depth review and evaluate whether a winning bidder would be able to provide the required service in the required areas where an auction participant was the winning bidder.[8]

3. In the framework established by the Commission for review of long-form applications, the Commission delegated authority to the Bureau to determine whether long-form applicants were eligible to receive support.[9] In the review process, the Bureau reached eligibility decisions solely based upon submissions from the applicants. The Commission had considered and rejected advocacy that third-parties should have access to other parties' long-form applications for the purpose of vetting those applications.[10] There was no provision in the RDOF auction for third-party advocacy regarding particular applications and eligibility determinations by the Bureau were final.[11]

4. After the short-form application of SpaceX, Starlink's parent company, was approved, SpaceX participated in the RDOF auction, where it ultimately was the winning bidder for $885,509,638 in support over 10 years to deploy 100/20 Mbps low-latency service to 642,925 locations in 35 states. Subsequently, SpaceX assigned its winning bids to Starlink, its wholly owned subsidiary.[12] After Starlink submitted its long-form application, the Bureau undertook a lengthy review process. The Bureau ultimately concluded, after careful review of Starlink's long-form application, that Starlink was not eligible for RDOF support because Starlink failed to demonstrate that it had the technical and financial ability to serve the specific areas where it won support.[13] As a result, Starlink was found in default and was not authorized to receive RDOF support.[14] Starlink filed an Application for Review (AFR) of the Bureau's decision, which the Commission denied, agreeing with the Bureau's conclusion and affirming the decision to deny Starlink's long-form application.[15]

5. After the Commission released its order, Greg Weisiger filed the instant Petition. We received one filing, from Viasat, opposing the Petition,[16] and Mr. Weisiger filed a response to that opposition.[17]

III. DISCUSSION

6. The Commission's rules allow us to dismiss an untimely petition for reconsideration of a rulemaking, and allow us to dismiss a petition for reconsideration of the Commission's denial of an application for review, if the petition "fails to rely on new facts or changed circumstances."[18] Because the Petition is untimely and does not identify any new events or changed circumstances since the

[8] *Id*.

[9] *Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6178, para. 321 (2020) (*Auction 904 Procedures Public Notice*).

[10] *Rural Digital Opportunity Fund Order* at 725, para. 86 n.248.

[11] *Auction 904 Procedures Public Notice* at 6178, para. 321.

[12] *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, Attach. A (2020) (*Auction 904 Long-Form Applicants Public Notice*).

[13] *11th RDOF Ready to Authorize/Defaults Public Notice* at 8-11.

[14] *Id.*

[15] Application for Review of Starlink Services, LLC, WC Docket No. 10-90 (filed Sept. 9, 2023) (*Starlink AFR*).

[16] Viasat Opposition to Petition for Reconsideration, AU Docket No. 20-34 et al (filed Jan. 11, 2024)

[17] Reply of Greg Weisiger to Viasat Opposition to Petition for Reconsideration, AU Docket No. 20-34 et al. (filed Jan. 21, 2024) (Reply).

[18] 47 CFR § 1.106(b)(3).

Commission's decision affirming our conclusion that Starlink was ineligible for support, we dismiss the Petition.

7. *Untimely Petition for Reconsideration*. By seeking, as a third party, to reverse the Bureau's determination that Starlink was ineligible for RDOF support, the Petition effectively seeks to revisit the determination made by the Commission in the RDOF rulemaking that third parties could not review applications for support and to substitute the petitioner's own judgment of Starlink's eligibility for the Bureau's. As indicated in the rulemaking, the Commission delegated eligibility determinations to the Bureau and the Bureau's eligibility decisions were "final."[19] The Commission explicitly rejected third-party involvement in the review of long-form applications.[20] Under the Commission's rules, petitions for reconsiderations in rulemaking provisions must be filed within 30 days of publication of the final rule in the Federal Register.[21] The final rules of the RDOF program were published in the Federal Register on March 10, 2020.[22] The Petition was filed on January 1, 2024. Accordingly, we dismiss it as untimely.[23]

8. *New Facts or Changed Circumstances*. Additionally, the Petition does not provide any new information or evidence of changed circumstances that rebut our previous determinations. Our conclusion in 2022 that Starlink was not eligible for RDOF support, and the Commission's subsequent affirmation of that conclusion, were based on a thorough examination of all available data.[24] The Petition does not attempt to rebut our conclusions about Starlink's eligibility for RDOF support. The Petition does not provide any data of its own, and instead only cites a positive review of Starlink's service which, notably, did not provide any specifics about the service Starlink offered.[25] The quoted article does not rebut our conclusions, and it was also published before the Commission affirmed our conclusion that Starlink was not eligible for support. Accordingly, there is nothing in the Petition showing that circumstances have changed since the Commission's decision.[26] Because there are neither new facts nor changed circumstances in the Petition, we dismiss it.

9. *Arguments Outside Scope of Order.* The Petition's other arguments are outside the scope of the order being challenged. The Petition argues that satellite internet providers such as Starlink could save the Universal Service Fund (USF) money, and those savings could be put towards other USF programs.[27] This argument is outside the scope of the Commission's order[28] because the relevant order only addressed Starlink's showing of technical and financial capability to provide the required service in the required areas, and did not address the overall budget for USF programs. The Petition's argument that other RDOF winners are seeking additional funds beyond what they were previously authorized is likewise outside the scope of the order that is being challenged.[29] The Commission's order solely

[19] *Rural Digital Opportunity Fund Order* at 725, para. 86 n.248.

[20] *Auction 904 Procedures Public Notice* at 6178, para. 321.

[21] 47 CFR § 1.429(b); 47 CFR § 1.4(b)(1).

[22] Federal Communications Commission, Rural Digital Opportunity Fund, Connect America Fund, 85 Fed. Reg. 13773 (Mar. 10, 2020).

[23] 47 CFR § 1.429(l)(9).

[24] *Starlink Order* at 9, para. 31.

[25] Petition at 3 (citing an article from May 17, 2023).

[26] 47 CFR § 1.106(b)(2)(i). Mr. Weisiger's reply to Viasat raises no additional material facts or arguments and hence adds nothing to alter our conclusion to dismiss the Petition. We also reject the "proposed solutions" raised in the Reply as untimely and/or outside the scope of this proceeding. *See* Reply at 6-7.

[27] Petition at 5.

[28] 47 CFR § 1.106(p)(5).

[29] Petition at 5; 47 CFR § 1.106(p)(5).

addressed Starlink's eligibility to receive RDOF support, and whether other RDOF winners are seeking or receiving additional funding is irrelevant to that analysis.

10. *Denial of Waiver*. We also decline to grant a waiver of the RDOF rules that would allow Starlink to receive RDOF funding.[30] Generally, the Commission's rules may be waived for good cause shown.[31] 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.[32] Good cause to grant such a waiver has not been shown here.[33] Waiving our rules to allow Starlink to receive RDOF funds would functionally reverse our previous determination that Starlink did not show that it was eligible to receive support.[34] The public interest is not served by providing RDOF support to an entity that did not show that it was eligible for support.

IV. ORDERING CLAUSES

11. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and sections 0.91, 0.291, 1.106, and 1.429 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.106, 1.3, 1.429, the Petition for Reconsideration filed by Greg Weisiger, is DISMISSED as untimely and to the extent Greg Weisiger has failed to identify any material error, omission, or reason warranting reconsideration. In addition, Mr. Weisiger's request for waiver of the Commission's rules is DENIED.

12. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

[30] Petition at 2.

[31] 47 CFR § 1.3.

[32] *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)) (*Northeast Cellular*).

[33] 47 CFR § 1.3.

[34] To the extent that the Petition could also be interpreted as a request for some form of monetary relief to the petitioner and other residents of the areas where Starlink would have received support, Petition at 4 (requesting that the Commission "restore funding for this service *to Petitioner and other Virginia residents* adversely affected by denial of this Funding Request Number (FRN)") (emphasis added)), we also decline to grant such a waiver. The RDOF Program provides support to eligible telecommunications carriers, not individual recipients of service. *See* 47 CFR § 54.804(a). Accordingly, a request for monetary relief for individuals is outside the scope of the RDOF Program, and we decline to consider such a request.

PUBLIC NOTICE

Federal Communications Commission
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Washington, DC 20554

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DA 24-884
Released: August 30, 2024

Status of Filing of FCC Form 395-B
MB Docket No. 98-204

On February 22, 2024, the Commission released the Form 395-B Fourth Report and Order (*Fourth Report and Order*) and Order on Reconsideration (*Order on Reconsideration*).[1] The *Fourth Report and Order* reinstates the Form 395-B data collection for broadcast licensees, as required by Section 334 of the Communications Act of 1934, as amended.[2]

As the Commission previously explained, prior to the time the first filing of the Form 395-B will be due pursuant to the *Fourth Report and Order*, the Media Bureau will issue a Public Notice with details of the electronic filing process and instructions about how to submit the filings.[3] Because the Bureau has not yet released that Public Notice, the data collection will not be due on September 30th this year. The Bureau will provide broadcasters ample time to put into place whatever data collection processes they require prior to the first filing deadline, consistent with the *Fourth Report and Order*.[4]

The issuance of this Public Notice is not intended to alter the legal effect of the Commission's action in the *Fourth Report and Order*.[5]

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[1] *Review of the Commission's Broadcast and Cable Equal Opportunity Rules and Policies*, MB Docket No. 98-204, Fourth Report and Order and Order on Reconsideration, FCC 24-18 (rel. Feb. 22, 2024) (*Fourth Report and Order and Order on Reconsideration*).

[2] 47 U.S.C. § 334.

[3] *Id.* at para. 30.

[4] *Id.* at para. 78 ("The Commission directs the Media Bureau to announce the compliance date for the Fourth Report and Order and Order on Reconsideration by subsequent Public Notice.") *See also id.* at para 38 ("To provide broadcasters adequate notice regarding the details of the electronic filing process, the Media Bureau will issue a Public Notice with instructions about how to submit the filings, prior to the first filing after the Order becomes effective. This Public Notice will provide broadcasters ample time to put into place whatever data collection processes they require, including, for example, the development of employee surveys and instructions for employees regarding which job classification to report.").

[5] There are currently three petitions for review of the *Fourth Report and Order* pending in the United States Court of Appeals for the Fifth Circuit. *See National Religious Broadcasters, et. al. v. FCC and the United States*, Case Nos. 24-60219 and 24-69226 (5th Cir.) ; *see also theDove Media Inc. v. FCC and the United States,* Case No. 24-60407 (5th Cir.). A request for stay of the *Fourth Report and Order* pending resolution by the United States Court of Appeals was filed with the Commission. *See* Joint Request for Stay of National Religious Broadcasters, American Family Association, and Texas Association of Broadcasters, MB Docket No. 98-204 (filed June 27, 2024). In addition, there have also been filed with the Commission one petition for reconsideration and one petition for reconsideration and stay of the *Fourth Report and Order* pending resolution of the petition. *See* Petition for Partial Reconsideration of the National Association of Broadcasters, MB Docket No. 98-204 (filed June 3, 2024); and Joint Petition for Reconsideration and Motion for Stay of Catholic Radio Association, Sanctus Josephus Society, et. al., MB Docket No. 98-204 (filed June 3, 2024). The request and petitions remain pending with the Commission.

Federal Communications Commission
Washington, DC 20554

September 3, 2024

DA 24-885

SMALL ENTITY COMPLIANCE GUIDE

Allocation of Spectrum for Non-Federal Space Launch Operations; Amendment of Part 2 of the Commission's Rules for Federal Earth Stations Communicating with Non-Federal Fixed Satellite Service Space Stations; and Federal Space Station Use of the 399.9-400.05 MHz Band

FCC 23-76
ET Docket No. 13-115 and RM-11341
Released September 22, 2023

In accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, this Small Entity Compliance Guide (Guide) is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the rules adopted in the above-referenced Federal Communications Commission (FCC or Commission) rulemaking dockets. This Guide is not intended to replace or supersede these rules, but to facilitate compliance with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide cannot anticipate all situations in which the rules apply. Furthermore, the Commission retains the discretion to adopt case-by-case approaches, where appropriate, that may differ from this Guide. Any decision regarding a particular small entity will be based on the statute and any relevant rules.

In any civil or administrative action against a small entity for a violation of rules, the content of the Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide in the above referenced docket and the appropriateness of its application to a particular situation. The Commission will then consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The Commission may decide to revise this Guide without public notice to reflect changes in its approach to implementing a rule, or it may clarify or update the text of the Guide. Please direct comments and recommendations, or requests for further assistance, to the FCC's Consumer Center:

1-888-CALL-FCC (1-888-225-5322)

Videophone: 1-844-4-FCC-ASL (1-844-432-2275)

Fax: 1-866-418-0232

TABLE OF CONTENTS

I. OBJECTIVES OF THE PROCEEDING 1
II. COMPLIANCE REQUIREMENTS 2
A. Scope of Service and Available Frequencies 2
B. American Eligibility 2
C. Submission and Filing of Applications 2
D. Content of Applications; Registration of Stations 3
E. Frequency coordinator requirements 3
F. Technical Standards 4
III. RECORDKEEPING AND REPORTING REQUIREMENTS 4
IV. IMPLEMENTATION DATE 5
V. INTERNET LINKS 5

I. OBJECTIVES OF THE PROCEEDING

In the *Second Report and Order and Second Further Notice of Proposed Rulemaking* in FCC 23-76, ET Docket Nos. 13-115 and RM-11341 adopted in September 2023[1], the Commission modified spectrum allocations and adopted a licensing framework under a new rule part (part 26)[2] that sets forth the conditions under which spectrum is made available and licensed for the provisioning of Space Launch Services.

The adoption of spectrum allocations and the accompanying licensing framework provide greater regulatory certainty and improved efficiency for commercial space launch operations. Because the frequency bands typically used to support commercial space launches previously did not have provisions in the Table of Allocations for non-Federal access to the allocations, the Commission has been unable to license commercial entities to use these bands on an interference-protected basis during space launches.[3] Instead, the Commission grants space launch providers special temporary authority (STA) under the part 5 experimental licensing rules to use these frequencies.[4] These STAs are issued with the condition that any future launches by the grantees would be considered on a case-by-case basis and that there is no expectation that experimental STAs for future launches would be approved. The actions the Commission took in this proceeding are designed to provide a more straightforward and predicable authorization process for the growing United States commercial space launch industry. This, in turn, will promote continued innovation and investment in this important sector of the economy.

Specifically, the Commission adopted a new secondary non-Federal Space Operation (Earth-to-space) allocation in the 2025-2110 MHz band. This allocation is limited to space launch telecommand transmissions and will require commercial space launch providers to coordinate their operations with both Federal and non-Federal users. To better support space launch telemetry operations in the 2200-2290 MHz band, it also added a secondary non-Federal Mobile allocation and removed an existing restriction that had limited non-Federal space operations to four segments of the band. While the Commission did not modify the non-Federal status of several other frequency bands it had identified in the rulemaking proceeding, it did amend the allocation for the 399.9-400.05 MHz band to permit the deployment of Federal space stations.

The licensing process that the Commission adopted furthers its twin objectives of encouraging innovations and investments in the U.S. space commerce and ensuring a regulatory environment conducive to the establishment of a competitive U.S. commercial space launch sector while protecting Federal and other users in the bands.

Licensees will operate under a new standalone rule part for the new commercial space launch service, part 26. The Commission concluded that this approach provides greater clarity and ease of

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[1] *Allocation of Spectrum for Non-Federal Space Launch Operations; Amendment of Part 2 of the commission's rules for Federal Earth Stations Communicating with Non-Federal Fixed Satellite Service pace Stations; and Federal Space station Use of the 399.9-400.05 MHz Band*; ET Docket No. 13-115, Second Report and Order and Second Further Notice of Rulemaking, FCC 23-76 (adopted September 21, 2023) (*Second Report and Order*).

[2] 47 C.F.R. § 26.

[3] The National Telecommunications and Information Administration (NTIA) regulates the use of spectrum with Federal allocations and the Commission regulates use of spectrum with non-Federal allocations. The commercial space launch operators who are the subject of this proceeding are subject to licensing by the Commission as non-Federal entities. Generally, if there is no non-Federal radio service allocation for a frequency band, non-Federal stations may not operate in that band. However, the Commission may authorize non-Federal users to use Federal frequencies on a non-interference basis in bands with only Federal allocations after coordination with NTIA. *See* 47 CFR § 2.102(c).

[4] 47 U.S.C. §§ 301, 303, 307, 308, 309.

reference because launch operations do not clearly fall under any existing rule part. Moreover, the new rule part affords the Commission the flexibility to more easily accommodate rules relating to other types of space activities, to the extent that it adopts rules regarding such operations. For present purposes, however, the new rule part governs non-Federal space launch operations in the 2200-2290 MHz and 2025-2110 MHz bands.

II. COMPLIANCE REQUIREMENTS

The new part 26 contains compliance requirements that specify submission and filing of applications, content of applications, registration of stations, frequency coordinator requirements, and authorized bandwidth, among other requirements. Licensees will only be provided access to the bands on a shared, non-exclusive basis under ten-year license terms. Applicant qualification will be assessed in accordance with FCC Form 601 and the Commission's rules. There will be no limit to the number of non-exclusive nationwide wireless licenses that may be granted for the spectrum allocated to commercial space launch services, and these licenses will serve as a prerequisite for registering launch sites and operational parameters, space launch vehicle stations, individual ground/earth stations, and itinerant stations needed to support a launch.

Additionally, the Commission's Wireless Telecommunications Bureau (WTB) may also adopt rules regarding the reporting of database information, which may include the requirement to report any license or secondary markets transactions, as appropriate, to refine the licensing process and accommodate post-licensing coordination. WTB will provide interested parties with notice and give appropriate compliance guidance if and when it takes such actions. It will also announce by public notice the initial filing date of the service and provide corresponding filing instructions. Specific rules and associated compliance requirements under part 26 are described below.

A. Scope of service and available frequencies. (47 CFR §§ 26.2, 26.3)

Entities operating under these rules are limited to the provisioning of non-Federal space launch operations, which is defined as any activity that places a launch vehicle in a suborbital trajectory in Earth orbit, or otherwise in outer space, including pre-launch testing and recovery or reentry of the launch vehicle. This definition includes both expendable launch vehicles and reusable launch vehicles or a reentry vehicle used for launch, as those terms are defined, and any payload or human being from Earth.

Operations must be conducted in the 2200-2290 and 2025-2110 MHz bands, with the entire 2200-2290 MHz band available for all launch vehicle-to-ground communications associated with telemetry and tracking operations and the 2025-2110 MHz band available for all ground-to-launch vehicle telecommand uses necessary to support space launch operations. Telemetry, tracking, and command necessary to support space launch operations may include, but are not limited to: (1) pre-launch testing, such as pre-flight checks, ground testing, and telemetry; (2) vehicle tracking, including the transmission of parameter data from a launch vehicle to ground; (3) telecommand signals for propulsive maneuvering of a launch vehicle and separation of payload from launch vehicle; and (4) telecommand signals for propulsive maneuvering of a reentry vehicle for return and recovery.

B. Eligibility. (47 CFR § 26.101)

To be eligible to hold a commercial space launch license, an applicant must qualify as one of the following: (1) a non-Federal Entity that conducts space launch operations; or (2) A parent of such entity or a subsidiary of such entity if either conducts space launch operations.

C. Submission and Filing of Applications. (47 CFR § 26.106(a)-(b))

Applications for authorizations in the Space Launch Services must be filed in the Universal Licensing System (ULS) in accordance with part 1, subpart F of the Commission's rules. These same rules govern modifications or renewals of licenses, assignments or transfers of control of licenses or any rights thereunder, and waiver requests. Applicants should also refer to the Commission's rules regarding

the payment of statutory charges (subpart G of part 1) and the use of the FCC Registration Number (FRN) (*see* subpart W of Part 1). All applications and other filings must be filed electronically.

D. Content of Applications; Registration of stations. (47 CFR § 26.108(a)-(c))

Each application for authorization must be specific and complete with regard to the information requested by the application forms and associated public notice(s) that the Commission may release. Applicants must provide any additional information requested by the National Telecommunications and Information Administration (NTIA) or the frequency coordinator to complete the frequency coordination process set forth in subpart C of this part.

Once authorization is granted, Space Launch Services licensees must register in ULS each launch site and each corresponding station (fixed, base, itinerant, or mobile) that will be used in their space launch operations, as well as each individual launch that has completed the frequency coordination process required under the rules. Licensees must register applicable launch site and corresponding station data in ULS prior to submitting a coordination request to the space launch frequency coordinator.

E. Frequency coordinator requirements. (47 CFR § 26.202(a)-(c))

Once an application for a new Space Launch Services authorization is granted, each Space Launch Services licensee must submit, for each proposed launch operation, the applicable launch site and corresponding fixed, base, itinerant, and mobile stations and submit their technical and operational parameters to the space launch frequency coordinator to initiate post-grant frequency coordination. Any changes to the technical and operational parameters for a launch event that occurs after completion of post-grant frequency coordination also require coordination, and these changes shall be provided to initiate an updated post-frequency grant coordination. Space Launch Services licensees are required to provide all appropriate technical information, system requirements, and justification for requested station parameters when such information is necessary to identify and recommend the most appropriate frequency.

The 2025-2110 MHz band is subject to site-based local coordination. Under this process, the space launch frequency coordinator must initiate a post-grant coordination request for site-specific coordination with the local Broadcast Auxiliary Service (BAS) frequency coordinator, and must provide all necessary technical and operational parameters for each space launch licensee, to protect BAS, Cable Television Relay Service (CARS), and Local Television Transmission Service (LTTS) operations, as well as Federal entities that have completed coordination with the BAS frequency coordinator. However, the space launch frequency coordinator is not required to initiate a post-grant coordination request for site-specific coordination with the local BAS frequency coordinator if the Space Launch Services licensee provides a showing to the space launch frequency coordinator that (a) it has previously coordinated its proposed launch operations with the appropriate local BAS frequency coordinator and continues to comply with any conditions or agreements resulting from such prior coordination, or that it has entered into applicable coordination agreements with co-frequency entities; (b) it has ascertained that its proposal will not constrain, preclude, or interfere with incumbents in the band, including BAS, CARS and LTTS licensees and previously coordinated Federal operations; and (c) it has demonstrated in a technical showing that its proposed operation will not create more than 0.5 dB increase in the noise threshold of a receiver at a fixed or temporary fixed electronic news gathering (ENG) receive site.

Frequency coordinators are responsible for ensuring that their frequency recommendations do not conflict with the frequency recommendations of the local BAS frequency coordinator. Should a conflict arise, the affected coordinators are jointly responsible for taking action to resolve the conflict, up to and including notifying the Commission and NTIA that a launch request must be denied.

Both the 2025-2110 and 2200-2290 MHz bands are subject to per-launch coordination with NTIA to protect Federal users in the bands. Under this process, the space launch frequency coordinator will conduct a post-grant, per-launch coordination with NTIA by providing the Space Launch licensee's site and station registration with their corresponding technical and operational parameters to initiate the coordination process for each proposed launch.

F. Technical Standards. (47 CFR §§ 26.301, 26.302, and 26.303)

Space Launch Service licensees will normally be authorized to operate with bandwidths up to and including 5 megahertz, although the Commission may issue licenses that exceed 5 megahertz upon adequate justification from a license applicant explaining why the requested bandwidth is necessary for specific space launch operations, including an explanation of why the applicant's operations cannot be satisfied using a bandwidth of 5 megahertz or less.

Licensees must comply with additional technical requirements, including emission masks and power limits, as specified in subpart (D) of the part 26 rules. In conjunction with this emission mask requirements, the Commission incorporated by reference portions of the NTIA Manual of Regulations and Procedures for Federal Radio Frequency Management (NTIA Manual). Section 26.305 describes this document and how parties may access it.

Lastly, in conjunction with the Commission's amendment of the allocation for 399.9-400.05 MHz band to permit the deployment of Federal Space stations, Federal satellites that will operate in the band and the associated earth stations will be subject to coordination between NTIA and the Commission. During this coordination process any issues regarding coexistence between the Federal and non-Federal systems can be addressed. Non-federal licensees authorized to operate on these frequencies should be prepared to cooperate with the Commission during any future NTIA-Commission coordination activities.

III. RECORDKEEPING AND REPORTING REQUIREMENTS

The Commission's actions in the *Second Report and Order* will require applications for licenses in the Space Launch Service to be filed electronically in the Universal Licensing System (ULS), which can be found at http://wireless.fcc.gov/uls. All modifications or renewals of licenses, assignments or transfers of control of licenses, and associated waiver requests will be granted only upon a filed application. Space Launch Service licensees have an obligation to update their license and corresponding site and station registration data as soon as the operational or technical details of a launch change to ensure proper coordination.

Additionally, the adopted rules require Space Launch Service licensees to conduct a post-grant, per-launch coordination directly with NTIA by providing NTIA with its site and station registration along with their corresponding technical and operational parameters. In addition, for the 2025-2110 MHz band, the licensee must submit technical and operational parameters to a space launch frequency coordinator to initiate post-grant frequency coordination. The space launch frequency coordinator will then coordinate with the local BAS frequency coordinator.

The adoption of a nationwide, non-exclusive licensing approach promotes greater efficiencies than the prior process of granting special temporary authority (STA) under the part 5 experimental licensing rules, as space launch operators will only have to file one license that will cover a host of launch sites that are shared by multiple co-frequency operators. Further, developers of launch vehicles and

spacecraft and those who conduct launches will benefit because they will be able to obtain licenses for spectrum to use during launches instead of being subject to the added burden and uncertainty of having to obtain an experimental license authorization for each launch.

IV. IMPLEMENTATION DATE

All rule changes in the *Second Report and Order* are effective as of September 4, 2024, except for amendatory instructions 10 through 13 (adding §§ 26.106, 26.108, 26.202, and 26.301, respectively), which are delayed indefinitely. The Commission will publish a document in the Federal Register announcing the effective date.

V. INTERNET LINKS

A copy of the *Second Report and Order* is available at: https://docs.fcc.gov/public/attachments/FCC-23-76A1.pdf.

A copy of the Federal Register Summary of the *Second Report and Order and Second Further Notice of Proposed Rulemaking* is available at: https://www.govinfo.gov/content/pkg/FR-2024-08-05/pdf/2024-16638.pdf.

The FCC maintains a web-based system that is available to applicants for licenses in the Space Launch Service. This system, called the Universal Licensing System (ULS) can be accessed at http://wireless.fcc.gov/uls.

PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20002

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

DA 24-886
Released: September 3, 2024

OFFICE OF ENGINEERING AND TECHNOLOGY AND PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCE PROHIBITION ON AUTHORIZATION OF EQUIPMENT THAT INCLUDES KASPERSKY CYBERSECURITY OR ANTI-VIRUS SOFTWARE

WC Docket No. 18-89, ET Docket No. 21-232, EA Docket No. 21-233

On July 23, 2024, the cybersecurity and anti-virus software produced or provided by Kaspersky Lab, Inc. (Kaspersky) was added to the list of communications equipment and services (Covered List) that have been determined to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.[1] With this Public Notice, the Office of Engineering and Technology (OET) and the Public Safety and Homeland Security Bureau (PSHSB) of the Federal Communications Commission (Commission or FCC) confirm that the result of this addition to the Covered List is that any equipment that integrates cybersecurity or anti-virus software produced or provided by Kaspersky, or any of its successors or assignees, is prohibited from obtaining an equipment authorization from the Commission.[2] The Covered List is reproduced in full in the Appendix to this Public Notice and is also found on the Bureau's website at https://www.fcc.gov/supplychain/coveredlist.

On June 24, 2024, the Department of Commerce published a Final Determination finding that "Kaspersky's provision of cybersecurity and anti-virus software to U.S. persons, including through third-party entities that integrate Kaspersky cybersecurity or anti-virus software into commercial hardware or software, poses undue and unacceptable risks to U.S. national security and to the security and safety of U.S. persons."[3] Accordingly, the Covered List was updated to add Kaspersky cybersecurity and anti-virus software, pursuant to the Secure and Trusted Communications Networks Act of 2019.[4] Pursuant to the Department of Commerce determination, equipment (i.e., hardware) with

[1] *Public Safety and Homeland Security Bureau Announces Update to the List of Covered Equipment and Services Pursuant to 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 24-712 (PSHSB July 23, 2024).

[2] *See* 47 CFR § 2.903.

[3] Department of Commerce, Final Determination, Case No. ICTS-2021-002, Kaspersky Lab, Inc., 89 Fed. Reg. 52434 (June 24, 2024) (Final Determination), https://www.federalregister.gov/documents/2024/06/24/2024-13532/final-determination-case-no-icts-2021-002-kaspersky-lab-inc. The Final Determination prohibits "Kaspersky, and any of its successors or assignees, … from engaging in [certain types of] ICTS transactions in the United States or with U.S. persons." *Id.* at 52434. Prohibited information and communication technology and services (ICTS) transactions include those involving "any cybersecurity product or service designed, developed, manufactured, or supplied, in whole or part, by Kaspersky"; "any anti-virus software designed, developed, manufactured, or supplied, in whole or in part, by Kaspersky"; and "the integration of software designed, developed, manufactured, or supplied, in whole or in part, by Kaspersky into third-party products or services." *Id.* at 52434.

[4] 47 U.S.C. § 1601; *see* 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).

integrated Kaspersky cybersecurity or anti-virus software is "covered" equipment and thus prohibited from authorization under the Commission's current equipment authorization rules.[5]

Concomitant with this Public Notice, PSHSB has updated the Covered List to incorporate the language of the determination and make clear that the addition of Kaspersky software to the Covered List also includes any equipment with integrated Kaspersky cybersecurity or anti-virus software.

By the Chief, Office of Engineering and Technology, and Chief, Public Safety and Homeland Security Bureau.

– FCC –

[5] 47 CFR § 2.903.

APPENDIX

COVERED LIST (Updated September 3, 2024)*†

Covered Equipment or Services*	Date of Inclusion on Covered List
Telecommunications equipment produced or provided by **Huawei Technologies Company**, including telecommunications or video surveillance services produced or provided by such entity or using such equipment.	March 12, 2021
Telecommunications equipment produced or provided by **ZTE Corporation**, including telecommunications or video surveillance services provided or provided by such entity or using such equipment.	March 12, 2021
Video surveillance and telecommunications equipment produced or provided by **Hytera Communications Corporation**, to the extent it is used for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, including telecommunications or video surveillance services produced or provided by such entity or using such equipment.	March 12, 2021
Video surveillance and telecommunications equipment produced or provided by **Hangzhou Hikvision Digital Technology Company**, to the extent it is used for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, including telecommunications or video surveillance services produced or provided by such entity or using such equipment.	March 12, 2021
Video surveillance and telecommunications equipment produced or provided by **Dahua Technology Company**, to the extent it is used for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, including telecommunications or video surveillance services produced or provided by such entity or using such equipment.	March 12, 2021
Information security products, solutions, and services supplied, directly or indirectly, by **AO Kaspersky Lab** or any of its predecessors, successors, parents, subsidiaries, or affiliates.	March 25, 2022
International telecommunications services provided by **China Mobile International USA Inc.** subject to section 214 of the Communications Act of 1934.	March 25, 2022
Telecommunications services provided by **China Telecom (Americas) Corp.** subject to section 214 of the Communications Act of 1934.	March 25, 2022
International telecommunications services provided by **Pacific Networks Corp.** and its wholly-owned subsidiary **ComNet (USA) LLC** subject to section 214 of the Communications Act of 1934.	September 20, 2022
International telecommunications services provided by **China Unicom (Americas) Operations Limited** subject to section 214 of the Communications Act of 1934.	September 20, 2022
Cybersecurity and anti-virus software produced or provided by **Kaspersky Lab, Inc.** or any of its successors and assignees, including equipment with integrated Kaspersky Lab, Inc. (or any of its successors and assignees) cybersecurity or anti-virus software.	July 23, 2024

*The inclusion of producers or providers of equipment or services identified on this list should be read to include the subsidiaries and affiliates of such entities.

†Where equipment or services on the list are identified by category, such category should be construed to include only equipment or services capable of the functions outlined in sections 2(b)(2)(A), (B), or (C) of the Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. § 1601(b)(2)(A)-(C).

PUBLIC NOTICE

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Released: September 4, 2024

WIRELINE COMPETITION BUREAU ANNOUNCES APPLICATION FILING WINDOW FOR CYBERSECURITY PILOT PROGRAM AND PROVIDES GUIDANCE FOR SUBMITTING APPLICATIONS

Applications may be filed from September 17 to November 1, 2024

WC Docket No. 23-234

By this Public Notice, the Wireline Competition Bureau (Bureau) announces that the FCC Form 484 application filing window for the Schools and Libraries Cybersecurity Pilot Program (Pilot Program or Pilot)[1] will open on Tuesday, September 17, 2024 at 8 a.m. E.T., and close on Friday, November 1, 2024 at 11:59 p.m. E.T.[2] During the application filing window, eligible schools, libraries, and consortia comprised of eligible schools and libraries, can apply to participate in the three-year, $200 million Pilot Program by completing Part 1 of the FCC Form 484, available through the Universal Service Administrative Company's (USAC's) E-Rate Productivity Center (EPC) system via its website.[3] Applicants selected to participate in the Pilot Program can request and receive support to defray the costs of eligible cybersecurity services and equipment.

Prospective applicants interested in participating in the Pilot Program must file Part 1 of the FCC Form 484, to provide basic information about their cybersecurity needs, experience, and plans to use the cybersecurity funding if selected to participate in the Pilot.[4] To facilitate the inclusion of a diverse set of Pilot projects and target Pilot funds to the populations most in need of cybersecurity support, the Bureau will award support to a combination of large and small and urban and rural schools, libraries, and consortia, with an emphasis on funding proposed Pilot projects that include low-income and Tribal

[1] *Schools and Libraries Cybersecurity Pilot Program*, WC Docket No. 23-234, Report and Order, FCC 24-63, 2024 WL 3010578 (WCB June 11, 2024) (*Cybersecurity Pilot Program Report and Order*).

[2] On August 29, 2024, the Commission's rules for the Schools and Libraries Cybersecurity Pilot Program became effective with the exception of sections 54.2004 – 54.2006 and 54.2008. *See* Federal Communications Commission, Schools and Libraries, Final Rule, 89 Fed. Reg. 61282 (Jul. 30, 2024), https://www.govinfo.gov/content/pkg/FR-2024-07-30/pdf/2024-15866.pdf. Thus, applicants can save drafts of their Part 1 of the FCC Form 484 application but will not be able to certify their application until the Commission receives approval from the Office of Management and Budget (OMB). The Commission will publish a notice announcing OMB action and the effective dates of sections 54.2004 – 54.2006, and 54.2008 of the Commission's rules in the Federal Register. In the event there is a delay in OMB action, the closing date of the FCC Form 484 application filing window may be modified accordingly.

[3] USAC is the designated administrator of the Cybersecurity Pilot Program. *See Cybersecurity Pilot Program Report and Order, 2024 WL* 3010578 at *40, para. 88. EPC is USAC's online account and management system for the E-Rate, Emergency Connectivity Fund (ECF), and the Schools and Libraries Cybersecurity Pilot Programs.

[4] *Cybersecurity Pilot Program Report and Order,* 2024 WL 3010578 at *26, para. 63.

applicants.[5] Applicants selected to participate in the Pilot Program will be announced by the Bureau in a Public Notice.

Selected participants in the Pilot Program will be required to provide more detailed cybersecurity information in Part 2 of the FCC Form 484, which may be submitted at the same time the Cybersecurity Pilot Program FCC Form 471 is filed in an upcoming FCC Form 471 application filing window.[6] Selected participants will also be able to seek competitive bids, request eligible services and equipment, and seek reimbursement for eligible services and equipment. All Pilot Program participants and service providers will be subject to the Pilot Program integrity protection safeguards, including document retention and production, gift, certification, audit, and suspension and debarment rules, as well as all other FCC rules and requirements for the Pilot.

Eligible Pilot Participants

Schools, libraries, and consortia of schools and libraries (e.g., regional or statewide groups of schools or libraries that jointly apply for the Pilot) that meet the E-Rate Program's eligibility requirements may apply to participate in the Pilot Program.[7] An applicant need not be a current or former E-Rate Program participant to be able to apply for the Pilot.[8] Given the limited funding for the Pilot Program and the Commission's objective to select as many participants as possible, a school or library may only submit one application to participate in the Pilot Program, either individually or as part of a consortium.[9]

Applicants that are not currently participating in the E-Rate Program, or have not done so in the past, are encouraged to review the statutory requirements and rules relating to Pilot Program participation[10] and to submit their applications earlier in the window. New Pilot applicants must provide information to USAC to calculate and verify their discount rate percentages that will be used to prioritize applications should demand exceed the available budget.

While entities (such as governmental agencies and not-for-profit entities) that are not a school or library as defined under section 54.2000 of the Commission's rules are ineligible to apply for the Pilot Program, they may serve as a consortium leader, provided they pass through the benefits, discounts, and support received from the Pilot Program to their eligible school and library consortium members.[11]

Budget

Schools and school districts will be eligible to receive up to $13.60 per student, annually, on a pre-discount basis, to purchase eligible cybersecurity services and equipment over the three-year Pilot duration.[12] There is a $15,000 pre-discount annual funding floor and a maximum, annual pre-discount

[5] *Id.*

[6] Additional information will be made available in the future about how to complete Part 2 of the FCC Form 484 application, as well as the processes for conducting competitive bidding, seeking reimbursement for eligible cybersecurity services and equipment, complying with the Pilot's periodic reporting requirements, and other processes.

[7] *Id.* at *14, para. 34.

[8] *Id.*

[9] *Id.* at *15, para. 35.

[10] *Id.* at *78-81, Appendix B.

[11] *Id.*

[12] *Id.* at *10, para. 24. The annual pre-discount budget of $13.60 per student equates to a pre-discount budget of $40.80 per student over the three-year term of the Pilot Program.

budget of $1.5 million for schools and school districts.[13] Libraries will be eligible to receive a pre-discount annual budget of $15,000 per library up to 11 libraries/sites.[14] Library systems with more than 11 libraries/sites will be eligible for a total pre-discount annual support amount of up to $175,000.[15]

Consortia that are solely comprised of schools will be subject to the pre-discount annual $1.5 million budget maximum applicable to schools.[16] Consortia that are solely comprised of libraries will be subject to the pre-discount $175,000 annual budget maximum for library systems. Consortia comprised of eligible schools and libraries will be eligible to receive funding based on student count (using the annual pre-discount $13.60 per student multiplier and $1.5 million, pre-discount, annual cap) and number of library sites (using the pre-discount $15,000 per library annual budget up to 11 libraries/sites and the $175,000, pre-discount, annual cap.[17] Consortia comprised of both eligible schools and libraries will be subject to the pre-discount annual $1.5 million budget maximum applicable to schools.[18]

Each Pilot participant will be required to contribute a portion of the costs of the eligible cybersecurity services and equipment they seek to purchase with Pilot Program support, similar to the share that E-Rate applicants are required to contribute towards the cost of E-Rate eligible services and equipment.[19] That portion will be calculated using the participant's category one discount rate, which will range from 20 percent to 90 percent of the pre-discount price of eligible services and equipment.[20] Because some participants may incur greater costs up front, Pilot participants will have the ability to request any amount of funding they wish in a given Pilot Program year, as long as the total amount of funding they seek does not exceed their three-year budget.

Eligible Services and Equipment

Applicants selected to participate in the Pilot Program will be able to request funding and reimbursement for a wide variety of cybersecurity services and equipment, subject to per-student/per-library budgets, with minimum funding floors and overall funding caps described above. Eligible services and equipment include the following features, substantially similar features, or their equivalents:

- **Advanced/Next Generation Firewalls:** Equipment and services that implement advanced/next-generation firewalls, including software-defined firewalls and Firewall-as-a-Service, are eligible.[21] Specifically, equipment, services, or a combination of equipment and services that limit access between networks, excluding basic firewalls that are funded through the Commission's E-Rate Program, are eligible.[22]
- **Endpoint Protection:** Equipment and services that implement endpoint protection are eligible.[23] Specifically, equipment, services, or a combination of equipment and services that implement

[13] *Id*. at *11, para. 26.

[14] *Id.* at *12, para. 27.

[15] *Id.*

[16] *Id.* at *12, para. 28.

[17] *Id.*

[18] *Id.*

[19] *Id*. at *12, para. 29.

[20] *Id.*

[21] Advanced/Next generation firewalls "enable Pilot participants to protect their networks from outside cyber attackers by blocking malicious or unnecessary network traffic." *Id.* at *17, para. 41.

[22] *Id.* at *17-19, paras. 41-45.

[23] Endpoint protection ensures "participants can protect their networks from potential vulnerabilities introduced by desktops, laptops, mobile devices, and other end-user devices that connect to their networks." *Id*. at *20, para. 46.

safeguards to protect school- and library-owned end-user devices, including desktops, laptops, and mobile devices, against cyber threats and attacks are eligible.[24]

- **Identity Protection and Authentication:** Equipment and services that implement identity protection and authentication are eligible.[25] Specifically, equipment, services, or a combination of equipment and services that implement safeguards to protect a user's network identity from theft or misuse and/or provide assurance about the network identity of an entity interacting with a system are eligible.[26]
- **Monitoring, Detection, and Response:** Equipment and services that implement monitoring, detection and response are eligible.[27] Specifically, equipment, services, or a combination of equipment and services that monitor and/or detect threats to a network and that take responsive action to remediate or otherwise address those threats are eligible.[28]

Training. Training is eligible as part of installation of the equipment and services only if it is basic instruction on the use of eligible equipment and services, directly associated with installation, and is part of the contract or agreement for the equipment and services.[29] Training must occur coincidentally or within a reasonable time after installation.[30]

Ineligible Pilot Program Expenditures. While a broad range of services and equipment are eligible for funding through the Pilot Program, some are not. Ineligible items include all services and equipment that are eligible for funding through the E-Rate Program;[31] and those that have already been fully reimbursed (or will be fully reimbursed) through a different funding source.[32] Additionally, consistent with limitations established in the E-Rate Program, staff salaries and labor costs, as well as beneficiary and consulting services that are not related to the installation and configuration of eligible equipment and services, are ineligible for Pilot funding.[33] Costs for training beyond basic instruction, as described above, is ineligible. Finally, insurance costs and costs associated with responding to specific ransom demands are ineligible for Pilot support.[34]

The Pilot Eligible Services List provides more detailed information about the types of equipment and services that are eligible/ineligible for support through the Pilot Program.

[24] *Id.* at *20, paras. 46-47.

[25] Identity Protection and Authentication ensures "participants can prevent malicious actors from accessing and compromising their networks under the guise of being legitimate users." *Id.* at *20, para. 48.

[26] *Id.* at *20-21, paras. 48-49.

[27] Monitoring, detection, and response ensures "participants can promptly and reliably detect and neutralize malicious activities that would otherwise compromise their networks." *Id.* at *21, para. 50.

[28] *Id.* at *21, paras. 50-51.

[29] *Id.* at *81, Appendix B.

[30] *Id.*

[31] *Id.* at *21, para. 52.

[32] *Id.* Applicants selected to participate in the Pilot may use funding to pay for Pilot-eligible services and equipment that they were previously paying for themselves, subject to our competitive bidding rules. *Id.*

[33] *Id.* at *23, para. 55.

[34] *Id.*

Application Requirements

To be considered for the Pilot Program, applicants must complete certain pre-application requirements and provide basic information about their cybersecurity needs, experience, and plans to use the funding if selected to participate.

Pre-Application Requirements. Prospective applicants must be in good financial standing with the FCC and the federal government and complete several steps before they can apply for, and receive, Pilot Program support. Prospective applicants are strongly encouraged to complete these steps now, to ensure that they are ready when the application filing window opens on September 17, 2024.

Prospective applicants must have an FCC Registration Number (FCCFRN) to participate in the Pilot Program. Prospective applicants may obtain an FCCFRN by visiting the FCC's Commission Registration System (CORES) and completing the registration process.[35] Prospective applicants must also obtain a Billed Entity Number (BEN). Prospective applicants that are already registered in EPC already have a BEN and will get access to the Pilot Program application using their existing credentials. New applicants will need to contact USAC's E-Rate Customer Service Center at (888) 203-8100 to set up a BEN and EPC account. Once a new applicant's BEN is set up, the USAC Customer Service Center will provide the new applicant with access to its EPC account. Prospective applicants should create, review, and update their EPC user profile as necessary to ensure that the information in their profile is accurate. EPC will be used to manage program processes, set-up access rights, receive notifications, and contact the USAC Customer Service Center. Prospective applicants will also need to set-up their credentials in One Portal, USAC's single sign-on dashboard that allows applicants to access their online application(s). To set up credentials in One Portal, prospective applicants should click the blue Sign In button at the top of any USAC web page and follow the instructions. If a prospective applicant is already an EPC user, USAC will set-up the applicant's One Portal account using the applicant's EPC contact email address as the username. Be aware that the first time you sign into any USAC system, such as One Portal, the system will prompt you to set up multi-factor authentication for your account.

Prospective applicants must also verify that they are not currently in red light status at the FCC or on the U.S. Treasury's do not pay list. These mechanisms verify whether an entity seeking federal funding has an outstanding debt or delinquency with the federal government. Prospective applicants will not be eligible to participate in the Pilot Program if any debts or other delinquencies are not resolved prior to the FCC Form 484 filing window close date.

Prospective applicants should also register with the System for Award Management at SAM.gov. Prospective applicants that already have a SAM.gov registration should ensure that it is active, as it must be renewed annually. Although an active SAM.gov registration is not required to apply for Pilot Program support, it is required to receive funds and disbursements through the Program. Prospective applicants should also be aware that the SAM.gov registration process may take a few weeks to complete.

Part 1 of FCC Form 484 Application Requirements. Applicants will use the Part 1 of the FCC Form 484 to provide general cybersecurity information and answer questions about their proposed Pilot projects, including the eligible services and equipment they intend to seek funding for if selected for the Pilot Program. Applicants will be required to provide the following information:

- Names, entity numbers, FCC registration numbers, employer identification numbers, addresses, and telephone numbers for all schools, libraries, and consortium members that will participate in the proposed Pilot project, including the identity of the consortium leader for any proposals involving consortia.
- Contact information for the individual(s) who will be responsible for the management and

[35] If a prospective applicant is already registered with the FCC, it does not need a new FCCFRN to apply for or receive support through the Pilot Program.

operation of the proposed Pilot project (name, title or position, telephone number, mailing address, and email address).

- Applicant number(s) and type(s) (e.g., school; school district; library; library system; consortia; Tribal school or library (and Tribal affiliation)), if applicable; and current E-Rate participation status and discount percentage, if applicable.[36]
- A broad description of the proposed Pilot project, including, but not limited to, a description of the applicant's goals and objectives for the proposed Pilot project, a description of how Pilot funding will be used for the proposed project, and the cybersecurity risks the proposed Pilot project will prevent or address.
- The cybersecurity equipment and services the applicant plans to request as part of its proposed project, the ability of the project to be self-sustaining once established, and whether the applicant has a cybersecurity officer or other senior-level staff member designated to be the cybersecurity officer for its Pilot project.
- Whether the applicant has previous experience implementing cybersecurity protections or measures (answered on a yes/no basis), how many years of prior experience the applicant has (answered by choosing from a preset menu of time ranges (e.g., 1 to 3 years)), whether the applicant has experienced a cybersecurity incident within a year of the date of its application (answered on a yes/no basis), and information about the applicant's participation or planned participation in cybersecurity collaboration and/or information-sharing groups.
- Whether the applicant has implemented, or begun implementing, any Education Department or Cybersecurity and Infrastructure Security Agency (CISA) best practices recommendations (answered on a yes/no basis), a description of any Education Department or CISA free or low-cost cybersecurity resources that an applicant currently utilizes or plans to utilize, or an explanation of what is preventing an applicant from utilizing these available resources.
- An estimate of the total costs for the proposed Pilot project, information about how the applicant will cover the non-discount share of costs for the Pilot-eligible services, and information about other cybersecurity funding the applicant receives, or expects to receive, from other federal, state, local, or Tribal programs or sources.
- Whether any of the ineligible services and equipment the applicant will purchase with its own resources to support the eligible cybersecurity equipment and services it plans to purchase with Pilot funding will have any ancillary capabilities that will allow it to capture data on cybersecurity threats and attacks, any free or low-cost cybersecurity resources that the applicant will require service providers to include in their bids, and whether the applicant will require its selected service provider(s) to capture and measure cost-effectiveness and cyber awareness/readiness data.
- A description of the applicant's proposed metrics for the Pilot project, how they align with the applicant's cybersecurity goals, how those metrics will be collected, and whether the applicant is prepared to share and report its cybersecurity metrics as part of the Pilot Program.

To minimize burden, much of the information on Part 1 of the FCC Form 484 will be pre-populated using information from the applicant's EPC profile. In addition, most of the application questions will be answered using "yes/no" or pre-defined responses (i.e., multi-select questions with pre-defined answers). Applicants are expected to provide a clear strategy for addressing their cybersecurity needs on the application form and should clearly articulate how their proposed projects will accomplish

[36] Note that there is no need for an applicant to indicate its urban or rural status, as that information will be auto-populated by the system based on 2020 U.S. Census Bureau data that is also used in the E-Rate program for this determination.

their cybersecurity objectives. Applications should be tailored to the unique circumstances of each applicant. Applicants should be aware that they may be disqualified from consideration for the Pilot if their applications provide a bare minimum of information or are generic or template in nature.[37]

All applicants, but especially those that have not participated in the E-Rate Program, are encouraged to submit Part 1 of the FCC Form 484 early to allow additional time for USAC to verify their eligibility for the Pilot and to calculate their discount rate percentage. An applicant's discount rate percentage will be used as part of the Pilot selection process if the number of FCC Form 484 applications received exceeds the number of projects that can be funded.[38] Applicants with higher discount rates generally will be funded before applicants in the lower discount bands.[39]

Additional Information and Resources

In preparation for the opening of the application filing window, interested prospective applicants may start by reviewing the references and guides below to learn more about the Pilot. Additionally, prospective applicants may start collecting the information discussed above and outlined in the references and guides that applicants generally will be required to submit as part of their Part 1 of the FCC Form 484 applications. Note that the actual wording on Part 1 of the FCC Form 484 application and the order in which the information appears on the final form may vary from the wording and the order of the items discussed in this Public Notice.

- Cybersecurity Pilot Program Overview
- Cybersecurity Pilot FAQs
- Getting Ready Guide
- Cybersecurity Pilot Program Application Guide
- USAC Cybersecurity Pilot Program Website
- USAC Applicant Process Guide
- Upcoming USAC Webinars and Trainings

For further information regarding this Public Notice, email CyberPilot@fcc.gov. Visit https://www.fcc.gov/cybersecurity-pilot-program to learn more about the Schools and Libraries Cybersecurity Pilot Program or click here to sign up for USAC's Schools and Libraries Cybersecurity Pilot Program Email List.

- FCC -

[37] *Cybersecurity Pilot Program Report and Order*, 2024 WL 3010578 at *26, para. 62.

[38] *Id*. at *32, para. 73.

[39] *Id.*

PUBLIC NOTICE

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AT&T FILES NETWORK PERFORMANCE TEST PLAN IN CONNECTION WITH PLANNED SECTION 63.71 TECHNOLOGY TRANSITION DISCONTINUANCE APPLICATION

WC Docket No. 24-220

The Wireline Competition Bureau announces that AT&T has submitted a network performance test plan for AT&T Phone – Advanced (AP-A), an IP-based voice product.[1] AT&T submits the Test Plan so that it may seek streamlined processing of a forthcoming section 214 application for authority to discontinue its TDM-based voice service, AT&T Residential Local Service, as part of a technology transition.[2]

Under the Commission's rules, a section 214 discontinuance application involving a technology transition[3] must satisfy certain requirements to be eligible for streamlined processing.[4] AT&T intends to seek streamlined treatment of its forthcoming application pursuant to the Adequate Replacement Test.[5] Under that test, AT&T will have to demonstrate or certify, among other things, that its AP-A service offers substantially similar levels of network performance and availability in order for the application to be eligible for streamlined processing.[6]

AT&T states it intends to show that its AP-A service "provides substantially similar performance" based on a demonstration of the "totality of the circumstances."[7] It intends to use the

[1] Network Performance Test Plan of AT&T, WC Docket No. 24-220 (filed July 19, 2024) (Test Plan).

[2] *Id.* at 2; *see also* 47 CFR § 63.71(f)(2)(i).

[3] 47 CFR § 63.60(i) (defining "technology transition").

[4] The Commission has adopted rules specifically applicable to discontinuance applications involving technology transitions. *See Technology Transitions et al.*, GN Docket No. 13-5 et al., Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283, 8303-8356, paras. 65-194 (2016) (*2016 Technology Transitions Order*) (adopting the Adequate Replacement Test); *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Second Report and Order, 33 FCC Rcd 5660, 5672-5680, paras. 29-43 (2018); 47 CFR §§ 63.71(f)(2); 63.602(b).

[5] *See* Test Plan at 1-2.

[6] *See* 47 CFR §§ 63.71(f)(2)(i); 63.602(b).

[7] Test Plan at 2. An applicant can show substantially similar network performance "(i) through performance testing that demonstrates satisfaction of each of the benchmarks, or (ii) a demonstration, based on the totality of the circumstances, the network still provides substantially similar performance and availability." *2016 Technology Transitions Order*, 31 FCC Rcd at 8314, para. 91. While AT&T intends to make a "totality of the circumstances" showing in its forthcoming discontinuance application, it intends to make that showing, at least in part, through testing conducted pursuant to the Test Plan. *See* Test Plan at 2-5. AT&T will post the Test Plan and the aggregate testing results at https://cpr.att.com/. Appendix B to the 2016 Technology Transitions Order sets forth the

(continued….)

results obtained from testing conducted pursuant to its Test Plan to do so.[8] Interested parties may view the Test Plan through this link: https://www.fcc.gov/ecfs/search/search-filings/filing/1071999337614.

Pending the outcome of its testing, AT&T aims to include the results in its planned section 214 application to discontinue AT&T Residential Local Service in a limited number of wire centers in Oklahoma pursuant to section 63.71(f)(2)(i) of the Commission's rules.[9] AT&T would file such a discontinuance application in the above-referenced docket.[10] Interested parties will have 15 days after the Commission releases public notice of the proposed discontinuance in which to file objections.[11]

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).

For further information, contact CJ Ferraro, Wireline Competition Bureau, Competition Policy Division, at Connor.Ferraro@fcc.gov or (202) 418-1322.

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parameters under which an applicant must conduct its testing. *2016 Technology Transitions Order*, 31 FCC Rcd at 8366-71, Appx. B. Pursuant to the terms of Appendix B, the applicant must submit its test plan to the Office of Engineering and Technology 30 days prior to the start of performance testing, and testing must be conducted for a consecutive 30-day period. *Id.* at 8367, Appx. B, paras. 3, 8.

[8] *See* Test Plan at 4-5.

[9] *Id.* at 1.

[10] To the extent AT&T files subsequent discontinuance applications in which it relies on the results of the testing done pursuant to the Test Plan, such applications are to be filed in the Commission's Electronic Comment Filing System and will be given new docket numbers, as is typical for section 214 discontinuance applications.

[11] 47 CFR § 63.71(a). For more information on the procedures regarding section 214, including an explanation of the opportunity for public input, please visit https://www.fcc.gov/encyclopedia/domestic-section-214-discontinuance-service.

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 Auction (Auction 904)	)	AU Docket No. 20-34
	)	
	)	
Rural Digital Opportunity Fund	)	WC Docket No. 19-126
	)	

ORDER

Adopted: September 4, 2024 **Released: September 4, 2024**

By the Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau) grants Resound Networks, LLC (Resound) a limited waiver of the Commission's Rural Digital Opportunity Fund (RDOF) service milestone and non-compliance rules, and will remove from Resound's RDOF-supported service area the areas in Oklahoma and Arizona that are overlapped by the Tonkawa Tribe of Indians of Oklahoma's (Tonkawa) and Cocopah Tribe of Arizona's (Cocopah) Tribal Broadband Connectivity Program (TBCP) Round 1 awards.[1] We relieve Resound of the obligation to serve these areas, with agreement from the Tonkawa and Cocopah Tribes, in order to promote the Tribes' decisions to serve their members through enforceable commitments under their TBCP Round 1 awards requiring deployment of networks that serve their Tribal lands in these areas. This will also further our interagency coordination efforts by avoiding duplication of funding and maximizing the use of federal funds to support broadband service to as many unserved consumers as possible. Once the Bureau publishes revised location counts for all RDOF recipients, we will direct the Universal Service Administrative Company (USAC) to adjust Resound's RDOF support for the overlapped areas and recover any support that has been disbursed for these areas on a pro rata basis.[2]

I. BACKGROUND

2. Section 54.802(c)(1) of the Commission's rules requires RDOF support recipients to offer voice and broadband service meeting the relevant performance requirements to the estimated number of locations in the eligible census blocks within the support recipient's funded service area.[3] An

[1] 47 CFR §§ 54.320(d)(1), 54.802(c), 54.804(c)(4)(i), 54.806(c)(1); Resound Networks LLC Connect America Fund Request for Waiver of Obligations to Serve Locations in TBCP Overlap Areas, WC Docket No. 10-90 et al. (filed Aug. 2, 2024).

[2] 47 CFR § 54.802(c)(1); *Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 709, para. 45 (2020) (*RDOF Order*). Prior to the sixth year service milestone, the Bureau will determine the actual number of locations in RDOF recipients' service areas and will publish revised location counts for each RDOF recipient. 47 CFR § 54.802(c)(1); *RDOF Order*, 35 FCC Rcd at 709, para. 45.

[3] 47 CFR § 54.802(c)(1); *RDOF Order*, 35 FCC Rcd at 709, para. 45.

RDOF recipient authorized in 2023 must offer the required services to 40% of the required number of locations by December 31, 2025, and an additional 20% of the required number of locations each year until the RDOF recipient must serve 100% of the estimated location total by December 31, 2028.[4] The initial required location totals are based on Connect America Cost Model estimates.[5] The Commission directed the Bureau to use an updated data source to determine the actual number of locations on the ground and publish revised location counts prior to the sixth year service milestone.[6] If more locations than the original estimated total are identified during the support term, RDOF support recipients will have an additional two years to serve the additional locations subject to limited exceptions.[7] The Commission imposes non-compliance measures if the requirements are not met, which includes reporting, support withholding, and support recovery that scales with the extent of non-compliance.[8]

3. On December 7, 2020, Resound was announced as an RDOF winning bidder in seven states.[9] Resound was authorized in January 2023 to receive over $300 million in RDOF support over 10 years in total to offer voice and broadband service at a minimum of 1 Gbps/500 Mbps to 213,992 locations.[10] Relevant here, Resound was also authorized to receive $17,476,582.80 in Oklahoma to serve 18,177 locations, and $16,176,039.10 in Arizona to serve 41,701 locations.[11]

4. In June 2021, Department of Commerce's National Telecommunications and Information Administration (NTIA) released its Notice of Funding Opportunity (NOFO) for Round 1 of the TBCP, providing a new opportunity for Tribes to seek funding to support their deployment efforts.[12] On November 17, 2022, NTIA announced it had awarded the Cocopah $5,214,719.67 to "install fiber directly connecting 210 unserved Native American households with qualifying broadband service of at least 25/3 Mbps."[13] NTIA also announced on June 29, 2023 that it had awarded the Tonkawa $5,000,000 "to build a

[4] 47 CFR § 54.802(c)(1); *RDOF Order*, 35 FCC Rcd at 709, para. 45.

[5] *RDOF Order*, 35 FCC Rcd at 709, para. 45.

[6] *Id.* The Bureau sought comment on using the Broadband Serviceable Location Fabric as the source for the revised location counts. *Wireline Competition Bureau Seeks Comment on Leveraging the Broadband Serviceable Location Fabric for High-Cost Support Mechanism Deployment Obligations*, WC Docket No. 10-90 et al., Public Notice, DA 24-77 (WCB Jan. 25, 2024).

[7] 47 CFR § 54.802(c)(1)(i); *RDOF Order*, 35 FCC Rcd at 709-11, paras. 45, 49-50.

[8] 47 CFR §§ 54.320(c) & (d), 54.804(c)(4)(i), 54.806(b) & (c); *RDOF Order*, 35 FCC Rcd at 713-16, paras. 58-64.

[9] *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 (WCB 2020).

[10] *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 et al., 38 FCC Rcd 101 (WCB 2023).

[11] *Id.*

[12] Department of Commerce, National Telecommunications and Information Administration, Tribal Broadband Connectivity Program Round 1 Notice of Funding Opportunity (June 3, 2021), https://www.ntia.gov/sites/default/files/File%20Uploads/2024-05/Internet%20For%20All/TBCP/ntia.tribal_broadband_connectivity_program.final.omb_cleared.pdf (TBCP Round 1 NOFO). NTIA describes its TBCP program as "a $3 billion program, from President Biden's Bipartisan Infrastructure Law and the Consolidated Appropriations Act, to support Tribal governments bringing high-speed Internet to Tribal lands, including telehealth, distance learning, affordability and digital inclusion initiatives." Department of Commerce, National Telecommunications and Information Administration, Tribal Broadband Connectivity Program Round 1 (2021), https://www.ntia.gov/page/tribal-broadband-connectivity-program/notice-funding-opportunity-1 (last visited Aug. 27, 2024).

[13] Press Release, NTIA, Biden-Harris Administration Announces More Than $224 Million in High-Speed Internet Grants for Tribal Lands (Nov. 17, 2022), https://broadbandusa.ntia.gov/news/latest-news/biden-harris-administration-announces-more-224-million-high-speed-internet-grants; NTIA, BroadbandUSA, Tribal Broadband

(continued….)

RAN network incorporating 5 leased and owned tower sites covering 159 unserved locations," and that "will ensure the availability of internet service through the project area with at least 25/3 broadband speeds and less than 100 millisecond latency."[14] Both Tribes have an enforceable commitment to "complete their projects within one year of their receipt of grant funds."[15]

5. *Resound's Petition for Waiver*. On August 2, 2024, Resound submitted a petition seeking waiver of the RDOF requirements to serve the areas overlapped by the Cocopah's and Tonkawa's TBCP Round 1 awards.[16] Resound explained that once it learned of the overlaps it engaged in discussions with the Tribes, and "agreed to relinquish" its RDOF obligations in the overlapped areas to allow the Tribes to retain their TBCP funding in the overlapped areas.[17]

6. Both Tribes submitted letters, available in Appendix B and Appendix C (separate attachments), to NTIA indicating that they wanted to proceed with their TBCP awards in the overlapped areas.[18] The Tonkawa explained that they "find it is in the public interest that the Tonkawa Tribe serve its original jurisdiction home lands with the TBCP grant and any subsequent grants by adhering to the current federal minimum broadband speeds of 100/20."[19] The Cocopah explained that "[t]hey will be capable of providing 1 GB synchronous services to homes and businesses on Cocopah [T]ribal lands promptly."[20]

II. DISCUSSION

7. Generally, the Commission's rules may be waived for good cause shown.[21] 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.[22]

8. We find good cause to provide a limited waiver of sections 54.320(d)(1), 54.802(c), 54.804(c)(4)(i), and 54.806(c)(1) of the Commission's rules to the extent described herein, to remove from Resound's RDOF supported service area the areas as described in Appendix A covered by the Tonkawa and Cocopah's TBCP Round 1 awards.[23] We will update the Broadband Funding Map to reflect

(Continued from previous page)
Connectivity Program Round One Award Recipients, https://broadbandusa.ntia.gov/funding-programs/tribal-broadband-connectivity/award-recipients (last visited Aug. 27, 2024) (*NTIA TBCP Round One Award Recipients Website*).

[14] Press Release, NTIA, Biden-Harris Administration Announces $8.39 Million in Internet for All Grants to Tribal Lands, https://www.internetforall.gov/news-media/biden-harris-administration-announces-839-million-internet-all-grants-tribal-lands (June 29, 2023); *NTIA TBCP Round One Award Recipients Website*.

[15] TBCP Round 1 NOFO at 6. Tribes may seek waiver of this one-year time frame under certain circumstances. *Id.*

[16] Resound Petition at 1.

[17] *Id.* at 3.

[18] Letter from Elizabeth Benitez, Tribal Administrator, Cocopah Tribe of Arizona, to Jeff Kozdron, Federal Program Officer/Broadband Program Specialist, Tribal Broadband Connectivity and Nation-to-Nation Coordination Division, NTIA, Appx. B (Feb. 15, 2024) (Cocopah Letter); Letter from Joshua Waffle, Executive Director, Tonkawa Tribe of Indians of Oklahoma, to Theron T. Rutyna, Broadband Program Specialist, Tribal Broadband Connectivity and Nation-to-Nation Coordination Division, NTIA, Appx. C (Apr. 16, 2024) (Tonkawa Letter).

[19] Tonkawa Letter at 1.

[20] Cocopah Letter at 1.

[21] 47 CFR § 1.3.

[22] *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)).

[23] 47 CFR §§ 54.320(d)(1), 54.802(c), 54.804(c)(4)(i), 54.806(c)(1). *See also* Resound Petition at Exh. A. Further analysis identified several additional census blocks that are overlapped by the Cocopah TBCP Round 1 award and a (continued….)

that Resound no longer has an RDOF service obligation in these areas.[24] As a condition of this waiver, when the Bureau adopts new location counts prior to the end of the sixth year deployment term we will remove the locations in the overlapped areas from Resound's required RDOF location totals and instruct USAC to reduce Resound's support on a pro rata basis in Oklahoma and Arizona accordingly, as described in more detail below.[25] Resound otherwise remains subject to its RDOF obligations in its remaining RDOF-supported areas.[26]

9. While the Commission's rules require that a RDOF recipient serve 100% of the locations covered by its authorized winning bids subject to only limited exceptions,[27] we find special circumstances justify deviating from this requirement. In implementing RDOF and other high-cost programs, the Commission has acknowledged "the unique challenges of deploying broadband to rural Tribal communities," and thus "the deep digital divide that persists between Tribal lands and the rest of the country."[28] Accordingly, the Commission has recognized that "engagement with Tribal governments over the deployment and provision of services over Tribal lands" is "important and necessary" and such engagement provides Tribal governments the opportunity to communicate their "needs and priorities" to high-cost carriers.[29] Here, the Tonkawa and Cocopah each have an enforceable commitment to serve the area where we are relieving Resound from its broadband deployment obligation. The Tribes have been awarded TBCP funds to support their decision to deploy broadband networks to serve their members, and for this reason, Resound and the Tribal governments mutually agreed that Resound should forego the RDOF funding in these areas so that funds from two federal funding programs are not provided to different providers serving the same areas.[30]

10. We also conclude it serves the public interest to provide a limited waiver of the relevant

(Continued from previous page)
census block that is partially overlapped by the Tonkawa TBCP Round 1 award rather than fully overlapped. Appendix A of this Order incorporates these modifications.

[24] FCC, Broadband Funding Map, https://fundingmap.fcc.gov/home (last visited Aug. 27, 2024).

[25] 47 CFR § 54.802(c)(1), *RDOF Order*, 35 FCC Rcd at 709, para. 45.

[26] Resound Petition at 7 (explaining that "Resound does not seek a waiver or lessening of its compliance obligations with respect to any other locations in its RDOF-supported areas").

[27] 47 CFR § 54.806(c)(1); *RDOF Order*, 35 FCC Rcd at 710, paras. 49-50.

[28] *RDOF Order*, 35 FCC Rcd at 694, para. 16; *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 38 FCC Rcd 7040, 7083, para. 103 (2023) (*Enhanced A-CAM Order*).

[29] *Enhanced A-CAM Order*, 38 FCC Rcd at 7084, para. 105; *Wireline Competition Bureau Provides Guidance to High-Cost Support Recipients Regarding Engagement With States and Tribal Governments to Determine Eligibility of Locations for the BEAD Program and to Avoid Duplicative Funding*, WC Docket No. 10-90 et al., Public Notice, DA 23-1115, at 3-5 (WCB Nov. 29, 2023). All high-cost support recipients that serve Tribal lands are required to demonstrate that they have engaged annually with Tribal governments on a range of issues, including a needs assessment, compliance with local rights of way, land use permitting facilities siting, and environmental and cultural preservation review processes, as well as Tribal business and licensing requirements. 47 CFR § 54.313(a)(5); *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, 17868-69, paras. 636-37 (2011) (*USF/ICC Transformation Order*), *aff'd sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

[30] *See* Resound Petition at 6; Tonkawa Letter at 1, Cocopah Letter at 1. This deduplication is similar to the approach the Commission adopted for the Enhanced A-CAM support program for rate-of-return carriers where if another provider receives BEAD funding to serve a location on Tribal lands, and the Tribal government and Enhanced A-CAM provider mutually agree that the Enhanced A-CAM carrier should forego funding in that area, the Bureau will adjust the Enhanced A-CAM carrier's support and location obligation accordingly. Resound Petition at 6 (explaining that Resound is "seek[ing] the same form of accommodation" offered to Enhanced A-CAM carriers), *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 38 FCC Rcd 7040, 7084, para. 105 (2023) (*Enhanced A-CAM Order*).

rules. To further our objective of ensuring that consumers are not left without access to broadband as a result of this limited waiver, we are relieving Resound of the obligation to serve the areas that are fully overlapped by the Tonkawa or Cocopah's TBCP awards. Both Tribes' TBCP awards require them to provide service at speeds of at least 25/3 Mbps in their TBCP service areas.[31] Moreover, the Tonkawa have indicated they plan to offer broadband at speeds of at least 100/20 Mbps and the Cocopah have indicated they plan to offer broadband at speeds of at least a Gigabit in their Tribal areas.[32] Our waiver also furthers the Commission's responsibility to coordinate with other agencies and deduplicate funding so that only one source of federal funding is used to support the provision of broadband to these locations.[33] Moreover, by removing these areas from Resound's service area, we facilitate a cooperative approach between Resound and the Tribes that results in the Tribes receiving the federal funding to provide a service that the Tribes have determined will best meet the needs of their members.[34]

11. As a condition of this waiver, we will adjust Resound's total RDOF support in the relevant states on a pro rata basis to recover support that has been disbursed for the overlapped area and also stop future support in these areas.[35] Given that there are relatively few Connect America Cost Model-estimated locations impacted by our waiver when compared to Resound's overall RDOF obligations and support in Oklahoma and Arizona,[36] we will make these downward adjustments to Resound's support and location total to reflect this waiver at the time that the Bureau adopts the updated location counts for all RDOF support recipients.[37] The TBCP awards were awarded for Tribal lands that

[31] *NTIA TBCP Round One Award Recipients Website.*

[32] Tonkawa Letter at 1, Cocopah Letter at 1.

[33] As required by the Broadband Interagency Coordination Act, the Federal Communications Commission, U.S. Department of Agriculture (USDA), and the U.S. Department of Commerce's National Telecommunication and Information Administration (NTIA) announced in January 2021 they had entered into an agreement to provide for sharing information about existing or planned projects that have received, or will receive, funding through the Commission's high-cost programs and programs administered by NTIA and the USDA. Broadband Interagency Coordination Act of 2020, Pub. L. No. 116-260, § 904, 134 Stat. 1182, 3214 (codified at 47 U.S.C. § 1308 *et seq.*); Press Release, FCC, FCC, NTIA and USDA Announce Interagency Agreement to Coordinate Broadband Funding Deployment (June 25, 2021), https://www.fcc.gov/document/fcc-ntia-usda-interagency-agreement-broadband-funding-deployment. In an effort to further facilitate broadband deployment funding coordination, in May 2022, the FCC, USDA, and NTIA entered into an interagency agreement with the Department of Treasury. *See* Press Release, FCC, FCC, NTIA, USDA and Treasury Announce Interagency Agreement to Collaborate on Federal Broadband Funding (May 12, 2022), https://www.fcc.gov/document/fcc-ntia-usda-treasury-announce-broadband-info-sharing-agreement. *See also* Resound Petition at 7 (citing *Enhanced A-CAM Order*, 38 FCC Rcd at 7084, para. 104) ("Resound seeks to ensure that unserved locations located on Tribal lands that are now the subject of duplicative funding and conflicting buildout obligations benefit from the provision of high-speed broadband in a manner that best serves their needs and that honors the Commission's goal of 'avoiding duplicative spending across federal programs.'").

[34] Tonkawa Letter at 1; Cocopah Letter at 1. *See also* Resound Petition at 7 ("Service to these Tribal locations will be best provided by the Tribes that control these lands and have received funding through the TBCP.").

[35] Because Resound is not defaulting in these areas, we are waiving the Commission's rules to remove these areas from Resound's RDOF supported service area and we will not subject Resound to the other support recovery required by section 54.806(c) of these rules for the overlapped areas, which includes recovering additional support using a multiplier calculation and recovering 5 or 10 percent of Resound's total authorized support in the state depending on the extent of non-compliance. 47 CFR § 54.806(c).

[36] The Connect America Cost Model estimates there are approximately 226 locations throughout Resound's impacted RDOF census blocks—approximately 34 locations in census blocks overlapped by the Tonkawa's TBCP Round 1 award and approximately 192 locations in census blocks overlapped by the Cocopah's TBCP Round 1 award, and in some cases these census blocks are only partially overlapped by the Tribes' TBCP awards. *See* Appendix A.

[37] 47 CFR § 54.802(c)(1), *RDOF Order*, 35 FCC Rcd at 709, para. 45.

do not align with the eligible 2010 census blocks within census block groups (CBG) that served as a basis for RDOF awards.[38] Accordingly, it is administratively burdensome to determine specifically how much support should be recovered and stopped for the overlapped areas when only a portion of Resound's RDOF CBGs are overlapped by the TBCP awards and current location obligations are based on Connect America Cost Model estimates using 2010 census boundaries.[39] Instead, we conclude that because of the relatively low risk to the public's funds and the administrative efficiencies that waiting provides, we will delay recovery until the Bureau has determined how many actual locations on the ground are included in the overlapped areas when we conduct the location recounts for all RDOF carriers. It is at that time that we can use those location totals to adjust Resound's location obligation and support moving forward, and also recover disbursed support on a pro rata basis for the overlapped area.[40]

12. Resound remains subject to all eligible telecommunications carrier (ETC) obligations in the overlapped areas unless and until it follows the relevant procedures to relinquish its designations in these areas.[41] Additionally, Resound cannot discontinue voice service in the overlapped areas without Commission approval.[42]

III. ORDERING CLAUSES

13. 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.

14. IT IS FURTHER ORDERED that the petition for waiver filed by Resound Networks, LLC is GRANTED and sections 54.320(d)(1), 54.802(c), 54.804(c)(4)(i) and 54.806(c)(1) of the Commission's rules, 47 CFR §§ 54.320(d)(1), 54.802(c), 54.804(c)(4)(i), and 54.806(c)(1), ARE

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[38] The minimum geographic unit for bidding for RDOF was a CBG containing one more eligible census blocks. While bidders were required to bid at the CBG level, they can only use their support to offer service in the eligible census blocks within those CBGs. *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, 6146, para. 213 (2020).

[39] The Connect America Cost Model relies on 2010 Census data updated to 2011 counts using Census Bureau 2011 county estimates and GeoResults (Q3/2012) to estimate the number of housing units and small businesses, i.e., businesses to which mass market services will be made available. CostQuest Associates, Inc., Connect America Cost Model (CACM): Model Methodology 12-15 (Dec. 22, 2014), https://transition.fcc.gov/wcb/CAM v.4.2 Methodology.pdf.

[40] *See* Resound Petition at 6 n.17 (acknowledging that the Bureau will be making support adjustments at the end of the six-year deployment term). If Resound's updated location count in Oklahoma or Arizona is the same or exceeds the Connect America Cost Model estimated location count so that its estimated location count is used for determining compliance with the sixth year service milestone, the locations that are actually within the overlapped area will be subtracted from Resound's estimated location count before we determine compliance in Resound's remaining authorized RDOF areas in the state. *See* 47 CFR § 54.806(c)(1)(i)(A)-(C) (stating that we will use the "Connect America Cost Model location count or the adjusted Connect America Cost Model location count if there are fewer locations" for determining compliance with the six year service milestone). If Resound's updated location count in Oklahoma or Arizona is fewer locations than estimated by the Connect America Cost Model so that its adjusted location count is used to determine its compliance with the sixth year service milestone, the adjusted location total will be reduced by the number of locations in the overlapped area. *Id.* Given that we are removing the overlapped area from Resound's obligation, Resound will not be subject to the section 54.802(c)(1)(iii) requirement to offer service to locations that are newly built in this overlapped area after the Bureau adopts revised location counts. 47 CFR § 54.802(c)(1)(iii); *RDOF Order*, 35 FCC Rcd at 711, para. 52 (requiring RDOF carriers to "offer service on reasonable request to locations built subsequently" to the Bureau's updated location totals unless the locations are built after milestone year eight).

[41] 47 U.S.C. § 214(e)(4).

[42] 47 U.S.C. § 214(a); 47 CFR § 63.71.

WAIVED to the extent described herein.

15. 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

Appendix A

Resound RDOF Supported Service Area Overlapped by Cocopah and Tonkawa TBCP Round 1 Awards

Overlapped Cocopah Tribal lands (Arizona)

Link to Shapefile for Cocopah TBCP Round 1 Award: https://www.fcc.gov/sites/default/files/Cocopah-shapefile.zip

Resound Arizona RDOF Census Blocks

Fully Overlapped by Cocopah TBCP Round 1 Award

40270110003033
40270110003038
40270115013014
40270115013021
40270115013022
40270115014012
40270115014019

Partially Overlapped by Cocopah TBCP Round 1 Award

40270110003027
40270110003032
40270115012015
40270115012063
40270115012072
40270115013004
40270115013013
40270115013015
40270115013017
40270115014011
40270115014013
40270115014016
40270115014018

Overlapped Tonkawa Tribal lands (Oklahoma)

Link to Shapefile for Tonkawa TBCP Round 1 Award: https://www.fcc.gov/sites/default/files/Tonkawa-shapfile.zip

Resound Oklahoma RDOF Census Blocks:

Fully Overlapped by Tonkawa TBCP Round 1 Award

400710011002284
400710011002292
400710011002325

Partially Overlapped by Tonkawa TBCP Round 1 Award

400710011002282
400710011002290

Appendix B-C

[See Separate Attachments]

Cocopah Indian Tribe
14515 S. Veterans Dr.
Somerton, Arizona 85350
Telephone (928) 627-2102
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February 15, 2024

Jeff Kozdron
Federal Program Officer / Broadband Program Specialist
Tribal Broadband Connectivity and Nation-to-Nation Coordination Division
NTIA, OICG, U.S. Department of Commerce
jkozdron@ntia.gov
(202) 441-9317

Re: 2020 RDOF Reverse Auction Resound Network

Dear:

As you are likely aware, in the 2020 RDOF reverse auction, Resound Networks was awarded many census blocks to parts of Oklahoma, Kansas, Arkansas, Texas, New Mexico, Colorado, and Arizona. The final approval from the FCC was issued in January of 2023 which affected the mapping of other grant opportunities such as USDA Reconnect and NTIA Tribal Connectivity programs. While preparing their RDOF bid, Resound Networks took great care to avoid tribal lands in support of tribal sovereignty.

In Arizona, Cocopah was overlooked by Resound in this process and was bid by Resound and awarded. Recently, the Cocopah Tribe of Arizona received an award through the NTIA Tribal Connectivity Program that overlaps our RDOF obligations. Because of the overlap, Cocopah's NTIA award to build fiber to the homes and businesses on Cocopah lands is at risk of being rescinded.

In the spirit of collaboration and cooperation, Cocopah and Resound entered into discussions on how best to serve the communities with minimal impact on either entity. We have agreed that it is in the best interest of the Cocopah tribe and their membership that Cocopah be permitted to accept the NTIA grant and serve their community.

Cocopah has already begun its engineering, permitting, and rights-of-way applications with several federal and local entities. They will be capable of providing 1 GB synchronous services to homes and businesses on Cocopah tribal lands promptly. Resound Networks is willing to

withdraw its plans and decline support to serve those census blocks but respectfully requests that the FCC not consider this as a default, voluntary or otherwise. At your convenience, Resound and Cocopah would appreciate a meeting with our organizations along with FCC and NTIA representatives to discuss this.

Respectfully,



Elizabeth Benitez
Tribal Administrator
Cocopah Indian Tribe

TONKAWA TRIBE OF OKLAHOMA
TONKAWA TRIBAL COUNCIL
1 RUSH BUFFALO ROAD • PHONE (580) 628-2561
WEB SITE: www.tonkawatribe.com
TONKAWA, OKLAHOMA 74653

DATE: 4-16-24

TO: Theron T. Rutyna
Broadband Program Specialist
Tribal Broadband Connectivity and Nation-to-Nation Coordination Division
NTIA, OICG, U.S. Department of Commerce

NTIA and FCC,

For the last year or so the Tonkawa Tribe has been working with the ever changing rules, hurdles and promises of this latest grant. We have been told many things, some we understand and some we do not. To that end those speaking cannot explain how or why it has happened. What we do understand is this; we believe we can serve our people better than the outside world and therefore we find it is in the public interest that the Tonkawa Tribe serve its original jurisdictional home lands with the TBCP grant and any subsequent grants by adhering to the current federal minimum broadband speeds of 100/20. The Tonkawa Tribe will serve all households/broadband serviceable locations within the foot print/original jurisdiction of the Tonkawa Tribe.

Joshua Waffle
Executive Director of the Tonkawa Tribe
JWaffle@TonkawaTribe.com

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j),	)	MB Docket No. 24-176
Table of Allotments, Television Broadcast	)	RM-11984
Stations (Cape Girardeau, Missouri)	)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: September 5, 2024 **Released: September 5, 2024**

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking[1] issued in response to a Petition for Rulemaking filed by Gray Television Licensee, LLC (Gray), the licensee of KFVS-TV (Station or KFVS-TV), Cape Girardeau, Missouri (Cape Girardeau).[2] Gray requests amendment of the Table of TV Allotments[3]to substitute channel 11 for channel 32. Gray filed comments in support of the Petition, as required by the Commission's rules (rules), reaffirming its interest in the proposed channel substitution and that it will promptly file an application seeking authorization on channel 11.[4] No other comments were received.

2. We conclude that the public interest would be served by substituting channel 11 for channel 32 at Cape Girardeau. On May 17, 2021, the Bureau granted a petition for rulemaking submitted by Gray to substitute channel 32 for channel 11 at Cape Girardeau for KFVS-TV.[5] Gray was also granted a construction permit to construct a facility on channel 32 at Cape Girardeau, but was unable complete construction of the channel facility by the expiration date – June 23, 2024.[6] Thus, Gray requests amendment of the Table of TV Allotments to allow it to continue to operate pursuant to the parameters of its current license on channel 11.[7] The substitution of channel 11 for channel 32 in the TV Table of Allotments will allow the Station to remain on the air and continue to provide service to viewers within its service area.[8]

3. Gray proposes to utilize its currently licensed parameters, and as such we find that channel 11 can be substituted for channel 32 at Cape Girardeau as proposed, in compliance with the

[1] *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Cape Girardeau, Missouri)*, MB Docket No. 24-176, Notice of Proposed Rulemaking, DA 24-562 (MB June 28, 2024).

[2] Petition of Gray Television Licensee, LLC for Rulemaking (filed June 7, 2024) and on file at LMS File No. 0000245961 (Petition).

[3] 47 CFR § 73.622(j).

[4] Comments of Gray Television Licensee, LLC at 1-2 (rec. July 12, 2024) (Comments). *See also* 47 CFR §§ 1.415, 1.419; *Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

[5] *See Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Cape Girardeau, Missouri)*, MB Docket No. 21-49, Report and Order, 36 FCC Rcd 8174 (MB 2021).

[6] LMS File No. 0000150335.

[7] LMS File No. 0000115816.

[8] Petition at 2; Comments at 1-2.

principal community coverage requirements of section 73.618(a) of the rules,[9] at coordinates 37-25'-44.7" N. and 089-30'-14.2" W. In addition, we find that this channel substitution meets the technical requirements set forth in section 73.622(a) of the rules.[10] Accordingly, we will substitute channel 11 for channel 32 with the following specifications:

City and State	Channel	Power (kW)	Antenna HAAT (m)	Service Pop.
Cape Girardeau, Missouri	11	11.8	609	867,085

4. Pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g), (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b), and 0.283 of the rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED** that, effective 30 days after the date of publication of this Report and Order in the Federal Register, the Table of TV Allotments, section 73.622(j) of the Commission's rules, 47 CFR § 73.622(j), **IS AMENDED**, with respect to the community listed below, to read as follows:

City and State	Channel No.
Cape Girardeau, Missouri	11, 36

5. **IT IS FURTHER ORDERED** that, within 10 days of the effective date of this Report and Order, Gray Television Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 11.

6. **IT IS FURTHER ORDERED** that, pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

7. **IT IS FURTHER ORDERED** that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 24-176 and RM-11984 **SHALL BE TERMINATED** and its docket closed.

8. For further information concerning the proceeding listed above, contact Joyce Bernstein, Video Division, Media Bureau, at Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[9] 47 CFR § 73.618(a).

[10] 47 CFR § 73.622(a).

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. 24-893

Report No. SAT-01852 **Friday September 6, 2024**

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-20240820-00189 E S2382 Intelsat License LLC
Special Temporary Authority

Effective Date:

Nature of Service: Fixed Satellite Service

On September 4, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Intelsat License LLC, for a period of 60 days, to operate Intelsat 10 at the 66.10° E.L. orbital location. Intelsat 10 operates in the 3700-4200 MHz, 11.45-11.7 GHz, 12.25-12.75 GHz (space-to-Earth), 5925-6425 MHz and 14.0-14.5 GHz (Earth-to-space) frequency bands. Intelsat performs telemetry, tracking, and command operations with Intelsat 10 using the following center frequencies: 11699.0 MHz, 12747.5 MHz, 12748.5 MHz, 12749.5 MHz (space-to-Earth); 14000.5 MHz, 14499.5 MHz (Earth-to-space).

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

News Media Information 202 / 418-0500

Internet: https://www.fcc.gov

DA 24-894
Released: September 6, 2024

MEDIA BUREAU ESTABLISHES PLEADING CYCLE FOR APPLICATIONS TO TRANSFER CONTROL OF PARAMOUNT GLOBAL AND PERMIT-BUT-DISCLOSE *EX PARTE* STATUS FOR THE PROCEEDING

MB Docket No. 24-275

Petition to Deny Date: October 7, 2024
Opposition Date: October 22, 2024
Reply Date: November 1, 2024

On September 6, 2024, the Federal Communications Commission (Commission) accepted for filing applications proposing to transfer control of Paramount Global (Paramount) from the current parties controlling Paramount's single majority shareholder, National Amusements, Inc. (NAI), to certain investors in Skydance Media, LLC (Skydance), or their affiliates, whereby those investors will control NAI.[1] Specifically, the Applicants are comprised of (1) the Sumner M. Redstone National Amusements Part B General Trust (also known as NA Part B General Trust), the Shari Ellin Redstone Trust, and the Shari E. Redstone Qualified Annuity Interest Trust XIX (collectively, Transferors), and (2) Pinnacle Media Ventures, LLC, Pinnacle Media Ventures II, LLC, and Pinnacle Media Ventures III, LLC (collectively, Pinnacle Media), each controlled by the Ellison family, and RB Tentpole LP (RedBird, and together with Pinnacle Media, the Transferees). Paramount holds, through various direct and indirect wholly-owned subsidiaries, 28 owned-and-operated local television broadcast stations of the CBS Television Network, as well as one Class A television broadcast station, and two low-power television translator stations (the Licenses), all of which are the subject of the applications.

The transfer of control of the Licenses for which Commission consent is being sought will be effectuated through a series of successive transactions resulting in (a) the merger of Paramount to become a wholly owned subsidiary of a new public holding company (i.e., New Paramount), (b) the merger of Skydance to become an affiliate of Paramount and a direct or indirect wholly owned subsidiary of New Paramount, and (c) the acquisition of NAI by entities affiliated with and/or owned by members of the Ellison family and Redbird Capital Partners (collectively, the Transaction). NAI will continue to hold both de jure and de facto control of the voting interests in New Paramount after the Transaction.

[1] The applications are listed in the Attachment to this Public Notice. Copies of the applications are available in the Commission's Licensing Management System (LMS).

The business combination between Paramount and Skydance will occur pursuant to the terms of a Transaction Agreement dated as of July 7, 2024, by and among Skydance, Paramount, New Pluto Global, Inc. (New Paramount), and the following wholly-owned, direct subsidiaries of New Paramount: Pluto Merger Sub, Inc. (Paramount Merger Sub); Pluto Merger Sub II, Inc. (Paramount Merger Sub II); and Sparrow Merger Sub, LLC (Skydance Merger Sub). As a result of the Transaction, Pinnacle Media and RedBird collectively will hold 100 percent of the equity and voting interests in NAI, with Pinnacle Media, as NAI's majority shareholder, expected to hold an approximately 77.5 percent voting and equity interest, and RedBird expected to hold the remaining 22.5 percent voting and equity interest.

The National Television Ownership Rule prohibits a single entity from owning television stations that, in the aggregate, reach more than 39 percent of the total television households in the United States after taking into account the 50 percent discount applied to UHF stations (UHF Discount).[2] The Applicants report that because Transferees do not currently hold an attributable interest in any broadcast television station, following consummation of the Transaction, New Paramount will have a national audience reach of 24.28 percent, well below the 39 percent limit, and a national audience reach of 37.39 percent without giving effect to the UHF discount.[3]

The Local Television Ownership Rule allows an entity to own two television stations licensed in the same Designated Market Area (DMA) if: (1) the digital noise limited service contours of the stations (as determined by section 73.622(e) of the Commission's rules) do not overlap; or (2) at the time the application to acquire or construct the station(s) is filed, at least one of the stations is not ranked among the top-four stations in the DMA, based on the most recent all-day (7 a.m.-1 a.m.) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service.[4]

In ten DMAs, one or more of the Licensees hold(s) licenses for two full-power non-satellite television stations (the TV Duopolies). The Applicants provide market-by-market ratings performance analyses to demonstrate that each of the TV Duopolies complies with the Commission's Local Television Multiple Ownership Rule, and also submit that New Paramount will continue to comply with the Commission's Local Television Multiple Ownership Rule because consummation of the Transaction will not result in any new station combinations in any DMA, or in Transferees' owning, operating, or controlling more than one top-four-rated television broadcast station in any DMA.[5]

The Applicants also seek a continuing "satellite" exception to the multiple ownership rules in the Minneapolis, Minnesota market.[6]

---

[2] *See* 47 CFR § 73.3555(b)(e)(1) and (2).

[3] Comprehensive Exhibit at 14.

[4] 47 CFR § 73.3555(b)(1).

[5] Comprehensive Exhibit at 13-14, Exh. E.

[6] *Television Satellite Stations Review of Policies and Rules*, Report and Order, 6 FCC Rcd 4212, 4213 (1991) (subsequent history omitted). *See* Comprehensive Exhibit at 16.

EX PARTE STATUS OF THIS PROCEEDING

In order to assure the staff's ability to discuss and obtain information needed to resolve the issues presented by this Public Notice and pursuant to section 1.1200(a) of the Commission's rules,[7] we establish a docket for this proceeding and announce that the *ex parte* procedures applicable to permit-but-disclose proceedings will govern our consideration of these applications.[8]

The proceeding in this Public Notice 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 data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, then 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.[10] 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 Rules.[11] Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.[12] We strongly urge parties to use the Electronic Comment Filing System (ECFS) to file *ex parte* submissions. All *ex parte* filings must be clearly labeled as such and must reference MB Docket No. 24-275.

GENERAL INFORMATION

The applications for transfer of control of licenses referred to in this Public Notice have been accepted for filing upon initial review. 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 or policies. Interested persons must file petitions to deny no later than October 7, 2024. Oppositions to petitions to deny must be filed no later than October 22, 2024. Replies must be filed no later than November 1, 2024. Persons and entities that file petitions to deny become parties to the proceeding.

To allow the Commission to consider fully all substantive issues regarding the applications in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. Replies may only address matters raised in oppositions.[13] A party or interested person

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[7] 47 CFR § 1.1200(a).

[8] *See id*. § 1.1206.

[9] 47 CFR § 1.1200 *et seq.*

[10] *Id*.

[11] 47 CFR § 1.1206(b)

[12] *Id*.

[13] *Id.* § 1.45(c).

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.[14] 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. 24-275, as well as the specific file numbers of the individual applications 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.

- 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

In addition, one copy of each submission must be sent to the following:

- David Brown, Deputy Chief, Video Division, Media Bureau, e-mail David.Brown@fcc.gov
- Jeremy Miller, Video Division, Media Bureau, e-mail Jeremy.Miller@fcc.gov
- Jim Bird, Transaction Team, Office of General Counsel, e-mail Jim.Bird@fcc.gov

Any submission that is e-mailed to David Brown, Jeremy Miller, and Jim Bird should include in the subject line of the e-mail: (1) MB Docket No. 24-275; (2) the name of the submitting party; (3) a brief description or title identifying the type of document being submitted (*e.g.*, MB Docket No. 24-275, Transfer of Control of Paramount Global, *Ex Parte* Notice).

Availability of Documents. Documents in this proceeding are available electronically through ECFS. ECFS may be accessed on the Commission's Internet website at http://www.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).

For further information, contact David Brown at (202) 418-1645 or Jeremy Miller at (202) 418-1507. For press inquiries, contact Nancy Murphy at (202) 418-1043.

[14] *See id*. §§ 1.46(a) and 73.3584(e).

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.[15]

By: Chief, Media Bureau

[15] 47 CFR §§ 0.61 and 0.283.

Attachment

Paramount/Skydance Transfer Applications

Call Sign	Community of License	Application File Nos.	Licensee	Facility ID
WUPA	Atlanta, GA	0000252521	Atlanta Television Station WUPA Inc.	6900
WCBS□TV	New York, NY	0000252522	CBS Broadcasting Inc.	9610
WBBM□TV	Chicago, IL	0000252523	CBS Broadcasting Inc.	9617
WWJ□TV	Detroit, MI	0000252524	CBS Broadcasting Inc.	72123
KDKA□TV	Pittsburgh, PA	0000252525	CBS Broadcasting Inc.	25454
KCBS□TV	Los Angeles, CA	0000252526	CBS Broadcasting Inc.	9628
KPIX□TV	San Francisco, CA	0000252527	CBS Broadcasting Inc.	25452
KCCW□TV	Walker, MN	0000252528	CBS Broadcasting Inc.	9640
WCCO□TV	Minneapolis, MN	0000252529	CBS Broadcasting Inc.	9629
KYW□TV	Philadelphia, PA	0000252530	CBS Broadcasting Inc.	25453
WLNY□TV	Riverhead, NY	0000252534	CBS LITV LLC	73206
WBXI□CD	Indianapolis, IN	0000252537	CBS Mass Media Corporation	70416
WTOG	St. Petersburg, FL	0000252541	CBS Operations Investments Inc.	74112
W26DP□D	Inverness, FL	0000252542	CBS Operations Investments Inc.	74116
W36FJ□D	Sebring, FL	0000252543	CBS Operations Investments Inc.	74113
KTVT	Fort Worth, TX	0000252549	CBS Stations Group of Texas LLC	23422
WBZ□TV	Boston, MA	0000252551	CBS Television Licenses LLC	25456
WJZ□TV	Baltimore, MD	0000252552	CBS Television Licenses LLC	25455
WSBK□TV	Boston, MA	0000252553	CBS Television Licenses LLC	73982
KCNC□TV	Denver, CO	0000252554	CBS Television Stations Inc.	47903
WFOR□TV	Miami, FL	0000252555	CBS Television Stations Inc.	47902
WKBD□TV	Detroit, MI	0000252556	Detroit Television Station WKBD Inc.	51570
KCAL□TV	Los Angeles, CA	0000252557	Los Angeles Television Station KCAL LLC	21422

WBFS□TV	Miami, FL	0000252560	Miami Television Station WBFS Inc.	12497
WPSG	Philadelphia, PA	0000252561	Philadelphia Television Station WPSG, Inc.	12499
WPKD□TV	Jeannette, PA	0000252562	Pittsburgh Television Station WPCW Inc.	69880
KMAX□TV	Sacramento, CA	0000252564	Sacramento Television Stations Inc.	51499
KOVR	Stockton, CA	0000252565	Sacramento Television Stations Inc.	56550
KPYX	San Francisco, CA	0000252566	San Francisco Television Stations Inc.	69619
KTXA	Fort Worth, TX	0000252567	Television Station KTXA Inc.	51517
KSTW	Tacoma, WA	0000252570	The CW Television Stations Inc.	23428

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: https://www.fcc.gov

DA 24-896
Released: September 6, 2024

WIRELINE COMPETITION BUREAU REMINDS SECURE AND TRUSTED COMMUNICATIONS NETWORKS REIMBURSEMENT PROGRAM RECIPIENTS OF THEIR OCTOBER 7, 2024 STATUS UPDATE FILING OBLIGATION

WC Docket No. 18-89

The Wireline Competition Bureau (Bureau) reminds Recipients[1] in the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) of their obligation to file status updates with the Federal Communications Commission every 90 days, beginning on the date on which the Bureau approved Recipients' applications, until the obligation to file expires.[2] All Recipients were required to file the last status update on or before July 8, 2024.[3] Accordingly, all Recipients must file their next status update on or before October 7, 2024.[4] For additional information about Reimbursement Program filing requirements, please refer to the *Initial Status Update PN*.[5]

Recipients will submit status updates through the online portal, https://fccprod.servicenowservices.com/scrp (Supply Chain Reimbursement Program Online Portal) by completing FCC Form 5640 Part K: Status Updates. Requests for confidential treatment must be

[1] The Secure and Trusted Communications Networks Act of 2019, as amended, defines "recipient" as "any provider of advanced communications service the application of which for a reimbursement under the [Reimbursement] Program has been approved by the Commission, regardless of whether the provider has received reimbursement funds." Secure and Trusted Communications Act of 2019, Pub. L. No. 116-124, 134 Stat. 158, § 9(11) (2019) (codified as amended at 47 U.S.C. § 1608(11)), as amended by Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, § 901, 134 Stat. 1182 (2021); *see also* 47 CFR § 1.50001(h) ("The term 'Reimbursement Program recipient' or 'recipient' means an eligible advanced communications service provider that has requested via application and been approved for funding in the Reimbursement Program, regardless of whether the provider has received reimbursement funds.").

[2] 47 CFR § 1.50004(k) (requiring Reimbursement Program recipients to "file a status update with the Commission 90 days after the date on which the Wireline Competition Bureau approves the recipient's application for reimbursement and every 90 days thereafter, until the recipient has filed the final certification").

[3] *See Wireline Competition Bureau Reminds Secure and Trusted Communications Networks Reimbursement Program Recipients of their July 8, 2024 Status Update Filing Obligation,* WC Docket No. 18-89, Public Notice, DA 24-540 (WCB June 7, 2024) (*June 2024 Status Update PN*). The *June 2024 Status Update PN* and other Reimbursement Program releases are available on the Commission's website via https://www.fcc.gov/supplychain/reimbursement.

[4] Because 90 days after July 7, 2024—October 5, 2024 —falls on a Saturday, the deadline to file the next status update is Monday, October 7, 2024. *See* 47 CFR § 1.4(e)(1), (j) (describing the computation of Commission deadlines that would fall on a holiday, and defining "holiday" to include weekend days).

[5] *See Wireline Competition Bureau Reminds Secure and Trusted Communications Networks Reimbursement Program Recipients of their Status Update Filing Obligation,* WC Docket No. 18-89, Public Notice, DA 22-967 (WCB Sept. 16, 2022) (*Initial Status Update PN*).

submitted by filing a written request electronically in WC Docket No. 18-89 in the Commission's Electronic Comment Filing System (ECFS), https://www.fcc.gov/ecfs.

Additional Information and Resources. Recipients with questions may contact the Fund Administrator Help Desk by email at SCRPFundAdmin@fcc.gov or by calling (202) 418-7540 from 9:00 AM ET to 5:00 PM ET, Monday through Friday, except for Federal holidays. General information and Commission documents regarding the Reimbursement Program are available on the Reimbursement Program webpage, https://www.fcc.gov/supplychain/reimbursement.

-FCC-

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

In the Matter of	)	
	)	
Promoting Investment in the 3550-3700 MHz band	)	GN Docket No. 17-258
	)	
	)	
	)	

NOTICE OF PROPOSED RULEMAKING AND DECLARATORY RULING

Adopted: August 5, 2024 **Released: August 16, 2024**

Comment Date: 30 days after publication in the Federal Register
Reply Comment Date: 60 days after publication in the Federal Register

By the Commission: Commissioners Starks and Gomez issuing separate statements.

TABLE OF CONTENTS

Heading Paragraph #

I. INTRODUCTION 1
II. BACKGROUND 6
A. Federal Coordination 7
B. SAS and ESC Approval Process 10
C. PAL Auction (Auction 105) 13
D. Citizens Broadband Radio Service Deployments 14
III. NOTICE OF PROPOSED RULEMAKING 17
A. Federal Protection and Coordination 19
1. Dynamic Protection Areas 20
2. DPA Coordination Portal 27
3. Alignment with 3.45 GHz Protections 31
4. ESC Coordination and Availability 33
5. OCONUS and Offshore Citizens Broadband Radio Service Deployments 35
B. CBSD Information 38
C. Out of Band Emissions Limits 46
D. Base Station (CBSD) and End User Device (UE) Power Levels 50
E. SAS Connectivity and/or Outages 56
F. Time Division Duplex (TDD) Synchronization (in-band and adjacent band) 62
G. FSS Protection 67
H. Grandfathered Wireless Broadband Licensees 70
I. Other Issues 72
1. Certified Professional Installation 72
2. Private Networks and Low Power Indoor Facilities 75
3. GAA User Coexistence 81
IV. DECLARATORY RULING 86
V. PROCEDURAL MATTERS 88
VI. ORDERING CLAUSES 97
APPENDIX A - PROPOSED RULES

APPENDIX B – INITIAL REGULATORY FLEXIBILITY ANALYSIS

I. INTRODUCTION

1. Since the commencement of Citizens Broadband Radio Service operations in the 3.55-3.7 GHz band (3.5 GHz band) nearly five years ago, we have seen ongoing growth and increasing diversity in deployments in the band. A wide variety of new entrants—including mobile network operators, Wireless Internet Service Providers (WISPs), cable operators, utilities, private network operators, educational institutions, and others—have employed this "innovation band" to provide next generation wireless services to users across the country, including many in rural and underserved areas.

2. The Citizens Broadband Radio Service relies on a three-tiered sharing regime that the Commission adopted to coordinate access between incumbent operators—including federal radar systems and grandfathered fixed satellite service (FSS) operations—and two tiers of non-federal users. This innovative approach to spectrum management allowed the Commission, in close collaboration with the National Telecommunications and Information Administration (NTIA) and the Department of Defense (DoD), to make valuable mid-band spectrum available for commercial use while ensuring that incumbent operations continue to be protected. In keeping with the innovative nature of this sharing mechanism, in the years since the *3.5 GHz First Report and Order*[1] was adopted, Commission staff have continued to work with federal partners to develop and implement refinements to improve and expand spectrum access in the 3.5 GHz band. This Notice of Proposed Rulemaking (NPRM) is a continuation of these efforts.

3. This NPRM also represents the Commission's continued commitment to developing spectrum sharing models that provide opportunities for expanded use of the airwaves, consistent with the emphasis on this important goal in the recent whole-of-government approach to spectrum policy. The *National Spectrum Strategy,*[2] released by NTIA in response to the Presidential Memorandum titled *Modernizing United States Spectrum Policy and Establishing a National Spectrum Strategy,*[3] focuses on the development of next-generation spectrum sharing technologies, including through a demonstration, report, and testbed on advanced dynamic spectrum sharing. As we join our federal partners in these efforts to explore the next generation of spectrum sharing models, we also seek to preserve and enhance the Citizens Broadband Radio Service, which remains the only band where a sharing model enables licensed non-federal users and federal operators to coexist within the same geographic areas. This NPRM will help ensure that the Citizens Broadband Radio Service continues to represent an effective sharing model that promotes spectrum innovation and a wide variety of uses by stakeholders.

4. In addition, this NPRM builds on the efforts of the Commerce Spectrum Management Advisory Committee (CSMAC), which advises NTIA on a broad range of spectrum policy issues, to gather perspectives among a wide range of stakeholders on ways to improve the Citizens Broadband Radio Service sharing framework. The CSMAC noted in a 2023 report that stakeholders across the board generally agree the Citizens Broadband Radio Service sharing framework has been successful.[4] Some of

[1] *See 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 (2015) (*3.5 GHz First Report and Order* or *Second FNPRM*).

[2] NTIA, *National Spectrum Strategy*, https://www.whitehouse.gov/wp-content/uploads/2023/11/National-Spectrum-Strategy.pdf (Nov. 13, 2023) (*National Spectrum Strategy*).

[3] White House, *Memorandum on Modernizing United States Spectrum Policy and Establishing a National Spectrum Strategy*, Presidential Memorandum, https://www.whitehouse.gov/briefing-room/presidential-actions/2023/11/13/memorandum-on-modernizing-united-states-spectrum-policy-and-establishing-a-national-spectrum-strategy/ (November 13, 2023) (*Presidential Memorandum*).

[4] NTIA, *Commerce Spectrum Management Advisory Committee: Report of Subcommittee on CBRS*, at 5, 6, 9, 17, https://www.ntia.gov/sites/default/files/2023-12/cbrs_subcommittee_final_report.pdf (Dec. 19, *2023*) (*CSMAC CBRS Report*). CSMAC began its review of the 3.5 GHz band coordination and protection procedures in January 2023 and voted to adopt its report in December 2023. *CSMAC CBRS Report* at 1, 3.

CSMAC's recommendations[5] have been implemented already through the joint efforts of FCC staff, NTIA, and Spectrum Access System (SAS) administrators. Other observations and recommendations in the CSMAC report cover similar issues and proposals as those on which we seek comment in this NPRM.

5. The entrepreneurial spirit fostered by the Citizens Broadband Radio Service can be seen in the diversity of new entrants in the band and the wide range of use cases that have been introduced in the marketplace since the formal commencement of Citizens Broadband Radio Service operations. In this NPRM, we propose specific adjustments to the regulatory framework of the Citizens Broadband Radio Service to better protect federal operations and facilitate spectrum access for commercial broadband. We also seek comment on improvements to the service rules for the 3.5 GHz band to reflect changes in the operational environment for Priority Access License (PAL) holders and General Authorized Access (GAA) users in the Citizens Broadband Radio Service. We welcome feedback from Citizens Broadband Radio Service users, equipment manufacturers, prospective operators, and other stakeholders on how we can best support continued growth in the Citizens Broadband Radio Service, foster innovation, and build on the novel mechanism that was created to facilitate dynamic spectrum sharing in the band.

II. BACKGROUND

6. In 2015, the Commission adopted rules for commercial use of the 3.5 GHz band, creating a three-tiered sharing framework managed by SAS administrators, which are tasked with coordinating shared federal and non-federal use of the band.[6] The highest tier consists of incumbent federal and non-federal users, which receive protection from all other users, followed by Priority Access Licensees (second tier), and GAA users (third tier).[7] Priority Access Licensees purchased their spectrum licenses at auction[8] and receive protection from harmful interference from GAA operations. GAA users are licensed-by-rule and must accept interference from other Citizens Broadband Radio Service users, including other GAA users. SAS administrators are automated frequency coordinators that coordinate operations between and among the three different tiers of users in the 3.5 GHz band.[9] Environmental Sensing Capability (ESC) operators detect information about federal frequency use in and adjacent to the 3.5 GHz band and report that information to the SASs.[10]

[5] *CSMAC CBRS Report* at 17-19.

[6] *3.5 GHz First Report and Order*, 30 FCC Rcd at 3961, paras. 1-3.

[7] 47 CFR §§ 96.15-96.35.

[8] Bidding in Auction 105—the auction of PALs in the Priority Access tier of the 3.5 GHz band—closed on August 25, 2020. *See Auction of Priority Access Licenses in the 3550-3650 MHz Band Closes*, AU Docket No. 19-244, Public Notice, 35 FCC Rcd 9287 (OEA/WTB 2020) (*PAL Auction Public Notice*); *Wireless Telecommunications Bureau Grants Auction 105 Priority Access Licenses,* Auction No. 105, Public Notice, 36 FCC Rcd 4926 (WTB 2021); *Wireless Telecommunications Bureau Grants Additional Auction 105 Priority Access Licenses,* Auction No. 105, Public Notice, 36 FCC Rcd 7633 (WTB 2021); *Wireless Telecommunications Bureau Grants Additional Auction 105 Priority Access Licenses,* Auction No. 105, Public Notice, 36 FCC Rcd 10886 (WTB 2021); *Wireless Telecommunications Bureau Grants Additional Auction 105 Priority Access Licenses,* Auction No. 105, Public Notice, 36 FCC Rcd 16811 (WTB 2021); *Wireless Telecommunications Bureau Grants Additional Auction 105 Priority Access Licenses,* Auction No. 105, Public Notice, 37 FCC Rcd 8709 (WTB 2022); *Wireless Telecommunications Bureau Grants Additional Auction 105 Priority Access Licenses,* Auction No. 105, Public Notice, DA 22-1082 (WTB 2022).

[9] *See* 47 CFR §§ 96.3 (definition of Spectrum Access System), 96.53-96.66. SASs serve as automated frequency coordination systems that assign spectrum within the band and coordinate access between and among the three tiers of users. The service and technical rules governing the 3.5 GHz band were adopted as the new part 96 of the Commission's rules. *See* 47 CFR §§ 96.3, 96.53. SAS administrators and ESC operators work in tandem to coordinate shared spectrum use.

[10] 47 CFR § 96.67 (Environmental Sensing Capability). An ESC consists of a network of sensors—infrastructure-based, device-based, or a combination of both—that detects signals from federal radar systems operating in and

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A. Federal Coordination

7. *Initial Federal Incumbent Protection Regime.* Priority Access Licensees and GAA users operate Citizens Broadband Radio Service Devices (CBSDs) in the band, and the operation of CBSDs is coordinated by one or more SASs. Part 96 defines two types of CBSDs—Category A and Category B CBSDs—and sets forth different power levels and technical requirements for each type of CBSD.[11] In the *3.5 GHz First Report and Order*, the Commission established a two-phase approach for protecting federal operations in the 3.55-3.65 GHz portion of the 3.5 GHz band.[12] During "phase one," a SAS could authorize only low-power Category A CBSDs in the 3.55-3.65 GHz portion of the band outside the Exclusion Zones. As such, a SAS could not authorize any CBSDs within Exclusion Zones[13] in the 3.55-3.65 GHz portion of the band.[14] Only after certification and deployment of one or more ESCs could SAS administrators operate consistent with the "phase two" protection rules, at which time Exclusion Zones would be converted to Protection Zones.[15] The SAS could then authorize Category A and higher-power Category B CBSDs in the 3.55-3.65 GHz portion of the band nationwide, including within Protection Zones, unless the ESC detects and reports federal use in a given area to the SAS.[16] This approach served as the starting point for the federal coordination regime in the band. Due to the collaborative efforts of the Wireless Telecommunications Bureau (WTB), the Office of Engineering and Technology (OET), DoD, and NTIA, the federal coordination process has markedly improved since the phased Exclusion Zone approach described in the *3.5 GHz First Report and Order*.[17]

8. *Ongoing Improvements to Federal Incumbent Protections.* Since 2015, consistent with the Commission's delegation of authority, WTB and OET have worked with NTIA, DoD, the individual military services, and industry stakeholders to develop and implement sharing approaches that have protected federal use and expanded commercial access to the band.[18] Most notably, WTB and OET

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around the 3.5 GHz band and relays information regarding those transmissions to the SAS administrator who uses the ESC input to direct PAL licensees and GAA users to another portion of the 3.5 GHz Band or, if necessary, to cease transmissions to avoid potential interference to federal radar systems. *See* 47 CFR §§ 96.3 Environmental Sensing Capability (ESC), 96.15, 96.67.

[11] CBSDs are fixed stations, or a network of such stations, that operate on a Priority Access or General Authorized Access basis in the Citizens Broadband Radio Service. Category A CBSDs operate at lower power levels, while Category B CBSDs operate at higher levels and may operate outdoors only. 47 CFR §§ 96.3, 96.41, 96.43, 96.45.

[12] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4038-40, paras. 258-68. This two-phase approach to federal incumbent protection applies to the 3.55-3.65 GHz portion of the band, which is allocated to federal use on a primary basis and involves spectrum that the DoD uses to operate its shipborne radar systems in coastal areas as well as radar systems in some inland facilities.

[13] Under the current rules, an Exclusion Zone is "a geographic area wherein no CBSD shall operate" and "shall be enforced and maintained by the SAS." *See* 47 CFR § 96.3 (definition of Exclusion Zone). As discussed in further detail below, static Exclusion Zones have largely been replaced by Dynamic Protection Areas (DPAs) that provide DPA-enabled SASs with a more targeted and faster means to authorize higher power commercial operations in more geographic areas. We also propose to modify the definition of Exclusion Zones to more accurately reflect the current sharing regime. *See discussion infra* section III.A.1 (Dynamic Protection Areas).

[14] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4038-39, para. 260.

[15] A Protection Zone is "a geographic area wherein CBSDs may operate only with the permission of an approved SAS and ESC." *See* 47 CFR §§ 96.3 (Exclusion Zone; Protection Zone), 96.15, 96.67.

[16] *See* 47 CFR § 96.15; *3.5 GHz First Report and Order*, 30 FCC Rcd at 4039, para. 261-62.

[17] As reflected in the *CSMAC CBRS Report*, government and industry stakeholders tend to agree that the DPA approach is better than the exclusion zones initially established for federal incumbent protection in the band. *See CSMAC CBRS Report* at 5, 6.

[18] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4067, 4070, paras. 369, 370, 386. In delegating authority to WTB and OET for oversight of the SASs and ESCs, the Commission envisioned close coordination with both NTIA (continued….)

issued an order that granted a conditional waiver of certain rules governing the protection of federal operations in the 3.5 GHz band to facilitate more rapid access to the band by a wider variety of devices without compromising federal incumbent operations.[19] Closely coordinated with NTIA and DoD,[20] the *DPA Waiver Order* introduced a shift away from static Exclusion Zones toward a more dynamic, tailored means of protecting federal operations while maximizing availability of the 3.5 GHz band for deploying new commercial wireless services.[21] Specifically, the *DPA Waiver Order* permitted SASs to implement a more targeted protection methodology based on Dynamic Protection Areas (DPAs) that allows: (1) all DPA-enabled SASs to authorize both Category A and Category B CBSDs in the 3.5 GHz band prior to ESC deployment and certification; and (2) DPA-enabled SASs to be tested for the ability to protect DPAs rather than Exclusion Zones (in areas where NTIA has published DPAs).[22] The waiver is limited to rules that apply to DPA-enabled SASs; any SASs that are not DPA-enabled are still required to comply with all part 96 rules, including the enforcement of all Exclusion Zones and restrictions on Category B CBSD operations in the 3.55-3.65 GHz band.[23]

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and DoD "at all stages of the process." *Id.* (quoting para. 370). The sharing mechanism adopted by the Commission for this band is unique because the SAS administrators manage access and operations incorporating information from ESCs while ensuring protection to federal operators. In furtherance of the Commission's delegation and in recognition of the distinctive characteristics of the 3.5 GHz band, WTB and OET staff have worked closely and continue to work closely with NTIA and DoD staff on targeted, iterative developments in the 3.5 GHz band, especially on issues concerning SAS and ESC responsibilities.

[19] *See Promoting Investment in the 3550-3700 MHz band*, GN Docket No. 17-258, Order, 33 FCC Rcd 4987 (WTB/OET 2018) (*DPA Waiver Order*). Specifically, the Order conditionally waived sections 96.15(a)(2)-(3) and 96.15(b)(2)-(3). *See* 47 CFR §§ 96.15(a)(2)-(3); 96.15(b)(2)-(3) (Protection of Federal Incumbent Users).

[20] In a May 17, 2018 letter to WTB/OET, NTIA suggested an alternative protection methodology based on DPAs where SASs would have the option to use DPA-based protections instead of Exclusion Zones. *See* Letter from Paige R. Atkins, Assoc. Admin., Office of Spectrum Mgt., NTIA, to Julius P. Knapp, Chief, OET, FCC, and Donald Stockdale, Chief, WTB, FCC, (May 17, 2018) at 6-7 (2018 NTIA Letter); *see also* 2015 NTIA Letter (ESCs can be used to facilitate the conversion of Exclusion Zones to dynamic protection zones). A DPA is a geographic protection area—extending from the coastline out into the ocean or enclosing a protected terrestrial radar facility—which may be activated or deactivated as necessary to protect DoD radar systems. 2018 NTIA Letter at 2-3. NTIA described the initial group of DPAs in Attachment A of the 2018 NTIA Letter and both the letter and the specific coordinates for all the DPAs are available on the NTIA webpage at https://www.ntia.doc.gov/fcc-filing/2015/ntia-letter-fcc-commercial-operations-3550-3650-mhz-band. *See discussion infra* section III.A.1 (Dynamic Protection Areas).

[21] The *DPA Waiver Order* waived the requirements in 47 CFR §§ 96.7(a), 96.45(b), 96.53(g), and 96.57(d) to the extent necessary to allow the testing and operation of DPA-enabled SASs. The *DPA Waiver Order* also stated that the Commission would monitor federal incumbent protections, including implementation of the approach described in the waiver and make adjustments as appropriate. *See DPA Waiver Order*, 33 FCC Rcd at 4987-88, para. 1.

[22] *See DPA Waiver Order*, 33 FCC Rcd at 4991, para. 7. The approach rests on the expectation that, prior to the authorization of an ESC, a DPA-enabled SAS would set all DPAs to "active" status, allowing the SAS to authorize Category A and Category B CBSDs in areas of the country that are *not* covered by DPA protections while simultaneously protecting federal incumbents. *DPA Waiver Order*, 33 FCC Rcd at 4990, para. 6. In practice, this effectively meant that prior to ESC approval and deployment, a DPA-enabled SAS would presume the presence of federal radar system transmissions in all DPAs (i.e., "active" status), rendering them off limits to Category B CBSDs, but a DPA-enabled SAS would be free to authorize operation of Category A and Category B CBSDs across the entire band in all non-DPA areas (i.e., geographic areas where CBSDs would not cause interference to federal incumbents). The net result is that Citizens Broadband Radio Service operators are able to deploy their Category A and Category B CBSDs at a much faster rate in non-DPA areas than under an Exclusion Zone approach.

[23] *See DPA Waiver Order*, 33 FCC Rcd at 4990, para. 6; 2018 NTIA Letter. at 3-4. The DPA approach requires a SAS administrator to declare whether its system will be DPA-enabled as part of the final certification process and WTB/OET would then designate whether a given SAS is DPA-enabled as part of the SAS certification and approval process. *See DPA Waiver Order*, 33 FCC Rcd at 4987-88, para. 1. Any SAS applicants that receive conditional
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9. In addition to the *DPA Waiver Order*, WTB and OET have worked with federal partners to refine and improve DPA-based protection criteria for a variety of federal operations and facilities, including the development of a federal coordination portal.[24] Notably, through this collaborative process, many of the technical criteria governing Citizens Broadband Radio Service operations near DPA-protected federal facilities were recently modified.[25] As a result, approximately 72 million more people throughout the United States will soon be able to utilize the band without the possibility of regular interruption by federal operations.[26] These actions have served to facilitate rapid and robust deployment in the band while ensuring ongoing protected access for critical federal operations. While we anticipate that WTB and OET will continue to successfully lead future efforts to iterate and improve upon the

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approval must allow their systems to be tested and analyzed by the Commission. *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4067, para. 372. During testing, a SAS has the option to demonstrate either that it is DPA-enabled or that it is compliant with the full set of "phase one" federal incumbent protection procedures set forth in the *3.5 GHz First Report and Order* and section 96.15 of the Commission's rules. *See 3.5 GHz First Report and Order,* 30 FCC Rcd at 4038-4039, paras. 258-260; 47 CFR § 96.15. If a SAS administrator were to declare that it is DPA-enabled, the Commission would test this capability. If not, the Commission would test the system in accordance with the current federal protection rules. All currently certified SASs are DPA-enabled.

[24] *See* Letter from Charles Cooper, Assoc. Admin., Office of Spectrum Mgt., NTIA, to Ronald T. Repasi, Chief (Acting) OET, and Donald Stockdale, Jr., Chief, WTB, FCC (Jan. 22, 2020) (January 2020 NTIA Letter); Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Ronald T. Repasi, Acting Chief, Office of Engineering and Technology, FCC, and Joel Taubenblatt, Acting Chief, Wireless Telecommunications Bureau, FCC, GN Docket Nos. 17-258 and 15-319, at 2 (filed Apr. 26, 2021) (NTIA American Samoa Protection Letter); *Wireless Telecommunications Bureau and Office of Engineering and Technology Establish Procedure and Deadline for Filing Spectrum Access System Initial Commercial Deployment Proposals*, GN Docket No. 15-319, Public Notice, 33 FCC Rcd 7393, at para 7. (WTB/OET 2018) (*ICD Proposals Public Notice*); *ICD Approvals PN*, 34 FCC Rcd at 8110, para. 7; *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Four Spectrum Access Administrators for Full Scale Commercial Deployment in the 3.5 GHz band and Emphasize Licensee Compliance Obligations in the 3650-3700 MHz band Under Part 96*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 117, 119 para. 5 (2020 WTB/OET) (*SAS Certification Public Notice*); Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Ronald T. Repasi, Acting Chief, Office of Engineering and Technology, FCC, and Joel Taubenblatt, Acting Chief, Wireless Telecommunications Bureau, FCC, GN Docket Nos. 17-258 and 15-319 (filed Aug. 14, 2023) (2023 TARDyS3 NTIA Letter); *WTB/OET Waiver Order Permitting Spectrum Access System Administrators to Utilize Department of Defense Managed TARDyS3 Scheduling Portal in 3.5 GHz Band*, GN Docket Nos. 17-258 and 15-319, Order, DA 23-734 (OET and WTB 2023); *WTB/OET Announce Deployment of a New Federal Portal and a Revision to the List of Protected Facilities in the 3.5 GHz Band*, GN Docket Nos. 17-258 and 15-319, Public Notice, DA 23-733 at 1, n.3 (OET and WTB 2023) (*TARDyS3 Public Notice*).

[25] In particular, WTB and OET, in close collaboration with NTIA, have changed the existing aggregate interference model by permitting certified SAS administrators to add Time Division Duplex (TDD) and loading factors, account for clutter loss, and use a 50% confidence factor and 50% reliability factor for the propagation loss calculations. *See* Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Ronald T. Repasi, Chief, Office of Engineering and Technology, FCC, and Joel Taubenblatt, Chief, Wireless Telecommunications Bureau, FCC, GN Docket Nos. 17-258 and 15-319 (filed June 11, 2024) (June 2024 NTIA Letter). This latest change aligns with some of the recommendations made by the CSMAC. *CSMAC CBRS Report* at 18.

[26] *See* June 2024 NTIA Letter; *WTB/OET Announce Modified Aggregate Interference Model Used by Spectrum Access Administrators*, GN Docket Nos. 17-258 and 15-319, Public Notice, DA 24-553 (OET and WTB 2024) (*Modified Aggregate Interference Model Public Notice*); *WTB/OET Approve Certified SAS Administrators to Use Modified Aggregate Interference Model,* GN Docket Nos. 17-258 and 15-319, Public Notice, DA 24-643 (OET and WTB 2024); *see also Announcing CBRS 2.0: The Next Generation of Spectrum Sharing with the U.S. Military*, Open Technology Institute, Frequently Asked Questions available at https://www.newamerica.org/oti/events/announcing-cbrs-20/ (last visited July 22, 2024).

existing federal protection framework, we nonetheless believe that this is an opportune time to seek comment on building on and codifying some of the successful approaches that have already been implemented by WTB/OET on delegated authority in the 3.5 GHz band and to consider other potential updates to the rules governing federal coordination.

B. SAS and ESC Approval Process

10. *SAS Approval Process.* In the *3.5 GHz First Report and Order*, the Commission delegated authority to WTB and OET to oversee the review, certification, and approval of SASs and ESCs in the 3.5 GHz band.[27] Consistent with the Commission's directions, WTB and OET have worked closely with DoD and NTIA to implement processes to approve the SAS administrators needed to perform the critical spectrum management services demanded by the three-tiered spectrum sharing model. As set forth in the *First Wave Proposal Public Notice*, all prospective SAS administrators and ESC operators must complete a two-stage review process prior to final certification.[28]

11. In the first stage, a prospective SAS administrator must submit a proposal describing how its system will comply with all Commission rules governing the construction, operation, and approval of SASs and perform all core functions described in the *3.5 GHz First Report and Order*.[29] The second stage involves SAS testing both in a controlled lab environment and in a real-world setting.[30] On December 21, 2016, WTB/OET conditionally approved the first wave of SAS administrators, thus concluding the first stage of the review process.[31] On September 16, 2019, WTB/OET found that each SAS administrator had satisfied the Commission's SAS laboratory testing requirements for stage two, and they approved each SAS administrator to begin Initial Commercial Deployment (ICD) as described in their ICD proposals.[32] On January 27, 2020, WTB/OET, in coordination with NTIA and DoD, announced that they had reviewed the ICD reports in detail and approved four SAS administrators—CommScope,[33]

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[27] *See* 47 CFR §§ 0.241(j), 0.331(f); *see also 3.5 GHz First Report and Order,* 30 FCC Rcd at 4067, paras. 369-73.

[28] *See Wireless Telecommunications Bureau and Office of Engineering and Technology Establish Procedure and Deadline for Filing Spectrum Access System (SAS) Administrators(s) and Environmental Sensing Capability (ESC) Operator(s) Applications*, GN Docket No. 15-319, Public Notice, 30 FCC Rcd 14170, 14174-77 (WTB/OET 2015) (*First Wave Proposal Public Notice*).

[29] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4054-55, para. 320 (listing SAS core functions); *see also First Wave Proposal Public Notice*, 30 FCC Rcd 14170; *Wireless Telecommunications Bureau and Office of Engineering and Technology Conditionally Approve Seven Spectrum Access System Administrators for the 3.5 GHz Band,* GN Docket No. 15-319, Public Notice, 31 FCC Rcd 13355 (WTB/OET 2016) (*SAS Conditional Approval Public Notice*).

[30] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4067, para. 372 (noting that the final compliance testing phase can include a public testing period, testing of protections for incumbent systems, and field trials). On July 27, 2018, WTB/OET released a Public Notice that described the procedure and deadline for filing Initial Commercial Deployment (ICD) proposals. *See ICD Proposals Public Notice*, 33 FCC Rcd at 7390. ICD is meant to fulfill the Commission's requirement that applicants conduct a public testing period and field trials prior to final certification. *3.5 GHz First Report and Order*, 30 FCC Rcd at 4067, para. 372.

[31] *SAS Conditional Approval Public Notice*, 31 FCC Rcd 13355 (conditionally approving the following seven SAS administrators: Amdocs, Inc.; CommScope; CTIA – The Wireless Association; Federated Wireless; Google; Key Bridge; and Sony). CTIA later withdrew its proposal. *See* Letter from Paul Anuszkiewicz et al., Vice President, Spectrum Planning, CTIA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 15-319 (filed Nov. 20, 2017).

[32] *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Five Spectrum Access System Administrators to Begin Initial Commercial Deployments in the 3.5 GHz Band*, GN Docket 15-319, Public Notice, 34 FCC Rcd 8106 (2019 WTB/OET) (*ICD Approvals PN*).

[33] CommScope suspended its SAS service and transferred all registered CBSDs to other SAS administrators on or before April 1, 2023. *See* Letter from H. Mark Gibson, Senior Director, Regulatory Policy, CommScope, Inc. to Marlene H. Dortch, Secretary, FCC, GN Docket No. 15-319 (filed Mar. 10, 2023).

Federated Wireless, Inc. (Federated), Google, and Sony, Inc. (Sony)—for full scale commercial deployment in the 3.5 GHz band in the contiguous United States (CONUS), Alaska, Hawaii, Puerto Rico, and Guam.[34] WTB and OET subsequently approved three more SAS administrators—Amdocs, Key Bridge Wireless LLC (Key Bridge), and RED Technologies—for commercial operations.[35] Nokia Innovations LLC (Nokia) was also approved to begin Initial Commercial Deployments in the band.[36]

12. *ESC Approval Process.* The ESC approval process is similar to the SAS approval process described above. The first stage of the ESC approval process requires all prospective ESC operators to submit a proposal describing the functions and capabilities of their ESCs and explaining how their systems would comply with all applicable Commission rules as well as technical requirements and other directions issued by WTB and OET.[37] Once WTB/OET have reviewed and conditionally approved their proposals, prospective ESC operators may submit their ESCs for the second stage of the certification process, which involves laboratory testing and ESC sensor registration.[38] ESC operators must submit their ESC sensor deployment and coverage plans (ESC Sensor Registrations) for each geographic area of operation for approval prior to operating an ESC within the covered geographic area.[39] Since 2015, WTB/OET, in close consultation with NTIA and DoD, have reviewed and approved the ESC Sensor Registrations of four ESC operators—CommScope,[40] Google, Federated, and Key Bridge.[41] Each ESC

[34] *See SAS Certification Public Notice*, 35 FCC Rcd at 119 (contains procedural history of SAS approval process); *see also Wireless Telecommunications Bureau and Office of Engineering and Technology Conditionally Approve Seven Spectrum Access System Administrators for the 3.5 GHz band,* GN Docket No. 15-319, Public Notice, 31 FCC Rcd 13355 (WTB/OET 2016) (*SAS Conditional Approval Public Notice*).

[35] *See Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access System Administrator Amdocs for Full Scale Commercial Deployment in the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 3687 (2020 WTB/OET); *see also Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access System Administrator Key Bridge Wireless for Full Scale Commercial Deployment in the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 36 FCC Rcd 4880 (WTB/OET 2021); *WTB OET Approve RED SAS for Full Commercial Deployment in 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, DA 23-893 (WTB/OET 2023).

[36] *See Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Nokia Innovations LLC to Begin Initial Commercial Deployment in the 3.5GHz Band,* GN Docket No. 15-319, Public Notice, DA-24-703 (WTB/OET 2024).

[37] *See 3.5 GHz First Report & Order,* 30 FCC Rcd at 4070, para. 386; *First Wave Proposal Public Notice*, 30 FCC Rcd 14170. The first wave of ESC operators completed the first stage of the review process on February 21, 2018, when WTB/OET conditionally approved their ESC operator proposals. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Conditionally Approve Four Environmental Sensing Capability Operators for the 3.5 GHz Band,* Public Notice, 33 FCC Rcd 1942 (WTB/OET 2018).

[38] *See 3.5 GHz First Report and Order,* 30 FCC Rcd at 4067, para. 372; *see also First Wave Proposal Public Notice,* 30 FCC Rcd at 14171.

[39] *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*).

[40] *See 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, 36 FCC Rcd 8252 (WTB/OET 2021) (*2021 ESC Operator Approval Public Notice*). In October 2018, Google and CommScope announced that they had entered into a partnership to operate an ESC together. Press Release, CommScope, CommScope and Google Team Up to Drive Citizens Broadband Radio Service Forward (Oct. 18, 2018), https://www.commscope.com/press-releases/2018/commscope-and-google-team-up-to-drive-cbrs-forward/.

operator is authorized to operate its ESC sensors consistent with the information—including sensor locations, configuration, and DPA coverage—submitted to, and approved by, WTB/OET.[42] In addition, each certified ESC operator must operate in conjunction with at least one SAS that has been approved for commercial deployment by the Commission.[43]

C. PAL Auction (Auction 105)

13. Interest in the Citizens Broadband Radio Service band has been strong from the outset. In Auction 105, the Commission made available 70 megahertz in the 3.55-3.65 GHz portion of the band in county-based license areas.[44] At the time, the Commission noted that Auction 105 for Priority Access

(Continued from previous page)

[41] *See 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*); *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce the Approval of an Additional Environmental Sensing Capability for the 3.5 GHz band*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 7001 (WTB/OET 2020) (*Key Bridge ESC Operator Approval Public Notice*); *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Approval of Key Bridge's Environmental Sensing Capability*, GN Docket No. 15-319, Public Notice, DA 22-175, 2022 FCC LEXIS 528 (WTB/OET Feb. 18, 2022) (*Key Bridge ESC Operator Approval After Retesting 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*). All four ESC operators 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*. In some instances, ESC operators requested confidentiality when they submitted their ESC Sensor Registrations and filed a list of dynamic protection areas covered by their ESC sensors consistent with the filing instructions in the *ESC Sensor Registration Public Notice*. *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 Jan. 21, 2021) (Federated Puerto Rico ESC Sensor Registration); H. Mark Gibson, Director, Regulatory Policy, CommScope Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 15-319 (filed Apr. 6, 2021) (CommScope/Google ESC Sensor Update). In other instances, no confidentiality was requested. *See* Letter from Jesse Caulfield, CEO, Key Bridge Wireless LLC to Marlene H. Dortch, Secretary, FCC, GN Docket No. 15-319 (filed Sept. 30, 2020) (Key Bridge Guam ESC Sensor Registration); Letter from Jesse Caulfield, CEO, Key Bridge Wireless LLC to Marlene H. Dortch, Secretary, FCC, GN Docket No. 15-319 (filed Oct. 2, 2020) (Key Bridge Puerto Rico ESC Sensor Registration). In May, 2021, WTB/OET approved new and updated ESC Sensor Registrations for the four ESC operators: CommScope, Google, Federated Wireless, and Key Bridge Wireless. *See 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, 36 FCC Rcd 8252 (WTB/OET 2021) (*2021 ESC Operator Approval Public Notice*).

[42] *2019 ESC Operator Approval Public Notice*, 34 FCC Rcd at 2794, para. 5 (citing *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10016); *Key Bridge ESC Operator Approval Public Notice*, 35 FCC Rcd at 7003; *see also 3.5 GHz First Report and Order*, 30 FCC Rcd 3959 at 4070-71, para. 386.

[43] *2019 ESC Operator Approval Public Notice*, 34 FCC Rcd at 2794, para. 5 (citing *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10016); *Key Bridge ESC Operator Approval Public Notice*, 35 FCC Rcd at 7003, para. 6; *see also 3.5 GHz First Report and Order*, 30 FCC Rcd at 4070-71, para. 386. Before providing commercial service for any given DPA, each ESC operator 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.

[44] *See PAL Auction Public Notice*, 35 FCC Rcd 9287.

Licenses (PALs) made available the greatest number of spectrum licenses ever in a single FCC auction.[45] Grossing almost $4.6 billion, a total of 228 bidders[46] won 20,625 licenses—or more than 91.1% of available licenses—with more than 90% of bidders winning at least one license.[47] Winning bidders included entities that do not normally participate in spectrum auctions, including cable operators, WISPs, electric utilities, energy and enterprise companies, as well as nationwide and regional mobile network operators.[48]

D. Citizens Broadband Radio Service Deployments

14. According to reports released by government and industry groups, Citizens Broadband Radio Service deployments have increased steadily in the more than four years since commercial service was first authorized in the band.[49] Notably, NTIA's Institute for Telecommunications Sciences (NTIA-ITS) released a report that quantified commercial use of the Citizens Broadband Radio Service during the period starting April 1, 2021 and ending January 1, 2023.[50] According to NTIA-ITS, nationwide CBSD deployments "grew at a steady rate with a mean quarterly increase of 12.0% and a total increase of 121% over the 21-month analysis period," with a reported count of 287,033 active CBSDs on January 1, 2023.[51] A recent report from the OnGo Alliance indicates that Citizens Broadband Radio Service deployments have continued to expand since the conclusion of the NTIA-ITS study with over 370,000 active CBSDs—used by over 1,000 different operators—operating in the 3.5 GHz band by the end of 2023.[52]

15. Government and industry reports also indicate that the innovative three-tiered access model has led to a steady increase in Priority Access use along with extensive GAA adoption, providing low cost access to the band for a wide variety of users. According to NTIA-ITS, Priority Access use grew consistently during the reporting period, with a mean quarterly increase in Priority Access authorizations of 17%.[53] However, during that same period, over 85% of active CBSD authorizations were GAA and,

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[45] *See id.*; Press Release, FCC, FCC Announces Winning Bidders of 3.5 GHz Band Auction (Sept. 2, 2020).

[46] *Auction of Priority Access* Licenses *in the 3550-3650 MHz Band Closes; Winning Bidders Announced for Auction 105*, AU Docket No. 19-244, Public Notice, 35 FCC Rcd 9287, (OEA and WTB 2020).

[47] *Id.; see also* Ashish Jain, *Will the success of the PAL auction lead to commercial success for CBRS?* (Nov. 2, 2020) https://www.thefastmode.com/expert-opinion/18397-will-the-success-of-the-pal-auction-lead-to-commercial-success-for-cbrs.

[48] *See* Mike Dano, *Verizon, AT&T, Charter, Cox, Dish among CBRS auction bidders* (June 9, 2020), https://www.lightreading.com/5g/verizon-atandt-charter-cox-dish-among-cbrs-auction-bidders/d/d-id/761573#:~:text=The%20FCC%20Tuesday%20released%20a%20list%20of%20entities,Communications%2C%20Dish%20Network%2C%20Cox%20Communications%2C%20Comcast%20and%20CenturyLink;Verdict, *Two years after CBRS auction, US service providers start to reap benefits* (Mar. 17, 2022), https://www.verdict.co.uk/cbrs-spectrum-auction-us-service-providers/; Monica Alleven, *Verizon, Dish & cable top list of CBRS auction winners* (Sept. 2, 2020),

https://www.fiercewireless.com/operators/verizon-dish-cable-top-list-cbrs-auction-winners.

[49] *See* Douglas Boulware, Anthony Romaniello, Rebecca L. Dorch, Michael G. Cotton, *An Analysis of Aggregate CBRS SAS Data from April 2021 to January 2023*, NTIA Report 23-567 (May 2023), https://its.ntia.gov/umbraco/surface/download/publication?reportNumber=TR-23-567.pdf (2023 NTIA-ITS Report); OnGo Alliance, *The OnGo Alliance Drives Significant CBRS Enhancements and Announces Band Milestones*, (Sept. 25, 2023), https://ongoalliance.org/news/the-ongo-alliance-drives-significant-cbrs-enhancements-and-announces-band-milestones/.

[50] *See* 2023 NTIA-ITS Report at 1.

[51] *Id*. at 1, 6.

[52] OnGo Alliance, *Industry Success Stories: How CBRS is Driving Wireless Innovation for Enterprises and Service Providers*, (April 2024), https://ongoalliance.org/wp-content/uploads/2024/04/OnGo-eBook-April-2024.pdf.

[53] 2023 NTIA-ITS Report at 1.

on January 1, 2023, over 66% of CBSDs with Priority Access authorizations also had an active GAA grant.[54] Industry reports indicate that, as of November 2022, the GAA portion of the band hosted nearly 900 different users including factories, cities, school districts, hospitals, research centers, schools, public libraries, utilities, and other critical infrastructure users.[55]

16. The unique spectrum sharing approach has fostered an environment conducive to innovation as seen in the diverse group of operators and the wide range of use cases that have been introduced in the 3.5 GHz band.[56] Notably, NTIA-ITS reports that, on January 1, 2023, over 70% of active CBSDs were deployed in rural census blocks[57] and various stakeholders have reported using the Citizens Broadband Radio Service to bridge the digital divide in rural areas.[58] In education, school districts are looking to GAA spectrum as a cost effective way to build networks that will keep their students connected.[59] Colleges and universities are also using the Citizens Broadband Radio Service to provide their students with reliable and secure wireless access and to support research of innovative new applications for the 3.5 GHz band.[60] Health care facilities use the Citizens Broadband Radio Service to link outdoor hotspots with indoor networks and to enhance in-building coverage and mobility services.[61]

[54] *Id*. at 9, 11.

[55] *See* Letter from Airspan et al. to The Honorable Jessica Rosenworcel, Chairwoman, FCC and The Honorable Alan Davidson, Assistant Secretary and Administrator, NTIA (November 17, 2022) https://www.airspan.com/news/broad-industry-letter-on-cbrs-5g-success/ (Industry Coalition Letter); Jennifer McCarthy, *Reshaping the Wireless Ecosystem with CBRS (Reader Forum)* (Feb. 2, 2023), https://www.rcrwireless.com/20230202/spectrum/reshaping-the-wireless-ecosystem-with-cbrs-reader-forum.

[56] *See CSMAC CBRS Report at 8, 10;* Industry Coalition Letter; Coleman Bazelon, Paroma Sanyal, and Yong Paek, The Brattle Group, *Principles of Spectrum Sharing: Understanding the Value of Shared Spectrum* (September 18, 2023), https://spectrumfuture.com/wp-content/uploads/2023/09/Principles-of-Spectrum-Sharing-Understanding-the-Value-of-Shared-Spectrum.pdf at 49-54.

[57] *See* NTIA-ITS Report at 1, 10-11, 42-43.

[58] *See, e.g.,* Bob O'Donnell, Forbes, *CBRS Enables New Opportunities for Rural Broadband* (March 8, 2022), https://www.forbes.com/sites/bobodonnell/2022/03/08/cbrs-enables-new-opportunities-for-rural-broadband/; Monica Alleven, *Nextlink Teams Up With Tarana to Deploy CBRS in Rural Area* (Sept. 23, 2022), https://www.fiercewireless.com/tech/nextlink-teams-tarana-deploy-cbrs-rural-areas.

[59] *See* Matthew Marcus and Michael Calabrese, Open Technology Institute at New America, *The "To and Through" Opportunity: Case Studies of School and Community Networks Able to Close the Homework Gap for Good* (August 2022) at 25-51, https://d1y8sb8igg2f8e.cloudfront.net/documents/Anchor-Nets-Case-Studies-revisedFINAL_091422.pdf; Sean Buckley, *Dos Palos-Oro Loma School District Bridges Homework Gap*, Broadband Communities (May 15, 2022), https://bbcmag.com/dos-palos-oro-loma-school-district-bridges-homework-gap-5/; Martha DeGrasse, *Tucson stands up CBRS network with help from Insight, JMA, Geoverse and Tilson* (Mar. 4, 2021), https://www.fiercewireless.com/private-wireless/tucson-stands-up-cbrs-network-help-from-insight-jma-geoverse-and-tilson; Martha DeGrasse, *CBRS networks for schools will outlast the pandemic* (May 27, 2021), https://www.fiercewireless.com/private-wireless/cbrs-networks-for-schools-will-outlast-pandemic.

[60] *See* Roy Chua, *Cal Poly, Federated Wireless, AWS, and T-Mobile Launch 5G Innovation Lab*, Fierce Wireless (May 30, 2023), https://www.fiercewireless.com/private-wireless/cal-poly-federated-wireless-aws-and-t-mobile-launch-5g-innovation-lab-chua; Oren Binder, *OnGo Alliance: How the Purdue Research Foundation is Leveraging CBRS to Advance Technology Commercialization* (Apr. 18, 2023), https://www.privatelteand5g.com/how-the-purdue-research-foundation-is-leveraging-cbrs-to-advance-technology-commercialization; Bevin Fletcher, *Samsung, Amdocs Deploy Private CBRS Network for Howard University* (Feb. 10, 2022), https://www.fiercewireless.com/private-wireless/samsung-amdocs-deploy-private-cbrs-network-howard-university.

[61] *See* Monica Alleven, *Celona Lands Stanford Health Care for CBRS Neutral Host Service* (Sept. 25, 2023), https://www.fiercewireless.com/private-wireless/celona-lands-stanford-health-care-cbrs-neutral-host-service; Linda Hardesty, *RF Connect builds a private Citizens Broadband Radio Service network for COVID healthcare tents* (May 1, 2020), https://www.fiercewireless.com/wireless/rf-connect-builds-a-private-cbrs-network-for-covid-healthcare-tents.

In addition to the education and healthcare sectors, a wide array of operators are utilizing the Citizens Broadband Radio service for cutting edge private networking applications in municipalities,[62] airports,[63] warehouses,[64] and a growing number of other facilities.[65]

III. NOTICE OF PROPOSED RULEMAKING

17. Today, we recognize the critical role of the Citizens Broadband Radio Service—not only as a success in making additional mid-band spectrum available for a variety of novel and important uses, but also as a model for spectrum sharing—and seek to build on that success to solidify the service's role as a prime innovation band. The sharing model, which the FCC, NTIA as the manager of federal spectrum use,[66] and DoD collaboratively established at the heart of the Citizens Broadband Radio Service, is a proven success at ensuring protection for critical incumbent services while enabling spectrum innovation and the efficient use of this valuable resource. Our proposals to update the Citizens Broadband Radio Service rules are designed to preserve and enhance this model, while we also work collaboratively with our federal partners to develop the next generation of spectrum sharing technologies through the implementation of the National Spectrum Strategy.

18. This NPRM provides prospective commenters with an overview of the federal protection regime implemented by NTIA, DoD, and Commission staff and solicits input on proposals to update the technical and service rules. Specifically, with regard to federal protection in the band, this NPRM proposes to modify the part 96 rules to reflect the mechanisms currently used to protect federal users in the 3.5 GHz band and seeks comment on whether we should consider rule changes to align 3.5 GHz protection methodologies with those in adjacent bands, revisit our ESC approval procedures, and facilitate the continued introduction of Citizens Broadband Radio Service in areas outside of CONUS. Beyond

[62] OnGo Alliance reports that Celona and NTT are building a private LTE and 5G project in the City of Las Vegas with NTT claiming that the work will make the city-wide 5G network "the most extensive private network" in the US, as well as "the largest open, municipal CBRS deployment." *See* OnGo Alliance, *MWC Las Vegas 2022: Looking Back, Looking Forward* (Nov. 16, 2022), https://ongoalliance.org/mwc-las-vegas-2022-looking-back-looking-forward/; Celona, *Celona 5G LAN Products and Technology to Power the Nation's Largest Private Cellular Network* (Sept. 29, 2022), https://www.globenewswire.com/en/news-release/2022/09/29/2525112/0/en/Celona-5G-LAN-Products-and-Technology-to-Power-the-Nation-s-Largest-Private-Cellular-Network.html.

[63] Sue Marek, *Ericsson Outfits Purdue University Airport with Private 5G* (March 21, 2023), https://www.fiercewireless.com/private-wireless/ericsson-outfits-purdue-university-airport-private-5g; OnGo Alliance, *CBRS: The Game-Changing Wireless Technology is Coming of Age* (Aug. 21, 2023), https://ongoalliance.org/cbrs-the-game-changing-wireless-technology-is-coming-of-age/ ("Newark Liberty International Airport opened a new terminal in February 2023 to welcome 14 million passengers per year and is using a private LTE CBRS network to help provide passengers with reliable internet coverage. The Minneapolis-St. Paul International Airport ran a series of trials on various airport operations and found the CBRS-based network to equal or surpass existing, often wired, functionality. Betacom worked with the Dallas-Fort Worth International Airport to deploy a CBRS private network, having found in trials that the network significantly improved services such as baggage handling.").

[64] *See* Federated Wireless, *Federated Wireless Demonstrates Operational 5G Private Wireless Network Powering U.S. Department of Defense Smart Warehouse of the Future* (June 6, 2023), https://www.federatedwireless.com/news/federated-wireless-demonstrates-operational-5g-private-wireless-network-powering-u-s-department-of-defense-smart-warehouse-of-the-future/.

[65] Monica Alleven, *Celona Unveils CBRS Indoor Neutral Host Service* (Sept. 18, 2023), https://www.fiercewireless.com/tech/celona-unveils-cbrs-indoor-neutral-host-service; Mike Dano, *Meta Helps Change the Game for Indoor Cellular* (April 25, 2023), https://www.lightreading.com/digital-transformation/meta-helps-change-the-game-for-indoor-cellular; Monica Alleven, *InfiniG launches CBRS neutral host service with AT&T, T-Mobile* (Sept. 21, 2023), https://www.fiercewireless.com/tech/infinig-launches-cbrs-neutral-host-service-att-t-mobile.

[66] 47 U.S.C. § 901(c); 47 U.S.C. § 902(b)(2)(U).

federal protection measures, the NPRM seeks comment on whether changes to the part 96 technical and service rules are necessary to clarify our information disclosure requirements, align out-of-band emissions (OOBE) limits with those in adjacent bands, permit higher power levels, relax SAS connectivity requirements, impose Time Division Duplex (TDD) coordination procedures, update protection measures for certain FSS earth stations, or sunset rules related to the grandfathered wireless broadband license transition. We also seek comment on whether to address issues surrounding professional installation, accommodate additional deployment of private networks and low power indoor facilities, or adopt rules to facilitate GAA user coexistence.

A. Federal Protection and Coordination

19. In this NPRM, we continue to build on our efforts to provide regulatory certainty and introduce measures that will promote innovation, investment, and continued growth of the Citizens Broadband Radio Service. Consistent with these objectives, we propose to modify the part 96 service rules to codify refinements that WTB/OET, in close coordination with NTIA and DoD staff, have implemented on delegated authority to the federal protection regime. We also explore the need for changes to the DPA-based framework that could improve the ways in which DPA-based protections operate. Specifically, we seek comment on whether we should expand the use of a coordination portal to protect federal operations, update our rules to align protection measures with those in adjacent bands, consider modifying our ESC procedures to address potential effects on competition and the marketplace, or consider permitting Citizens Broadband Radio Service operations in offshore areas. We also note that any proposed rule changes that may impact incumbent federal operations—including the protection methodologies used to prevent harmful interference to incumbent federal users—will need to be coordinated with NTIA and DoD.

1. Dynamic Protection Areas

20. Since the *DPA Waiver Order*, NTIA and DoD have worked closely with WTB and OET to further refine the federal coordination process in the 3.5 GHz band. These efforts have focused on implementing and improving a DPA-based regime for real-time spectrum sharing that fosters commercial investment, provides buildout flexibility, and imposes measures to protect critical federal radar operations without unnecessarily constraining deployments in the Citizens Broadband Radio Service.

21. The *DPA Waiver Order* requires DPA-enabled SASs to protect an activated DPA from aggregate interference.[67] DPAs are activated when DoD radar systems are using the band (as detected by ESC sensors or as scheduled through and approved by a scheduling portal), signaling that federal incumbents must be protected from other users in the band. While a DPA is "active," the DPA-enabled SAS must manage CBSD frequency and power assignments to ensure that the entire DPA is protected from aggregate interference within the active frequency range.[68] This dynamic approach to the protection of federal operations eliminates the need for DPA-enabled SASs to enforce Exclusion Zones in coastal regions and other geographic areas protected by DPAs.[69]

22. *Coastal DPAs.* In a 2018 letter, NTIA recommended replacing static coastal Exclusion Zones with "coastal DPAs" to help make the 3.5 GHz band more accessible to commercial users in

[67] *See DPA Waiver Order*, 33 FCC Rcd at 4990, paras. 5-6; 2018 NTIA Letter at 2-3.

[68] NTIA defines the specific DPA protection criteria, including how a SAS shall calculate aggregate received CBSD interference. *See* 2018 NTIA Letter at 3-4.

[69] Some inland radar locations will continue to be protected by Exclusion Zones, including the Nellis Air Force Base Exclusion Zone noted in the 2018 NTIA Letter at 4-5. NTIA has indicated that it may designate additional—or modify existing—Exclusion Zones to protect inland radars from Category A and Category B CBSDs in addition to or in lieu of DPA-based protections.

coastal regions.[70] NTIA indicated that "coastal DPAs" would be located in specific geographic areas along the East, Gulf, West, Alaskan, Hawaiian, and Puerto Rican coasts to protect shipborne radar systems and may be used to protect terrestrial facilities, as well.[71] DPA-enabled SASs have used Coastal DPAs to protect federal operations since the initiation of commercial operations in the 3.5 GHz band. We now propose to define coastal DPAs in the Commission's rules and to require all current and future SASs to utilize them to protect federal operations. We seek comment on this proposal.

23. *Portal-Activated DPAs.* To facilitate increased participation and maximize non-federal access to 3.5 GHz spectrum near federal facilities designated for testing and training by DoD and the military services, NTIA, DoD, and WTB/OET agreed to utilize a dedicated scheduling portal to protect federal operations.[72] The scheduling portal allows federal operators to reserve their use of specific frequency ranges in the band for developmental and operational testing and various training activities. The scheduling portal is also used to protect federal operations in some coastal areas.[73] Employing "portal-activated" DPAs (P-DPAs) to protect test and training ranges, SAS administrators are required to communicate with the portal on a regular basis to manage federal and non-federal shared use of the band.[74] We propose to require SASs to use an approved scheduling portal to protect P-DPAs[75] and add a definition of P-DPAs to the part 96 rules. We seek comment on this proposal.

24. *Always Activated DPAs.* Another example of a more flexible approach toward ensuring federal protection while maximizing the opportunity for commercial use of the band is the use of "always activated" DPAs instead of static Exclusion Zones to protect eleven ground-based radar system sites operating below 3.5 GHz from experiencing harmful interference from non-federal operations in the 3.55-

[70] 2018 NTIA Letter at 2-3. NTIA used the following specific guidelines to define the coastal DPAs: (1) DPAs shall be large enough to ensure DoD's Operational Security (OPSEC) geolocation inaccuracy requirement of 65 nautical miles is satisfied; (2) DPAs shall be centered around key naval ports/shipyards; (3) DPAs for key naval ports/shipyards shall start at the coastline; (4) DPAs not corresponding to key ports/shipyards shall start 10 kilometers from the coastline; (5) DPA width and depth may vary based on local terrain profiles and other factors; and (6) DPAs shall not overlap. 2018 NTIA Letter at 3.

[71] *See* 2018 NTIA Letter at Attachment A (Dynamic Protection Area Definitions). The 2018 NTIA letter also defines an activated DPA for the Table Mountain Radio Receiving quiet zone and indicated that the Table Mountain DPA will be "activated 100 percent of the time" given its importance as a "critical resource for sensitive radio and electromagnetic experiments." *See* 2018 NTIA Letter at 6-7 and Attachment C.

[72] On July 27, 2018, WTB/OET released a Public Notice that described the procedure and deadline for SAS administrators to file ICD proposals describing their proposed short-term, limited-geographic commercial deployment and established a portal requirement for DPA-enabled SASs. *See ICD Proposals Public Notice*, 33 FCC Rcd at 7393, para. 7. Consistent with the methodology that is currently used to protect certain facilities in CONUS, SAS administrators can also use the same scheduling portal to protect federal operations in American Samoa. *See* Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Ronald T. Repasi, Acting Chief, Office of Engineering and Technology, FCC, and Joel Taubenblatt, Acting Chief, Wireless Telecommunications Bureau, FCC, GN Docket Nos. 17-258 and 15-319, at 2 (filed Apr. 26, 2021) (NTIA American Samoa Protection Letter); *SAS Certification Public Notice*, 35 FCC Rcd at 119, para. 5; *see also ICD Proposals Public Notice*, 33 FCC Rcd at 7393, para. 7. A description of the sites protected by P-DPAs and the protection requirements are captured in the Portal DPA KML file (P-DPAS.kml) on NTIA's website. The 3.5 GHz band KML files used by the SAS operators are available on NTIA's website: https://www.ntia.doc.gov/fcc-filing/2015/ntia-letter-fcc-commercial-operations-3550-3650-mhz-band. In August 2023, WTB and OET directed the SASs to begin using the federally managed TARDyS3 portal instead of the manual portal system. *See* 2023 TARDyS3 NTIA Letter; *WTB/OET Announce Deployment of a New Federal Portal and a Revision to the List of Protected Facilities in the 3.5 GHz Band*, GN Docket Nos. 17-258 and 15-319, Public Notice, DA 23-733 at 1, n.3 (OET and WTB 2023) (*TARDyS3 Public Notice*).

[73] *See infra* section III.A.2.

[74] *See infra* section III.A.2.

[75] *See discussion infra* section III.A.2.

3.65 GHz band.[76] To avoid delaying commercial buildout, NTIA and WTB/OET determined that "always activated" DPA protection, based on limiting the maximum aggregate received power level from the CBSDs at the location of the radar antenna, offered the best means to provide buildout flexibility while fully protecting critical federal radar systems.[77] We propose to require SASs to protect Always Activated DPAs and to add a definition of Always Activated DPAs to the part 96 rules. We seek comment on this proposal.

25. DPA-based protections present a more dynamic alternative to Exclusion Zones by providing Citizens Broadband Radio Service operators with additional flexibility to engineer their networks efficiently and in a manner tailored to meet their specific service objectives.[78] Unlike static Exclusion Zones, DPAs allow for a targeted protection scheme in which DPA-enabled SASs authorize higher power commercial operations in the 3.5 GHz band more quickly and across a broader range of geographic areas, facilitating rapid market access for a wider variety of commercial deployments without increasing the risk of interference to federal incumbents.[79] Since their introduction, DPAs have given operators the opportunity to operate all CBSDs in a larger portion of the country, promoting efficient spectrum use, spurring capital investment, and facilitating the expeditious provision of new products and innovative services to the public while protecting important federal operations (including those used for national defense purposes). Notably, this approach has facilitated the rapid deployment of higher-power Category B CBSDs, which are critical for the provision of service over longer distances, particularly in rural and underserved areas.[80]

26. Given the successful implementation of DPA-based protections and the resulting growth in commercial use of the 3.5 GHz band, we propose to add detailed definitions for the different types of DPAs,[81] as well as DPA Neighborhoods,[82] and to make enforcement of DPA-based protections mandatory for all current and future SASs. We also propose to update the part 96 rules to incorporate the DPA framework adopted in the *DPA Waiver Order*. In addition, we seek comment on changes to the definition

[76] *See* Letter from Charles Cooper, Assoc. Admin., Office of Spectrum Mgt., NTIA, to Ronald T. Repasi, Chief (Acting) OET, and Donald Stockdale, Jr., Chief, WTB, FCC (Jan. 22, 2020) (January 2020 NTIA Letter). This shift to "always activated" DPA was triggered by an analysis that revealed that the increase in the maximum equivalent isotropic radiated power (EIRP) for Category B base stations would significantly increase the size of the Exclusion Zones needed to protect ground-based radar systems and severely constrain Citizens Broadband Radio Service deployment. January 2020 NTIA Letter at 2-3.

[77] *See* January 2020 NTIA Letter at 3 and Enclosure B. For each ground-based radar 3 (GB-3) location, NTIA provided the information necessary to protect the GB-3 radar using the always-activated DPAs, which includes the radar location, Citizens Broadband Radio Service channel-specific radar protection criteria (adjusted for antenna gain), radar antenna height, radar 3 dB antenna beamwidth, and the CBSD Category A and Category B neighborhood distances. The neighborhood distances define the area around the radar where the deployment of CBSDs is taken into consideration when calculating the CBSDs that need to be turned off to protect the radar. The Citizens Broadband Radio Service channel-specific protection criteria reduces the size of the neighborhood distance as the frequency separation between the radar and CBSD increases. *See* January 2020 NTIA Letter at 3.

[78] *See DPA Waiver Order*, 33 FCC Rcd at 4993-4994, paras. 15-16.

[79] *See id.* at 4988, 4993, paras. 2, 14.

[80] *See id.* at 4988, 4993, paras. 2, 15.

[81] We propose to retain flexibility for WTB and OET, in consultation with NTIA and DoD, to modify the specific DPA parameters. Consistent with current practice, we propose that the specific DPA coordinates and parameters be maintained by NTIA. Currently, the DPA parameters are maintained at: https://www.ntia.doc.gov/fcc-filing/2015/ntia-letter-fcc-commercial-operations-3550-3650-mhz-band.

[82] A DPA neighborhood is the area in which registered CBSDs have an increased potential of causing harmful interference to incumbent operations in activated DPAs. The SAS may direct CBSDs within DPA Neighborhoods to cease operations, reduce transmit power, or relocate to a non-interfering frequency when the associated DPA is activated. *See* Appendix A.

of "Exclusion Zone" to account for the possibility of coordination with federal users in the remaining areas protected by such zones. We also seek comment on whether there are changes or improvements we should make to the DPA-based framework to improve the ways in which DPA-based protections operate. We welcome suggestions regarding how we can modify the DPA regime to encourage Citizens Broadband Radio Service network buildout while maintaining protections for federal incumbents.

2. DPA Coordination Portal

27. As described above, designated federal test and training facilities, as well as some coastal areas, including the territory of American Samoa, are protected by P-DPAs.[83] If a SAS administrator intends to operate as a DPA-enabled SAS[84]—as all currently certified SASs have done—it must use an approved scheduling portal to protect designated P-DPAs.[85]

28. On August 14, 2023, NTIA and DoD informed the Commission that they were replacing the manual portal system that had been used to protect P-DPAs.[86] To improve the security, reliability, and resiliency of the scheduling portal, DoD developed an automated system—the Telecommunications Advanced Research and Dynamic Spectrum Sharing System (TARDyS3)—to replace the manual scheduling portal used to activate the P-DPAs.[87] The TARDyS3 is a DoD calendar-based system that supports expeditious communications regarding spectrum use at test and training ranges in the 3.5 GHz band. Scheduling via TARDyS3 is designed to enable DoD users to reserve their spectrum use and communicate the use of a given Citizens Broadband Radio Service channel at a given time near the designated P-DPA.[88]

29. Under section 96.63(n)(1), each SAS must "[o]perate[] without any connectivity to any military or other sensitive federal database or system, except as otherwise required by this part."[89] Accordingly, because the TARDyS3 portal is managed by DoD and includes information on DoD operations, WTB/OET waived section 96.63(n)(1) of the Commission's rules to permit SAS administrators to utilize the TARDyS3 portal.[90] WTB/OET found that the waiver furthers the public interest by improving the security, reliability, and resiliency of the scheduling portal utilized by SAS administrators to protect certain designated federal facilities in the 3.5 GHz band and by permitting the use of the TARDyS3 portal to improve federal coordination in the band. Correspondingly, WTB/OET

[83] *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access Administrator Google for Full Scale Commercial Deployment in the 3.5 GHz Band in American Samoa*, GN Docket No. 15-319, Public Notice, 36 FCC Rcd 8467, 8467-68, para. 3 (OET and WTB 2021); *WTB/OET Announce Deployment of a New Federal Portal and a Revision to the List of Protected Facilities in the 3.5 GHz Band*, GN Docket Nos. 17-258 and 15-319, Public Notice, DA 23-733, at 1-2 (OET and WTB 2023).

[84] *DPA Waiver Order*, 33 FCC Rcd at 4987-4988, para. 1 and 4991, para. 7 (conditionally waiving 47 CFR §§ 96.7(a); 96.15(a)(2)-(3); 96.15(b)(2)-(3); 96.45(b); 96.53(g); and 96.57(d)).

[85] *See supra* section III.A.1.

[86] *See* Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Ronald T. Repasi, Acting Chief, Office of Engineering and Technology, FCC, and Joel Taubenblatt, Acting Chief, Wireless Telecommunications Bureau, FCC, GN Docket Nos. 17-258 and 15-319 (filed Aug. 14, 2023) (2023 NTIA TARDyS3 Letter), https://www.fcc.gov/ecfs/document/10814108365840/1.

[87] *Id.* at 2.

[88] *Id.*

[89] 47 CFR § 96.63(n)(1).

[90] *See Promoting Investment in the 3550-3700 MHz Band,* GN Docket Nos. 17-258 and 15-319, Order, DA 23-734 (WTB/OET 2023).

issued a Public Notice on August 21, 2023, instructing the SAS administrators to begin using the TARDyS3 portal.[91]

30. We propose to modify the part 96 rules to require that SAS administrators use a Commission-authorized scheduling portal—currently, the TARDyS3 system—to protect P-DPAs. We believe that codifying this requirement will further the public interest by formalizing the use of a secure, reliable, and resilient scheduling portal that will be utilized by SAS administrators to improve federal coordination and ensure the protection of critical federal operations against harmful interference. We seek comment on this proposal. We also seek comment on possibly expanding future use of the portal system to protect federal operations in other areas, particularly in areas outside of the CONUS with difficult terrain or unique protection needs (e.g., Alaska and Hawaii[92]). Do commenters see any need to distinguish any such areas from those already included in the TARDyS3 system? To that end, we seek comment on whether we should consider other applications for portal-based solutions to protect federal users and securely manage harmful interference between non-federal and federal entities.

3. Alignment with 3.45 GHz Protections

31. In the *3.45 GHz Second Report and Order*, the Commission adopted rules for a new 3.45 GHz Service operating between 3.45-3.55 GHz that employed a federal/non-federal sharing regime that differs in some ways from the Citizens Broadband Radio Service spectrum sharing model.[93] While operators in both the 3.45 GHz and 3.5 GHz bands are charged with protecting many but not all of the same federal radar systems (some of which operate across both bands),[94] in some cases they are required to apply different protection methodologies in each band. In the 3.45 GHz Service, the Commission adopted a geographic protection model that utilizes geographic areas classified as Cooperative Planning Areas (CPAs) and Periodic Use Areas (PUAs) to protect certain federal operations against harmful interference.[95] To afford licensees maximum flexibility in deploying networks and offering services

[91] *See Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Deployment of a New Federal Portal System and Revision to the List of Protected Facilities in the 3.5 GHz Band*, GN Docket Nos. 17-258 and 15-319, Public Notice, DA 23-733 (WTB/OET 2023).

[92] *See, e.g.*, *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Temporary Portal-Based Protections for Federal Operations in and Around Hawaii*, GN Docket Nos. 17-258 and 15-319, Public Notice, DA 23-733 (WTB/OET 2023).

[93] *See Facilitating Shared Use in the 3100-3550 MHz band*, WT Docket No. 19-348, Second Report and Order, Order on Reconsideration, and Order of Proposed Modification, 36 FCC Rcd 5987 (2021) (*3.45 GHz Second Report and Order*).

[94] The 3.45 GHz band currently is used by DoD for high- and low-powered radar systems on a variety of platforms in the 3 GHz band, including fixed, mobile, shipborne, and airborne operations. *3.45 GHz Second Report and Order*, 36 FCC Rcd 5987, 5997, para. 20. Similarly, the 3.55-3.65 GHz band segment is allocated for use by DoD radar systems and federal incumbent operations in the 3.5 GHz band, including high-powered DoD radar systems using ground-based, shipboard, and airborne platforms. *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 3961, para. 3; *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz band*, GN Docket No. 12-354, FCC 14-49, Further Notice of Proposed Rulemaking, 29 FCC Rcd 4273, 4315, para. 137 (2014) (*3.5 GHz FNPRM*).

[95] *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 5998-6004, paras. 23-34; *see also* 47 CFR §2.106, n. US431B (defining Cooperative Planning Areas and Periodic Use Areas). NTIA stressed that CPAs and PUAs are not Exclusion Zones but geographic areas where military systems are protected from harmful interference from new non-federal operations, either indefinitely (in CPAs) or episodically (in PUAs). Moreover, the *3.45 GHz Second Report and Order* emphasized that "commercial operations are not precluded within Cooperative Planning Areas and Periodic Use Areas" and that incumbent federal operations and new flexible-use operations must coordinate with each other to facilitate shared use of the band in these specified areas and during specified time periods to minimize the impacts from incumbent federal operations on future commercial operations while still enabling effective federal operations where and when necessary. *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 5997, para. 21.

while still protecting remaining federal operations, the Commission adopted a coordination regime modeled upon the AWS-3 framework. New flexible-use 3.45 GHz Service licensees are required to coordinate with DoD incumbents operating within CPAs and PUAs to facilitate shared use of the band using a coordination portal.[96] 3.45 GHz Service licensees were encouraged to enter into mutually acceptable operator-to-operator agreements to permit more extensive flexible use within CPAs and PUAs by agreeing to a technical approach that mitigates the interference risk to federal operations.[97]

32. We seek comment on whether there are opportunities to revise the rules governing the 3.5 GHz band to align the protection of specific inland and port-based federal systems and facilities given the spectrum sharing framework adopted in the adjacent 3.45 GHz band. Specifically, we seek comment on whether 3.5 GHz band protection methodologies could be aligned to correspond to 3.45 GHz band protections—for the same systems and facilities—to increase commercial access to the band while maintaining necessary protection for federal incumbent users. For example, some 3.45 GHz facilities protected by CPAs or PUAs are also protected from out of band emissions from the Citizens Broadband Radio Service by Always On DPAs.[98] In some instances, the 3.5 GHz band protections may restrict non-federal operations more than the corresponding CPA or PUA. In addition, both services use a portal-based approach to protect certain federal incumbents, some of which are the same across the two bands.[99] Are there opportunities to create efficiencies by modifying the protection mechanisms in the 3.5 GHz band to better align with those in the 3.45 GHz band in these, or other instances? We note that any potential changes to the protection of federal operations will need to be coordinated with NTIA and DoD. We encourage commenters to consider approaches wherein we may be able to increase commercial spectrum opportunities and facilitate more efficient use of valuable spectrum resources.

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[96] *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 5998, para. 22. Issuing a *Joint Coordination Public Notice*, the Commission, through its WTB, and NTIA, provided guidance to 3.45 GHz Service licensees and the affected federal incumbents regarding coordination procedures for shared use of the 3.45 GHz band. *See The Federal Communications Commission and the National Telecommunications and Information Administration: Coordination Procedures in the 3.45-3.55 Band*, WT Docket No. 19-348, Public Notice, 36 FCC Rcd. 9225 (WTB/NTIA 2021) (*Joint Coordination Public Notice*). The *Joint Coordination Public Notice* reflects the intersecting jurisdictions of the Commission (which administers spectrum for non-federal uses) and NTIA (which administers spectrum for federal uses) in the radio spectrum. Federal use of the radio spectrum is generally governed by NTIA, while non-federal use is governed by the Commission. *See* 47 U.S.C. §§ 305(a), 902(b)(2)(A); *see also* 47 U.S.C. § 151 *et seq*. As such, the Commission determined in the *3.45 GHz Second Report and Order*, that any further guidance or details concerning federal/non-federal coordination, particularly federal aspects of such coordination, should be issued jointly by NTIA and the Commission. In this regard, the Commission delegated authority to WTB to work with NTIA staff, in collaboration with affected federal incumbents, to develop a joint FCC and NTIA public notice with additional information on notification and coordination procedures in the 3.45 GHz band as outlined in the *3.45 GHz Band 2d R&O*. *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6009, para. 57.

[97] *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 5998, para. 22; *Joint Coordination Public Notice*, 36 FCC Rcd at 9228.

[98] *See supra* section III.A.1. We are seeking comment on potential modifications to the DPA-based methodology that is currently used to protect certain inland and port-based federal facilities in the 3.5 GHz band. We are not seeking comment on implementing a CPA or PUA based approach in the band.

[99] Both services use portal-based mechanisms to manage federal and non-federal shared use of each respective spectrum band. Like the TARDyS3 portal currently used by DoD in the 3.5 GHz band to schedule operations at federal facilities protected by P-DPAs, DoD uses an online portal through which any 3.45 GHz licensee that intends to commence operations within a CPA or PUA must initiate formal coordination requests; operator-to-operator agreements between federal and non-federal users in PUAs may also specify that the 3.45 GHz Service licensee and the federal incumbent use a scheduling tool to complete the notification process. *See The Federal Communications Commission and the National Telecommunications and Information Administration: Coordination Procedures in the 3.45-3.55 GHz band,* WT Docket No. 19-348, Public Notice, 36 FCC Rcd 9225 (FCC/WTB and NTIA 2021).

4. ESC Coordination and Availability

33. In 2018, WTB/OET established procedures for ESC operators to register their ESC sensors prior to beginning operations in a particular DPA.[100] The *ESC Sensor Registration Public Notice* described in detail the requirements for an ESC sensor application, including, at a minimum, that the ESC operator demonstrate that the coverage provided by the network of ESC sensors will comply with NTIA's published guidance and that the ESC operator must submit a detailed coverage map of the sensor network.[101] Accordingly, WTB/OET evaluate the deployment of ESC sensors for DPA coverage. ESC sensors are not, however, evaluated for any competitive or marketplace impacts, including any potential negative effects on Citizens Broadband Radio Service users that are operating, or seeking to initiate operations, near an ESC sensor site.[102] In addition, ESC operators are not currently required to make their services available to unaffiliated SAS administrators.[103]

34. We welcome feedback on whether we should modify aspects of the ESC sensor approval requirements. Specifically, without altering existing DPA coverage requirements for ESC certification, should we consider modifying any of the ESC sensor approval procedures given the state of competition in the SAS/ESC marketplace? Should we direct WTB and OET to consider the competitive and deployment impacts of new ESC sensors during the ESC sensor approval process (e.g., assessment of the population within the geographic area that would be potentially affected by a sensor deployment)? If so, how should those impacts be quantified and considered? In addition, to facilitate and maintain a

[100] *See ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10017-18. ESC operators could demonstrate their compliance with NTIA guidelines by providing the specific Radio Frequency (RF) site configuration details for each ESC sensor in the proposed deployment for the DPA. *Id.*

[101] *See id*. The ESC coverage map must show all sensor site locations, generated consistent with the guidelines set forth in the requirements published by NTIA, along with the corresponding DPA geographic areas covered and outline the borders of the DPAs within any area covered by the relevant ESC sensors. DPAs in the coverage map must be based on NTIA's current KML files which are available at: https://www.ntia.doc.gov/fcc-filing/2015/ntia-letter-fcc-commercial-operations-3550-3650-mhz-band. Each ESC operator is authorized to operate its ESC sensors consistent with the information—including sensor locations, configuration, and DPA coverage—submitted to, and approved by, WTB/OET. *2019 ESC Operator Approval Public Notice*, 34 FCC Rcd at 2794, para. 5 (citing *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10016); *Key Bridge ESC Operator Approval Public Notice*, 35 FCC Rcd at 7003. *See also 3.5 GHz First Report and Order*, 30 FCC Rcd at 4070-71, para. 386. In addition, each certified ESC operator must operate in conjunction with at least one SAS that has been approved for commercial deployment by the Commission. *See 2019 ESC Operator Approval Public Notice*, 34 FCC Rcd at 2794, para. 5 (citing *ESC Sensor Registration Public Notice*, 33 FCC Rcd at 10016); *Key Bridge ESC Operator Approval Public Notice*, 35 FCC Rcd at 7003, para. 6; *see also 3.5 GHz First Report and Order*, 30 FCC Rcd at 4070-71, para. 386. Before providing commercial service for any given DPA, each ESC operator 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 list the approved SASs with which the ESC is communicating. *See November 2019 ESC Sensor Registration Public Notice*, 34 FCC Rcd at 11050.

[102] Since ESC sensors must be capable of detecting signals from federal radar systems a significant distance from the coastline, these sensors must be protected to ensure a sufficiently "quiet" operating environment. *See* Frank H. Sanders, NTIA Technical Memorandum 18-527 "Procedures for Laboratory Testing Environmental Sensing Capability Sensor Devices" (Nov. 2017) at 3, https://www.its.bldrdoc.gov/publications/3184.aspx; Wireless Innovation Forum, Requirements for Commercial Operation in the U.S. 3550-3700 MHz Citizens Broadband Radio Service Band, at 34 (Mar. 11, 2020) at 29, https://winnf.memberclicks.net/assets/CBRS/WINNF-TS-0112.pdf.

[103] We note that three unaffiliated SAS administrators are currently using the Key Bridge ESC. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Sony's Use of Key Bridge's Environmental Sensing Capability*, GN Docket No. 15-319, Public Notice, 36 FCC Rcd 12434 (OET/WTB 2023); *WTB and OET Approve Spectrum Access System Administrator Amdocs for Full Scale Commercial Deployment in the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 3687, (OET/WTB 2023); *WTB OET Approve RED SAS for Full Commercial Deployment in 3.5 GHz Band*, GN Docket No. 15-319, DA 23-893 (OET/WTB 2023).

competitive marketplace, should ESC operators be required to make their services available to any certified SAS administrator? We encourage commenters to provide detailed feedback, including technical and cost-benefit analyses and use cases, if applicable, to support their positions.[104]

5. OCONUS and Offshore Citizens Broadband Radio Service Deployments

35. The Commission has issued PALs, certified SAS administrators, and authorized GAA use in Alaska, Hawaii, and several U.S territories outside of CONUS (OCONUS)[105], but in some OCONUS areas, operators have experienced unique delays and challenges specific to their geography or region.[106] While ESCs remain the primary means of protecting federal operations in and around coastal areas, some areas, particularly those outside of CONUS, present unique challenges and may benefit from alternate protection methodologies. To date, Commission staff has worked in close coordination with NTIA and DoD to enable service by employing a portal based protection methodology for American Samoa, [107] a temporary portal-based solution for Hawaii,[108] and ESC sensor deployment and coverage plans in Guam, Puerto Rico, and part of Alaska.[109]

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[104] We appreciate the observations made by respondents to the CSMAC survey questions on the possible improvements to the use of ESCs in the band. *See CSMAC CBRS Report* at 6, 7, 11, and 14.

[105] For purposes of this NPRM, OCONUS refers to the states of Alaska and Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and the territories and possessions of the United States.

[106] *See, e.g.*, 2022 Hawaii Electric Letter at 1. Hawaii Electric Company holds PALs that it intended to start using in January 2023 but two SAS administrators indicated that an ESC network could not be deployed until late 2023 and could possibly slip into 2024, so Hawaii Electric inquired as to whether a scheduling portal for a P-DPA in Hawaii could be established until ESC sensors are deployed in Hawaii.

[107] In approving Federated Wireless and Sony, Inc. as SAS administrators that will operate in American Samoa, WTB/OET confirmed that SAS administrators may use the same scheduling portal that is currently used to protect P-DPAs in the contiguous United States to protect federal operations in OCONUS areas such as American Samoa. *See* NTIA American Samoa Protection Letter at 2; *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access System Administrator Federated Wireless for Full Scale Commercial Deployment in the 3550-3650 MHz Band in American Samoa*, GN Docket No. 15-319, Public Notice, DA 21-535, 2021 WL 1951517 (WTB/OET May 7, 2021); *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access System Administrator Sony, Inc. for Full Scale Commercial Deployment in the 3550-3650 MHz Band in American Samoa*, GN Docket No. 15-319, Public Notice, DA 22-821, 2022 WL 3138548 (WTB/OET Aug. 4, 2022) (citing *SAS Certification Public Notice*, 35 FCC Rcd at 120, para. 5; *ICD Proposals Public Notice*, 33 FCC Rcd at 7393, para. 7).

[108] OET and WTB announced a temporary arrangement with the NTIA, DoD, and the Navy that will allow Citizens Broadband Radio Service users—including Priority Access Licensees—to begin operating in the 3.55-3.65 GHz band in Hawaii before ESC sensors are locally deployed. Under this arrangement, Navy will temporarily utilize the TARDyS3 portal to schedule and protect its operations in and around Hawaii. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Temporary Portal-Based Protections for Federal Operations in and Around Hawaii*, GN Docket Nos. 17-258 and 15-319, DA 23-894 (OET/WTB 2023); *Wireless Telecommunications Bureau and Office of Engineering and Technology Extend Temporary Portal-Based Protections for Federal Operations in and Around Hawaii until December 31, 2024*, GN Docket Nos. 17-258 and 15-319, DA 24-610 (OET/WTB 2024).

[109] Key Bridge and Federated Wireless have satisfied the ESC sensor coverage requirements for DPAs in Guam and Puerto Rico. *See 2021 ESC Operator Approval Public* Notice, 36 FCC Rcd at 8253; *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, Public Notice, 37 FCC Rcd 9267 (WTB/OET 2022). In January 2023, WTB/OET approved the ESC sensor registration of Federated Wireless for a DPA in Alaska. *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, Public Notice, DA 23-22, 2023 WL 161972 (WTB/OET Jan. 10, 2023).

36. Consistent with our efforts in American Samoa and Hawaii, we seek comment on whether there are other OCONUS areas that may benefit from an alternate approach to federal protection, on a temporary or permanent basis. We also seek comment generally on the feasibility of implementing the Citizens Broadband Radio Service licensing framework in the 3.55-3.65 GHz band segment in OCONUS areas given the difficulty of installing ESC sensors in remote or hard-to-reach areas. How can we overcome the logistical and economic barriers to ESC development and deployment in OCONUS territories? Should we consider other means of ensuring federal protection in OCONUS areas? If so, what are the hurdles to achieving the desired outcome? Are there ways in which we can incentivize or expedite ESC deployment in OCONUS areas? Are there different approaches that might work better in different OCONUS areas? Should we modify our part 96 rules to effectuate these potential solutions and, if so, what specific changes should we make? Commenters should support their alternative proposals with corresponding cost/benefit analyses, including any underlying data and assumptions associated with such proposals.

37. We also seek comment on whether Citizens Broadband Radio Service operations should be permitted in offshore areas (e.g., the Gulf of Mexico) in the 3.65-3.7 GHz band segment.[110] We note that the Commission did not directly address potential offshore operations, including those in the Gulf of Mexico, in the 3.65-3.7 GHz band in its earlier orders. However, the 3.65-3.7 GHz band was used extensively by part 90 licensees, including some offshore deployments on oil rigs and other facilities, before the Citizens Broadband Radio Service transition was complete.[111] What are the costs and benefits associated with permitting offshore Citizens Broadband Radio Service operations in the 3.65-3.7 GHz band? Could offshore operations in the 3.65-3.7 GHz band have adverse impacts on ESC sensors along the coastline and, if so, how could such interference be mitigated? How would CBSDs located offshore maintain connectivity with a SAS as required by the Commission's rules? Commenters should provide details regarding the potential operational impacts, costs, benefits, and resource considerations for new offshore service entrants and discuss any potential impact such operations may have on incumbent users in the area.

B. CBSD Information

38. Consistent with the Commission's rules, Priority Access Licensees and GAA users are required to register all CBSDs with, and be authorized by, a SAS prior to initial service transmission.[112]

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[110] *See, e.g.*, 47 CFR §§ 96.3 (Definitions), 96.7 (Authorization required), 96.25 (Priority access licenses), 96.35 (General authorized access use), 96.59 (Frequency assignment). We note however that at this time we are not seeking comment on authorizing offshore operations in the 3.55-3.65 GHz segment of the band due to the Navy's offshore use of the band and the sensitivity of the ESC sensors. We also note that the Commission has an open *Notice of Inquiry* seeking comment on the need for spectrum offshore. *See Facilitating Access to Spectrum for Offshore Uses and Operations*, WT Docket No. 22-41, Notice of Inquiry, 37 FCC Rcd 7178 (2022). In this *NPRM* we seek comment specifically on 3.5 GHz band uses distinct from the aforementioned *Notice of Inquiry.*

[111] *See discussion infra* section III.H (Grandfathered Wireless Broadband Licensees). January 8, 2023 was the latest possible transition deadline for Grandfathered Wireless Broadband Licensees to either complete their transition to the Citizens Broadband Radio Service or discontinue operations in the 3.65-3.7 GHz band. *See Wireless Telecommunications Bureau Reminds Part 90, Subpart Z Licensees of January 8, 2023 Final Transition Deadline in the 3650-3700 MHz Band*, WT Docket No. 18-353, GN Docket No. 17-258, GN Docket No. 15-319, Public Notice, DA 22-135, 2022 WL 17886503 (WTB Dec. 21, 2022) (*Third Reminder PN*); 47 CFR §§ 90.1307, 90.1311, 90.1338, 96.21; *Extension Order*, 35 FCC Rcd 2750, 2755, para. 12 & n. 3; *3650-3700 MHz Reminder PN*, 35 FCC Rcd 117, paras. 7-8; *Second Reminder PN*, 35 FCC Rcd 11544.

[112] CBSD registrations must include detailed information specifying the location and technical characteristics of the CBSD. CBSDs are also required to send an update to the SAS within 60 seconds of any change in its registration information. 47 CFR § 96.39(c); *see also id.* § 96.43(b) (Category A CBSDs must indicate if operations are indoors or outdoors); *Id.* § 96.45(d) (Category B CBSDs must report "antenna gain, beamwidth, azimuth, downtilt angle, and antenna height above ground level."); *see also 3.5 GHz First Report and Order*, 30 FCC Rcd at 4031-32, paras. 230-34.

In addition to the CBSD registration and authorization requirements, Commission rules require CBSDs to provide received signal strength and other measured parameters to the SAS administrators upon request.[113] Commission rules also restrict the CBSD information that SASs can disclose to the public.[114] We welcome feedback on whether to make changes to the Commission's rules governing the breadth and scope of CBSD information provided to SASs and CBSD information availability.

39. *CBSD Measured Interference Metric Information.* The Commission requires CBSDs to provide measured interference metric information when a SAS administrator requests the data. We seek comment on how this works in practice. In the 2015 *3.5 GHz First Report and Order*, the Commission indicated that any such requirements may be set by a multistakeholder group.[115] Are these issues effectively addressed in the standards set within WInnForum? Would different information or a broader set of information about the Citizens Broadband Radio Service radiofrequency environment support improvements in the 3.5 GHz band? In particular, we would be interested to understand if additional real world data about Citizens Broadband Radio Service operations would enable the SAS administrators to more effectively manage spectrum access within the band or if additional data could be beneficial to Priority Access Licensees, GAA users, the FCC, or NTIA and DoD. Do currently certified CBSDs have the capability to measure additional data about the PAL and GAA radiofrequency environment? In particular, the Commission is interested in whether CBSDs' measurement of additional data would require a hardware change or software upgrade and the costs of adding any such a capability to already certified CBSDs.

40. *CBSD Information Availability.* In the 2015 *3.5 GHz First Report and Order*, the SAS administrators were required to make CBSD registration information available to the general public and to "obfuscate the identities of the licensees providing the information for any public disclosures" to protect against public disclosure of confidential business information that could compromise personal privacy or affect competitive interests.[116]

41. In the *2018 3.5 GHz Report and Order*, the Commission modified the CBSD information disclosure requirement to address commenters' concerns that public disclosure of CBSD registration information, even with licensee identities obfuscated, could raise both competitive and security issues.[117] Under the current rules, SAS administrators may not disclose "specific CBSD registration information to the general public except where such disclosure is authorized by the registrant" and SAS administrators are only required to "make available to the general public aggregated spectrum usage data for any geographic area."[118] In revising the public disclosure requirement, the Commission noted that the success of the 3.5 GHz band's shared spectrum model requires providing prospective users with enough information to accurately assess the overall spectrum environment in an area to make investment and deployment decisions.[119]

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[113] 47 CFR § 96.39(d) ("A CBSD must report to an SAS regarding received signal strength in its occupied frequencies and adjacent frequencies, received packet error rates or other common standard metrics of interference for itself and associated End User Devices as directed by an SAS.").

[114] 47 CFR § 96.55(a)(3).

[115] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4033, para. 237.

[116] *See id.* at 4057, paras. 327-28. The inter-SAS and public disclosure obligations were codified at sections 96.55(a)(2) and 96.55(a)(3), respectively. *See* 47 CFR §§ 96.55(a)(2), 96.55(a)(3) (2015).

[117] *See Promoting Investment in the 3500-3700 MHz band*, GN Docket No. 17-258, Report and Order, 33 FCC Rcd 10598, 10654-62, paras. 108-23 (2018) (*2018 3.5 GHz Report and Order*).

[118] 47 CFR § 96.55(a)(3); *see 2018 3.5 GHz Report and Order*, 33 FCC Rcd at 10656-57, para. 112, 114.

[119] *See 2018 3.5 GHz Report and Order*, 33 FCC Rcd at 10657, para. 114.

42. Since 2018, there have been a number of developments in the Citizens Broadband Radio Service that may warrant a reassessment of the current information disclosure rules. Notably, according to industry reports, CBSD deployments have increased steadily since the Commission first authorized commercial deployments in the band with over 370,000 active CBSDs currently being used throughout the country by over 1,000 different operators.[120] Given the rapid and ongoing growth of commercial deployments in the band—along with stakeholder interest in increased transparency—[121]current and future Citizens Broadband Radio Service users might benefit from more granular information on CBSD deployments to effectively plan their networks. Accordingly, we seek comment on whether the existing information disclosure rules provide sufficient data for current and future Citizens Broadband Radio Service users to plan their network deployments and make informed decisions regarding investments in the band.

43. Specifically, we seek comment on whether we should consider modifying our disclosure rules to reinstate the original information disclosure requirements or whether we should implement an alternative approach. Commenters are encouraged to indicate whether current permissible disclosure of aggregated spectrum usage data for a geographic area, including total available spectrum and the maximum available contiguous spectrum, provides sufficient information to determine whether a market they have singled out for consideration warrants CBSD deployment and capital investment. Commenters seeking changes to the disclosure rules should explain why the use of aggregate heat maps, showing the total amount of occupied and available spectrum in a given area of interest, has been insufficient to meet their needs.

44. Commenters seeking alternative disclosure rules, including a reversion to the original information disclosure requirements, should explain how their approach would balance existing operator interest in protecting sensitive network information with the legitimate information needs of prospective service providers and the general public. Specifically, proponents of alternative disclosure approaches should outline how their proposals would safeguard sensitive business or network operations data while yielding enough spectrum use data to assist parties interested in obtaining access to the band on a GAA basis or engaging with Priority Access Licensees for secondary market transactions.

45. In addition, as described in the Declaratory Ruling that accompanies this NPRM, we clarify that NTIA and DoD are not considered "the general public" with regard to the CBSD information disclosure rule. To supplement the Declaratory Ruling and further clarify this point in part 96, we propose to modify section 96.55 of the Commission's rules to require SAS administrators to provide CBSD registration data to NTIA and DoD upon request.[122] We seek comment on this proposal.

C. Out of Band Emissions Limits

46. We seek comment on whether we should align the Citizens Broadband Radio Service base station OOBE limits with OOBE limits adopted in the 3.7 GHz Service, which is adjacent to the upper edge of the 3.5 GHz band. In the Citizens Broadband Radio Service, the following OOBE limits apply: (1) -13 dBm/MHz from 0 to 10 megahertz from the SAS assigned channel edge; (2) -25 dBm/MHz beyond 10 megahertz from the SAS assigned channel edge down to 3.53 GHz and up to 3.72 GHz; and

[120] *See* OnGo Alliance, *Industry Success Stories: How CBRS is Driving Wireless Innovation for Enterprises and Service Providers*, (April 2024), https://ongoalliance.org/wp-content/uploads/2024/04/OnGo-eBook-April-2024.pdf.

[121] We note that a study conducted by Recon Analytics and commissioned by CTIA criticized the Commission for an alleged lack of transparency around Citizens Broadband Radio Service deployments and suggested that this lack of transparency makes evaluation of the success of the sharing model more difficult. CTIA – The Wireless Association, *CBRS: An Unproven Spectrum Sharing Framework* (2022), https://www.ctia.org/news/cbrs-an-unproven-spectrum-sharing-framework.

[122] Subject to the provisions of 44 U.S.C. § 3510(b), these agencies will protect the confidentiality of such information to the same extent and in the same manner as the SAS administrators.

(3) -40 dBm/MHz below 3.53 GHz and above 3.72 GHz.[123] Upholding these OOBE limits in the *3.5 GHz Order on Reconsideration,* the Commission noted that they will provide additional protection for important incumbent systems operating in the adjacent 3.7-3.98 GHz band (3.7 GHz band) while allowing for more extensive deployment of CBSDs in the 3.5 GHz band, and it concluded that they strike the appropriate balance between the need to facilitate innovation and investment in the 3.5 GHz Band and the need to protect licensed 3.7 GHz band FSS earth stations from harmful interference.[124]

47. In the adjacent 3.7 GHz Service, the Commission subsequently adopted a less restrictive OOBE limit for base station and mobile operations of -13 dBm/MHz that is consistent with limits for many other mobile wireless services.[125] Declining to adopt more stringent emission limits both within and outside the 3.7 GHz band, the Commission stated that doing so would hinder the full potential of 5G deployment in the band.[126] As for the mobile OOBE limit, the Commission indicated that the effect on Citizens Broadband Radio Service operations below the 3.7 GHz band edge would be minimal and that the limit would permit mobile devices to operate across the variety of spectrum bands currently available for mobile broadband services.[127]

48. In the *3.7 GHz Report and Order*, the Commission found that 3.7 GHz Service operations can coexist with operations below the 3.7 GHz band edge without the need for dynamic spectrum management or other protection mechanisms to protect the Citizens Broadband Radio Service.[128] The Commission also pointed out that it was adopting emission limits for the 3.7 GHz Service consistent with other mobile service bands that have successfully coexisted with a variety of adjacent services and noted

[123] 47 CFR § 96.41(e)(1)-(2). *See 3.5 GHz First Report and Order,* 30 FCC Rcd at 4015-4020, paras. 176-190; *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, GN Docket No. 12-354, Order on Reconsideration and Second Report and Order, 31 FCC Rcd 5011, 5034-5038, paras. 85-98 (2016) (*3.5 GHz Order on Reconsideration* and *3.5 GHz Second Report and Order*, respectively).

[124] *See 3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5036-37, paras. 92, 95.

[125] *See* 47 CFR §§ 27.53(l) (3.7 GHz Service Emission limits) and 27.53(n) (3.45 GHz Service Emission limits)*.; see also Expanding Flexible Use of the 3.7 to 4.2 GHz band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2471, para. 344 (2020) (*3.7 GHz Service Report and Order*).

[126] The Commission noted that out-of-band emissions generally continue to decrease with spectral separation and manufacturers typically are able to filter those emissions to levels lower than what either our adopted limits or the 3GPP emission masks require. *See 3.7 GHz Service Report and Order*, 35 FCC Rcd at 2471, para. 345.

[127] *See 3.7 GHz Service Report and Order*, 35 FCC Rcd at 2472, para. 348. The OOBE limits for the 3.45 GHz band are already aligned with OOBE limits adopted for the 3.5 GHz band. In the 3.45 GHz proceeding, the Commission set OOBE limits that are intended to ensure effective coexistence with mission-critical federal and other non-federal services operating in the adjacent bands. *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6016-17, para. 80. In addition to the channel edge requirement of -13 dBm/MHz, the Commission, consistent with the OOBE limits specified for the Citizens Broadband Radio Service, imposed a requirement requiring 3.45 GHz Service base stations to meet an additional two-step limit of -25 dBm/MHz and -40 dBm/MHz at the upper and lower band edges. *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6016-6017, paras. 80-85. Noting that its approach strikes an appropriate balance between optimizing use of the 3.45 GHz band and providing protection to adjacent Citizens Broadband Radio Service operations, the Commission shifted its proposed two-step additional limits by 10 megahertz to more closely align the Commission's rules with 3GPP band n48. *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6017, para. 82; *see also* 3GPP Standard TS 38.104, version 16.1.0, clause 6.6.4.2.1 for Category A base stations. Since the 3.45 GHz Report and Order, the Commission has granted 3.45 GHz licenses. *Wireless Telecommunications Bureau Grants Auction 110 Licenses*, Auction No. 110, Public Notice, FCC Rcd 5511, (WTB 2022).

[128] *See 3.7 GHz Service Report and Order*, 35 FCC Rcd at 2485-2486, paras. 396-397. Declining to require coordination between Citizens Broadband Radio Service and 3.7 GHz Service operations, the Commission encouraged parties to explore synchronization of TDD operations as a means of minimizing interference between these adjacent services. *See 3.7 GHz Service Report and Order*, 35 FCC Rcd at 2486, para. 396. *See discussion infra* section III.F regarding TDD synchronization.

that the flexible nature of the equipment operating in the Citizens Broadband Radio Service and the advanced spectrum management capabilities of the SAS should allow operators the flexibility to access different channels in any location near a higher-powered 3.7 GHz Service tower.[129] Since the *3.7 GHz Report and Order*, the Commission has overseen the transition of incumbent FSS and FS licensees out of the band[130] and granted 3.7 GHz Service licenses.[131]

49. In light of recent developments in the 3 GHz bands, including the Commission's findings in the *3.7 GHz Report and Order* and the transition of FSS operations out of the 3.7-4.0 GHz band, we seek comment on whether we should relax the Citizens Broadband Radio Service OOBE limits at the upper edge of the 3.5 GHz band and, if so, what new OOBE limit would be appropriate.[132] Notably, recent requests for waivers of the OOBE limits in the 3 GHz services underscore the challenge that the divergent OOBE cutoffs in the 3 GHz bands potentially pose to equipment manufacturers seeking to introduce multi-band radio equipment that can operate across these adjacent bands.[133] We seek comment

[129] *See 3.7 GHz Service Report and Order*, 35 FCC Rcd at 2486, para. 397. The Commission also found that, in some instances, operations above and below the 3.7 GHz band edge may be synchronized when they are deployed as part of a carrier's network. *Id.*

[130] 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 FSS and FS services out of the lower portion of the 3.7–4.2 GHz band (C-band) and into the upper 200 megahertz of the band (i.e., 4.0–4.2 GHz). Specifically, 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. *See* 47 CFR § 27.1412(b)(1)–(2); *3.7 GHz Report and Order*, 35 FCC Rcd at 2408, para. 155. All five eligible space station operators elected accelerated relocation and completed both phases of the relocation process. *See 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).

[131] On July 23, 2021, the Commission granted 5,676 licenses in the 3.7 GHz Service. The final eight licenses in this service were granted on April 6, 2022. *Wireless Telecommunications Bureau Grants Auction 107 Licenses*, Auction No. 107, Public Notice, DA 21-839 (WTB 2021); *Wireless Telecommunications Bureau Grants Additional Auction 107 Licenses*, Auction No. 107, Public Notice, 37 FCC Rcd 4505 (WTB 2022); *see also 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 Nos. 18-122 and 23-97, Public Notice, DA 23-408 (WTB 2023).

[132] We recognize that a SAS administrator reported to CSMAC that the fragmented power level and OOBE limits across the three 3 GHz bands have impacted equipment development. *CSMAC CBRS Report* at 9.

[133] In March 2022, Ericsson filed a petition for waiver of the OOBE limit for the 3.45 GHz Service while the multi-band device is operating in the 3.7 GHz band to allow the manufacture, marketing, sale, and use of a multi-band radio by licensees that will operate across both the 3.45 GHz and 3.7 GHz bands. Petition of Ericsson for Waiver of section 27.53(n), WT Docket No. 22-298, at 4 (filed Mar. 4, 2022), https://docs.fcc.gov/public/attachments/DA-23-142A1_Rcd.pdf; *Wireless Telecommunications Bureau and Office of Engineering and Technology Seek Comment on Ericsson's Waiver Request to Enable Multiband Devices for the 3.45 GHz and 3.7 GHz Services*, WT Docket 22-298, Public Notice, DA 22-834, 2022 WL 3339410 (rel. Aug. 8, 2022). On February 22, 2023, WTB issued an Order granting Ericsson a conditional waiver of section 27.53(n) of the Commission's rules governing OOBE limits in the 3.45 GHz Service. *WTB & OET Seek Comment on Ericsson Waiver of Sections 27.53 and 2.947*, WT Docket 22-298, Order, DA 23-142, 2023 WL 2212745 (WTB Feb. 22, 2023). In August 2022, Samsung Electronics America, Inc. (Samsung) requested to waive, for the 3.72-4.0 GHz band, the OOBE limit for the Citizens Broadband Radio Service in the 3.5 GHz band to facilitate the marketing and operation of a 5G base station that can operate simultaneously in both the 3.5 GHz and 3.7 GHz bands. Petition of Samsung for Waiver at 5-10, WT Docket No. 23-93 (filed Aug. 23, 2022), https://www.fcc.gov/ecfs/document/10823066036951/1; *Wireless Telecommunications Bureau and Office of Engineering and Technology Seek Comment on Samsung's Waiver Request to Enable Multiband Radios for the 3.5 GHz and 3.7 GHz Bands*, Public Notice, WT Docket No. 23-93, DA 23-195, 2023 WL
(continued….)

on whether we should consider relaxing the OOBE limits for operations within the Citizens Broadband Radio Service band. Would relaxing the 3.5 GHz band OOBE limits both within and outside the band to comport with the adjacent 3.7 GHz Service OOBE limits (i.e., replacing the current OOBE limits with a -13 dBm/MHz OOBE limit from 3.55-3.7 GHz) help to facilitate broader deployment of multi-band 5G radio equipment? Alternatively, would some other changes to the OOBE limits (e.g., removing the -40 dBm/MHz limit above 3.72 GHz while leaving the other limits unchanged) be more effective? Would such changes increase the possibility of harmful interference to adjacent band operations—or operations in nearby channels in the 3.5 GHz band—and, if so, how could such interference be mitigated? Would such changes privilege one type of user or network deployment over another? Commenters are encouraged to provide detailed cost-benefit and technical analyses to support their arguments.

D. Base Station (CBSD) and End User Device (UE) Power Levels

50. In adopting the rules governing CBSD and End User Device (UE) power levels in the Citizens Broadband Radio Service, the Commission strove to balance the public interest objectives of providing greater flexibility to operators against the need to ensure efficient use of the spectrum to create a flexible regime suitable for a wide variety of use cases.[134]

51. Acting in reliance on the current rules, including the current CBSD and UE power limits, Citizens Broadband Radio Service operators have steadily increased deployments in the four years since commercial service was first authorized and currently operate more than 370,000 CBSDs nationwide.[135] With that technical regime in place, the PAL auction yielded a diverse group of 228 bidders who won 20,625 licenses.[136] In addition, the Commission has certified over 250 CBSD models and more than 750 end user client devices.[137] In a filing to the Commission, a diverse coalition of Citizens Broadband Radio Service stakeholders asserts that this broad array of certified devices is "evidence of a dynamic equipment ecosystem.[138]

52. For the 3.45 GHz and 3.7 GHz bands, the Commission adopted higher base station power limits—as well as larger geographic licenses areas—in the part 27 flexible use rules.[139] In adopting the same power levels for the 3.45 GHz Service as those adopted a year earlier for the 3.7 GHz Service, the Commission concluded that the rules would provide licensees in the 3.45 GHz band with the flexibility to

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2495040 (rel. Mar. 10, 2023). In March 2023, Ericsson requested to waive, for the 3.55-4.0 GHz band, the OOBE limit for the Citizens Broadband Radio Service in the 3.5 GHz band to allow for the manufacturing and marketing of multiband base station radios that can operate across the 3.5 GHz and 3.7 GHz bands. *See* Petition of Ericsson for Waiver of section 96.41(e)(2) (filed Mar. 16, 2023), https://www.fcc.gov/ecfs/document/10316596125517/1.

[134] 47 CFR § 96.41(b) (Power Limits). *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4026-27, para 214; *see also 3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5032, para. 76. An end user device (UE) is defined as "[a] device authorized and controlled by an authorized CBSD. These devices may not be used as intermediate service links or to provide service over the frequencies listed in § 96.11 to other End User Devices or CBSDs." *See* 47 CFR § 96.3 (Definitions).

[135] *See* OnGo Alliance, *Industry Success Stories: How CBRS is Driving Wireless Innovation for Enterprises and Service Providers*, (April 2024) https://ongoalliance.org/wp-content/uploads/2024/04/OnGo-eBook-April-2024.pdf; NTIA-ITS Report at 1, 6.

[136] *See PAL Auction PN*, 35 FCC Rcd 9287.

[137] *See* FCC Equipment Authorization Database, https://apps.fcc.gov/oetcf/eas/reports/GenericSearch.cfm (search performed June 3, 2024).

[138] *See* Industry Coalition Letter at 1.

[139] *See* 47 CFR § 27.50(j)(1),(2) (3.7 GHz Power Limits); 47 CFR § 27.50(k)(1),(2) (3.45 GHz Power Limits). The same power limits also apply to broadband PCS stations. *Id.* § 24.232. *See* 47 CFR § 27.6(m),(n); *see also 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6014, para. 70; *3.7 GHz Service Report and Order*, 35 FCC Rcd at 2468, para. 335.

optimize their network designs for wide-area coverage while still enabling successful coexistence with incumbent and adjacent band operations.[140] Stakeholders have noted the challenges and advantages of the lower transmit power limits in the 3.5 GHz band,[141] with some expressing an interest in raising CBSD power levels in the band[142] while others have opposed any increase to the maximum CBSD power levels.[143]

53. We seek comment on whether to add one or more classes of higher power CBSDs to the Citizens Broadband Radio Service. If so, how should these classes be defined and what should the maximum permissible power levels be for each new class of CBSDs? We also seek comment on the potential effects that introducing higher power devices might have on the sharing environment both in and adjacent to the 3.5 GHz band. Specifically, would higher power levels affect spectrum availability near incumbent operations—including federal operations and FSS earth stations—and, if so, would some types of operations be more affected than others? Would higher power levels lead to increased geographic distance between base stations operated by different licensees? If so, could the increased distance potentially limit the number of simultaneous users in the band, making it less efficient in terms of number of users per megahertz? Would an increase in power lead to in-band or adjacent band coexistence issues between commercial wireless operators and, if so, would some types of deployments be affected more than others? If higher power devices are permitted, should we require the SASs to make any changes to their operations to ensure the equitable division of power levels and channel assignments between different users and types of operations?

54. Commenters that support the addition of new higher power CBSD classes are encouraged to provide detailed technical analyses of any changes to incumbent protection criteria—including possible increases in the size of DPA neighborhoods and any corresponding increase in burdens on SAS

[140] *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6014, para. 70; *2018 3.5 GHz Report and Order*, 33 FCC Rcd at 10607, para. 19; *3.5 GHz First Report and Order*, 30 FCC Rcd at 4026-27, para.214; *see also 3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5032, para. 76.

[141] *CSMAC CBRS Report* at 6, 8, 9, 11, 15, 18 (observing the perspectives for and against increasing power levels and recommending that NTIA study the impact of increasing maximum power levels on federal operations).

[142] These stakeholders recommend that the Commission add new categories of higher power CBSDs and modify part 96 rules, claiming that higher power operations would increase the utility of the 3.5 GHz band for all users and rationalize the 3.5 GHz power levels with adjacent bands. *See* Letter from Stacey Black, Assistant Vice President, Federal Regulatory, Spectrum, AT&T, to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 17-258 and 12-354 (filed May 16, 2019) (AT&T *Ex Parte*); Letter from Alexi Maltas, Senior Vice President and General Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 19-348 and GN Docket No. 17-258 (Apr. 9, 2021) (CCA *Ex Parte*); Letter from Jeffrey H. Blum, Executive Vice President, External and Legislative Affairs, DISH Network Corporation, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 19-348 (Mar. 5, 2021); Letter from Jeffrey H. Blum, Executive Vice President, External and Legislative Affairs, DISH Network Corporation, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 19-348 (Mar. 31, 2021); Letter from Jeffrey H. Blum, Executive Vice President, External and Legislative Affairs, DISH Network Corporation, to Marlene H. Dortch, Secretary, FCC, WT Docket Nos. 20-443 and 19-348 (May 9, 2022).

[143] These stakeholders assert favoring macrocell deployments could cause harmful interference to other users in the band and undermine the successful sharing regime. *See* Letter from Elizabeth Andrion, Senior Vice President, Charter Communications, Inc., Colleen King, Vice President, Regulatory Affairs, Charter Communications, Inc., Keith Krueger, CEO, CoSN – Consortium for School Networking, Michael Calabrese, Director, Wireless Future Program, Open Technology Institute at New America, Harold Feld, Senior Vice President, Public Knowledge, John Windhausen, Executive Director, Schools, Health & Libraries Broadband (SHLB) Coalition, Louis Peraertz, Vice President, WISPA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-258 and WT Docket No. 19-348 (July 1, 2021); Letter from Steve B. Sharkey, Vice President, Government Affairs, Technology, and Engineering Policy, T-Mobile USA, Inc. to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-258 and WT Docket No. 19-348 (July 14, 2021).

administrators—that such changes might entail.[144] Commenters should also provide technical and cost-benefit analyses on any potential impacts to commercial wireless operators in and adjacent to the 3.5 GHz band. Such analyses should explicitly address the impact of higher power CBSDs on the wide variety of Citizens Broadband Radio Service operations that have already been deployed in the 3.5 GHz band in reliance on the current rules. We also note that any changes to federal incumbent protection criteria—including any proposed changes to DPAs or DPA neighborhood distances—will need to be coordinated with NTIA and DoD.

55. Stakeholders in the 3.5 GHz band have also expressed an interest in aligning UE power levels with 3GPP standards. For example, both DISH and CCA propose increasing Citizens Broadband Radio Service UE power limits to allow operations at 26 dBm (instead of 23 dBm) which is in line with the 3GPP High Power UEs (HPUEs) definition.[145] We seek comment on aligning UE power levels in the Citizens Broadband Radio Service with 3GPP standards. We also seek comment on the costs and benefits of allowing higher power End User devices to operate in the 3.5 GHz band. Given that UEs are not directly controlled by SASs, we seek comment on what the potential impact of introducing higher power UEs will be on incumbent operators and other Citizens Broadband Radio service users. Commenters supporting increased UE power levels should describe, in detail, how harmful interference from higher power UEs should be prevented. Specifically, commenters should indicate what protection measures should be put in place to prevent higher power UEs from causing harmful interference to incumbents and Priority Access Licensees in the band. We note that any proposed changes that may impact federal operations will have to be coordinated with NTIA and DoD.

E. SAS Connectivity and/or Outages

56. One of the fundamental aspects of the Citizens Broadband Radio Service is the requirement that all CBSDs be registered with, and authorized by, certified SASs.[146] Notably, to facilitate timely and accurate coordination, the part 96 rules require CBSDs to maintain SAS connectivity so they can update the SAS of a change in status and comply with SAS instructions within seconds of a triggering event. Each CBSD must register with, and receive authorization from, a SAS prior to its initial service transmission and must update the SAS within 60 seconds of any changes in its registration information, including the device's specific location.[147] A CBSD must also receive and comply with any incoming commands from its associated SAS regarding any changes to power limits and frequency assignments within 60 seconds of receiving them, i.e., a CBSD must cease transmission, move to another frequency, or change its power level within 60 seconds as instructed by a SAS.[148] These SAS connectivity and

[144] *See* June 2024 NTIA Letter; *see also Modified Aggregate Interference Model Public Notice* (requesting that certified SAS administrators submit a demonstration of their ability to implement new testing parameters).

[145] *See* DISH *Ex Parte* at Attachment 1, CCA *Ex Parte* at 2 and Attachment 1. We note that 3GPP allows high powered UEs of 26dBm or 400mwatts in other regions of the world. *See* 3GPP TS38.101-1 NR; User Equipment (UE) radio transmission and reception; Part 1: Range 1 Standalone Release 17.

[146] Section 96.39 of the Commission's rules requires CBSDs to connect with a SAS to provide geo-location information (47 CFR § 96.39(a)); to register with and be authorized by a SAS prior to initial transmission (*id.* § 96.39(c)); report signal level information and other metrics of interference for themselves and end user devices to the SAS (*id.* § 96.39(d)); to report promptly to the SAS which available frequencies or channels they will be using, if the devices receive a range of available frequencies (*id.* § 96.39(e)); to ensure the security of communications between CBSDs and SASs sufficient to prevent corruption or unauthorized interception of data (*id.* § 96.39(f)); and to ensure device security (i.e., employ security features sufficient to protect against modification of software and firmware by unauthorized parties) (*id.* § 96.39(g)).

[147] *See* 47 CFR § 96.39(c).

[148] *See id*. § 96.39(c)(2). The industry standard is to use a CBSD heartbeat procedure rather than a push mechanism to meet this requirement. *See* WInnForum, *Signaling Protocols and Procedures for Citizens Broadband Radio Service (CBRS): Spectrum Access System (SAS) – Citizens Broadband Radio Service Device (CBSD) Interface*
(continued….)

communications requirements help to ensure that higher tier operations—including federal operations—are continuously protected from harmful interference and that operations within the same tier can be effectively coordinated.

57. Since commercial services were first introduced in the band, the Commission has granted relief to the National Football League (NFL)—via a conditional waiver—from specific SAS connectivity and communications rules and has worked with NTIA to implement broader relief from SAS signaling requirements in geographic areas and portions of the spectrum band that are outside of the scope of current federal operations. Specifically, the NFL requested, and received, a conditional waiver of section 96.39(c)(2) to allow it to continue operating its GAA-based, coach-to-coach communications systems without connectivity to a SAS in the event of a localized internet outage in an NFL stadium during an NFL football game after the authority to operate within the stadium had been obtained from a SAS.[149] This waiver, and its subsequent extensions,[150] were granted subject to a number of conditions that limited the time and area of effect, imposed additional technical requirements (including ISP redundancy), and assigned detailed reporting requirements to the NFL.[151]

58. In addition, WTB and OET, working in close collaboration with NTIA, permitted the SAS administrators to extend the CBSD reauthorization period from 300 seconds to 24 hours in geographic areas and portions of the spectrum band that are outside of the scope of current federal operations to provide a more stable and predictable spectrum environment for Citizens Broadband Radio Service users while ensuring an interference-free environment for critical federal operations.[152] This approach will also ensure that SAS administrators will be able to timely respond to instructions from the

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Technical Specification, WINNF-TS-0016-V1.2.7 (March 21, 2022), https://winnf.memberclicks.net/assets/CBRS/WINNF-TS-0016.pdf.

[149] *See The National Football League Request for Waiver of Section 96.39(c) of the Commission's Rules,* WT Docket No. 21-111, Order, 36 FCC Rcd 10489 (WTB 2021) (*NFL Waiver Order*).

[150] *See The National Football League Request to Extend Waiver of Section 96.39(c) of the Commission's Rules*, WT Docket No. 21-111, Order, DA 22-927, 2022 WL 4118669 (WTB Sept. 7, 2022) (*NFL Waiver Extension Order*); *Wireless Telecommunications Bureau Seeks Comment on the National Football League's Second Request to Extend Waiver of Section 96.39(c)(2) of the Commission's Rules*, WT Docket No. 21-111, Order, DA 23-704 (WTB Aug. 16, 2023) (*NFL Second Waiver Extension Order*). *See also* Request of The National Football League for Extension of Waiver Grant, WT Docket No. 21-111 (filed May 5, 2022), https://files.fcc.gov/ecfs/download/abf2d9c8-f474-4e9e-96ab-76b9b0d2d641?orig=true&pk=cb77b2ec-1a58-dbc6-139b-ad192cfd5d9b (NFL Waiver Extension Request); 47 CFR § 96.39(c)(2). *See* Request of the National Football League for Extension of CBRS Waiver, WT Docket No. 21-111 (filed May 31, 2023), https://www.fcc.gov/ecfs/document/1060138518494/1 (NFL Second Waiver Extension Request).

[151] *See NFL Waiver Extension Order*, at *3, para. 7. *See also NFL Second Waiver Extension Order*, at *4-5, paras. 8-9 (granting conditional waiver limited to the duration of the 2023-2024 NFL season, expiring the day after Super Bowl LVIII (which occurred on February 11, 2024), and requiring the NFL to comply with the same conditions we imposed in the *NFL Waiver Order* and *NFL Waiver Extension Order*).

[152] Letter from Charles Cooper, Assoc. Admin., Office of Spectrum Mgt., NTIA, to Ronald T. Repasi, Chief, OET, FCC, and Joel Taubenblatt, Chief, WTB, FCC, (Sept. 18, 2023) (September 18, 2023 NTIA Letter), https://www.fcc.gov/ecfs/document/10918103597534/1; *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Modified Citizens Broadband Radio Service Device Reauthorization Procedures*, GN Docket No. 17-258 and 15-319, Public Notice, DA 23-867, (WTB/OET 2023) (*CBSD Reauthorization Public Notice*). To implement this change, SAS Administrators were directed to permit CBSDs outside of DPA Neighborhoods for assignments in the 3.55-3.7 GHz band and inside DPA Neighborhoods for assignments in the 3.65-3.7 GHz band to continue transmitting for up to 24 hours without SAS reauthorization. However, for assignments in the 3.55-3.65 GHz band, CBSDs inside of DPA neighborhoods could transmit for no more than 5 minutes without SAS reauthorization. *See CBSD Reauthorization Public Notice* at 1. We note the CSMAC's December 2023 recommendation to reduce the heartbeat interval is consistent with the September 2023 *CBSD Reauthorization Public Notice*. *See CSMAC CBRS Report* at 18.

President of the United States, or another designated Federal Government entity, issued pursuant to 47 U.S.C. § 606.[153]

59. In light of these developments, we seek comment on whether there are other specific circumstances that may warrant less restrictive application of our SAS connectivity requirements.[154] Specifically, we seek comment on what, if any, circumstances or deployment types may warrant an alternate approach to SAS connectivity.[155] If we were to provide some degree of situational flexibility, what changes to our SAS connectivity requirements should we consider? Should Citizens Broadband Radio Service users be required to renew access to any alternative approach periodically and, if so, what period would be appropriate? Should we provide more general, time limited relief to Citizens Broadband Radio Service operators in the event of a SAS outage or other connectivity issue?

60. We also welcome feedback on what factors to take into account in determining whether to relax SAS connectivity in specific circumstances. For example, should we consider different SAS connectivity requirements for spectrum usage that is both geographically and temporally confined (e.g., where the potential for interference is tempered by terrain attenuation or involves spectrum uses that are short in duration)? Along those lines, should we provide greater flexibility for low powered Category A CBSDs or should we provide flexibility to all CBSDs in circumstances where transmissions are less likely to cause harmful interference? If the latter, what would those circumstances be?

61. We seek comment on how federal operators and other incumbent users would be protected if we adopt more flexible SAS connectivity rules for some situations. If we modify our SAS connectivity requirements to reflect specific uses or circumstances, how should we implement such changes to ensure that incumbent federal operations, and other higher tier operators in the band, are protected? Would such changes increase the likelihood that higher tier users, including federal incumbents, would be subject to harmful interference? How, specifically, could interference issues be avoided or mitigated? Commenters that support changes to the current SAS connectivity rules should describe the underlying costs and benefits of their proposals and are encouraged to provide detailed information, including technical analyses, that show how any interference issues between and among 3.5 GHz band users would be avoided or mitigated. We note that any proposed changes that may impact federal operations will have to be coordinated with NTIA and DoD.

F. Time Division Duplex (TDD) Synchronization (in-band and adjacent band)

62. In the *3.45 GHz Second Report and Order*, the Commission allocated the 3.45 GHz band on an unpaired basis to promote a consistent spectral environment with adjacent 3.5 GHz and 3.7 GHz bands, both of which are also unpaired in the United States.[156] Recognizing the benefits to all operators that come from TDD synchronization both within and across bands, the Commission found that the record indicated that TDD synchronization, where feasible, may assist in avoiding harmful interference between the 3.45 GHz Service and Citizens Broadband Radio Service operations.[157] To minimize the potential for causing or receiving harmful interference while maintaining deployment flexibility and efficiency, the Commission encouraged intra-band synchronization where possible and required 3.45 GHz

[153] *See* 47 U.S.C. § 606; 47 CFR §§ 96.15(a)(4), (b)(4), 96.63.

[154] Some users reported challenges associated with unstable SAS connectivity to CSMAC. *CSMAC CBRS Report* at 7, 10, 11.

[155] For example, pending before the Wireless Telecommunications Bureau is a request from the University of Utah for waivers of the SAS connectivity rules to operate the university's POWDER platform. *Wireless Telecommunications Bureau Seeks Comment on the University of Utah's Request to Waive 96.39 of the Commission's Rules*, WT Docket No. 22-257, Public Notice, 37 FCC 37877 (WTB 2022). We welcome feedback on whether there are instances where waiver relief could be more appropriate than a potential rule change.

[156] *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6011, para. 62.

[157] *See id.* at 6012, paras. 63-64.

Service licensees to negotiate in good faith with requesting Citizens Broadband Radio Service operators[158] to enable TDD synchronization across the two adjacent services.[159]

63. Specifically, the Commission found in the *3.45 GHz Second Report and Order* that harmful interference between 3.45 GHz and 3.5 GHz band users could be avoided through careful network planning and coordination through good faith negotiations for technical information necessary to enable TDD synchronization among adjacent radio systems.[160] The Commission stated that operations in both bands will be diverse and complex because the use of unpaired blocks will result in downlink and uplink transmissions occurring on the same frequencies, and dynamic access in the 3.5 GHz band means that base station power reductions to prevent intra- and inter-service interference will be commonplace, regardless of overall power limits imposed by the Commission.[161] As a result, coordination between users within and across bands will be required to ensure successful coexistence and efficient operation of systems in both bands[162] and to facilitate continued effective ESC operation in and near a 3.45 GHz Service licensee's license area.[163] Coordination is initiated when a 3.5 GHz operator requests information from a 3.45 GHz Service licensee to enable cross-service TDD synchronization if the 3.5 GHz operator provides service, or intends to provide service, in the same or adjacent geographic area as that of the 3.45 GHz Service licensee.[164] Upon receiving a request by a 3.5 GHz operator for TDD synchronization, the 3.45 GHz Service licensee must provide sufficient technical information to allow the 3.5 GHz operator to synchronize its system with the 3.45 GHz band system and to keep such information current if its network operations change.[165]

64. While the *3.45 GHz Second Report and Order* required negotiations concerning the information to be provided to be conducted in good faith, with the goal of enabling TDD synchronization between the relevant systems, it did not impose an obligation on the 3.45 GHz Service licensee to make any corresponding changes to its operations or proposed operations, stating that parties are free to negotiate changes to either or both networks as part of their efforts.[166] With the caveat that it might revise further the 3.45 GHz rule or the rules governing the Citizens Broadband Radio Service in a future proceeding to encourage further TDD synchronization among the various services in our mid-band allocations, the Commission declined at the time to require TDD synchronization between networks operating in the adjacent 3.45 GHz and 3.5 GHz bands. The Commission was concerned that mandating TDD synchronization could undermine operator flexibility in determining the best use of this spectrum,

[158] This includes both Priority Access Licensees and General Authorized Access users. 47 CFR § 96.1(b).

[159] *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6012, para. 63. In setting power levels, the Commission acknowledged that the higher power base stations operating in the 3.45 GHz band creates an asymmetry between the 3.45 GHz and 3.5 GHz bands that carries the potential for harmful interference, but it concluded that harmful interference can be avoided through careful network planning and coordination between spectrum users, including through the requirement that 3.45 GHz and 3.5 GHz operators negotiate in good faith regarding requests from 3.5 GHz Service operators for technical information needed to enable TDD synchronization. *See id.* at 6015, para. 73.

[160] *See id.* at 6015, para. 73; *see discussion infra* section III.F.

[161] *See id.* at 6015, para. 73.

[162] *See id*.

[163] *See id*.

[164] *See id*. at 6012 para. 65.

[165] *See id*. The Commission declined to adopt a corresponding requirement for information sharing on the Citizens Broadband Radio Service operator but noted that the initial sharing of information by the 3.45 GHz Service licensee may be sufficient to meet that licensee's obligation to negotiate in good faith. *See id.* at 6015, para. 73.

[166] *See id*. In leaving the door open for further analysis, the Commission stated that it will monitor the results of this approach and may revisit it as necessary based on the experience of operators. *See id.* at 6013, para. 67.

especially as use cases and technologies change over time.[167] We seek comment on whether to impose out-of-band TDD coordination procedures on Citizens Broadband Radio Service licensees to make sure data sharing occurs on a bilateral basis between 3.45 GHz Service and Citizens Broadband Radio Service users seeking to provide service in the same or adjacent geographic areas.[168] We also seek comment on whether Citizens Broadband Radio Service operators should have an obligation to make any corresponding changes to their operations to facilitate TDD synchronization or if we should simply permit parties to negotiate changes to their respective networks.

65. The Commission declined to impose similar TDD synchronization measures on 3.7 GHz Service licensees;[169] consequently there is no negotiation or coordination required between 3.7 GHz Service operators and Citizens Broadband Radio Service users. Similarly, the part 96 rules do not impose any obligation on Citizens Broadband Radio Service licensees to share TDD synchronization information upon request with adjacent band operators in either the 3.45 GHz or the 3.7 GHz Services. Given the changed circumstances in the adjacent band since the last time that the part 96 rules were examined, we seek comment on whether to impose out-of-band coordination requirements on Citizens Broadband Radio Service operators to encourage TDD synchronization with the adjacent 3.7 GHz band.[170]

66. We also welcome feedback generally on the potential benefits and drawbacks of imposing in-band TDD coordination procedures on Citizens Broadband Radio Service licensees given the tiered licensing structure in the 3.5 GHz band.[171] Could an in-band TDD synchronization requirement decrease the potential for harmful interference between operators in the Citizens Broadband Radio Service? Could TDD synchronization be equitably applied across the myriad use cases supported by the Citizens Broadband Radio Service, including GAA deployments? Could such requirements be managed at the SAS level and, if so, how would they be enforced? Would TDD synchronization improve the SASs' ability to coordinate between and among Citizens Broadband Radio Service users in the band? Would such requirements improve spectrum availability for synchronized operators? Would imposing TDD requirements impose new burdens on operators in the band? We encourage commenters to support their proposals with detailed cost benefit analyses and technical submissions.

[167] *See 3.45 GHz Second Report and Order*, 36 FCC Rcd at 6012-13, paras. 65-67.

[168] We note that Charter and Verizon submitted a letter describing the parameters that the companies will use to sync their TDD operations across the 3 GHz band. *See* Letter from Colleen King, Vice President, Regulatory Affairs, Charter Communications, Inc. and Patrick Welsh, Vice President, Federal Regulatory Affairs, Verizon to Marlene H. Dortch, Secretary, FCC, GN Docket No. 17-258, GN Docket No. 18-122, WT Docket No. 19-348 (Oct. 3, 2022).

[169] "Specifically, we note that the dynamic management approach is needed in the Citizens Broadband Radio Service to coordinate access between Priority Access Licensees and General Authorized Access users and to prevent interference to incumbent Federal and non-Federal operations. The same considerations are not present in the 3.7-4.2 GHz band and the transition and licensing approach we adopt for introducing 3.7 GHz Service to the 3.7-3.98 GHz band is appropriate for the unique circumstances and anticipated use cases for the band." *3.7 GHz Service Report and Order*, 35 FCC Rcd at 2486, para. 396.

[170] CSMAC noted the differences in TDD configurations in the 3 GHz band. *See CSMAC CBRS Report* at 7, 11.

[171] *See CSMAC September 2023 Briefing* (suggesting the CBRS framework could be improved by considering TDD synchronization across commercial users); European Conference of Postal and Telecommunications Administrations, *ECC Recommendation: Edition 10 June 2022 Cross-border coordination for Mobile/Fixed Communications Networks (MFCN) in the frequency bands: 694-790 MHz, 1427-1518 MHz and 3400-3800 MHz*, (June 10, 2022), https://docdb.cept.org/download/4042. *See also* Letter from Jeffrey H. Blum, EchoStar Corporation to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 17-258, GN Docket No. 22-352, WT Docket No., 23-319, WT Docket No. 20-443 (June 7, 2024) (supporting synchronization of uplink and downlink operations in the Citizens Broadband Radio Service).

G. FSS Protection

67. In developing the part 96 rules, the Commission adopted various measures to protect incumbent FSS earth stations,[172] including the establishment of an annual registration requirement to protect qualified in-band FSS earth stations as well as adjacent 3.7-4.2 GHz band FSS earth stations used for satellite telemetry, tracking, and control (TT&C).[173] For SASs to adequately protect FSS incumbents, the Commission stated that SASs must be able to access detailed information regarding the technical and operational characteristics of each FSS earth station seeking protection and, if any of these characteristics change, the FSS earth station licensee requesting protection must update the relevant registration in the 3.5 GHz FSS database.[174] To initiate this protection framework, the Commission issued the *FSS Registration Public Notice* on June 15, 2018, announcing the opening of the filing window for initial registration of FSS earth stations.[175] Setting a recurring deadline, the *FSS Registration Public Notice* announced that all registrations must be renewed annually by December 1 for a registration to be valid at the beginning of the subsequent year.[176] After January 1 of the subsequent year, FSS earth station

[172] *See 3.5 GHz First Report and Order,* 30 FCC Rcd at 4045-48, paras. 287-91, 295-96; *3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5053-56, paras. 152-62; *3.5 GHz Second Report and Order*, 31 FCC Rcd at 5080-5102, paras. 240-309.

[173] 47 CFR § 96.17(d); *3.5 GHz First Report and Order,* 30 FCC Rcd at 4046, para. 290; *3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5054-56, paras. 156-62; *3.5 GHz Second Report and Order*, 31 FCC Rcd at 5080-81, para. 240; 47 CFR § 96.17; *see also 3.5 GHz First Report and Order,* 30 FCC Rcd at 4046, para. 290 (3.6-3.65 GHz band FSS operations) and at 4047, para. 292 (C-band FSS operations in the 3.7-4.2 GHz band); *3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5054, para. 158 (grandfathered FSS earth station operations). The registration submission includes technical information that will be made available to all approved SASs to determine appropriate protection criteria for licensed FSS earth stations. *See 3.5 GHz First Report and Order,* 30 FCC Rcd at 4046, para. 290; 47 CFR § 96.17(d). FSS registration rules were adopted to ensure that both the Commission and SAS administrators have the most accurate, up to date information necessary to protect incumbent licensed FSS earth station operations. *See 3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5054-55, para. 157; *3.5 GHz Second Report and Order*, 31 FCC Rcd at 5080-81, para. 240.

[174] *See 3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5054-55, para. 157. "FSS earth station licensees requesting protection under this part must register with the Commission annually, no later than 30 days before the end of the preceding calendar year, or upon making changes to any of the operational parameters listed in this section. Registration information shall be made available to all approved SASs." 47 CFR § 96.17(d). This includes information required by the Commission's rules as well as additional information necessary to ensure that SASs can appropriately protect registered FSS earth stations. "Annual registration for each earth station shall include, at a minimum: (i) The earth station's geographic location (Using NAD83 coordinates); (ii) Antenna gain; (iii) Azimuth and elevation antenna gain pattern; (iv) Antenna azimuth relative to true north; and (v) Antenna elevation angle. (vi) Whether the earth station is used for satellite telemetry, tracking, and control (for earth stations in the 3700-4200 MHz band)." 47 CFR § 96.17(d)(1). This information must be made available to SAS administrators and maintained consistent with section 96.55 of the Commission's rules. 47 CFR § 96.55.

[175] *See Wireless Telecommunications Bureau, Office of Engineering and Technology, and International Bureau Announce the Initial Filing Window and Procedures for Registration of Fixed Satellite Service Earth Stations Entitled to Protection from 3.5 GHz Citizens Broadband Radio Service*, GN Docket No. 17-258, Public Notice, 33 FCC Rcd 6033 (WTB/OET/IB 2018) (*FSS Registration Public Notice*); *see also* 47 CFR § 96.17.

[176] *See FSS Registration Public Notice*, 33 FCC Rcd at 6034 n.6. Subsequently, the Commission issued Public Notices—most recently in October 2023—to remind grandfathered FSS earth station operators in the 3.6-3.7 GHz band of their annual registration obligations. These Public Notices also remind registrants that their annual registrations must be submitted via the 3.5 GHz FSS database and that only those earth stations that meet the qualification requirements in section 96.17 of the Commission's rules qualify for protection in the 3.5 GHz FSS database. *See, e.g.*, *Wireless Telecommunications Bureau, Office of Engineering and Technology, and Space Bureau Remind Grandfathered Fixed Satellite Service Licensees in the 3.6-3.7 GHz Band to Submit 2024 Annual Registration Updates by December 1, 2023*, GN Docket No. 17-258, Public Notice, DA 23-1023 (WTB/OET/IB 2023). Only FSS earth stations with primary status in the band are eligible to register for protection in the 3.5 GHz FSS Database. In the 3.6-3.65 GHz band, only FSS earth stations authorized prior to, or granted as a result of an

(continued….)

registrations that have not been completed may be deactivated or deleted, and the site will no longer merit protection by the SAS administrators.[177]

68. Under the current rules, in the 3.7-4.2 GHz band only FSS earth stations used for TT&C are eligible for protection[178] and some of those sites have been consolidated or taken off-line as part of the 3.7 GHz transition process.[179] Moreover, while grandfathered FSS operators in the 3.5 GHz band retain incumbent status for active FSS earth stations, some of these earth stations may have been taken offline as a result of the 3.7 GHz transition process. Given these developments in the 3.7-4.2 GHz band, we seek comment on whether we should consider changes to sections 96.17 and 96.21 of the Commission's rules, which were adopted to protect incumbent FSS operations in and adjacent to the 3.5 GHz band. Specifically, we seek comment on whether we should limit protection of TT&C sites in the 3.7-4.2 GHz band to those facilities that were specifically identified in the *3.7 GHz Report and Order* and subsequent satellite operator submissions.[180] We also seek comment more generally on whether we should modify section 96.17 of the Commission's rules to require FSS operators to provide additional technical or operational parameters as part of their annual registration submission to ensure that SASs have the most up-to-date and accurate information necessary to protect registered in-band and adjacent band FSS earth stations against harmful interference from Citizens Broadband Radio Service users operating in the 3.5 GHz band. What additional information would be useful?

69. We propose to clarify the Commission's rules to state that SASs no longer have to apply the protection criteria in 47 CFR part 90, subpart Z, to protect FSS earth stations in the 3.65-3.7 GHz band now that the transition window for Grandfathered Wireless Broadband Licensees has closed. Specifically, we propose to delete section 96.21 now that incumbent Grandfathered Wireless Broadband Licensees in the 3.65-3.7 GHz band have completed their transition from part 90 to part 96 of the Commission's rules.[181] Rather, the protection criteria set forth in section 96.17 for FSS earth stations in

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application filed prior to July 23, 2015, and constructed within 12 months of initial authorization may continue to operate on a primary basis. *See* 47 CFR §§ 96.17, 2.106, note US107. In the 3.65-3.7 GHz band, only FSS earth stations that were authorized prior to December 1, 2000, or granted as a result of an application filed prior to December 1, 2000 and constructed within 12 months of initial authorization may continue to operate on a primary basis. *See* 47 CFR §§ 96.17(a)(1), 96.21(c), 90.1331(a), 2.106, note NG169. In the 3.7-4.2 GHz band, only FSS earth stations used for TT&C operations band may register for protection. All other licensed FSS earth stations operating in the 3.7-4.2 GHz band are otherwise ineligible to register in the 3.5 GHz FSS Database but may seek protection under section 96.17(f). *See* 47 CFR § 96.17(b).

[177] Consistent with established policy, the Commission will continue to accept late-filed registrations and renewals, including registrations submitted after deactivation, and the SAS administrators will reinstate protections as soon as reasonably practicable after filing. *See Wireless Telecommunications Bureau, Office of Engineering and Technology, and International Bureau Announce Procedures for Registration of Fixed Satellite Service Earth Stations Entitled to Protection from the 3.5 GHz Citizens Broadband Radio Service*, Public Notice, 32 FCC Rcd 10419, 10421 (WTB/OET/IB 2017).

[178] *See* 47 CFR § 96.17(b).

[179] *See 3.7 GHz Service Report and Order*, 35 FCC Rcd at 2479-84, paras. 373-89.

[180] *See* Intelsat C-Band Clearing Transition Plan, GN Docket Nos. 18-122 and 20-173, at 22-23 (filed July 11, 2023), https://www.fcc.gov/ecfs/document/107110381029469/1; Updated Transition Plan of SES Americom Inc., GN Docket Nos. 18-122 and 20-173, at 1 (filed July 10, 2023), https://www.fcc.gov/ecfs/document/107102829614811/1

[181] *See infra* section III.I (January 8, 2023 was the latest possible transition deadline for Grandfathered Wireless Broadband Licensees to either complete their transition to the Citizens Broadband Radio Service or discontinue operations in the band).

the 3.6-3.65 GHz band will apply to all grandfathered FSS earth stations in the 3.65-3.7 GHz band going forward.[182] We seek comment on this proposal.

H. Grandfathered Wireless Broadband Licensees

70. In establishing service rules for the Citizens Broadband Radio Service, the Commission adopted a transition period for certain part 90 incumbent Grandfathered Wireless Broadband Licensees[183] in the 3.65-3.7 GHz band to upgrade their equipment to comply with the part 96 rules.[184] Recognizing the challenges associated with the regulatory transition and the significant investment for over 2,000 part 90 incumbent licensees, the Commission provided additional protections and a "reasonable transition period" for these Grandfathered Wireless Broadband Licensees.[185] Under the transition framework, Grandfathered Wireless Broadband Licensees were given at least five years to transition their operations to the Citizens Broadband Radio Service, or to discontinue operations in the 3.65-3.7 GHz band.[186] On December 21, 2022, WTB issued a Public Notice reminding part 90, subpart Z licensees that January 8, 2023 was the latest possible transition deadline to either complete their transition to the Citizens Broadband Radio Service or discontinue operations in the band.[187] If a grandfathered wireless broadband

[182] SAS administrators have been applying these protection criteria, in accordance with the Commission's rules, on a rolling basis as grandfathered Part 90 licensees completed their transitions and have been applying them to all FSS earth stations since at least January 8, 2023. *See* 47 CFR § 96.17.

[183] As defined in 47 CFR §§ 96.3, 96.21.

[184] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4071-80, paras. 387-412. *See also* 47 CFR §§ 90.1307, 90.1311, 90.1338. These Grandfathered Wireless Broadband Licensees operated under part 90, subpart Z of the Commission's rules, on a nationwide, non-exclusive basis, with all licensees registering their individual fixed stations and base stations in the Commission's Universal Licensing System (ULS). 47 CFR § 90.1307(a).

[185] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4073-76, para. 392-409.

[186] *See* 47 CFR §§ 90.1307, 90.1311, 90.1338; *see also 3.5 GHz First Report and Order*, 30 FCC Rcd at 4075-76, para. 400 ("We do not believe it would be appropriate to extend a transition period of more than five years to those Part 90 incumbents licensed after the January 8, 2013 Federal Register publication date of the NPRM."). For licenses issued or renewed after January 8, 2013, the transition period ended by rule on April 17, 2020. 47 CFR §§ 90.1307, 90.1338. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Four Spectrum Access Administrators for Full Scale Commercial Deployment in the 3.5 GHz Band and Emphasize Licensee Compliance Obligations in the 3650-3700 MHz Band Under Part 96*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 117, paras. 7-8 (WTB/OET 2020) (*3650-3700 MHz Reminder PN*); *3.5 GHz First Report and Order*, 30 FCC Rcd at 4070-80, paras. 387-412; 47 CFR §§ 90.1307, 90.1311, 90.1338, 96.21. Subsequently, licensees that were required to transition operations by April 17, 2020 received an extension to October 17, 2020. *See The Wireless Internet Service Providers Association and the Utilities Technology Council Request for Waiver of Sections 90.1307(c) and (d) and Sections 90.1338(a) and (b) of the Commission's Rules*, WT Docket No. 18-353, Order, 35 FCC Rcd 2750, 2754-56, paras. 1 n.3, 9, 12-14 (2020) (*Extension Order*) ("Any licenses expiring between the adoption date of this order and April 17, 2020, that are eligible for renewal under 47 CFR § 90.1307(c), will be modified to expire on October 17, 2020 consistent with this order."). Separately, a number of licensees filed requests for, and received, limited extensions of the transition period for either 60 or 120 days beyond October 17, 2020. *See Requests for Waiver of Sections 90.1307(c) and (d) and Sections 90.1338(a) and (b) of the Commission's Rules*, WT Docket No. 18-353, Order, 35 FCC Rcd 11546 (WTB 2020) (extending deadlines to December 16, 2020 or to February 14, 2021, as applicable, to licensees that satisfied the three extension prongs articulated in the Extension Order and otherwise met the Commission's high bar for relief). The Bureau reminded licensees of all applicable deadlines on October 16, 2020. *See Part 90 Licensees in 3650-3700 MHz Band are Required to Transition to Citizens Broadband Radio Service by October 17, 2020*, WT Docket No. 18-353, Public Notice, 35 FCC Rcd 11544 (WTB 2020) (*Second Reminder PN*). For grandfathered operations with a license issued before January 8, 2013, the transition period ended on the expiration date of the license. 47 CFR §§ 90.1307, 90.1338; *3.5 GHz First Report and Order*, 30 FCC Rcd at 4073-76, paras. 392-409.

[187] *See Wireless Telecommunications Bureau Reminds Part 90, Subpart Z Licensees of January 8, 2023 Final Transition Deadline in the 3650-3700 MHz Band*, WT Docket No. 18-353, GN Docket No. 17-258, GN Docket No. 15-319, Public Notice, DA 22-135, 37 FCC Rcd 15058 (WTB Dec. 21, 2022) (*Third Reminder PN*); 47 CFR §§

(continued….)

licensee failed to transition its sites to part 96 operations by that date then the licensee's sites are no longer authorized (unless a waiver or extension of the deadline had been granted).[188]

71. We therefore propose to sunset the rules set forth in part 90, subpart Z that apply to wireless broadband services in the 3.65-3.7 GHz band and the corresponding rules protecting part 90 licenses from Citizens Broadband Radio Service operations.[189] We tentatively conclude these rules are no longer needed as the transition period for the last Grandfathered Wireless Broadband Licensee's license ended on January 8, 2023. We seek comment on this proposal.

I. Other Issues

1. Certified Professional Installation

72. In the *3.5 GHz First Report and Order*, the Commission emphasized the importance of providing accurate CBSD location information to SASs that rely on the accuracy of that data to correctly evaluate potential interference and channel availability in real time to manage spectrum use in the band.[190] The Commission found that without accurate location data, SASs would be unable to effectively determine where and at what power levels CBSDs should be authorized or when they should be instructed to discontinue their operations to protect incumbent users.[191] The Commission concluded that, because automated geolocation may be insufficient in certain conditions and CBSDs will be at fixed installations, professional installation was the better option to facilitate network deployment in the near term until automatic geo-location technologies that meet our accuracy requirements are developed.[192] Noting the importance of accurate location reporting by professional installers to SASs, particularly in terms of its impact on the ability of SASs to properly manage spectrum use in the band, the Commission strongly encouraged the SAS and Citizens Broadband Radio Service user community, through multistakeholder fora or industry associations, to develop programs for accrediting professional installers who would receive training in the relevant part 96 rules and associated technical best practices.[193] In issuing this recommendation, the Commission pointed out that industry-led professional accreditation processes have proven successful in other similar situations.[194]

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90.1307, 90.1311, 90.1338, 96.21; *Extension Order*, 35 FCC Rcd 2750, 2755, para. 12 & n. 3; *3650-3700 MHz Reminder PN*, 35 FCC Rcd 117, paras. 7-8; *Second Reminder PN*, 35 FCC Rcd 11544.

[188] *See Third Reminder PN*, 37 FCC Rcd 15058.

[189] 47 CFR §§ 90.1301-1338; 96.21.

[190] *See 3.5 GHz First Report and Order,* 30 FCC Rcd at 4027-28, paras. 215-222.

[191] *See id.* at 4028, para. 220.

[192] *See id.* para. 221.

[193] *See id.,* para. 222.

[194] Section 4(f)(4)(D) of the Communications Act of 1934, as amended, authorizes the Commission to " endorse certification of individuals to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services (as defined by the Commission by rule) if such certification programs are conducted by organizations or committees which are representative of the users in those services and which consist of individuals who are not officers or employees of the Federal Government." 47 U.S.C. § 154(f)(4)(D). Following the amendment of the Act in 1983 to include this provision, the Commission eliminated the licensing requirement and "strongly endorse[d] and encourage[d] organizations or committees representative of users in the Private Land Mobile Radio and Private Operational-Fixed Microwave Services to establish a national industry certification program or programs for technicians," but left the development of and details concerning such a program to the private sector. *See 3.5 GHz R&O*, 30 FCC Rcd at 4028-29, para. 222 (*citing Requirement for Licensed Operators in Various Radio Services*, GN Docket No. 83-222, *Report and Order*, 96 FCC 2d 1123, 1141-45, paras. 36-43 (1984)).

73. In the *3.5 GHz Order on Reconsideration*, the Commission rejected petitions requesting reconsideration of the professional installation rule and reiterated the importance of using professional installation to bridge the gap in automated geo-location technology capable of meeting our accuracy requirements.[195] The Commission also stated that any certification regime developed by outside parties must ensure that registered CBSDs comply with the Commission's geo-location rules.[196] Subsequently, WTB and OET issued a Public Notice detailing what SASs must demonstrate in their ICD proposals, including a description of "Professional Installation" as "[t]he process that a certified professional installer (CPI) would follow to register CBSDs/DPs during ICD and an explanation regarding how that professional installation will ensure the SAS can accurately locate devices in compliance with part 96."[197] According to industry reports, there are now over 5,600 CPIs authorized to perform CBSD installations.[198]

74. We seek comment on the efficacy of the current professional installation regime and whether any rule changes are needed to ensure that CBSDs are installed and maintained correctly. Do the current rules sufficiently ensure that CBSD locations and configurations are reported accurately? If not, what improvements could be made to better address the need for accurate CBSD information in this band? We also seek comment on whether some devices that are classified as Category B devices under the rules (e.g., outdoor Category A devices installed over 6 meters high, devices used solely as customer premise equipment, etc.) could be safely installed and operated without a CPI.[199] If so, what safeguards should be required to ensure that such devices do not cause harmful interference to incumbent operators and other Citizens Broadband Radio Service users? Commenters are encouraged to provide specific feedback and to consider the costs and benefits for various use cases and network deployments.[200]

2. Private Networks and Low Power Indoor Facilities

75. In the *3.5 GHz FNPRM*, the Commission sought comment on whether it would be in the public interest to allow critical users—such as hospitals, public safety organizations, and local governments—to receive interference protection, akin to Priority Access licensees, within a limited portion of the GAA pool for indoor use within their own buildings.[201] The *3.5 GHz FNPRM* proposed

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[195] *See 3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5044-48, paras. 122-29. To facilitate deployment of CBSDs with accurately reported geo-location information, the *3.5 GHz Order on Reconsideration* affirmed the Commission's requirement that professional installers be trained and certified using an established industry-led process, as the Commission has in a variety of other contexts, noting that these rules provide an important protection against the prospect that "any purchaser of a device" could serve as a professional installer. *See 3.5 GHz Order on Reconsideration*, 31 FCC Rcd at 5044-46, paras. 122-26.

[196] *See id.* at 5046, para. 126.

[197] *See ICD Proposals Public Notice*, 33 FCC Rcd at 7392-7393, para. 7. WInnForum has developed standards and a program to approve CPIs that successfully complete their training in the relevant part 96 rules and the associated technical best practices, in response to the Commission's strong encouragement to multistakeholder groups and industry associations in the *3.5 GHz First Report and Order*. *See ICD Proposals Public Notice*, 33 FCC Rcd at 7393 n.18. *See also* Wireless Innovation Forum, Document WINNF-TS-0112-V1.9.1, *Requirements for Commercial Operation in the U.S. 3550- 3700 MHz Citizens Broadband Radio Service Band*, at pages 67-71 (Certified Professional Installer Requirements) (March 11, 2020), https://winnf.memberclicks.net/assets/CBRS/WINNF-TS-0112.pdf

[198] Wireless Innovation Forum, *Inside the CBRS Ecosystem* (August 2023), https://cbrs.wirelessinnovation.org/assets/August%202023%20CBRS%20Ecosystem.png.

[199] *CSMAC September 2023 Briefing* (recommending improving limits for higher, above-ground CPEs).

[200] CSMAC discussed briefly stakeholders' perspectives on certified professional installation requirements in the band. *CSMAC CBRS Report* at 8-9, 11.

[201] Specifically, the *3.5 GHz FNPRM* proposed to allow Contained Access Users, such as hospitals, public safety organizations, and local governments to request up to 20 megahertz of reserved frequencies from the GAA pool for (continued….)

that such Contained Access Users would be required to accept interference from GAA transmissions originating outside of their buildings and to undertake reasonable efforts to safeguard against harmful interference from those transmissions.[202] After reviewing the record, the Commission declined to adopt the Contained Access Facility (CAF) proposal in the *3.5 GHz First Report and Order*.[203] At the time, the Commission indicated that the potential need for such protection was outweighed by the additional costs and burdens of implementing this special priority within GAA use, but left the door open for further consideration in stating that it would monitor the development of the band and take action if it finds that such vital use cases are not being supported.[204]

76. Since 2015, the market for low power indoor operations has continued to develop,[205] and the Commission has taken steps to authorize such operations with fewer restrictions than the Commission applied to outdoor deployments in the same spectrum bands. Notably, in the *6 GHz Report and Order*, the Commission authorized unlicensed low-power indoor access points across the entire 6 GHz band, stating that they would be ideal for connecting devices in homes and businesses such as smartphones, tablet devices, laptops, and Internet-of-things (IoT) devices to the Internet.[206] The Commission found that the technical parameters along with additional requirements imposed on low-power indoor device operations it set and the nature of indoor use supports the conclusion that the potential for harmful interference to incumbent services operating in the 6 GHz is insignificant.[207] Because building attenuation is a key factor in minimizing the potential for harmful interference from indoor low-power access points to licensees' receivers, the Commission was able to adopt reasonable and practical measures to restrict low power access points to indoor operations.[208]

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indoor use within their facilities. *See 3.5 GHz FNPRM*, 29 FCC Rcd at 4291-92, paras. 58-61. Reserved frequencies would be used only for private internal radio services and could not be made available to the general public. *See 3.5 GHz FNPRM*, 29 FCC Rcd at 4291-92, para. 60. Other GAA users would not be permitted to utilize the reserved frequencies within designated Contained Access Facilities (CAFs). Except for the ability to prohibit third-party use in CAFs, Contained Access Users utilizing reserved channels would still operate on a GAA basis and would have no special rights with respect to interference from Incumbent Users and other Citizens Broadband Radio Service users. *Id*.

[202] *See id.* at 4292, para. 60. Potential Contained Access Users would be required to receive approval from the Commission to be eligible to utilize reserved frequencies and the Commission suggested that the limited geographic and spectral impact of CAF use would allow for effective coexistence of Contained Access Users, Incumbent Users, and other Citizens Broadband Radio Service operators. *Id*.

[203] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4012-14, paras. 164-69.

[204] *Id*.

[205] According to the 2023 NTIA-ITS Report, while indoor CBSD deployments "represent a minority use case overall," their overall share of active CBSD deployments grew from 0.7% on April 1, 2021, to 3.5% on January 1, 2023. *See* NTIA-ITS Report at 8. Since the NTIA-ITS Report was released, several companies have announced new programs and partnerships—including indoor neutral host solutions and warehouse automation—that indicate growing interest and investment in indoor CBRS deployments. *See supra* section II.D.

[206] *See Unlicensed Use of the 6 GHz Band,* ET Docket No. 18-295; *Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz,* GN Docket No. 17-183, Report and Order and Further Notice of Proposed Rulemaking, FCC 20-51, 35 FCC Rcd 3852, 3854, 3860, 3888-91, paras. 3, 18, 96-108. (2020) (*6 GHz Report and Order*). In a subsequent proceeding, the Commission sought comment on additional steps it could take and rules it could modify to provide more utility for very low power (VLP) unlicensed devices. *See Unlicensed Use of the 6 GHz Band,* ET Docket No. 18-295*; and Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz*, GN Docket No. 17-183, Second Further Notice of Proposed Rulemaking, FCC 23-86, 2024 WL 756627 (2024).

[207] *See 6 GHz Report and Order*, 35 FCC Rcd at 3890, para. 104.

[208] *See id.* at 3891, para. 107. The Commission adopted three equipment-related hardware requirements that are designed to keep these low-power access points indoors: the access point devices cannot be weather resistant; the low-power access points must have integrated antennas and prohibit the capability of connecting other antennas to
(continued….)

77. Similarly, in the *5.9 GHz First Report and Order*, the Commission adopted rules allowing unlicensed indoor operations across the entire 5.850-5.895 GHz portion of the 5.9 GHz band by setting specific power and technical limits to protect ITS service and federal radar operations from harmful interference.[209] Consistent with the *6 GHz Report and Order*, the Commission stated that it was adopting reasonable and practicable measures to restrict access points to indoor operations and would require 5.9 GHz devices to incorporate design measures to ensure indoor devices are not deployed outdoors because building attenuation is a key factor in minimizing potentially harmful interference from indoor access points to incumbent receivers.[210] Adopting the same equipment-related hardware requirements as the 6 GHz band, the Commission permitted an exception to accommodate devices such as Wi-Fi extenders and mesh networking equipment that work in conjunction with an indoor access point and share the same propagation path, and thus the same power requirements, but stated that these devices could only be used within a single structure and not connect separate buildings or structures.[211]

78. In addition, 3GPP implemented new 5G New Radio (5G NR) standards,[212] some of which included new and enhanced features related to non-public networks.[213] Industry stakeholders and analysts have also touted the expected rise of new opportunities in private networks in the 3.5 GHz band and elsewhere.[214] The combination of the Commission's recent work on indoor deployments, developments

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the devices, which will prevent substituting higher gain directional antennas and make the devices less capable or suitable for outdoor use; and low-power access points are prohibited from operating on battery power. Furthermore, the *6 GHz Report and Order* also required that the access points be marketed as "for indoor use only" and include a statement that "FCC regulations restrict to indoor use only" on both a label attached to the equipment and in the device's user manual. *Id.*

[209] *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, 13446, 13466-69, paras. 13, 60-67 (2020) (*5.9 GHz First Report and Order*).

[210] *See id.* at 13468-69, paras. 66-67.

[211] *See id.*, para. 67.

[212] 5G New Radio or 5G NR is the new radio interface and radio access technology specification found in the 5G standard set by the 3rd Generation Partnership Project (3GPP) telecommunications standards group that will provide faster data transfer speeds, lower latency, and more spectrum agility and better performance than LTE. Gus Vos, *What is 5G NR (New Radio)?* (Jan. 13, 2022), https://www.sierrawireless.com/iot-blog/what-is-5g-nr/; Qualcomm, *5G NR is the Foundation for What's Next*, https://www.qualcomm.com/research/5g/5g-nr (last visited May 30, 2024); Verizon, *What is 5G NR?*, https://www.verizon.com/about/our-company/5g/what-is-5g-nr (last visited May 30, 2024).

[213] *See* Dongwook Kim, 3GPP, *Non-Public Networks* (December 15, 2022), https://www.3gpp.org/technologies/npn.

[214] Industry forecasts indicate that the private LTE market is continuing to expand. *See, e.g.*, SNS Telecom and IT, *LTE & 5G NR-Based CBRS Networks: 2023 – 2030 – Opportunities, Challenges, Strategies & Forecasts*, (Sept. 2023) https://www.snstelecom.com/cbrs (estimating that that annual investments in LTE and 5G NR-based CBRS RAN (Radio Access Network), mobile core and transport network infrastructure will account for nearly $900 Million by the end of 2023 and grow at a CAGR of approximately 20% between 2023 and 2026 to surpass $1.5 Billion in annual spending by 2026); IMARC Group, *Private LTE Market: Global Industry Trends, Share, Size, Growth, Opportunity and Forecast 2023-2028* (2023), https://www.imarcgroup.com/private-lte-market (reporting that the global private LTE market size reached $ 5.0 Billion in 2022 and is expected to reach $ 10.3 Billion by 2028, exhibiting a growth rate of 12.4% during 2023-2028); Businesswire, *United States Private LTE & 5G Network Market Analysis Report 2022: A $13.6 Billion by 2030 - Focus on Upcoming Trends in Various Spectrums, Numerous Private 5G Use Cases, and Regulatory Scenario - ResearchAndMarkets.com,* (Sept. 6, 2022), https://www.businesswire.com/news/home/20220906005944/en/United-States-Private-LTE-5G-Network-Market-Analysis-Report-2022-A-13.6-Billion-by-2030---Focus-on-Upcoming-Trends-in-Various-Spectrums-Numerous-Private-5G-Use-Cases-and-Regulatory-Scenario---ResearchAndMarkets.com. (stating that according to industry research firm Research and Markets, the private LTE and 5G Network market will reach $13.6 billion by 2030,
(continued….)

in the standards process, and growing industry interest in private wireless networks, may support a reassessment of how the part 96 rules treat low power indoor operations, and private networks more generally, in the Citizens Broadband Radio Service. To that end, we seek comment on whether there are steps we can take to facilitate additional use of the 3.5 GHz band for low power indoor operations, including private networks. Specifically, should we allow operators to reserve some amount of GAA spectrum for private, low-power indoor operations—akin to the CAF approach—and, if so, what parameters should be established to ensure equitable access to spectrum resources and safeguard other operators from harmful interference? What specific use cases would benefit from this type of reservation model? Should eligibility be reserved for certain categories of users (e.g., public safety organizations, medical care facilities, etc.) or should it be more generally available? We also seek comment on whether we should adopt equipment-related hardware requirements and operational parameters similar to those adopted for indoor services in the 5.9 GHz and 6 GHz bands given that users in those bands are, in some cases, deploying low-power devices similar to Category A CBSDs and, if we did so, whether we would need to make any adjustments for 3.5 GHz band operations?

79. In addition, some network operators may be interested in using 3.5 GHz spectrum to operate drones within the confines of their indoor facilities. Such airborne operations are prohibited by the current service rules.[215] Given that building attenuation is a key factor in minimizing potentially harmful interference from indoor access points to incumbent receivers, should the Commission expressly allow the operation of drones connected to various low-power access points within a single structure or building? Would such operations be possible without causing harmful interference to higher tier operations? How would SAS administrators coordinate indoor drone operations? Would such operations benefit from some amount of reserved GAA spectrum (akin to the CAF model)?[216]

80. Finally, we seek comment on whether a GAA spectrum reservation system—or other methods—could be used to facilitate and support the growing interest in private networks more generally. For instance, could a CAF-like GAA spectrum reservation system be used to support some outdoor private networks in geographically contained areas (e.g., corporate campuses or manufacturing facilities)? What effects would such a system have on spectrum access for other Citizens Broadband Radio Service users and the overall spectrum environment in the band? Are there other technical or policy approaches that we should consider to support deployment of private networks in the 3.5 GHz band? We ask that commenters submit detailed technical and/or economic analysis to support their positions, including assessments of the overall impact on spectrum availability and the potential effects on both incumbent operators and other Citizens Broadband Radio Service users.

3. GAA User Coexistence

81. To ensure flexibility for the development of the 3.5 GHz band, the Commission encouraged private industry to develop and implement the parameters of GAA coexistence. Section 96.35 of the Commission's rules sets forth the terms by which GAA users can access and use spectrum in the band.[217] The rules require GAA users operating Category B CBSDs to make every effort to cooperate in the selection and use of available frequencies provided by a SAS to minimize the potential for interference and make the most effective use of the authorized facilities.[218] GAA users must also make every effort to ensure that their CBSDs operate at a location, and with technical parameters, that will minimize the potential to cause and receive interference among CBSDs. Operators of CBSDs suffering

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growing at a rate of 24.1% from 2022 to 2030 and that the global private LTE market size is expected to reach $10.77 Billion in 2028); *see also supra* para. 16.

[215] 47 CFR § 96.39(h).

[216] *See supra* n.197.

[217] 47 CFR § 96.35.

[218] *Id.*

from or causing harmful interference are expected to cooperate and resolve interference problems through technological solutions or by other mutually satisfactory arrangements.[219]

82. As GAA use has rapidly increased in the past four years, the potential for conflict among and between GAA users has increased as well. Industry reports suggest that operators are using the 3.5 GHz band on a GAA basis to address a wide variety of use cases, including operations within factories, cities, hospitals, research centers, schools, public libraries, and utilities.[220] As the number of GAA users continues to rise, the ability of GAA users to operate in the same spectrum band under a dynamic spectrum sharing ecosystem managed by SASs may become more challenging.

83. We note that it is Commission policy to "be proactive in supporting 'good neighbor' policies that promote more efficient and effective co-existence among spectrum users."[221] Accordingly, we seek comment on whether we should adopt rules to ensure equitable treatment of different GAA operators.[222] Specifically, we seek comment on whether there are new rules, or clarifications of current rules, that could foster coexistence and preempt disputes among GAA users in a manner that will also advance GAA spectrum use and continued deployment of the Citizens Broadband Radio Service. Alternately, would the development of specific coexistence criteria be better left to multistakeholder groups? What would be the costs and benefits of any such rule changes and what impact would they have on existing and future GAA deployments? What role should the SASs play in monitoring GAA users' compliance with any such new rules? How could such rules be equitably enforced by the Commission? Commenters are encouraged to provide specific proposals, along with supporting technical and cost-benefit analyses, to support their proposals.[223]

84. *Conforming Changes.* We take this opportunity to propose non-substantive edits to two rule sections we are otherwise revising, sections 96.15, 96.17, and 96.30, to conform to the current stylistic requirements of the Office of the Federal Register.[224]

85. *Promoting Digital Equity and Inclusion.* The Commission, as part of its continuing effort to advance digital equity for all, 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 considerations, and invites comment on any benefits (if any) that may be associated with the proposals and issues discussed herein.[225] Specifically, we seek comment on how our proposals may promote or inhibit advances in

[219] *Id.*

[220] *See supra* section II.D (discussing the current state of the Citizens Broadband Radio Service); *see also* Industry Coalition Letter at 1; Jennifer McCarthy, *Reshaping the Wireless Ecosystem with CBRS (Reader Forum)* (Feb. 2, 2023), https://www.rcrwireless.com/20230202/spectrum/reshaping-the-wireless-ecosystem-with-cbrs-reader-forum.

[221] *Principles for Promoting Efficient Use of Spectrum and Opportunities for New Services; Promoting Efficient Use of Spectrum through Improved Receiver Interference Immunity Performance*, ET Docket Nos. 23-122, Policy Statement, FCC 23-27, at para. 20 (2023).

[222] *CSMAC September 2023 Briefing* (recommending improved coexistence management for GAA).

[223] Several respondents mentioned to CSMAC that GAA coexistence can be problematic. *See CSMAC CBRS Report* at 6, 7, 9, 14.

[224] Office of the Federal Register, National Archives and Records Administration, *Document Drafting Handbook* (Aug. 2018 Edition, rev. 2.1, dated Oct. 2023), https://www.archives.gov/files/federal-register/write/handbook/ddh.pdf (last visited May 22, 2024); Office of the Federal Register, National Archives and Records Administration, *Incorporation by Reference Handbook* (June 2023 Edition, ed. Rev. Aug. 28, 2023), https://www.archives.gov/files/federal-register/write/handbook/ibr.pdf (last visited Oct. 4, 2023).

[225] 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. The term "equity" is used here consistent with Executive Order 13985 as the consistent and

(continued….)

diversity, equity, inclusion, and accessibility, as well as the scope of the Commission's relevant legal authority.

IV. DECLARATORY RULING

86. In addition to seeking comment on proposed changes to our rules in the NPRM, we also adopt a Declaratory Ruling to clarify section 96.55(a) of our rules. Section 96.55(a)(3) provides that "SAS Administrators shall not disclose specific CBSD registration information to the general public except where such disclosure is authorized by the registrant." Through this Declaratory Ruling, we confirm that NTIA and DoD are not considered "the general public" for purposes of this information disclosure provision.[226]

87. We recognize that NTIA and DoD possess equitable interests as government agencies that manage and hold co-primary spectrum rights in the 3.5 GHz band. We also note that NTIA and DoD have been critical partners in every phase of this proceeding and they are actively engaged in ongoing efforts to refine federal protection criteria and apply technical solutions to maximize commercial access to the 3.5 GHz spectrum and facilitate CBSD deployments in the band. To date, the part 96 information disclosure rule does not specify explicitly that NTIA and DoD are not considered "the general public." By adopting this clarification, we ensure that NTIA and DoD can access CBSD registration information if either government agency requests such information from any SAS. On our own motion, we confirm that NTIA and DoD are not considered "the general public" under section 96.55(a).

V. PROCEDURAL MATTERS

88. *Ex Parte Communications*. The proceeding this NPRM initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[227] 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. We find that all *ex parte* presentations made by NTIA

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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).

[226] 47 CFR § 96.55(a)(3).

[227] *Id.* § 1.1200 *et seq.*

or Department of Defense representatives relating to the development and implementation of spectrum access in the 3.5 GHz band are exempt under our exemption for presentations by federal agencies sharing jurisdiction with the Commission.[228]

89. WTB and OET staff—in close collaboration with NTIA and DoD—communicate with SAS administrators and ESC operators in providing Commission staff oversight of the administration of sharing the 3.5 GHz band.[229] We determine the ongoing communications are not subject to the permit-but-disclose requirements of the pending proceeding because the communications are not directed to the merits or outcome of the proceeding (i.e., not presentations) and instead relate to the procedural matters of WTB and OET oversight of the SASs and ESCs as delegated by the Commission.[230] The Commission will not seek to rely on the SAS/ESC oversight conversations in the pending proceeding.[231] If a SAS administrator or ESC operator wishes to provide feedback that is directed to the merits of this proceeding, it may do so using the comment filing procedures detailed in this section.

90. *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).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS at 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 hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
    - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
    - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
    - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

91. *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).

92. *Availability of Documents*. Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, when FCC Headquarters reopen to the public.

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[228] *See* 47 CFR § 1.1204(a)(5).

[229] *See* 47 CFR §§ 0.241(j), 0.331(f); *3.5 GHz First Report and Order*, 30 FCC Rcd at 4067, 4070, paras. 369-70, 386; *3.5 GHz Second Report and Order*, 31 FCC Rcd at 5093, para. 278.

[230] 47 CFR § 1.1202.

[231] *See id*. pt. 1, subpt. H.

93. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA),[232] 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."[233] Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible/potential impact of the rule and policy change proposals contained in this *Notice of Proposed Rulemaking*. The IRFA is set forth in Appendix B. The Commission invites the general public, particularly small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *Notice of Proposed Rulemaking* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

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

95. *Providing Accountability Through Transparency Act*: Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of this document is available on https://www.fcc.gov/proposed-rulemakings.

96. *Further Information*. For additional information on this proceeding, contact Paul Powell of the Wireless Telecommunications Bureau, Mobility Division, at paul.powell@fcc.gov or (202) 418-1613.

VI. ORDERING CLAUSES

97. Accordingly, IT IS ORDERED, pursuant to sections 1, 2, 4(i), 4(j), 301, 302a(a), 303, and 307(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 301, 302a(a), 303, and 307(e), and section 1.2 of the Commission's rules, 47 CFR § 1.2, that this Notice of Proposed Rulemaking and Declaratory Ruling in GN Docket No. 17-258 IS ADOPTED.

98. IT IS FURTHER ORDERED that, pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, this Declaratory Ruling SHALL BE EFFECTIVE upon release.

99. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, 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

[232] *See* 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).

[233] *Id*. at § 605(b).

APPENDIX A

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 90 and 96 as follows:

PART 90—LAND MOBILE RADIO SERVICE

1. The authority citation for part 90 continues to read as follows:

AUTHORITY: 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), 1401–1473.

2. Revise § 90.1301 to read as follows:

§ 90.1301 Scope

Wireless operations in the 3650-3700 MHz band are part of the Citizens Broadband Radio Service, as set forth in part 96 of this chapter.

§§ 90.1303 through 90.1338 [REMOVED]

3. Remove §§ 90.1303 through 90.1338.

PART 96—CITIZENS BROADBAND RADIO SERVICE

4. The authority citation for part 96 continues to read as follows:

AUTHORITY: 47 U.S.C. 154(i), 303, and 307.

5. Amend § 96.3 as follows:

a. Add the definitions of "Dynamic Protection Area", "Dynamic Protection Area Neighborhoods", and "Scheduling Portal";

b. Revise the definition of "Exclusion Zone" and "Incumbent user"; and

c. Remove the definitions of "Grandfathered wireless broadband licensee", "Grandfathered wireless protection zone", and "Protection zone".

§ 96.3 Definitions.

* * * * *

Dynamic Protection Area (DPA). DPAs are geographic protection areas, extending from the coastline into the ocean or enclosing a protected federal facility, which may be activated or deactivated as necessary to protect Department of Defense (DOD) radar systems. DPAs are activated when DoD radar systems are using the band—as communicated to a Spectrum Access System (SAS) by either an Environmental Sensing Capability (ESC) or Scheduling Portal—signaling that federal incumbents in the DPA must be protected from Citizens Broadband Radio Service operations within the active frequency range.

(1) Coastal DPAs are geographic protection areas located along the Coastline to protect shipborne radar systems and designated port facilities. Coastal DPAs are activated consistent with information received by an SAS from an ESC.

(2) Portal-Activated DPAs (P-DPAs) are geographic protection areas located around designated federal facilities or coastal areas that utilize a dedicated Scheduling Portal to schedule federal operations in the 3.5 GHz band. P-DPAs are activated consistent with information received by an SAS from a Scheduling Portal.

(3) Always Activated DPAs are geographic protection areas that are always considered to be in active use by federal operators. These DPAs protect a limited number of federal radar systems by limiting the maximum aggregate received power level from the CBSDs at the location of the protected radar antenna aperture.

Dynamic Protection Area (DPA) Neighborhoods. A DPA neighborhood is the area in which registered CBSDs may cause interference to incumbent operations in activated DPAs. The SAS may direct CBSDs within DPA Neighborhoods to cease operations, reduce transmit power, or relocate to a non-interfering frequency when the associated DPA is activated.

Exclusion Zone. A geographic area wherein no CBSD shall operate without the express consent of NTIA. Exclusion Zones shall be enforced and maintained by the SASs.

Incumbent user. A federal entity authorized to operate on a primary basis in accordance with the table of frequency allocations, or a fixed satellite service operator.

Scheduling portal. A calendar-based system, authorized by the Commission, that supports the scheduling and communication of federal spectrum use within designated P-DPAs to SASs.

§ 96.7 [Amended]

6. Amend § 96.7 by removing paragraph (c).

§ 96.11 [Amended]

7. Amend § 96.11 by removing paragraph (a)(3).

§ 96.13 [Amended]

8. Amend § 96.13 by removing "Grandfathered Wireless Broadband Licensees and" from paragraph (b).

9. Amend § 96.15 as follows:

a. Revise paragraphs (a)(2), (a)(3), (a)(5), and (a)(6).

b. Revise paragraph (b)(2);

c. Remove paragraph (b)(3); and

d. Revise and redesignate paragraph (b)(4) as paragraph (b)(3).

The revisions read as follows:

§ 96.15 Protection of federal incumbent users.

(a) * * *

(1) * * *

(2) The SAS shall only authorize the use of CBSDs consistent with information on federal frequency use as provided in this section.

(3) The SAS shall protect federal incumbent sites using DPAs—including Coastal DPAs, P-DPAs, and Always Activated DPAs—and Exclusion Zones. A DPA may be activated when DoD radar systems are active within the DPA. The SAS shall protect each activated DPA from aggregate CBSD interference within the active frequency range.

(i) The specific coordinates and protection requirements for all DPAs, DPA Neighborhoods, and Exclusion Zones are maintained by NTIA and are publicly available at: https://www.ntia.doc.gov/fcc-filing/2015/ntia-letter-fcc-commercial-operations-3550-3650-mhz-band.

(ii) NTIA shall notify the Commission in writing if and when the list of DPA-protected federal radiolocation sites and Exclusion Zones is to be updated or the methodology used to protect specific sites is to be changed.

(iii) The SAS must treat Coastal DPAs as activated prior to approved ESC sensor deployment and if ESC sensors lose contact with the SAS.

(4) * * * * *

(5) The Commission will, as necessary, add or modify DPAs and Exclusion Zones to protect current and future federal Incumbent Users and will notify the public prior to implementation.

(6) The Commission may temporarily extend or modify DPAs and Exclusion Zones to protect temporary operations by federal Incumbent Users and will notify the public prior to implementation. Federal Incumbent Users will coordinate with the Commission prior to the beginning of any non-emergency operation requiring additional protection. Such modifications will be communicated to the SAS along with the expiration date and time of any modification.

(b) * * *

(1) * * *

(2) Exclusion Zones shall be maintained for an 80 km radius around the federal radiolocation sites listed in § 2.106(c)(109) of this chapter.

(3) If the President of the United States (or another designated Federal Government entity) issues instructions to discontinue use of CBSDs pursuant to 47 U.S.C. 606, SAS Administrators must instruct CBSDs to cease operations as soon as technically possible.

10. Amend § 96.17 by revising paragraph (a)(1) to read as follows:

§ 96.17 Protection of existing fixed satellite service (FSS) earth stations in the 3600-3700 MHz Band and the 3700-4200 MHz Band

(a) * * *

(1) FSS earth stations in the 3650–3700 MHz band will be afforded protection consistent with this section.

* * * * *

§ 96.21 [Removed]

11. Remove § 96.21

12. Amend § 96.30 by revising paragraph (a)(2) to read as follows:

§ 96.30 Designated entities in the Citizens Broadband Radio Service.

(a) * * *

(1) * * *

(2) A very small business is an entity that, together with its affiliates, its controlling interests, and the affiliates of its controlling interests, has average gross revenues not exceeding $20 million for the preceding three years.

§ 96.39 [Amended]

13. Amend § 96.39 by removing "Equipment deployed by Grandfathered Wireless Broadband Licensees during their license term will be exempt from this requirement" from paragraph (b).

14. Amend § 96.53 as follows:

a. Revise paragraphs (e) and (f);

b. Remove "and 96.21" from paragraphs (g) and (h);

c. Remove and reserve paragraph (m);

d. Add paragraph (p).

The revisions and additions read as follows:

§ 96.53 Spectrum access system purposes and functionality.

* * * * *

(e) To retain information on, and enforce, DPAs and Exclusion Zones in accordance with §§ 96.15 and 96.17.

(f) To communicate with the ESC to obtain information about federal Incumbent User transmissions within Coastal DPAs and instruct CBSDs operating within the associated DPA Neighborhoods to move to another frequency range or cease transmissions to prevent interference to federal Incumbent Users within activated Coastal DPAs.

* * * * *

(m) [Remove and Reserve]

* * * * *

(p) To use a Scheduling Portal to obtain information about federal Incumbent User transmissions within P-DPAs and instruct CBSDs operating within the associated DPA Neighborhoods to move to another frequency range or cease transmissions to prevent interference to federal Incumbent Users within activated P-DPAs.

15. Amend § 96.55 by removing the phrase "and Protection Zones" from paragraph (a) introductory text and adding paragraph (a)(5)

§ 96.55 Information gathering and retention.

(a) * * *

(5) Upon request, SAS Administrators must make CBSD registration information available to NTIA and DoD for any designated geographic area, frequency range, or time period.

16. Amend § 96.57 by revising paragraph (d) to read as follows:

§ 96.57 Registration, authentication, and authorization of Citizens Broadband Radio Service Devices

* * * * *

(d) A SAS must not authorize operation of CBSDs within Exclusion Zones, DPAs, or DPA Neighborhoods except as set forth in § 96.15.

17. Amend § 96.67 by revising paragraph (d) to read as follows:

§ 96.67 Environmental sensing capability.

* * * * *

(d) ESC equipment shall be deployed in the vicinity of Coastal DPAs to accurately detect federal Incumbent User transmissions.

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in the *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 provided in the *Notice*. 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*, the Commission proposes to make specific adjustments to the regulatory framework of the Citizens Broadband Radio Service spectrum sharing model in order to better protect federal operations and to maximize the amount of spectrum available for commercial broadband. Additionally, the *Notice* seeks to improve the technical and service rules for the 3.5 GHz band to reflect changes in the operational environment for both Priority Access License (PAL) licensees and Citizens Broadband Radio Service licensees by soliciting and obtaining feedback from Citizens Broadband Radio Service users, equipment manufacturers, prospective operators, and other stakeholders. Through comments, the Commission seeks to identify how we can best support the Commission's goals of achieving continued growth in the Citizens Broadband Radio Service, fostering innovation, and building on the novel three-tiered sharing regime that was created to facilitate real-time spectrum sharing in the band.

3. As discussed above, the *Notice* is a continuation of the Commission's efforts since the *3.5 GHz First Report and Order*[4] was adopted to work with our federal partners and industry stakeholders towards developing and implementing refinements to improve and expand spectrum access in the 3.5 GHz band. The *Notice* proposes specific adjustments to the regulatory framework of the Citizens Broadband Radio Service to better protect federal operations and to maximize the amount of spectrum available for commercial broadband. To facilitate these goals, the *Notice* seeks comment on a variety of matters such as making improvements to the part 96 rules that protect federal incumbent users in the 3.5 GHz band, modifying technical rules to optimize the potential uses of the band for the next generation of wireless services, while minimizing the impact on adjacent band incumbents consistent with the public interest; improving operating rules and regulatory issues, and measures to ensure professional installation and facilitate General Authorized Access (GAA) user coexistence in the band.[5] Beyond federal protection measures, the *Notice* also seeks comment on whether changes to the part 96 technical and service rules are necessary to clarify our information disclosure requirements, align out of band emissions (OOBE) limits with those in adjacent bands, permit higher power levels; relax Spectrum Access Systems (SAS)[6] connectivity requirements, impose Time Division Duplex (TDD) coordination procedures, update

[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. 857 (1996).

[2] 5 U.S.C. § 603(a).

[3] *Id*.

[4] *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 (2015) (*3.5 GHz First Report and Order* or *Second FNPRM*, as applicable).

[5] 47 U.S.C. § 309(j)(1).

protection measures for certain grandfathered incumbent licensees, address issues surrounding professional installation, accommodate private networks and low power indoor facilities, or adopt guidelines to encourage GAA user coexistence.

B. Legal Basis

4. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(j), 301, 302a(a), 303, and 307(e) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 301, 302a(a), 303, and 307(e).

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

5. 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.[7] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[8] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[9] 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 SBA.[10]

6. *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, at the outset, three broad groups of small entities that could be directly affected herein.[11] 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.[12] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.[13]

7. 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."[14] The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual

(Continued from previous page)

[6] SASs serve as advanced, highly automated frequency coordination systems that assign spectrum within the band and coordinate access between and among the three tiers of users. The service and technical rules governing the 3.5 GHz band were adopted as the new part 96 of the Commission's rules. *See* 47 CFR part 96. SAS administrators and ESCs work in tandem to coordinate shared spectrum use in real-time.

[7] 5 U.S.C. § 603(b)(3).

[8] *Id*. at § 601(6).

[9] *Id*. § 601(3) (incorporating by reference the definition of "small business concern" in 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."

[10] 15 U.S.C. § 632.

[11] 5 U.S.C. § 601(3)-(6).

[12] *See* SBA, Office of Advocacy, "What's New With Small Business?," https://advocacy.sba.gov/wp-content/uploads/2023/03/Whats-New-Infographic-March-2023-508c.pdf (Mar. 2023).

[13] *Id*.

[14] 5 U.S.C. § 601(4).

electronic filing requirements for small exempt organizations.[15] Nationwide, for tax year 2022, there were approximately 530,109 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.[16]

8. 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."[17] U.S. Census Bureau data from the 2022 Census of Governments[18] indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[19] Of this number, there were 36,845 general purpose governments (county,[20] municipal, and town or township[21]) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts[22]) with enrollment

[15] 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. S*ee* 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. 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.

[16] *See* Exempt Organizations Business Master File Extract (EO BMF), "CSV Files by Region," https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf. The IRS Exempt Organization Business Master File (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 2022 with revenue less than or equal to $50,000 for Region 1-Northeast Area (71,897), Region 2-Mid-Atlantic and Great Lakes Areas (197,296), and Region 3-Gulf Coast and Pacific Coast Areas (260,447) that includes the continental U.S., Alaska, and Hawaii. This data includes information for Puerto Rico (469).

[17] 5 U.S.C. § 601(5).

[18] 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/economic-census/year/2022/about.html.

[19] *See* U.S. Census Bureau, 2022 Census of Governments – Organization Table 2. Local Governments by Type and State: 2022 [CG2200ORG02], https://www.census.gov/data/tables/2022/econ/gus/2022-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* tbl.2. CG2200ORG02 Table Notes_Local Governments by Type and State_2022.

[20] *See id.* at tbl.5. County Governments by Population-Size Group and State: 2022 [CG2200ORG05], https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html. There were 2,097 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

[21] *See id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2022 [CG2200ORG06], https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html. There were 18,693 municipal and 16,055 town and township governments with populations less than 50,000.

[22] *See id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2022 [CG2200ORG10], https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html. There were 11,879 independent school districts with enrollment populations less than 50,000. *See also* tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2022 [CG2200ORG04], CG2200ORG04 Table Notes_Special Purpose Local Governments by State_Census Years 1942 to 2022.

populations of less than 50,000.[23] Accordingly, based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 entities fall into the category of "small governmental jurisdictions."[24]

9. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[25] 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.[26] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[27] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[28] Of that number, 2,837 firms employed fewer than 250 employees.[29] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services.[30] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.[31] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

10. *Radio Frequency Equipment Manufacturers (RF Manufacturers).* There are several analogous industries with an SBA small business size standard that are applicable to RF Manufacturers. These industries are Fixed Microwave Services, Other Communications Equipment Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. A description of these industries and the SBA small business size standards are detailed below.

11. *Fixed Microwave Services.* Fixed microwave services include common carrier,[32] private-operational fixed,[33] and broadcast auxiliary radio services.[34] They also include the Upper Microwave

[23] While the special purpose governments category also includes local special district governments, the 2022 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

[24] 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 (36,845) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (11,879), from the 2022 Census of Governments - Organizations tbls. 5, 6 & 10.

[25] *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.

[26] *Id.*

[27] *See* 13 CFR § 121.201. (NAICS Code 517312 (as of 10/1/22, NAICS Code 517112)).

[28] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[29] *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.

[30] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[31] *Id.*

[32] 47 CFR Part 101, Subparts C and I.

[33] 47 CFR Part 101, Subparts C and H.

[34] Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. *See* 47 CFR Part 74. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary

(continued….)

Flexible Use Service (UMFUS),[35] Millimeter Wave Service (70/80/90 GHz),[36] Local Multipoint Distribution Service (LMDS),[37] the Digital Electronic Message Service (DEMS),[38] 24 GHz Service,[39] Multiple Address Systems (MAS),[40] and Multichannel Video Distribution and Data Service (MVDDS),[41] where in some bands licensees can choose between common carrier and non-common carrier status.[42] Wireless Telecommunications Carriers (*except* Satellite)[43] is the closest industry with an SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[44] U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.[45] Of this number, 2,837 firms employed fewer than 250 employees.[46] Thus, under the SBA size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

12. The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in Part 101 of the Commission's rules for the specific fixed microwave services frequency bands.[47]

13. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect

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microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[35] 47 CFR Part 30.

[36] 47 CFR Part 101, Subpart Q.

[37] *Id*. Subpart L.

[38] *Id*. Subpart G.

[39] *Id*.

[40] *Id.* Subpart O.

[41] *Id*. Subpart P.

[42] 47 CFR §§ 101.533, 101.1017.

[43] U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers* (*except Satellite*)," https://www.census.gov/naics/?input=517312&year=2017&details=517312.

[44] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[45] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[46] *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.

[47] *See* 47 CFR §§ 101.538(a)(1)-(3), 101.1112(b)-(d), 101.1319(a)(1)-(2), and 101.1429(a)(1)-(3).

data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

14. *Other Communications Equipment Manufacturing*. This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment).[48] Examples of such manufacturing include fire detection and alarm systems manufacturing, Intercom systems and equipment manufacturing, and signals (e.g., highway, pedestrian, railway, traffic) manufacturing.[49] The SBA small business size standard for this industry classifies firms having 750 or fewer employees as small.[50] For this industry, U.S. Census Bureau data for 2017 shows that 321 firms operated for the entire year.[51] Of that number, 310 firms operated with fewer than 250 employees.[52] Based on this data, we conclude that the majority of Other Communications Equipment Manufacturers are small.

15. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing*. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.[53] Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.[54] The SBA small business size standard for this industry classifies firms having 1,250 employees or less as small.[55] U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.[56] Of this number, 624 had fewer than 250 employees.[57] Based on this data, we conclude that a majority of manufacturers in this industry are small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

16. The Commission expects the rules proposed in the *Notice* will impose new and/or additional reporting or recordkeeping and/or other compliance obligations on small entities as well as

[48] *See* U.S. Census Bureau, *2017 NAICS Definitions, "334290 Other Communications Equipment Manufacturing,*" https://www.census.gov/naics/?input=334290&year=2017&details=334290.

[49] *Id.*

[50] *See* 13 CFR § 121.201, NAICS Code 334290.

[51] *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 334290, https://data.census.gov/cedsci/table?y=2017&n=334290&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[52] *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.

[53] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,*" https://www.census.gov/naics/?input=334220&year=2017&details=334220.

[54] *Id.*

[55] *See* 13 CFR § 121.201, NAICS Code 334220.

[56] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 334220, https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[57] *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.

other applicants and licensees, if adopted. We also note that in addition to the proposed rule changes discussed above, there will likely be other new compliance obligations that emerge based on feedback received through comments. The reporting, recordkeeping and other compliance obligations proposed for small entities and other licensees are described below.

17. In order to comply with the proposed rules, should they be adopted, small entities and other licensees would be subject to certain technical rules established to maximize the flexible use of the 3.5 GHz band spectrum while minimizing the impact on adjacent band incumbents, an approach that is consistent with the public interest. In addition to aligning the technical rules for this band with those adopted in the 3.7 GHz band, we propose and seek comment on technical rules regarding power limits, out-of-band emissions limits, antenna height limits, service area boundary limits, international coordination requirements, and any other technical rules that will most effectively meet our objectives of optimizing use of the band without causing harmful interference to new, non-federal licensees and federal incumbents operating in adjacent bands.

18. Small entities may be required to hire attorneys, engineers, consultants, or other professionals to comply with the proposed rules in the *Notice,* if adopted. In particular, for small entities that are not existing operators and do not have existing staffing dedicated to regulatory compliance, engineering and legal expertise may be necessary to make the requisite filings and to demonstrate compliance with the proposed performance obligations. At this time, while the Commission cannot quantify the cost of compliance with the proposed rule changes, we note that several of the proposed changes are consistent with and mirror existing policies and requirements used for other part 27 flexible use licenses. Therefore, small entities with existing licenses in other bands may already be familiar with such policies and requirements and have the processes and procedures in place to facilitate compliance resulting in minimal incremental costs for compliance should similar requirements be adopted for 3.5 GHz band spectrum. We also note that for most of the proposals and requests for comments in the *Notice,* the Commission also requests a cost and benefit analysis. The Commission expects that the information it receives in comments will help it to identify and evaluate all relevant matters associated with the proposed reallocation and the relocation of public safety operations out of the band, including compliance costs and other burdens on small entities.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

19. The RFA requires an agency to describe any significant alternatives that could minimize impacts to small entities 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."[58] In the *Notice*, the Commission has taken steps to minimize the economic burden on small entities that may occur if some of the proposed rule changes are adopted, and has also considered significant alternatives throughout the development of our proposals in the *Notice*.

20. *CBSD Information Availability.* Given the rapid and ongoing growth of commercial deployments in the band—along with stakeholder interest in increased transparency, in the *Notice* we considered whether the existing information disclosure rules provide sufficient data for current and future Citizens Broadband Radio Service users to plan their network deployments and to make informed decisions regarding investments in the band. Specifically, we considered whether the best approach would be to modify our disclosure rules to reinstate the original information for disclosure requirements, or whether implementing an alternative approach would be the more prudent course of action. In the

[58] 5 U.S.C. § 603(c)(1)-(4).

Notice, we seek comment on this matter, and request that commenters seeking alternative disclosure rules, including a reversion to the original information disclosure requirements, should explain how their approach would balance existing operator interest in protecting sensitive network information with the legitimate information needs of prospective service providers.

21. *Technical Rules*. In the *Notice*, the Commission also considers whether there are opportunities to revise the rules governing the 3.5 GHz band to align the protection of specific federal systems and facilities given the spectrum sharing framework adopted in the adjacent 3.45 GHz band. Specifically, we considers whether 3.5 GHz protection methodologies could be aligned with 3.45 GHz protections —for the same systems and facilities— to increase commercial access to the band while maintaining necessary protection for federal incumbent users. The *Notice* focuses its inquiry on whether there are opportunities to create efficiencies by modifying the protection mechanisms in the 3.5 GHz band to better align with those in the 3.45 GHz band.

22. *Certified Professional Installation.* Noting the importance of accurate location reporting by professional installers to SASs, particularly in terms of its impact on the ability of SASs to properly manage spectrum use in the band, the Commission strongly encouraged the SAS and Citizens Broadband Radio Service user community, through multistakeholder fora or industry associations, to develop programs for accrediting professional installers who will receive training in the relevant part 96 rules and associated technical best practices.[59] The Wireless Telecommunications Bureau (WTB) and the Office of Engineering and Technology (OET) issued a public notice detailing what SASs must demonstrate in their ICD proposals, including a description of "Professional Installation" as "[t]he process that a certified professional installer (CPI) would follow to register CBSDs/DPs during ICD and an explanation regarding how that professional installation will ensure the SAS can accurately locate devices in compliance with part 96."[60] The *Notice* seeks comment on the efficacy of the current professional installation regime and whether any rule changes are needed to ensure that CBSDs are properly installed and maintained correctly. Commenters are encouraged to provide specific feedback and to consider the costs and benefits for various use cases and network deployments.

23. *Guidelines for GAA user coexistence.* In the *Notice*, the Commission also considered whether to adopt rules to ensure equitable treatment of different GAA operators. Specifically, we considered whether there are new rules, or clarifications of current rules, that could foster coexistence and preempt disputes among GAA users in a manner that will also advance GAA spectrum use and continued deployment of the Citizens Broadband Radio Service. The *Notice* asks what the costs and benefits are of any such rule changes as well as what impact they would have on existing and future GAA deployments. The *Notice* also asks how such rules could be equitably enforced by the Commission. Commenters are encouraged to provide specific proposals, along with supporting technical and cost-benefit analyses, to support their proposals.

24. Further, the Commission considered different proposals and potential questions that might emerge from those proposals in order to help identify whether small entities face any special or unique issues with respect to buildout requirements and other requirements that would require certain alternatives, such as through different accommodations or by incorporating additional time for small

[59] *See 3.5 GHz First Report and Order*, 30 FCC Rcd at 4028, para. 222.

[60] *See ICD Proposals Public Notice*, 33 FCC Rcd at 7392-93, para. 7. WInnForum has developed standards and a program to approve CPIs that successfully complete their training in the relevant part 96 rules and the associated technical best practices, in response to the Commission's strong encouragement to multistakeholder groups and industry associations in the *3.5 GHz First Report and Order*. *See ICD Proposals Public Notice*, 33 FCC Rcd at 7393 n.18. *See also* Wireless Innovation Forum, Document WINNF-TS-0112-V1.9.1, *Requirements for Commercial Operation in the U.S. 3550- 3700 MHz Citizens Broadband Radio Service Band*, at 67-71 (Certified Professional Installer Requirements) (March 11, 2020), https://winnf.memberclicks.net/assets/CBRS/WINNF-TS-0112.pdf.

entities to comply. The Commission also seeks comment on modifications that could be made to the Commission's rules regarding administrative processes in order to reduce the economic impacts of the proposed rule changes on small entities. By specifically targeting comments from small entities the Commission hopes to obtain the requisite data to allow it to evaluate the most cost-effective approach to minimize the economic impact for such entities, while achieving its statutory objectives.

25. Additionally, to assist with the Commission's evaluation of the economic impact on small entities that may result from the actions and alternatives that have been proposed in this proceeding, the *Notice* seeks alternative proposals and requests additional information on the potential costs of such alternatives to licensees. The Commission expects to consider more fully the economic impact on small entities following its review of comments filed in response to the *Notice*, including costs and benefits information. Alternative proposals and approaches from commenters could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities from the final rules that are ultimately adopted.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

26. None.

STATEMENT OF
COMMISSIONER GEOFFREY STARKS

Re: *Promoting Investment in the 3550-3700 MHz band,* GN Docket No. 17-258, Notice of Proposed Rulemaking and Declaratory Ruling

Spectrum is often discussed in zero-sum terms; more for some means less for others. With this item however, we're showing that there's a different approach. One that creates more spectrum opportunities for all. As I've said before, a rising tide that lifts all boats.

The Citizens Broadband Radio Service (CBRS) band is a first of its kind governance model that leverages spectrum sharing to drive wireless innovation while ensuring federal users are protected. Through a blend of priority licenses and general access, commercial users have more options to meet their needs than ever before. Whether that's mobile carriers supplementing their networks with valuable capacity or a school providing connectivity for its students, it is clear that CBRS is working.

This item also shows the power of federal collaboration. The modernizations in this item would not be possible without the expertise of the NTIA and Department of Defense. Their teamwork is proof positive that protecting national security operations and supporting commercial innovation are not mutually exclusive ideas. In fact, quite the opposite is true. Both are necessary components of sustained American leadership.

I want to thank Chairwoman Rosenworcel for working with me to include several additions that will facilitate continued improvements to the CBRS band moving forward. As the enhancements we're adopting today show, CBRS is an iterative band, continually evolving to meet the needs of its users. This is one of the great strengths of the CBRS band. By requesting additional real-world information from the field, we're collecting data that will serve as a down payment to future evolutions of CBRS. This data can drive innovations not just in CBRS, but future sharing models.

STATEMENT OF
COMMISSIONER ANNA GOMEZ

Re: *Promoting Investment in the 3500-3700 MHz band*, Notice of Proposed Rulemaking and Declaratory Ruling, GN Docket No. 17-258

I want to commend the staff at the FCC, NTIA, and Department of Navy for their exemplary and successful coordination of the 3.5 GHz band for CBRS operations. Purposeful collaboration led to an innovative spectrum sharing framework – a three-tiered regime that allows new commercial users access to spectrum while protecting incumbent federal users and critical missions. Now, not only are we seeing the success of a dynamic shared spectrum framework, but our collaborations are leading to targeted and iterative improvements that better protect federal operations and create more spectrum access for broadband.

We are stronger when we work together. We have demonstrated that shared spectrum schemes are not only possible, but successful, and can scale up to incorporate developments, protect incumbents, and create more access. The 3.5 GHz band is an example of innovative spectrum policy in a world where greenfield spectrum is scarce. I look forward to supporting more successful collaborations and modeling cooperation in spectrum policy globally.

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

In the Matter of	)	
	)	
Cunningham Broadcasting Corporation, Ultimate Parent of Licensee Stations WEMT, Greeneville, Tennessee; WMYA, Anderson, South Carolina; WPFO, Waterville, Maine; WTTE, Columbus, Ohio; WYDO, Greenville, North Carolina; KTXD-TV, Greenville, Texas	)	NAL/Acct. No.202241420017 FRN: 0003778552 Facility ID Nos. 40761, 56548, 84088, 74137, 35582, and 42359
	)	
Deerfield Media (Port Arthur), Inc. Licensee of Station KBTV-TV Port Arthur, Texas	)	NAL/Acct. No. 202241420018 FRN: 0021989033 Facility ID No. 61214
	)	
Deerfield Media (San Antonio), Inc. Licensee of Station KMYS Kerrville, Texas	)	NAL/Acct. No. 202241420019 FRN: 0022238778 Facility ID No. 5158
	)	
Deerfield Media (Rochester), Inc. Licensee of Station WHAM-TV Port Arthur, Texas	)	NAL/Acct. No. 202241420020 FRN: 0022244495 Facility ID No. 73371
	)	
Deerfield Media (Cincinnati), Inc. Licensee of Station WSTR-TV Cincinnati, Ohio	)	NAL/Acct. No. 202241420021 FRN: 0022238810 Facility ID No. 11204
	)	
GoCom Media of Illinois, LLC Licensee of Station WBUI, Decatur, Illinois	)	NAL/Acct. No. 202241420022 FRN: 0015021157 Facility ID No. 16363
	)	
Manhan Media, Inc. Licensee of Station WWHO, Chillicothe, Ohio	)	NAL/Acct. No. 202241420025 FRN: 0021241484 Facility ID No. 21158
	)	
Mercury Broadcasting Company, Inc. Licensee of Station KMTW, Hutchinson, Kansas	)	NAL/Acct. No. 202241420026 FRN: 0004995882 Facility ID No. 77063
	)	
Mitts Telecasting Company, LLC Licensee of Station KXVO, Omaha, Nebraska	)	NAL/Acct. No. 202241420027 FRN: 0019424746 Facility ID No. 23277
	)	
MPS Media of Tennessee License, LLC Licensee of Station WFLI-TV, Cleveland, Tennessee	)	NAL/Acct. No. 202241420028 FRN: 0017130642 Facility ID No. 72060
	)	
	)	
	)	NAL/Acct. No. 202241420029
	)	FRN: 0015431570

MPS Media of Tallahassee License, LLC Licensee of Station WTLF, Tallahassee, Florida	)	Facility ID No. 82735 NAL/Acct. No. 202241420030 FRN: 0003797305
Nashville License Holdings, L.L.C. Licensee of Station WNAB, Nashville, Tennessee	)	Facility ID No. 73310 NAL/Acct. No. 202241420031 FRN: 0015435407
New Age Media of Gainesville License, LLC Licensee of Station WGFL, High Springs, Florida	)	Facility ID No. 7227 NAL/Acct. No. 202241420032 FRN: 0015435357
New Age Media of Pennsylvania License, LLC Licensee of Stations WOLF-TV, Hazleton, Pennsylvania, and WQMY, Williamsport, Pennsylvania	)	Facility ID Nos. 73375 and 52075 NAL/Acct. No. 202241420033 FRN: 0009961889
Nexstar Broadcasting, Inc., Ultimate Parent of Licensees of Stations KDVR, Denver, Colorado; KIAH, Houston, Texas; KTLA, Los Angeles, California; KTXL, Sacramento, California; WGN-TV, Chicago, Illinois; WGNO, New Orleans, Louisiana	)	Facility ID Nos. 126, 23394, 35670, 10205, 72115, and 72119 NAL/Acct. No. 202241420034 FRN: 0003742939
Second Generation of Iowa, LTD Licensee of Station KFXA Cedar Rapids, Iowa	)	Facility ID No. 35336 NAL/Acct. No. 202241420035 FRN: 0004331096
Sinclair Broadcast Group, Inc.[1]	)	NAL/Acct. No. 202241420036 FRN: 0004957650
Waitt Broadcasting, Inc. Licensee of Station KMEG Sioux City, Iowa	)	Facility ID No. 39665 NAL/Acct. No. 202241420037 FRN: 0006583298
WTVH License, Inc. Licensee of Station WTVH, Syracuse, New York	)	Facility ID No. 74151

FORFEITURE ORDER

Adopted: August 14, 2024 **Released: September 6, 2024**

By the Commission: Chairwoman Rosenworcel issuing a statement; Commissioners Carr and Simington dissenting and issuing separate statements.

[1] The respective licensees of the Sinclair Broadcast Group, Inc. (Sinclair), along with their stations, facility identification numbers, FRNs, licensees, and communities of license that are the subject of this NAL are listed in Appendix A.

TABLE OF CONTENTS

Heading Paragraph #

I. INTRODUCTION 1
II. BACKGROUND 2
III. DISCUSSION 15
A. Willful and Repeated Violations 16
B. The Proposed Forfeiture Amounts Are Appropriate 20
1. Sinclair 21
a. Length of Time and Number of Overages of Violations Are Consistent with an Upward Adjustment 23
b. Sinclair Is Not Entitled to Any Downward Adjustment 27
(i) Sinclair's Compliance Program was Not Effective 27
(ii) Sinclair's Disclosure Does Not Warrant a Downward Adjustment 34
(iii) Sinclair's Subsequent Remedial Measures Do Not Warrant a Downward Adjustment 34
c. Sinclair's High Revenues and Geographic Reach Warrant a Higher Fine 37
d. Sinclair Has a Lengthy Prior History of Offenses 39
2. Nashville License Holdings 43
3. Second Generation 45
4. Other Responding Broadcasters 50
5. Non-Responding Broadcasters 51
IV. ORDERING CLAUSES 52
APPENDIX A

I. INTRODUCTION

1. In this Forfeiture Order, 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),[2] we find that the licensees listed in Appendix A (collectively, Broadcasters) willfully and repeatedly violated section 73.670 of the Rules, by failing to comply with the limits on commercial matter in children's programming.[3] This Order follows a *Notice of Apparent Liability for Forfeiture* (*NAL*) released on September 20, 2022,[4] in which the Commission found that the NAL Broadcasters' multiple airings of a commercial for a Hot Wheels-themed toy during a Hot Wheels-themed television show apparently fit within the Commission definition of a program-length commercial.[5] After considering the responses to the *NAL* filed by the Respondent Broadcasters,[6] we find no reason to cancel, withdraw, or reduce the penalties proposed, and

[2] 47 U.S.C. § 503(b); 47 CFR § 1.80.

[3] *See* 47 CFR § 73.670. Appendix A identifies the licensees.

[4] *Cunningham Broadcasting Corp., et al.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd. 11042 (2022) (*NAL*). Because two licensees subject to the *NAL* did timely pay their proposed forfeitures, we use the term "NAL Broadcasters" to refer collectively to all the licensees that were subject to the *NAL*, which includes the Broadcasters subject to this Forfeiture Order *and* the two licensees that paid their proposed forfeiture. We refer collectively to the licensees that are the subject of this Forfeiture Order, i.e., those listed in Appendix A, simply as "Broadcasters."

[5] *See Policies and Rules Concerning Children's Television Programming, et al.*, MM Docket Nos. 90-570 and 83-670, Report and Order, 6 FCC Rcd 2111, 2118, para. 44 (1991) (*1991 Children's TV R&O*), *recon. granted in part*, 6 FCC Rcd 5093, 5098, paras. 28-34 (1991) (*1991 Children's TV Recon.*) (defining "children's program-length commercial" as "a program associated with a product, in which commercials for that product are aired").

[6] The Commission received six sets of responsive pleadings: (1) Sinclair Broadcast Group, Inc.'s Written Statement Seeking Reduction of Proposed Forfeiture (dated Oct. 21. 2022) (Sinclair Response); (2) Response of Second Generation of Iowa, Ltd to Notice of Apparent Liability for Forfeiture (dated Oct. 21, 2022) (Second Generation

(continued….)

we hereby affirm the *NAL* and its proposed forfeitures for all the broadcasters subject to this Forfeiture Order in the amounts specified in Appendix B. As set forth therein, the per-broadcaster forfeitures range from $2,652,000 to $20,000, for a total forfeiture of $3,334,000.

II. BACKGROUND

2. As part of the Children's Television Act of 1990,[7] Congress directed the Commission to adopt rules limiting the number of minutes of commercial matter that television stations may air during children's programming, and to consider in its review of television license renewal applications the extent that the licensee has complied with such commercial limits. Pursuant to this statutory mandate, the Commission adopted section 73.670 of the Rules, which limits the amount of commercial matter that may be aired during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays.[8] The Commission has also stated that a program associated with a product, in which commercials for that product are aired, would be treated as a program-length commercial (*i.e.,* the entire program would be counted as commercial time).[9] In order to verify compliance with the Children's Programming Commercial Rules, commercial full power and Class A stations are required to file an annual Commercial Limits Certification. Such records must be retained until final action has been taken on the station's next license renewal application.[10] The Commission has made clear that the program-length commercial policy "directly addresses a fundamental regulatory concern, that children who have difficulty enough distinguishing program content from unrelated commercial matter, not be all the more confused by a show that interweaves program content and commercial matter."[11]

3. Beginning in June 2020, in the course of filing their license renewal applications, a number of the NAL Broadcasters informed the Commission of repeated violations of the Children's

Response); (3) Nashville License Holdings L.L.C. Response to Notice of Apparent Liability for Forfeiture (Nashville License Holdings Response) (dated Oct. 21, 2022); (4) WTVH License, Inc. Response to Notice of Apparent Liability for Forfeiture (WTVH Response) (dated Oct. 21, 2022); (5) Mitts Telecasting Company, LLC Response to Notice of Apparent Liability for Forfeiture (MTC Response) (dated Oct. 21, 2022) and (6) Joint Response to Notice of Apparent Liability for Forfeiture filed by GOCOM Media of Illinois, LLC, Mercury Broadcasting Company, Inc., MPS Media of Tennessee License, LLC, MPS Media of Tallahassee License, LLC, New Age Media of Gainesville License, LLC, and New Age Media of Pennsylvania License, LLC (Joint Response) (dated Oct. 21, 2022). Collectively, we refer to the parties that filed these pleadings, which include both Sinclair-licensees and non-Sinclair licensees, as the "Respondent Broadcasters." The other Broadcasters, as discussed below, filed no response at all.

[7] Pub. L. No. 101-437, 104 Stat. 996-1000, *codified at* 47 U.S.C. §§ 303a, 303b, and 394.

[8] 47 CFR § 73.670.

[9] *1991 Children's TV R&O*, 6 FCC Rcd at 2118, paras. 44-46.

[10] 47 CFR § 73.3526(e)(11)(ii). As part of a station's license renewal application, a licensee must certify that "[f]or the period of time covered by this application, the licensee certifies that it has complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials." *See* FCC Form 2100, Schedule 303-S, https://www.fcc.gov/sites/default/files/form303stvinstructions.pdf.

[11] *1991 Children's TV R&O*, 6 FCC Rcd at 2118, para. 44. *See, e.g.*, *KSKN Television Inc., (KSKN(TV)), Spokane, Washington,* Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 6150, 6152, para. 7 (2010) (*KSKN NAL*) (forfeiture paid) (finding that a commercial containing a brief reference to "Yu-Gi-Oh!" trading cards airing during the "Yu-Gi-Oh!" program, caused the entire program to be considered a program-length commercial). Commission precedent has long distinguished between program-length commercials and "conventional" overages (e.g., where the licensee exceeds the time limit on commercial matter but the commercial does not involve a program-related product), and penalized the former more heavily. *See*, *e.g.*, *North Carolina Broadcasting Partners (WCCB(TV))*, Memorandum Opinion and Order and Forfeiture Order, 16 FCC Rcd 5627, 5633, para. 10 (2001) *(*"The Commission has routinely assessed higher forfeitures for program-length commercials than for a greater number of conventional overages.").

Programming Commercial Rules.[12] Specifically, in an exhibit to those applications, these licensees reported that a commercial for the "Hot Wheels Super Ultimate Garage" toy was inadvertently aired on eleven occasions during eight 30-minute-long episodes of the program titled *Team Hot Wheels* between November 10, 2018 and December 16, 2018, and that the commercial was pulled from the program immediately after discovery.[13] Concurrently, multiple non-Sinclair licensees similarly informed the Commission in exhibits to their renewal applications that Sinclair was the provider of this *Team Hot Wheels* programming, together with the related Super Ultimate Garage commercials, and that these non-Sinclair licensees had also inadvertently aired that commercial on 11 occasions during that same time period.[14] Two of these licensees further informed the Commission in their renewal applications that the episodes aired on two of the stations' program streams.[15]

4. On June 1, 2020, in the certification and an exhibit to each of five license renewal applications disclosing that it broadcast the Hot Wheels program-length commercials, Sinclair initially informed the Commission about those violations with minimal explanation.[16] According to Sinclair, on June 2, 2020, it then called the Bureau staff to "voluntarily disclose the incident" at the beginning of the renewal cycle so the staff would be aware of it when reviewing those applications, and offered to share more information "upon request."[17] In early November 2020, Sinclair informed Bureau staff more comprehensively that during the previous license term, a total of 85 of its television stations had aired program-length commercials and thus failed to fully comply with the Children's Programming Commercial Rules.[18] Specifically, Sinclair reported that 84 of these stations, on 11 occasions between November 10, 2018, and December 15, 2018, aired a commercial for the Hot Wheels Super Ultimate

[12] Broadcast licensees file renewal applications on a rolling basis at the conclusion of their renewal terms (typically in groups of states where communities of license are located), and some of the NAL Broadcasters disclosed this information in their renewal application.

[13] *See, e.g.,* WCHS-TV Application for Renewal of License, LMS File No. 0000115659 (filed Jun. 1, 2020). Appendix A identifies the file numbers for those renewal applications filed by the responding licensee.

[14] *See*, *e.g.*, WNAB Application for Renewal of License, LMS File No. 0000142031 (amended Aug. 30, 2021).

[15] *See* Tri-Cities (WEMT-TV) Licensee, Inc. Application for Renewal of License, LMS File No. 0000142612; Deerfield Media (Cincinnati) Licensee, LLC Application for Renewal of License, LMS File No. 0000148180. Appendix A identifies the pending renewal applications that the Respondent Broadcasters have filed that conceded these violations at the time of the issuance of the *NAL*. Where no renewal application was on file for the non-Sinclair Broadcasters when the Commission issued the *NAL*, Appendix A identifies the date that the non-Sinclair Respondent Broadcasters disclosed these violations in their fourth quarter 2018 Commercial Limits Certifications, available in the online public inspection file (OPIF). Sinclair has already informed staff that all of its stations listed in Appendix A have committed the violations at issue here, so the OPIF filings for Sinclair are not listed in Appendix A and the last column is left blank where no renewal application is on file for that particular Sinclair station. Appendix A also indicates the situation where a station certified in its OPIF filing conceding to these violations, but nevertheless subsequently certified "Yes" to the question in their renewal applications that during the previous license term they had complied with the limits on commercial matter as set forth in 47 CFR Section 73.670 and the Commission's commercial limit policies related to host-selling and program-length commercials. We will address any licensee non-compliance with our renewal reporting and certification requirements separately when reviewing the renewal application.

[16] *See*, *e.g.*, WCHS Applications for Renewal of License, LMS File No. 0000115659, Attach. "WCHS_Commercial Limitations Certification." In its entirety, Sinclair states: "As disclosed in the station's fourth quarter 2018 Commercial Limitations Certification, a commercial for Hot Wheels Super Ultimate Garage was inadvertently aired on eleven occasions during eight 30-minute-long episodes of Team Hot Wheels between November 10, 2018 and December 16, 2018. The commercial was pulled from the program immediately after discovery."

[17] Sinclair Response at 2 & n.6.

[18] *See* Appendix A.

Garage playset during eight 30-minute showings of *Team Hot Wheels*.[19] The only deviation to this was Sinclair station WABM, Birmingham, Alabama, which aired nine Hot Wheels Super Ultimate Garage commercials during seven episodes of *Team Hot Wheels*.[20]

5. On November 23, 2020, the Video Division of the Bureau issued a Notice of Apparent Liability for Forfeiture (*Deerfield NAL*) finding that Deerfield Media (Baltimore) Licensee, LLC (Deerfield Baltimore), the licensee of Station WUTB, Baltimore, Maryland, willfully and repeatedly violated section 73.670 of the Rules, by failing to comply with the limits on commercial matter in children's programming.[21] Based on the airing of a commercial for the Hot Wheels Super Ultimate Garage playset on 11 occasions between November 10, 2018, and December 15, 2018 during eight showings of *Team Hot Wheels*—broadcasts identical to those at issue in the instant proceeding—the *Deerfield NAL* concluded that Deerfield was apparently liable for a monetary forfeiture in the amount of twenty thousand dollars ($20,000).[22] The *Deerfield NAL* determined that an upward adjustment to $20,000 for violations of section 73.670[23] was justified considering the number, nature, and circumstances of the commercial limit overages, and rejected Deerfield's argument against upward adjustment, relying on cases that involved only conventional commercial overages, or a combination of far fewer program-length commercials.[24]

6. In the *NAL* the Commission issued on September 20, 2022, the Commission found that the subject licensees were apparently liable for the forfeitures set forth in Appendix B of the *NAL* because the record indicated that they exceeded the Commission's commercial limits by airing program-length commercials multiple times, constituting an apparent willful and repeated violation of section 73.690 of the Rules.[25] Recognizing that airing a commercial for Hot Wheels Super Ultimate Garage playset presented the clear risk for confusion between "program content" and "commercial matter" that this regulation was designed to avoid, the *NAL* found that under our precedent, each station was apparently liable for eight program-length commercials.[26] In concluding that the broadcast of these commercials represented a substantial number of violations, the *NAL* found that the circumstances here were particularly egregious because the commercial in this case centers around a product directly related to the children's program being aired and was not an isolated occurrence as alleged by the licensees.[27]

7. Pursuant to its determinations under section 503(b)(1)(B) of the Act concerning the NAL Broadcasters' apparent willful and repeated failure to comply with the Rules, the *NAL* proposed forfeitures for each station reflecting an upward adjustment supported by the multiple factors relevant to that station's conduct.[28] In addition to the statutory factors, the *NAL* applied the criteria set forth in our

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[19] Appendix A lists a total of 83 Sinclair stations because Sinclair subsequently assigned two stations to other parties. *See NAL* at 5, para. 7 n.20.

[20] *See* WAMB Application for Renewal of License, LMS File No. 0000129008 (filed Dec. 1, 2020).

[21] *Deerfield Media (Baltimore) Licensee, LLC*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 13098 (MB 2020) (*Deerfield NAL*) (forfeiture paid).

[22] *Id*. at 13098, 13099-100, paras. 1, 5.

[23] *See Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113 (1997) *(Forfeiture Policy Statement), recon. denied*, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b), note to paragraph (b)(10), Section I.

[24] *Deerfield NAL* at 13101-02, paras. 8-9 (citations omitted).

[25] *NAL* at 5-6, para. 9.

[26] *Id*. (citations omitted).

[27] *Id*. at 6-7, para. 10 (citations omitted).

[28] *Id*. at 7-11, paras. 11-19. In determining the appropriate forfeiture amount, the Commission may adjust the base amount upward or downward by considering the factors enumerated in section 503(b)(2)(E) of the Act, including

(continued….)

precedent: (1) the number of instances of commercial overages; (2) the length of each overage; (3) the period of time over which the overages occurred; (4) whether or not the licensee established an effective program to ensure compliance; and (5) the specific reasons that the licensee gave for the overages.[29] The application of the statutory factors led the *NAL* to devise three categories of proposed forfeiture amounts.

8. For the Sinclair stations, the *NAL* found that an upward adjustment to $32,000 for each of the 82 Sinclair stations resulting in a total forfeiture of $2,652,000 was warranted considering the number, nature, and circumstances of the commercial limit overages, as well as Sinclair's history of prior offenses and ability to pay.[30] The *NAL* applied the section 503(b)(2)(E) factors and concluded that an upward adjustment was warranted. Pursuant to the criteria, the Commission found that the overages occurred over a relatively extended period of time, between November 10 and December 16, 2019; that the length of each overage was substantial because they involved program-related commercial messages aired within the program's time period, qualifying them as program-length commercial violations; that Sinclair failed to claim, much less prove, that it had an effective program to ensure compliance; and that Sinclair's cursory explanation for the overages was inadequate. Further, the Commission found that its proposed forfeitures were warranted due to Sinclair's lengthy history of prior offenses for similar violations; the extent, gravity, and circumstances of the violations here; and Sinclair's ability to pay. This conclusion included consideration of Sinclair's geographically extensive reach to a potentially large national audience of viewers as problematic, and that due to Sinclair's large revenues a higher fine was appropriate to have an adequate deterrent effect.

9. For each of the Nexstar Broadcasting, Inc. (Nexstar) stations, the *NAL* found that an upward adjustment to $26,000 was warranted under an analysis similar to that of Sinclair's conduct and circumstances.[31] While the Commission recognized that Nexstar is a large, publicly traded company with significant revenue comparable to Sinclair, the Commission explained that unlike Sinclair, Nexstar does not have a lengthy history of prior offenses of the children's television commercial rules, and the Commission therefore did not consider that factor in the proposed forfeiture calculation.

10. For all of the other stations, the Commission found an upward adjustment to $20,000 per station to be warranted.[32] The *NAL* distinguished its conclusions based upon the factors applied to Sinclair and Nexstar because none of the other stations has as lengthy a history of prior offenses of the children's television commercial limitations as Sinclair, nor do they have revenues in their corporate families comparable to those of Sinclair and Nexstar. Accordingly, the substantial upward adjustments were less than those proposed for Sinclair or Nexstar.

11. Sinclair makes four primary arguments in its response. First, with regard to the Commission's "initial" upward adjustment for all stations from the base forfeiture amount of $8,000 to a proposed forfeiture of $20,000, Sinclair argues that the Commission acted inconsistently with its precedent by failing to take into account that the incident did not occur over a long period of time or involve a large number of overages.[33] Second, Sinclair argues that the *NAL* improperly relied upon the omission of a compliance program to monitor limits in children's programming as a basis for upward adjustment; that Sinclair did, in fact, have an effective program in place and discussed this with staff in

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"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." 47 U.S.C. § 503(b)(1)(B).

[29] *See, e.g., North Carolina Broadcasting Partners*, Memorandum Opinion and Order and Forfeiture Order, 16 FCC Rcd 5627, 5628, para. 2 (2001) (*North Carolina Broadcasting Partners*).

[30] *NAL* at 9-10, paras. 16-17. The *NAL* proposed a forfeiture of $28,000 for WABM.

[31] *Id*. at 10-11, para. 18.

[32] *Id*. at 11, para. 19.

[33] Sinclair Response at 4-6.

2020; and that its monitoring procedures and remedial measures warrant a mitigation of the sanction.[34] Third, Sinclair contends that the *NAL*'s proposed forfeiture based upon its "large revenues" and extensive geographic reach is improper because the Commission already accounts for such reach and revenues by applying a fine on a per-station basis.[35] Fourth and finally, Sinclair contends that the *NAL*'s upward adjustment based on a lengthy history of prior offenses is misleading and a mischaracterization, because Sinclair has not had any commercial limits violations in over 15 years.[36]

12. Generation of Iowa (Second Generation) argues in its response to the *NAL* that the application of section 503 factors warrant no more than the imposition of a base forfeiture because it committed an unintentional rule violation which has less "gravity" than a deliberate one, and its passing through network programming has a low "degree of culpability."[37] In addition, it asserts that the Commission has imposed lesser forfeitures for more serious violations, such as threats to public safety.[38]

13. In its response, Nashville License Holdings argues that the proposed $20,000 fine is excessive due to WNAB's limited revenue opportunities in the Nashville market "and no history of violations that arise from its own programming."[39]

14. Based upon their awareness of Sinclair's intent to file a response to the *NAL*, numerous other responders ask the Commission to defer the forfeiture against them until the Commission acts upon Sinclair's response out of administrative efficiency and to preclude unfair penalties for the same programming and commercials at issue.[40] The remaining licensees neither paid the proposed forfeiture nor filed a response.[41]

III. DISCUSSION

15. We find that the Broadcasters willfully and repeatedly violated section 73.670 of the Rules by airing a commercial for a Hot Wheels-themed toy during a Hot Wheels-themed show multiple times. That section of the Rules prohibits the broadcast of such program-length commercials, and the facts before us demonstrate the commission of willful and repeated violations of that section. Under our precedent, each station—with three exceptions—is liable for eight program-length commercials because eight episodes of *Team Hot Wheels* were affected; during three of the episodes, a commercial aired twice.[42]

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[34] *Id*. at 2, 6-10.

[35] *Id*. at 2, 11-13.

[36] *Id.* at 2-3, 13-16.

[37] Second Generation Response at 5-7.

[38] *Id.* at 7-8.

[39] Nashville License Holdings at 2.

[40] Joint Response at 3-5; WTVH Response at 1-2; Mitts Response at 1-2; Nashville License Holdings Response at 1-3. Second Generation makes a similar request for commensurate relief resulting from other licensees' responses, although it does not identify Sinclair or any other licensee specifically. Second Generation at 8.

[41] The Non-Respondent Broadcasters are: Cunningham Broadcasting Corporation; Deerfield Media (Port Arthur), Inc.; Deerfield Media (San Antonio), Inc.; Deerfield Media (Rochester), Inc.; Deerfield Media (Cincinnati), Inc.; Manhan Media, Inc.; Nexstar; and Waitt Broadcasting, Inc.

[42] Consistent with the *NAL*, we restate the Commission's agreement with Bureau precedent that licensees are liable for only one program-length commercial in instances where a single airing of a program episode is impacted by multiple advertisements for a product related to the program. *See NAL* at 5-6, para. 9 n.28 (citations omitted). As the *NAL* explained, we applied this policy to the forfeiture set forth in Appendix B for Sinclair's station WABM, which aired nine Hot Wheels Super Ultimate Garage commercials during seven episodes of the program, finding the station liable for seven program-length commercials. Also, Cunningham Broadcasting Corporation's WEMT and Deerfield Media (Cincinnati), Inc.'s WSTR-TV are each liable for airing eight program-length commercials on two

(continued….)

A. Willful and Repeated Violations

16. We affirm the *NAL*'s finding that the behavior at issue here constituted willful and repeated violations of the Commission's rules by all Broadcasters. As the *NAL* explained, claims of inadvertence do not mitigate or excuse the transgressions, and the Commission has repeatedly rejected inadvertence as a basis for excusing violations of the children's television commercial limits.[43] Further, the fact that the proscribed commercials were embedded in the programming provided by Sinclair as the producer and distributor of KidsClick does not make the non-Sinclair licensees less accountable for the violations.[44]

17. Although Sinclair has conceded that it aired commercials for a Hot Wheels product during certain episodes of a *Team Hot Wheels* program and therefore exceeded the Commission's limits on commercial matter in children's program,[45] Sinclair still maintains that the *NAL* was wrong to assert that the licensees willfully violated Section 73.670 of the rules. Sinclair explains that "the overages resulted from a single miscommunication, where a restriction was properly noted by [Sinclair's Broadcast Standards & Practices (BS&P) group] on the *Hot Wheels* commercial to avoid placement in or adjacent to *Hot Wheels* programs but due to a change in how these restrictions were communicated, the message was not received by the Traffic department."[46]

18. As an initial matter, we deem immaterial Sinclair's argument about the willfulness of the violations because it does not dispute the repeated nature of the violations by its 85 stations over multiple weeks. Section 503(b)(1)(B)'s standard is disjunctive—either willful *or* repeated violations trigger liability for a forfeiture penalty, and Sinclair does not question that the *NAL*'s findings that Sinclair's transgressions throughout October and November 2019 were repeated.[47] We also reject Sinclair's assertion that its broadcasting of the Hot Wheels programming and Hot Wheels commercials were somehow not "willful." As the Commission explained in the *NAL*, "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."[48] In response to the Commission's citation of this definition, Sinclair claims that the legislative history behind the statute "clarifies" that "willful means that he *knew he was doing the act* in question, regardless of whether there was an intent to violate the law."[49] We find Sinclair's contention unpersuasive because the quoted legislative history is consistent with and nearly identical to the statutory

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streams. *Id.* (concluding that multicast streams are not exempt from these restrictions, and the two licensees are liable for sixteen program-length commercials for each of those stations, respectively) (citations omitted).

[43] *NAL* at 6-7, para. 10 n.33 (citing *KSKN Television Inc., (KSKN(TV)), Spokane, Washington,* Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 6150, 6153, para. 9 (2010) (forfeiture paid); *North Carolina Broadcasting Partners (WCCB(TV))*, Notice of Apparent Liability for Forfeiture, 13 FCC Rcd 3450, 3453 (1997), *forfeiture issued*, Memorandum Opinion and Order and Forfeiture Order, 16 FCC Rcd. 5627 (2001).)

[44] *NAL* at 7, para. 11. n.34 (citing Nexstar WGN Application for Renewal, LMS File No. 0000155350 ("Station is unable to insert commercial announcements in TBD Network programming. All commercial time is controlled by the network.")) *See also id.* ("Regardless of the technical or logistical constraints of airing programming, every licensee bears nondelegable responsibility for compliance with its regulatory obligations" and "[l]egal responsibility for the violations always rests with the licensee").

[45] *See*, *e.g.*, Sinclair Response at 1.

[46] *Id*. at 12-13 & n.21; *see also id.* at 11.

[47] *NAL* at 7 para. 12. Section 312(f)(1) 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)(1). The numerous airings of the program-length commercials easily meets this standard.

[48] *Id*. (citing 47 U.S.C. § 312(f)(1)) (emphasis added). *See also* H.R. Rep. No. 97-765, at 50-51 (1982), *reprinted in* 1982 U.S.C.C.A.N. 2261, 2294-95 ("This provision defines the terms 'willful' and 'repeated' for purposes of Section 312, and for any other relevant sections of the Act (e.g., Section 503)").

[49] Sinclair Response at 12 n.21 (citing H.R. Rep. No. 97-765, 97th Cong.2d Sess. 51 (1982) (emphasis added).

language and both lead to the same interpretive result, i.e., the term "willful" covers the actions of a licensee regardless of the unintentional nature of the violation.[50] The Commission has repeatedly rejected inadvertence and, explicitly, human error as a basis for excusing violations of the children's television commercial limits.[51]

19. No Broadcaster other than Sinclair has submitted a response directly challenging the *NAL*'s proposed conclusions that the broadcasts at issue constituted willful and repeated violations of the Commission's rules.

B. The Proposed Forfeiture Amounts Are Appropriate

20. After considering the evidence in the record, the relevant statutory factors, the Commission's rules and precedent, and the arguments advanced by the respondents, we find that the total forfeitures set forth in Appendix B are appropriate. We affirm the conclusions in the *NAL* and that such amounts are warranted based on the Broadcasters' willful and repeated violations of section 73.670 of the Commission rules, and the relevant criteria discussed below.[52] We discuss below the arguments advanced by Sinclair, Nashville License Holdings, Second Generation, and the other Respondent Broadcasters.[53]

1. Sinclair

21. Sinclair puts forth two arguments that the *NAL*'s stated reasons for proposing a $12,000 upward adjustment against the Sinclair stations from the base forfeiture of $8,000 are unreasonable and unsupported by precedent,[54] and also makes two further claims that there are no bases to apply additional upward adjustments against Sinclair to increase the forfeiture to $32,000 per station. As explained below, we find none of these contentions persuasive, and affirm the proposed forfeiture amounts.

22. In attempting to rebut the upward adjustments that the Commission proposed to Sinclair's stations, Sinclair argues that the facts and precedent do not support the proposed amount and that Sinclair's stations have been treated differently than other broadcasters' stations.[55] We reject this argument. The Commission has discretion under Section 503 of the Communications Act in determining

[50] *See, e.g., PJB Commc'ns of Va., Inc.,* Memorandum Opinion and Order, 7 FCC Rcd 2088, 2089, para. 5 (1992) (stating that inadvertent violations are "willful" violations as "[a]ll that is necessary is that the licensee knew it was doing the act in question"). Here, the act in question was the stations' airings of a commercial for a Hot Wheels-themed toy during a Hot Wheels-themed television show.

[51] *See*, *e.g.*, *Springfield Broadcasting Partners (WRSP-TV) and Urbana Champaign Broadcasting Partners (WCCU(TV))*, Memorandum Opinion and Order and Forfeiture Order, 14 FCC Rcd 19230, 19231, 19232-33 at paras. 2, 5 (1999) (reiterating that the underlying NAL rejected human error as a basis for excusing the stations' violation of the commercial limits, and concluding that the NAL's consideration of the overages reported by the licensee was consistent with Commission practice and policy).

[52] *NAL* at 7-12, paras. 12-19.

[53] Our dissenting colleagues state that, after the Supreme Court's decision in *Jarkesy v. SEC*, which invalidated the SEC's imposition of a civil monetary penalty on Seventh Amendment grounds, the FCC's ability to impose monetary forfeitures is "unclear" (Simington), and "on thinning ice" (Carr). But the statutory structure governing the FCC's forfeiture power is quite different from that of the SEC. For one thing, as we have explained, after the Commission issues a forfeiture order under section 503(b)(4) of the Communications Act following a Notice of Apparent Liability, the party on whom the forfeiture is imposed is entitled to a trial de novo in federal district court before it can be required to pay. *See* 47 U.S.C. § 504(a); *AT&T, Inc.*, FCC No. 24-40, ¶ 69. For another, the FCC largely enforces "public rights" the adjudication of which may constitutionally be vested in an administrative agency, and which have no common law analogue. *See id.* ¶ 77. The statutory right to a trial de novo provided by law before a forfeiture under section 503(b)(4) can be enforced, along with the nature of the violations the Commission typically addresses, disposes of the claim that the imposition of a monetary forfeiture by the FCC violates the Seventh Amendment.

[54] Sinclair Response at 4 (citing 47 CFR § 1.80).

[55] *Id.*

forfeiture amounts.[56] As *North Carolina Broadcasters* explained in the context of imposing penalties for commercial limits violations: "Such discretionary authority holds particular relevance given the different factors involved in compliance with the children's television commercial limits (e.g., number, type and duration of overages, period of time over which the violations occurred, extent of compliance program), making it impossible to devise a precise formula to calculate forfeiture amounts."[57] As explained in the *NAL* and further below, we have considered the statutorily required factors with respect to the facts and circumstances of the violations at issue here and have assessed the forfeiture accordingly. Thus, the monetary forfeiture penalty is reasonable for Sinclair's stations' willful and repeated violation of the limits on commercial matter in children's programming.

a. Length of Time and Number of Overages of Violations Are Consistent with an Upward Adjustment

23. According to Sinclair, the "incident" did not occur over a long period of time or involve a large number of overages that would warrant an upward adjustment in the base forfeiture from $8,000 to $20,000 for each of its stations. In making its claim, Sinclair points to several prior decisions where the Bureau imposed the base forfeiture amount or chose to admonish licensees without monetary penalty.[58] Sinclair relies heavily on the *WBNX NAL*, where the Bureau imposed an upward adjustment of $8,000 to a $16,000 forfeiture for 11 program-length commercials, one conventional commercial overage, and 5 host-selling violations.[59] According to the Sinclair Response, "the Commission has only substantially deviated from [the upward adjustment of the *WBNX NAL*] when the number of overages is particularly egregious."[60]

24. We find that an upward adjustment to a forfeiture of at least $20,000 for each station comports with the Bureau's past decisions. The *NAL* cited two analogous cases to support its proposed upward adjustments: (1) a 2010 forfeiture order imposing a $16,000 forfeiture for six program-length commercials over the course of approximately one month, and (2) a 2006 notice of apparent liability proposing a $17,500 forfeiture for seven program-length commercials.[61] We affirm that these amounts are in line with the $20,000 forfeiture for eight program-length commercial violations.[62]

25. Sinclair misapplies the Bureau's precedent. In *WBNX,* the Bureau reduced the proposed forfeiture amount from $20,000 to $16,000 based solely on the licensee's argument in response to the

[56] *E.g.*, *North Carolina Broadcasters*, 16 FCC Rcd at 5633, para. 11; *Liability of Springfield Broadcasting Partners*, Memorandum Opinion and Forfeiture Order, 14 FCC Rcd 19230, 19233, para. 6 (1999).

[57] *North Carolina Broadcasters*, 16 FCC Rcd at 5633, para. 11.

[58] Sinclair claims that "[i]n most cases, including those involving 'program-length commercials' like those at issue here, the Commission has imposed this base forfeiture amount or chosen to admonish licensees without monetary penalty." *See* Sinclair Response at 4. Sinclair cites five Bureau-level NALs in support of this proposition, which we discuss below. *See infra* para. 25.

[59] Sinclair Response at 5-6 (citing *Winston Broadcasting Network, Inc. (WBNX(TV))*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 14606, 14607-09, paras. 4-5, 11 (MB 2008) (*WBNX NAL*), Forfeiture Order, 25 FCC Rcd 4571 (MB 2010)).

[60] Sinclair Response at 5 n.11 (citing *UTV of San Francisco, Inc. Licensee, KBHK-TV*, Letter Order, 10 FCC Rcd 10986 (1995) (fining $40,000 for 218 overages, including some program-length commercials)).

[61] *NAL* at 8-9, para. 14 (citing *Mercury Broadcasting Company, Inc. (KMTW(TV))*, Forfeiture Order, 25 FCC Rcd 4564, 4565-66, paras. 6-9 (MB 2010); *WTWB of the Triad, LLC (WTWB(TV))*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 1652, 1654, para. 7 (MB 2006)).

[62] Sinclair does set out a conclusory assertion that the adjustments in these two cases are not close to the $32,000 fine per station proposed against Sinclair, but does not address why they might be in any way inconsistent with the $20,000 adjustment that would apply to all stations. Sinclair Response at 3 & n.7.

NAL that it had a history of compliance with the Rules, a factor not applicable to Sinclair.[63] Similarly, Sinclair relies on two cases imposing an $8,000 forfeiture[64] without even attempting to respond to the distinction that the *Deerfield NAL* identified—that those decisions are not analogous because they involve only conventional commercial overages, or a combination of far fewer program-length commercials, along with conventional commercial limit overages.[65] We agree and adopt this same distinction. The three other cases cited by Sinclair were each an admonishment for a host-selling violation (and in two of them also for website address display),[66] and have no bearing on the more problematic, multiple program-length commercial violations we adjudicate today.

26. In addition to its claim that the *NAL* departed from the Commission's prior enforcement decisions, Sinclair argues that its eight commercial violations should be viewed in perspective of the "conservatively-estimated" 4,300 hours of children's programming that aired on each station during the eight-year license term.[67] We are not persuaded to abandon the Commission's longstanding approach of addressing any and all violations during an applicant's renewal term in favor of a more relative assessment of violations compared to the number of hours of children's programming aired.[68] We emphasize that our core concern here focuses on the immediate exposure of a child under age 12 to a potentially confusing mix of commercial and noncommercial material, in service of the Commission's goal of protecting the child viewer at the relevant moment. The potential harm to a child from repeated exposure over multiple weeks is not diminished by the length of the Commission's terms of license, and Sinclair's attempt to minimize its transgression here is not specific to children's programming but would be equally inapplicable to all other forms of violations during a license term.

b. Sinclair Is Not Entitled to Any Downward Adjustment

(i) Sinclair's Compliance Program was Not Effective

27. Sinclair claims that it had an effective compliance program in place to monitor commercial limits in children's programming – which should have been a mitigating factor in the forfeiture calculation but which the Bureau staff ignored.[69] In its Response, Sinclair details at length its implementation of what it views as a "robust" comprehensive program to monitor commercials in

[63] *See infra* paras. [39-42]. *See WBNX Forfeiture Order*, 25 FCC Rcd 4571, 4573, para. 11 (MB 2010). To the extent the Bureau's Deerfield NAL suggests the proposed forfeiture in WBNX was reduced based on considerations other than a history of overall compliance, we reject that interpretation. *See Deerfield NAL* at 5 n.33.

[64] Sinclair Response at 4 & n.9 (citing *KLGT Licensee*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 949 (MB 2009) (($8,000 fine for five conventional commercial overages, two program-length commercials, and one host-selling violation); *WVTV Licensee, Inc. (WVTV(TV))*, Forfeiture Order, 25 FCC Rcd 3741, 3744-45 (MB 2010) ($8,000 fine for one conventional commercial overage, one instance of host-selling, and two program-length commercials).

[65] *Deerfield NAL* at 4-5, para. 9.

[66] Sinclair Response at 4 & n.9 (citing *WXOX-WQOW Television, Inc.*, Letter Order, 29 FCC Rcd 8570 (MB 2014) (admonishment for host-selling violation); *KTTC Television, Inc.*, Letter Order, 29 FCC Rcd 10156 (MB 2014) (admonishment for host-selling violation and website address display); *WREX Television, LLC*, Letter Order, 29 FCC Rcd 10174 (MB 2014) (admonishment for host-selling violation and website address display)).

[67] Sinclair Response at 4-5.

[68] *Id*. at 5 n.10. Sinclair bases its estimate of 4,300 hours of children's programming on its "assumption" that its stations aired the minimum amount of three hours of weekly core programming on a primary and one multicast stream, as well as the daily three-hour block of KidsClick programming from July 1, 2017 to March 31, 2019. *Id*. Sinclair further estimates that the number of hours would be higher because most stations have more than one multicast stream; many stations air more than the minimum; and stations may have aired other programming (in addition to KidsClick) that do not count as core programming. *Id*.

[69] Sinclair states that it informed the Bureau of its "effective compliance plan" in informal telephone calls. Sinclair Response at 2, 6-10.

children's programming, featuring mandatory trainings and two centralized layers of review. Sinclair submits that in June 2017, it set up a KidsClick regulatory team as part of its BS&P group solely to ensure KidsClick regulatory compliance, including children's programming rules. Sinclair's Advertising Support Operations (SASO) department would then undertake a second level of KidsClick review. Separately, relevant station personnel at each local station were informed of their obligations to monitor compliance with respect to local ad insertions.[70] Sinclair submits that a "one-time error in communications led to a brief period whereby one commercial was accidentally placed in episodes of a related program," and that Sinclair discussed this (albeit in less detail) with Bureau staff in the 2020.[71]

28. At the outset, we reject Sinclair's claim that it successfully demonstrated that it had established an "effective" compliance program. To the contrary, the plain facts speak for themselves: Sinclair's multi-layered review structure failed eight separate times within a period of several weeks, sending mixed commercial/noncommercial messages directed to children aged 12 and under by 85 stations spread across the United States. Such a result indicates that Sinclair's compliance program was far from effective.[72] Nonetheless, we address each of Sinclair's arguments to the contrary below.

29. Further, we reject Sinclair's contention that discussions with Bureau staff that were never publicly memorialized or reflected in any docket or proceeding were entitled to consideration.[73] This theory is unfounded and we give it no weight.[74] Any obligation to submit information in an applicant's possession that it deems mitigating or otherwise relevant into the record of an application or any pending proceeding rests solely with that applicant, and those submissions must be made *in writing* in the relevant application file and in accordance with the Commission's verification and other filing requirements.[75]

30. We also find no merit to Sinclair's claim that the *NAL* took an unprecedented position that an upward adjustment was warranted because the stations did not affirmatively state in their disclosure statements that they had effective compliance programs.[76] As Sinclair states, neither section 503(b)(2)(E) of the Act nor the Commission's renewal application instructions require an affirmative statement regarding compliance program effectiveness,[77] and we do not impose any such requirement or expectation today. To the extent that Sinclair implies that the Commission proposed an increased penalty on Sinclair for a failure to share the details of its plan, it misreads the *NAL* with regard to what it claims as

[70] *Id*. at 7-8.

[71] *Id*. at 6-7.

[72] Sinclair's arguments suffers from a kind of classic *res ipsa loquitur* problem, i.e., the thing speaks for itself. Restatement (Second) of Torts § 328D (1965) (stating that it may be inferred that harm suffered by the plaintiff is caused by negligence of the defendant, subject to certain conditions). The company's contentions concerning the design of its compliance program does not belie the facts before us about the number, nature, and duration of the offending commercials its stations aired.

[73] According to Sinclair, in its conversations with staff in June, October, and November 2020, Sinclair personnel provided at least in part a description of such a program, and the *NAL* inappropriately failed to acknowledge Sinclair's implementation of this program in setting the forfeiture amount. *Id.* at 2, 6-7.

[74] We emphasize that neither the Commission nor its staff is under any duty to memorialize any conversations with an applicant to create a record or advance the interests of the applicant or any outside party, and Sinclair is incorrect to characterize the fact that the NAL did not mention an undocumented telephone call as an omission. *See* Sinclair Response at 2 n.6.

[75] Written submissions to the Commission must meet standards of subscription and verification. *See* 47 CFR § 1.52. Sinclair does not identify any Commission rule to support its theory of establishing a factual basis through an undocumented oral communication to staff.

[76] Sinclair Response at 2, 8-9 ("An affirmative statement regarding the effectiveness of a compliance program in a license renewal application or public file disclosure is not required or even listed in Section 503(b) as one of the factors for the Commission to consider.").

[77] Sinclair Response at 6 n.13.

the introduction of a novel, unprecedented basis to adjust upwardly.[78] Rather, in explaining its consideration of the five criteria set forth in *North Carolina Broadcasters* and elsewhere in applying section 503(b)(2)(E), the Commission addressed as a matter of completeness the fourth factor of five—whether or not the licensee established an effective program to ensure compliance—as it did so for all other stations in this proceeding.[79] Consistent with this criterion, the *NAL* noted the fact that, at the time of its issuance, there was no evidence of a compliance plan on the record (and again, we emphasize that that Sinclair was not required to submit one).

31. Regardless, we find on the record before us that Sinclair lacked an effective compliance program to monitor commercial limits in children's programming. The Bureau has emphasized on several occasions that it is, in fact, the efficacy of a licensee's compliance program, not the mere presence of one, that we look to when assessing a forfeiture for violations of the children's television commercial limits.[80] The recurrence in successive weeks of violations on so many Sinclair stations demonstrates that the compliance plan was not effective.[81]

32. The Commission has no specific requirements for monitoring programs, and we readily recognize that licensees' experience and expertise put them in a superior position to devise and customize effective and efficient compliance frameworks. However, we will not credit any system that apparently relieved all 85 stations from having their station personnel screen for children's programming violations a such that a single miscommunication cumulatively led to several hundred violations over the course of multiple successive weeks. In fact, according to Sinclair's accounting of the circumstances, it was personnel of station WABM(TV), Birmingham, Alabama—the master control operator of an individual station, evidently outside of either regular, centralized Sinclair monitoring team tasked and trained to identify this exact form of problematic advertising—that belatedly discovered the ongoing transgressions.[82] Sinclair seeks to minimize several hundred violations in total on the grounds that "a one-time error in communications led to a brief period whereby one commercial was accidentally placed

[78] *See id.* at 7 ("The fact that stations did not include a lengthier explanation of their business operations or oversights in the disclosures they filed should therefore not amount to any finding of inadequacy warranting an upward adjustment . . . .").

[79] *NAL* at 9, para. 15; 10-11, paras. 18-19. In addition, Sinclair misinterprets the reason why the Commission cited *North Carolina Broadcasters*, arguing that the *NAL* relied on that decision and its assessment of the underlying compliance plan as precedent for imposing an upward adjustment here. Sinclair Response at 9 ("The *North Carolina Broadcasting Partners* case cited by the NAL as precedent for imposing an upward adjustment due to a lack of an effective compliance plan is not applicable to the facts of this case."). Instead, the *NAL* cited that decision not for any specific factual comparison to the case before us, but as emblematic of one of numerous cases that have employed the five-factor analysis for reviewing prospective commercial-length programming violations that the Commission applied both in the *NAL* and the instant order. *See*, *e.g.*, *KTVU Partnership*, Notice of Apparent Liability, 16 FCC Rcd 4961, 4963 (2001); *Broadcast Development Corp.*, Notice of Apparent Liability, 16 FCC Rcd 5054, 5057 (2001); *Springfield Broadcasting Partners*, Memorandum Opinion and Forfeiture Order, 14 FCC Rcd 19230, 19231 (1999). The *NAL* also cited *North Carolina Broadcasting Partners* elsewhere for general propositions about penalizing program-length commercials more heavily than conventional overages, and the Commission's repeated rejection of inadvertence as a basis for excusing violations of the children's television commercial limits. *NAL* at 3-4, para. 3 & n.10; *id*. at 6-7, para. 10 & n.33.

[80] *See*, *e.g.*, *Liability of Marketing Group of Memphis, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 8287, 8289-90, para. 7 (MMB 1999).

[81] The Bureau has previously rejected a similar challenge that a forfeiture was based on an improper assumption that no compliance plan existed, explaining that "we considered whether Petitioners established *effective* compliance programs to determine the forfeiture amounts at issue here, we acted appropriately and in a manner consistent with Commission precedent." *Liability of KCIT Acquisition Company and BSP Broadcasting, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 12219, 12222-23, para. 8 (MMB 1999) (emphasis in original).

[82] Sinclair Response at 8.

in episodes of a related program."[83] The facts here do not demonstrate an "effective" compliance program where a single, unchecked mistake arising from a change in software could so easily cascade into a multi-week recurring series of violations, and the individual station personnel had been instructed that their only compliance obligations centered around local ad insertions. We further emphasize that where a broadcaster chooses to automate its operations so that one error triggers multiple transgressions, that broadcaster is fully liable for every one of those multiple violations, just as viewers in multiple markets at multiple times would experience those violations.

33. Sinclair also argues that not only did the *NAL* improperly propose an upward adjustment based on its stations' failure to submit more details into the record concerning its compliance programs, but the Bureau staff never followed up with additional telephone calls to seek more information.[84] We summarily reject any notion that, after the submission of an application conceding rule violations, the Commission must or even should elicit mitigating information from an applicant before issuing an NAL. The Commission routinely relies on broadcast renewal applications — especially those conceding violations — as the basis to issue notices of apparent liability and take other enforcement actions.

(ii) Sinclair's Disclosure Does Not Warrant a Downward Adjustment

34. On June 1, 2020, in the certification and an exhibit to each of the five license renewal applications disclosing that it broadcast the Hot Wheels program-length commercials, Sinclair initially informed the Commission about those violations with minimal explanation.[85] According to Sinclair, on June 2, 2020, it then called the Bureau staff to "voluntarily disclose the incident" at the beginning of the renewal cycle so the staff would be aware of it when reviewing those applications, and offered to share more information "upon request."[86] Sinclair asserts that the *NAL* improperly omitted any reference to these calls, and failed to take into account this "good faith voluntary outreach" as a mitigating factor in calculating the forfeiture.[87] We disagree, and emphasize that a licensee's offer to cooperate in good faith with staff in processing an application is not cognizable as a mitigating factor pursuant to section 503(b)(2)(E), but the minimum we would expect from all broadcasters licensed to operate and obligated to serve the public.

35. We further find that the revelation in the submitted renewal applications that Sinclair violated the commercial limits rules — the filing of which *preceded* the June 2, 2020 phone calls to staff — was not a "voluntary disclosure." To the contrary, it was a mandatory response to the application form submitted at deadline, and it did not reveal the full scope of the broadcast across so many of Sinclair's stations. Similarly, Sinclair's characterization of its multiple violations singularly as an "incident"

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[83] *Id.* at 6-7. The communication disruption related to the transmittal of restrictions on commercial spots from the BS&P to the SASO/Traffic team. Sinclair further explains that its review of the overages led it to conclude that a software switch by BS&P from Share Point to Microsoft Teams resulted in SASO's inability to access restriction information that BS&P had entered into the system. *Id.* at 8-9.

[84] *Id.* at 7 (lamenting that "[w]hile Sinclair did not go into as much detail as it is including in this response, the basic reasons for the overage were discussed with Media Bureau staff in June 2020 and again in October and November 2020. Sinclair never received any inquiry for further information after that time. The fact that stations did not include a lengthier explanation of their business operations or oversights in the disclosures they filed should therefore not amount to any finding of inadequacy warranting an upward adjustment . . . .").

[85] *See*, *e.g.*, WCHS Applications for Renewal of License, LMS File No. 0000115659, Attach. "WCHS_Commercial Limitations Certification." In its entirety, Sinclair states: "As disclosed in the station's fourth quarter 2018 Commercial Limitations Certification, a commercial for Hot Wheels Super Ultimate Garage was inadvertently aired on eleven occasions during eight 30-minute-long episodes of Team Hot Wheels between November 10, 2018 and December 16, 2018. The commercial was pulled from the program immediately after discovery."

[86] Sinclair Response at 2 & n.6.

[87] *Id*. at n.6.

understates its repeated broadcasts inconsistent with our rules.

(iii) Sinclair's Subsequent Remedial Measures Do Not Warrant a Downward Adjustment

36. We also find unpersuasive Sinclair's argument that we need to take into account its subsequent remedial measures "as mitigative in determining the appropriate sanction level."[88] In the context of children's programming commercial limits violations, licensees should be well aware that upon recognition of any violations, promptly implemented and effective corrective measures are expected, and meeting those expectations does not warrant mitigation or reduction of a forfeiture.[89] The record does not indicate any other post-violation corrective actions that addressed the vulnerability that gave rise to the miscommunication/software transition that evidently caused the commercial overages.

c. Sinclair's High Revenues and Geographic Reach Warrant a Higher Fine

37. We reject Sinclair's assertion that a per-station forfeiture inherently accounts for a larger broadcaster's revenues and geographic reach.[90] First, we endorse the reasoning set forth in the *NAL* that given Sinclair's large revenues, a higher fine is appropriate to have an adequate deterrent effect. As recounted in the *NAL*, Sinclair reported total revenues of more than $6.1 billion for 2021, more than $5.9 billion for 2020, and more than $4.2 billion for 2019.[91] Sinclair does not seek to rebut the precedent cited in support of the need for deterrence, where the Commission has previously adjusted upwards in light of the significant reported annual revenues of a corporate parent.[92] Rather, Sinclair argues that a higher fine against Sinclair stations is unnecessary as a deterrent, because a per-station forfeiture already takes into account a larger broadcaster's revenues.[93] We disagree. Not every "larger broadcaster" is the same—Sinclair's substantial revenues during the period at issue are not simply a function of having a large number of stations, but of having a substantial number of stations in large markets and with top-ranked affiliations that produce high revenues. Consistent with our precedent, we find that a higher level of forfeiture is necessary to serve as an effective deterrent for Sinclair, compared to another hypothetical

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Id. at 10 (citing *Guy Gannet Publishing Co.*, Memorandum Opinion and Order, 5 FCC Rcd 7688, 7689, para. 12 (MMB 1990)).

[89] *Liability of Second Generation of Iowa*, *Ltd.*, Memorandum Opinion and Forfeiture Order, 15 FCC Rcd 9402, 9404-05, para. 6 n.9 (MMB 2000) ("We do not believe that an admonition should be imposed in lieu of the forfeiture assessed . . . based on the alleged "alacrity" by which [the licensee] acted and the efficacy of its additional compliance measures. We expect licensees to act swiftly to catch errors which cause violations of the commercial limits, and to take prompt, effective corrective measures when necessary."); *Liability of Dubuque TV Ltd. Partnership*, Memorandum Opinion and Forfeiture Order, 15 FCC Rcd 9408, 9410-11, para. 6 n.9 (MMB 2000).

[90] Sinclair Response at 11-14.

[91] *NAL* at para. 17 (citing Sinclair Broadcast Group, Inc. 2021 Annual Report on SEC Form 10-K, at 60 (Mar. 1, 2022)) (Sinclair 2021 10-K). Specifically, the *NAL* cited Sinclair's reported total revenues of $6,134,000,000 for 2021, $5,934,000,000 for 2020, and $4,240,000,000 for 2019.

[92] *Id*. (citing *Viacom*, Notice of Apparent Liability for Forfeiture, 30 FCC Rcd 2548, 797-98, 805-06, paras. 2, 22 (noting that an upward adjustment is appropriate in light of Viacom's reported annual revenues and the revenues of ESPN's parent); *SBC Communications Inc.*, Order on Review, 17 FCC Rcd 4043, 4052, para. 20 (2002) ("[A] large and highly profitable company . . . should expect . . . that the forfeiture amount" may "be above, or even well above, the relevant base amount.")). As the Commission stated in the *Forfeiture Policy Statement*: "[W]e caution all entities and individuals that, independent from the uniform base forfeiture amounts . . . we intend to take into account the subject violator's ability to pay in determining the amount of a forfeiture to guarantee that forfeitures issued against large or highly profitable entities are not considered merely an affordable cost of doing business. Such large or highly profitable entities should expect in this regard that the forfeiture amount set out in a Notice of Apparent Liability against them may in many cases be above, or even well above, the relevant base amount." *Forfeiture Policy Statement*, 12 FCC Rcd at 17099-100, para. 24

[93] Sinclair Response at 11-12.

broadcaster that had the same number of stations but lower revenues.

38. In addition, we also disagree with Sinclair's argument that the per-station forfeiture already takes into account Sinclair's larger geographic reach, and that the *NAL* improperly relies upon *Viacom/ESPN* for imposing an upward adjustment based on national audience reach. Sinclair seeks to distinguish that case on the basis that it involved cable networks that were not and could not be fined on a per-station basis, so considering those networks' geographic reach was reasonable.[94] Looking beyond the number of stations to include the audience reach is warranted here, and we endorse the reasoning set forth in the *NAL* in this regard. Unlike a multi-station broadcaster comprised of low-power stations or of stations that serve exclusively rural areas, Sinclair reports that its stations that committed the violations served 15 out of the top 40 markets in 2021,[95] which we find to encompass substantial reach that warrants the proposed forfeiture. Further, this upward adjustment is in accordance with other television broadcast enforcement actions where, after calculating a per-station forfeiture and multiplying by the number of stations, the Commission has previously recognized that audience reach has indeed warranted an upward adjustment.[96]

d. Sinclair Has a Lengthy Prior History of Offenses

39. We disagree with Sinclair's contention that the *NAL* improperly included Sinclair's prior history of commercial-length program violations as a section 503(b)(1)(B) factor, and we affirm that finding today. We find that, consistent with the analysis set forth in the *NAL*, Sinclair's record of similar violations warrant an upward adjustment.[97] Sinclair advances multiple arguments seeking to rebut or minimize the *NAL*'s citation of and reliance on 15 similar violations in the past 17 years as inappropriate and a mischaracterization of the record. None of these attempts to distance itself from these prior similar offenses are persuasive.

40. Sinclair first asserts that its prior violations took place so long ago that its history of prior

[94] *Id.* at 13.

[95] Sinclair 2021 10-K at 7-8, in which Sinclair identified the market rankings based on the relative size of a station's DMA among the 210 generally recognized DMAs in the United States as estimated by Nielsen Media Research (Nielsen) as of September 2021. Those stations, DMAs, and market rank, respectively, are: WJLA, Washington, D.C. (7); KUNS-TV, Seattle/Tacoma, WA (11); WUCW, Minneapolis/St. Paul, MN (14); KUNP, Portland, OR (21); KDNL-TV, St. Louis, MO (23); WLFL, Raleigh/Durham, NC (24); WPGH, Pittsburgh, PA (26); KMYU, Salt Lake City, UT (29); WZTV, Nashville, TN (30); KABB, San Antonio TX (31); WKRC-TV, Cincinnati, OH (35); WVTV, Milwaukee, WI (36); WLOS, Asheville, NC/Greenville, SC (38); WTVX, West Palm Beach/Ft Pierce, FL (39); and KVCW, Las Vegas, NV (40).

[96] *E.g.*, *CBS Broadcasting Inc*., Notice of Apparent Liability for Forfeiture, 34 FCC Rcd. 8417, 8428, para. 38 (2019) (forfeiture paid) (*CBS NAL*). In the *CBS NAL*, the Commission first calculated that the $8,000 base forfeiture for 15 CBS stations would lead to a base forfeiture of $120,000 with respect to CBS's actions as a broadcast licensee (in addition to a forfeiture for its actions as a broadcast programming network). *Id.* The Commission then doubled the proposed forfeiture based exclusively on the fact that the programming reached potentially vast audiences, as those 15 stations served the top 20 markets. *Id.* While Sinclair's reach in this instance is not as vast, the adjustment is commensurate. In the instant proceeding, the non-Sinclair stations were imposed an upward adjustment to $20,000 per station based upon the period of time over which the overages occurred during the period; the length of each overage (a 30-minute program-length commercial); the lack of any evidence at the time of the NAL concerning an effective compliance program; and the inadequacy of the explanation for the overages. *NAL* at 11, para. 19. We imposed an upward adjustment to $26,000 per station for Nexstar based upon its significant revenues. *Id*. at 10-11, para. 18. The upward adjustment for Sinclair from $20,000 to $32,000 per station was based on a combination of its significant revenues and its compliance record as well as its geographically extensive reach. *Id*. at 9-10, para. 17.

[97] The *NAL* proposed the forfeiture based exclusively on prior similar offenses, without even reaching Sinclair's prior history of committing multiple other violations. *See*, *e.g. Sinclair Sponsorship ID Order*, 35 FCC Rcd 5877, 5878, para. 5 (2020) (admitting that it violated the sponsorship identification laws).

similar offenses should not be considered "lengthy."[98] We find this contention inconsistent with Commission precedent and unpersuasive. The statute and our rules direct us to take into account "*any* history of prior offenses," and does not include any limiting language based on recency or other basis for expiry.[99] The Commission previously determined that the statute and the rules require consideration of prior offenses "regardless of . . . when the violation took place."[100] Sinclair does not provide any precedent for its position, nor offer any concrete cut-off time; even if the actions giving rise to the violations took place over 20 years ago, they still would be relevant. Moreover, the uninterrupted common station ownership by Sinclair makes for an even more compelling case for Sinclair to take accountability for its prior misbehavior, and remain vigilant about compliance throughout successive license terms.[101]

41. Sinclair further reasons that its past violations cited by the *NAL* should not be deemed to constitute a lengthy history of prior offenses because they occurred at only a small fraction of Sinclair's stations.[102] Sinclair cites no precedent for this approach, and we find no new policy reasons to depart from our existing approach now. The scope and experience of Sinclair as a multi-station broadcast licensee is no reason to lessen its culpability.

42. We reject Sinclair's remaining contentions regarding the proper assessment of its prior offenses as untimely and unpersuasive attempts to re-litigate previous determinations. The older cases have been adjudicated in previous decisions and are settled law now. Sinclair had full opportunities to challenge those previous decisions; we decline to reopen those matters now.[103] Similarly we reject Sinclair's multiple requests for mitigation because its prior violations were the result of airing commercials that were inserted upstream by a network programmer[104] — Sinclair has already made that argument previously and it was rejected.[105] For the reasons that we reject this same argument advanced by other broadcasters in this proceeding, we reject it here as well.[106]

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[98] *See* Sinclair Response at 2-3, 13-14 (contending that the Commission mischaracterized violations described in the enforcement actions that took place more than 20 years ago, and failed to recognize that no fines or admonishments have been issued against a Sinclair station for such offenses within the past 12 years).

[99] 47 U.S.C. § 503(b)(2)(E) (emphasis added); 47 CFR § 1.80(b)(11) (emphasis added). *See also* 47 CFR § 1.80(b)(11), Table 3 to paragraph (b)(11) (listing as an upward adjustment criteria "[p]rior violations of any FCC requirements").

[100] *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc*., Forfeiture Order, 33 FCC Rcd 4663, para. 43 (2018).

[101] Regardless, we find Sinclair's arithmetic to be misleading where it declares that "*all* of the program-length commercials described in the 11 enforcement actions occurred *more than 20 years ago* in previous renewal cycles." Sinclair Response at 13-14. As in this proceeding, the Commission typically addresses these violations not at the time they must be disclosed in quarterly OPIF filings, but in the course of renewal application review process, which occurs every 8 years.

[102] Sinclair Response at 14.

[103] *Id*. (contending that for the prior violations committed by its network-affiliated stations, the commercial overages were inserted by the programming network into the programming distributed to affiliated stations and therefore should not serve as basis for upward adjustment); *id.* at 14-15 (questioning Commission enforcement actions arising from Sinclair's broadcast in 2002 of Pokémon images on the basis that the images were fleeting and *de minimis*).

[104] *See*, *e.g.*, Sinclair Response at 14, 15, 16

[105] *See*, *e.g.*, *WTVZ Licensee, LLC (WTVZ(TV))*, Letter Order, 21 FCC Rcd 1541, 1543 (MB 2006) (admonishment).

[106] As the Commission explained in the *NAL* in response to the claims of some NAL Broadcasters that they should have lesser responsibility where Sinclair had embedded the Hot Wheels Ultimate Garage commercials into the KidsClick programming, "[r]egardless of the technical or logistical constraints of airing programming, every licensee bears nondelegable responsibility for compliance with its regulatory obligations." *NAL* at 7, para. 11 (citations omitted).

2. Nashville License Holdings

43. We deny Nashville License Holdings' request to reduce or cancel the fines proposed with respect to WNAB on the basis that they are excessive. Nashville License Holdings argues that Sinclair provided the programming and commercials at issue in the *NAL* for airing on WNAB as part of network programming contracted for by Nashville License Holdings, and that the *NAL* seemingly does not take into account that it was Sinclair that provided the programming to its affiliates.[107] However, the *NAL* expressly rejected arguments from other similarly situated licensees in concluding that it is the broadcasting licensee, not the programmer, who is ultimately responsible for what is broadcast.[108] The *NAL* went on to note that, consistent with precedent, legal responsibility for rule violations always rests with the licensee, not any upstream network or syndicator from which a station obtains its programming.[109]

44. Nashville License Holdings also contends that a $20,000 fine imposed upon an affiliate of Sinclair programming with limited revenue opportunities in its market and no history of violations that arise from its own programming "is the essence of 'excessive'."[110] Yet the *NAL* took the prior history of Nashville License Holdings (as well as all other non-Sinclair licensees) into account in applying the adjustment factors and declined to assess the same upward adjustment that was assessed to Sinclair.[111] Nashville License Holdings understates the full scope of prior offenses that we must take into account by attempting to limit our review of those violations that arise only from its own programming. However, section 503(b)(2)(E) of the Act requires the Commission to "take into account . . . *any* history of prior offenses."[112] Nashville License Holdings makes no request for a downward adjustment under the broader applicable rubric, and our review of its compliance history does not indicate any such adjustment is warranted.[113] Further, Nashville License Holdings does not identify any precedent for adjusting a forfeiture downward based on unidentified "limited revenue opportunities," and does not provide any support or documentation why such a departure from precedent would be warranted here.[114]

3. Second Generation

45. Second Generation asks that the forfeiture be reduced for three reasons. First, it contends that application of section 503(b)(2)(E) factors warrants such a result. Specifically it argues the "gravity" and "degree of culpability" factors are low and require a downward adjustment because "Second

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[107] Nashville License Holdings Response at 1-2.

[108] *NAL* at 7, para. 11.

[109] *Id.* at n.35 (citing *Application of WCHS-AM-TV Corp., Charleston, W.VA. For Renewal of License of Station WCHS-AM,* Memorandum Opinion and Order, 8 FCC 2d 608, 609, para.7 (1967) ("[T]hat the syndicator allegedly made an error in the advertising copy does not excuse the licensee from its basic responsibility, a responsibility which we have stated many times cannot be delegated to others, including the program syndicator. The Commission has always regarded the maintenance of control over programming as a most fundamental obligation of the licensee.")).

[110] Nashville License Holdings Response at 2.

[111] *NAL* at 11, para. 19 ("None of these Broadcasters present the same extensive combination of upward adjustment factors that we apply to Sinclair or Nextar.").

[112] 47 U.S.C. § 503(b)(2)(E). *See* 47 CFR § 1.80(b)(11), Table 3 to paragraph (b)(11) (listing as an upward adjustment criteria "[p]rior violations of any FCC requirements" and listing as a downward adjustment criteria a "history of overall compliance").

[113] *See*, *e.g.*, *DIRECTV, LLC; AT&T Services, Inc., Complainants, v. Deerfield Media, et. al., Defendants*, Forfeiture Order, 36 FCC Rcd 12078 (2021) (finding that Nashville License Holdings and other defendants violated the Commission's retransmission consent negotiation requirements).

[114] Nashville License Holdings also asks that the Commission stay any order requiring Nashville License Holdings to pay the forfeiture until it acts upon Sinclair's response to the *NAL*. Nashville License Holdings Response at 1-3. Since we resolve all *NAL* responses simultaneously, this request is moot.

Generation followed its normal network/affiliate course here" and its passing through of the programs that contained the commercials at issue was inadvertent.[115] In support, Second Generation cites a 2013 Division-level NAL, *CMG Puerto Rico NAL*,[116] claiming that through this decision, the Commission has found that inadvertence can justify a forfeiture decrease.

46. We disagree. As an initial and dispositive matter, the Commission is not bound by a Division-level NAL.[117] In addition, we disavow *CMG Puerto Rico NAL* to the extent it could be read to suggest that inadvertence justifies a downward adjustment. Longstanding Commission precedent both before and after *CMG Puerto Rico NAL* establishes that inadvertence does not justify a downward adjustment.[118]

47. Further, we find no merit in Second Generation's assertion that the "extent . . . of the violation" factor justifies a decreased fine where there were eight violations over the course of a little more than a month during an eight-year license term.[119] As explained above in Section III.B.1.a, Second Generation's forfeiture is in line with similar forfeitures imposed on violators for a similar number of violations over a multi-year term subject to a renewal application.

48. Second, Second Generation asks for a decrease in the proposed forfeiture because the proposed amount exceeds forfeitures imposed by the Commission in certain cases for public safety and other violations it claims are more "serious."[120] The Commission is tasked by a number of statutes with multiple priorities in carrying out the public interest and ensuring public safety, including protecting children from overcommercialization.[121] The Commission has repeatedly stated that program-length commercials are indeed serious violations.[122] Nothing in the record and no argument before us convinces us to undo any precedent and lessen protections of children from overcommercialization.

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[115] Second Generation Response at 5-6.

[116] *Id.* at 6 (citing *CMG Puerto Rico Licensee, LLC,* Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 1427 (MB 2013) (*CMG Puerto Rico NAL*).

[117] It is well established that an agency is not bound by the actions of its staff if the agency has not endorsed those actions. *See, e.g., Comcast Corp. v. FCC*, 526 F.3d 763, 769 (D.C. Cir. 2008) (an agency is not bound by unchallenged staff guidance).

[118] *See Unipoint Technologies, Inc. d/b/a Comfi.com d/b/a Masterbell.com d/b/a Pushline.com a/k/a Communications Fidelity*, Forfeiture Order, 29 FCC Rcd 1633, 1640, para. 21 (2014) ("It is immaterial whether [the licensee's] violations were inadvertent, the result of ignorance of the law, or the product of administrative oversight. Such excuses do not warrant a downward adjustment of the forfeiture."), *default judgment entered*, United States v. Unipoint Technologies, Inc., No. 14-12020-LTS, 2016 WL 8902575, at *1-2 (D. Mass. Apr. 27, 2016); *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-88 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992).

[119] Second Generation Response at 6-7.

[120] Second Generation Response at 7-8. Second Generation cites two NALs in which a regional district director of the Enforcement Buruea imposed fines of $6,000 and $12,000, respectively, after a licensee failed for several months to ensure proper tower lighting, failed to inspect the tower regularly for lighting compliance, and failed to notify the FAA of the lighting outage. *Id.* (citing *KFW Communications, LLC*, Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 2243 (EB 2011); *Miller Communications, LLC*, Notice of Apparent Liability for Forfeiture and Order, 26 FCC Rcd 5801 (EB 2011)).

[121] *See* Children's Television Act of 1990, Section 101 ("The Congress finds that . . . (4) special safeguards are appropriate to protect children from overcommercialization on television; . . . (6) it is therefore necessary that the [Commission] take the actions required by this title.")

[122] "Congress was particularly concerned about program-length commercials because young children often have difficulty distinguishing between commercials and programs. Given this congressional concern, the Commission made it clear that program-length commercials, by their very nature, are extremely serious violations of the children's television commercial limits . . . ." *KSKN Television*, 25 FCC Rcd at 6152, para. 8 (citations omitted).

49. Third, Second Generation asks that to the extent that the Commission finds good cause to provide relief due to factors such as the nature, circumstances, extent, and gravity of the violation, that any such reduction should extend commensurately to Second Generation.[123] Because we do not reduce any such forfeiture for any other licensee subject to an NAL in this proceeding, no such reduction is extended to Second Generation.

4. Other Responding Broadcasters

50. The other Responding Broadcasters ask the Commission to stay or defer the issuance of any forfeiture order against them until the Commission acts upon Sinclair's response out of administrative efficiency and fairness.[124] Since we act upon the Sinclair Response simultaneously and do not reduce the forfeiture against Sinclair (nor any other Broadcaster), these requests are moot.

5. Non-Responding Broadcasters

51. Based on the information before us, we affirm the forfeiture proposed in the *NAL* for all Non-Responding Broadcasters.

IV. ORDERING CLAUSES

52. 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,[125] that Sinclair Broadcast Group, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of two million, six hundred and fifty-two thousand dollars ($2,652,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.[126]

53. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Cunningham Broadcasting Group is **LIABLE FOR A MONETARY FORFEITURE** in the amount of one hundred and forty thousand dollars ($140,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

54. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Deerfield Media (Port Arthur), Inc., is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for its willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

55. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Deerfield Media (San Antonio), Inc., is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

56. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Deerfield Media (Rochester), Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

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[123] Second Generation Response at 8.

[124] Joint Response at 3-5; WTVH Response at 1-2; Mitts Response at 1-2; Nashville License Holdings Response at 1-3. Second Generation makes a similar request for commensurate relief resulting from other licensees' responses, although it does not identify Sinclair or any other licensee specifically. Second Generation at 8.

[125] 47 U.S.C. § 503(b); 47 CFR § 1.80.

[126] 47 CFR § 73.670.

57. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Deerfield Media (Cincinnati), Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of forty thousand dollars ($40,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

58. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that GoCom Media of Illinois, LLC is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

59. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, Manhan Media, Inc., is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

60. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, Mercury Broadcasting Company, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

61. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Mitts Telecasting Company, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating of section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

62. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that MPS Media of Tallahassee License, LLC is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

63. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that MPS Media of Tennessee License, LLC is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating of section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

64. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Nashville License Holdings, L.L.C. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

65. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that New Age Media of Gainesville License, LLC is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20, 000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

66. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that New Age Media of Pennsylvania License, LLC is **LIABLE FOR A MONETARY FORFEITURE** in the amount of forty thousand

dollars ($40,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

67. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Nexstar Broadcasting, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of one hundred and eighty-two thousand dollars ($182,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

68. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Second Generation of Iowa, LTD is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

69. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that Waitt Broadcasting, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

70. **IT IS FURTHER ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and section 1.80 of the Commission's rules, that WTVH License, Inc. is **LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty thousand dollars ($20,000) for willfully and repeatedly violating section 73.670 of the Commission's rules, by failing to comply with the limits on commercial matter in children's programming.

71. Payment of the forfeiture shall be made within thirty (30) calendar days after the release of this Forfeiture Order.[127] Electronic notification of forfeiture payment must be sent to the Chief, Media Bureau, Video Division at Barbara.Kreisman@FCC.gov, and Jeremy Miller at Jeremy.Miller@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.[128] 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),[129] 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:[130]

- 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).[131] For additional detail and wire transfer instructions, go to https://www.fcc.gov/licensing-

[127] 47 CFR § 1.80.

[128] 47 U.S.C. § 504(a).

[129] Payments made using CORES do not require the submission of an FCC Form 159.

[130] 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.

[131] Instructions for completing the form may be obtained at https://www.fcc.gov/Forms/Form159/159.pdf.

databases/fees/wire-transfer.

- Payment by credit card must be made by using the Commission's Registration System (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 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/cores/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.

72. 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 NE, Washington, DC 20554.[132] 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, ARINQUIRIES@fcc.gov.

73. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Sinclair Broadcast Group, Inc., c/o Miles S. Mason, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street, NW, Washington, DC 20036.

74. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Deerfield Media (Port Arthur), Inc., c/o Scott R. Flick, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street, NW, Washington, DC 20036.

75. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Deerfield Media (San Antonio), Inc., c/o Scott R. Flick, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street, NW, Washington, DC 20036.

76. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Deerfield Media (Rochester), Inc., c/o Scott R. Flick, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street, NW, Washington, DC 20036.

77. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Deerfield Media (Cincinnati), Inc., c/o Scott R. Flick, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street, NW, Washington, DC

[132] *See* 47 CFR § 1.1914.

20036.

78. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to GoCom Media of Illinois, LLC, c/o Dan Kirkpatrick, Baker & Hostetler LLP, 1050 Connecticut Avenue, NW, Suite 1100, Washington, DC 20036.

79. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Manhan Media, Inc., c/o Scott R. Flick, Esq., Pillsbury Winthrop Shaw Pittman LLP, 1200 Seventeenth Street, NW, Washington, DC 20036.

80. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Mercury Broadcasting Company, Inc., c/o Dan Kirkpatrick, Baker & Hostetler LLP, 1050 Connecticut Avenue, NW, Suite 1100, Washington, DC 20036.

81. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Mitts Telecasting Company, LLC, c/o Christina Burrow, Cooley LLP, 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004.

82. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to MPS Media of Tallahassee License, LLC, c/o Daniel A Kirkpatrick, Baker & Hostetler LLP, 1050 Connecticut Avenue, NW Suite 1100, Washington, DC 20036.

83. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to MPS Media of Tennessee License, LLC, c/o Daniel Kirkpatrick, Baker & Hostetler LLP, 1050 Connecticut Avenue, NW Suite 1100, Washington, DC 20036.

84. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Nashville License Holdings, L.L.C., c/o Christina Burrow, Cooley LLP, 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004.

85. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to New Age Media of Gainesville License, LLC, c/o Daniel A Kirkpatrick, Baker & Hostetler LLP, 1050 Connecticut Avenue, NW Suite 1100, Washington, DC 20036.

86. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to New Age Media of Pennsylvania License, LLC, c/o Daniel Kirkpatrick, Baker & Hostetler LLP, 1050 Connecticut Avenue, NW Suite 1100, Washington, DC 20036.

87. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Nexstar Broadcasting, Inc., Jason Roberts, 545 E John Carpenter Freeway, Irving, TX 75062.

88. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Second Generation of Iowa, LTD, c/o Dennis P Corbett, Telecommunications Law Professionals PLLC, 1025 Connecticut Ave, NW, Suite 1011, Washington, DC 20036.

89. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Waitt Broadcasting, Inc., c/o Lawrence Bernstein, Esq., Law Offices of Lawrence Bernstein, 3510 Springland LN NW, Washington, DC 20008.

90. **IT IS FURTHER ORDERED**, that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to WTVH License, Inc., c/o Christina Burrow, Cooley LLP, 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Broadcast Licensees

Sinclair Broadcast Group, Inc.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal LMS File No.
KAAS-LP	11968	0021925797	KSAS Licensee, LLC	Garden City, Kansas	
KAAS-TV	11912	0021925797	KSAS Licensee, LLC	Salina, Kansas	0000184038
KABB	56528	0004970455	KABB Licensee, LLC	San Antonio, Texas	0000188677
KATV	33543	0023870488	KATV Licensee, LLC	Little Rock, Arkansas	0000134828
KBFX-CD	51501	0023174451	Sinclair Bakersfield Licensee, LLC	Bakersfield, California	
KCBY-TV	49750	0023174535	Sinclair Eugene Licensee, LLC	Coos Bay, Oregon	
KDBC-TV	33764	0018608257	KDBC Licensee, LLC	El Paso, Texas	0000188724
KDNL-TV	56524	0002144459	KDNL Licensee, LLC	St. Louis, Missouri	0000162421
KDSM-TV	56527	0005019195	KDSM Licensee, LLC	Des Moines, Iowa	0000162382
KFRE-TV	59013	0018608265	KFRE Licensee, LLC	Sanger, California	
KFXL-TV	84453	0009529157	KHGI Licensee, LLC	Lincoln, Nebraska	0000184093
KHGI-TV	21160	0009529157	KHGI Licensee, LLC	Kearney, Nebraska	0000184081
KJZZ-TV	36607	0025502048	KJZZ Licensee, LLC	Salt Lake City, Utah	0000192722
KMYU	35822	0021144076	KUTV Licensee, LLC	St. George, Utah	0000192731
KOCB	50170	0004970596	KOCB Licensee, LLC	Oklahoma City, Oklahoma	0000183912
KORX-CD	71072	0023174600	Sinclair Kennewick Licensee, LLC	Walla Walla, Washington	
KPIC	61551	0006335509	South West Oregon TV Broadcasting Corp.	Roseburg, Oregon	
KPTH	77451	0022764187	KPTH Licensee, LLC	Sioux City, Iowa	0000162399
KRCG	41110	0022491815	KRCG Licensee, LLC	Jefferson City, Missouri	0000162436
KRVU-LD	40203	0026977595	Sinclair-California Licensee, LLC	Redding, California	
KSAS-LP	11967	0021925797	KSAS Licensee, LLC	Dodge City, Kansas	0000184004
KSAS-TV	11911	0021925797	KSAS Licensee, LLC	Wichita, Kansas	0000184004

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal LMS File No.
KSCC	82910	0024962136	KUQI Licensee, LLC	Corpus Christi, Texas	0000188663
KTUL	35685	0023870496	KTUL Licensee, LLC	Tulsa, Oklahoma	0000183846
KTVL	22570	0021268370	KTVL Licensee, LLC	Medford, Oregon	
KUNP	81447	0023174584	Sinclair LaGrande Licensee, LLC	La Grande, Oregon	
KUNS-TV	4624	0023174477	Sinclair Seattle Licensee, LLC	Bellevue, Washington	
KUNW-CD	167797	0023174600	Sinclair Kennewick Licensee, LLC	Yakima, Washington	
KUTV	35823	0021144076	KUTV Licensee, LLC	Salt Lake City, Utah	0000192734
KVAL-TV	49766	0023174535	Sinclair Eugene Licensee, LLC	Eugene, Oregon	
KVCW	10195	0004970646	KUPN Licensee, LLC	Las Vegas, Nevada	0000192779
KVVK-CD	25358	0023174600	Sinclair Kennewick Licensee, LLC	Kennewick, Etc., Washington	
KYUU-LD	190303	0023174428	Sinclair Boise Licensee, LLC	Boise, Idaho	
WABM	16820	0003180684	Birmingham (WABM-TV) Licensee, Inc.	Birmingham, Alabama	0000129008
WACH	19199	0022491450	WACH Licensee, LLC	Columbia, South Carolina	0000120011
WCHS-TV	71280	0002144434	WCHS Licensee, LLC	Charleston, West Virginia	0000115659
WCIV	9015	0004970851	WMMP Licensee L.P.	Charleston, South Carolina	0000120010
WCTI-TV	18334	0026809707	WCTI Licensee, LLC	New Bern, North Carolina	0000119989
WCWF	73042	0023893217	WCWF Licensee, LLC	Suring, Wisconsin	0000155368
WCWN	73264	0021268297	WCWN Licensee, LLC	Schenectady, New York	
WEAR-TV	71363	0004970935	WEAR Licensee, LLC	Pensacola, Florida	0000123686
WFGX	6554	0011277373	WFGX Licensee, LLC	Fort Walton Beach, Florida	0000123700
WFXL	70815	0022490171	WFXL Licensee, LLC	Albany, Georgia	0000129031
WGME-TV	25683	0004970950	WGME Licensee, LLC	Portland, Maine	
WHP-TV	72313	0026560300	Harrisburg Licensee, LLC	Harrisburg, Pennsylvania	
WICD	25684	0004970836	WICD Licensee, LLC	Champaign, Illinois	0000155358

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal LMS File No.
WICS	25686	0004970802	WICS Licensee, LLC	Springfield, Illinois	0000155354
WJAC-TV	73120	0022463947	WJAC Licensee, LLC	Johnstown, Pennsylvania	
WJAR	50780	0023893225	WJAR Licensee, LLC	Providence, Rhode Island	
WJLA-TV	1051	0020222774	ACC Licensee, LLC	Washington, DC	0000115663
WKEF	73155	0004970844	WKEF Licensee L.P.	Dayton, Ohio	0000148894
WKRC-TV	11289	0021925771	WKRC Licensee, LLC	Cincinnati, Ohio	0000148908
WLFL	73205	0005019781	WLFL Licensee, LLC	Raleigh, North Carolina	0000119994
WLOS	56537	0004676755	WLOS Licensee, LLC	Asheville, North Carolina	0000120063
WLUK-TV	4150	0023893233	WLUK Licensee, LLC	Green Bay, Wisconsin	0000155365
WMSN-TV	10221	0006551824	WMSN Licensee, LLC	Madison, Wisconsin	0000155371
WMYV	25544	0006212906	WUPN Licensee, LLC	Greensboro, North Carolina	0000120007
WNWO-TV	73354	0022491864	WNWO Licensee, LLC	Toledo, Ohio	0000148871
WNYO-TV	67784	0006735864	New York Television, Inc.	Buffalo, New York	
WPNT	73907	0006754667	WCWB Licensee, LLC	Pittsburgh, Pennsylvania	
WRDC	54963	0003175148	Raleigh (WRDC-TV) Licensee, Inc.	Durham, North Carolina	0000119998
WRGB	73942	0021268289	WRGB Licensee, LLC	Schenectady, New York	
WRLH-TV	412	0006551782	WRLH Licensee, LLC	Richmond, Virginia	0000115665
WSBT-TV	73983	0022491823	WSBT Licensee, LLC	South Bend, Indiana	0000142573
WSET-TV	73988	0023870470	WSET Licensee, LLC	Lynchburg, Virginia	0000115666
WSMH	21737	0005020904	WSMH Licensee, LLC	Flint, Michigan	0000148827
WSTM-TV	21252	0022491633	WSTQ Licensee, LLC	Syracuse, New York	
WSTQ-LP	10320	0022491633	WSTQ Licensee, LLC	Syracuse, New York	
WTCN-CD	70865	0021144092	WTVX Licensee, LLC	Palm Beach, Florida	0000123746
WTGS	27245	0023893191	WTGS Licensee, LLC	Hardeeville, South Carolina	0000120018
WTOV-TV	74122	0022463913	WTOV Licensee, LLC	Steubenville, Ohio	0000148930

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal LMS File No.
WTTO	74138	0005020946	WTTO Licensee, LLC	Homewood, Alabama	0000129025
WTVC	22590	0021268313	WTVC Licensee, LLC	Chattanooga, Tennessee	0000142540
WTVX	35575	0021144092	WTVX Licensee, LLC	Fort Pierce, Florida	0000123743
WTVZ-TV	40759	0005020979	WTVZ Licensee, LLC	Norfolk, Virginia	0000115652
WTWC-TV	66908	0004970901	WTWC Licensee, LLC	Tallahassee, Florida	0000123726
WUCW	36395	0003865078	KLGT Licensee, LLC	Minneapolis, Minnesota	0000175973
WUHF	413	0006551568	WUHF Licensee, LLC	Rochester, New York	
WUTV	415	0006551626	WUTV Licensee, LLC	Buffalo, New York	
WVTV	74174	0002209260	WVTV Licensee, Inc.	Milwaukee, Wisconsin	0000155375
WWMT	74195	0021268263	WWMT Licensee, LLC	Kalamazoo, Michigan	0000148834
WXLV-TV	414	0006551709	WXLV Licensee, LLC	Winston-Salem, North Carolina	0000120002
WZTV	418	0006551758	WZTV Licensee, LLC	Nashville, Tennessee	0000142556

Cunningham Broadcasting Corporation

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WEMT	40761	0014740716	Tri-Cities (WEMT-TV) Licensee, Inc.	Greeneville, Tennessee	LMS File No. 0000142612[1]
WMYA	56548	0009336348	Anderson (WFBC-TV), Licensee, LLC	Anderson, South Carolina	LMS File No. 0000119946
WPFO	84088	0026729665	Portland (WPFO-TV) Licensee, Inc.	Waterville, Maine	OPIF filed 1/28/2019
WTTE	74137	0003778925	Columbus (WTTE-TV) Licensee, Inc.	Columbus, Ohio	LMS File No. 0000148208
WYDO	35582	0027174721	New Bern (WYDO-TV) Licensee, Inc.	Greenville, North Carolina	LMS File No. 0000119938
KTXD-TV	42359	0000034280	Greenville (KTXD-TV) Licensee, Inc.	Greenville, TX	LMS File No. 000018852

Deerfield Media (Port Arthur), Inc.

[1] The renewal application states that the episodes aired on two of the station's program streams.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
KBTV-TV	61214	0021989033	Deerfield Media (Port Arthur), Inc.	Port Arthur, Texas	LMS File No. 0000188614

Deerfield Media (*San Antonio), Inc.*

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
KMYS	51518	0022238778	Deerfield Media (San Antonio), Inc.	Kerrville, Texas	LMS File No. 0000188645

Deerfield Media (*Rochester), Inc*

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WHAM-TV	73371	0022244495	Deerfield Media (Rochester) Licensee, LLC	Rochester, New York	OPIF filed 11/4/2020

Deerfield Media (Cincinnati) Licensee, LLC

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WSTR-TV	11204	0022238810	Deerfield Media (Cincinnati) Licensee, LLC	Cincinnati, Ohio	LMS File No. 0000148180[2]

GoCom Media of Illinois, LLC

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WBUI	16363	0015021157	GoCom Media of Illinois, LLC	Decatur, Illinois	OPIF filed on 1/28/2019[3]

Manhan Media, Inc.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WWHO	21158	0021241484	Manhan Media, Inc.	Chillicothe, Ohio	LMS File No. 0000148170

Mercury Broadcasting Company, Inc.

[2] The renewal application states that the episodes aired on two of the station's program streams.

[3] Licensee did not disclose Hot Wheels violation in its renewal application. *See* LMS File No. 0000155313.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
KMTW	77063	0004995882	Mercury Broadcasting Company, Inc.	Hutchinson, Kansas	LMS File No. 0000183206

Mitts Telecasting Company, LLC

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
KXVO	23277	0019424746	Mitts Telecasting Company, LLC	Omaha, Nebraska	LMS File No. 0000183694

MPS Media

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WTLF	82735	0015431570	MPS Media of Tallahassee License, LLC	Tallahassee, Florida	OPIF filed on 1/29/2019[4]
WFLI-TV	72060	0017130642	MPS Media of Tennessee License, LLC	Cleveland, Tennessee	OPIF filed on 1/29/2019[5]

Nashville License Holdings

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WNAB	73310	0003797305	Nashville License Holdings, L.L.C.	Nashville, Tennessee	LMS File No. 0000142032

New Age Media of Gainesville License, LLC

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WGFL	7727	0015435407	New Age Media of Gainesville License, LLC	High Springs, Florida	OPIF filed on 1/28/2019[6]

New Age Media of Pennsylvania License, LLC

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.

[4] Licensee did not disclose Hot Wheels violation in its renewal application. *See* LMS File No. 0000123433.

[5] Licensee did not disclose Hot Wheels violation in its renewal application. *See* LMS File No. 0000142526.

[6] Licensee did not disclose Hot Wheels violation in its renewal application. *See* LMS File No. 0000123425.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WOLF-TV	73375	0015435357	New Age Media of Pennsylvania License, LLC	Hazleton, Pennsylvania	OPIF filed on 1/28/2019
WQMY	52075	0015435357	New Age Media of Pennsylvania License, LLC	Williamsport, Pennsylvania	OPIF filed on 1/28/2019

Nexstar Broadcasting, Inc.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
KDVR	126	0022824668	Tribune Broadcasting Company II, LLC	Denver, Colorado	LMS File No. 0000175158
KIAH	23394	0005047105	Tribune Media Company	Houston, Texas	LMS File No. 0000188808
KTLA	35670	0005047105	Tribune Media Company	Los Angeles, California	OPIF filed on 1/26/2019
KTXL	10205	0005047105	Tribune Media Company	Sacramento, California	OPIF filed on 2/8/2019
WGN-TV	72115	0005047105	Tribune Media Company	Chicago, Illinois	LMS File No. 0000155350
WGNO	72119	0002847564	Tribune Television New Orleans, Inc.	New Orleans, Louisiana	LMS File No. 0000134899
WDAF	11291	0003476421	WDAF License, Inc.	Kansas City, Missouri	OPIF filed on 1/28/2019[7]

Second Generation of Iowa, LTD

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
KFXA	35336	0003742939	Second Generation of Iowa, LTD	Cedar Rapids, Iowa	OPIF filed on 1/28/2019[8]

Waitt Broadcasting, Inc.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
KMEG	39665	0004957650	Waitt Broadcasting, Inc.	Sioux City, Iowa	OPIF filed on 1/28/2019[9]

[7] Licensee did not disclose Hot Wheels violation in its renewal application. *See* LMS File No. 0000161555.

[8] Licensee did not disclose Hot Wheels violation in its renewal application. *See* LMS File No. 0000161068.

[9] Licensee did not disclose Hot Wheels violation in its renewal application. *See* LMS File No. 0000159443.

WTVH License, Inc.

Station	Fac. ID.	FRN	Licensee	Community of License	Renewal No./ OPIF Cert.
WTVH	74151	0006583298	WTVH License, Inc.	Syracuse, New York	OPIF filed on 1/27/2019

APPENDIX B

Forfeitures

Licensee or Ultimate Parent	FRN	Number of Stations	Violation Amount per Station	Amount of Proposed Forfeiture
Sinclair Broadcast Group, Inc.	0004331096	**83**[1]	**$32,000**	**$2,652,000**
Cunningham Broadcasting Corporation	0003778552	**6**[2]	**$20,000**	**$140,000**
Deerfield Media (Port Arthur), Inc.	0021989033	**1**	**$20,000**	**$20,000**
Deerfield Media (San Antonio), Inc.	0022238778	**1**	**$20,000**	**$20,000**
Deerfield Media (Rochester), Inc.	0022244495	**1**	**$20,000**	**$20,000**
Deerfield Media (Cincinnati), Inc.	0022238810	**1**[3]	**$20,000**	**$40,000**
GoCom Media of Illinois, LLC	0015021157	**1**	**$20,000**	**$20,000**
Manhan Media, Inc.	0021241484	**1**	**$20,000**	**$20,000**
Mercury Broadcasting Company, Inc.	0004995882	**1**	**$20,000**	**$20,000**
Mitts Telecasting Company, LLC	0019424746	**1**	**$20,000**	**$20,000**
MPS Media of Tallahassee License, LLC	0015431570	**1**	**$20,000**	**$20,000**
MPS Media of Tennessee License, LLC	0017130642	**1**	**$20,000**	**$20,000**
Nashville License Holdings, L.L.C.	0003797305	**1**	**$20,000**	**$20,000**
New Age Media of Gainesville License, LLC	0015435407	**1**	**$20,000**	**$20,000**
New Age Media of Pennsylvania License, LLC	0015435357	**2**	**$20,000**	**$40,000**
Nexstar Broadcasting, Inc.	0009961889	**7**	**$26,000**	**$182,000**
Second Generation of Iowa, LTD	0003742939	**1**	**$20,000**	**$20,000**

[1] WABM aired seven episodes containing Hot Wheels Super Ultimate Garage commercials rather than the eight aired by the other stations and thus we find an upward adjustment to $28,000 warranted for WABM. As noted previously, we find an upward adjustment to $32,000 for each of the other 82 Sinclair stations. Accordingly, for Sinclair, the forfeiture was calculated as follows: 82 x $32,000 + $28,000 = $2,652,000.

[2] Episodes aired on two of WEMT's program streams.

[3] Episodes aired on two of WSTR-TV's program streams.

Forfeitures

Licensee or Ultimate Parent	FRN	Number of Stations	Violation Amount per Station	Amount of Proposed Forfeiture
Waitt Broadcasting, Inc.	0004957650	**1**	**$20,000**	**$20,000**
WTVH License, Inc.	0006583298	**1**	**$20,000**	**$20,000**

STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL

Re: *Cunningham Broadcast Corporation, et al.*, Forfeiture Order (August 14, 2024)

The Children's Television Act puts strict limits on advertising during kids' programming. There is no question these limits were crossed here, where broadcasters mixed toy commercials with programming and violated our rules. This is laid out clearly in the underlying unanimous Notice of Apparent Liability that preceded this action. Here we follow through on that earlier effort with a virtually identical Forfeiture Order that involves 19 different station groups and 113 stations. This approach is consistent with our precedent and the principle that failure to follow the law must have consequences.

STATEMENT OF
COMMISSIONER BRENDAN CARR, DISSENTING

Re: *Cunningham Broadcast Corporation, et al.*, Forfeiture Order (August 14, 2024)

The forfeiture assessed in this Order may not seem large in the grand scheme. But it illustrates broader problems with the FCC's approach to enforcement. If we do not fix them, the courts will.

In this case, Sinclair aired a 30-minute children's program titled *Team Hot Wheels*. As the name suggests, this is a children's TV show based around Mattel's Hot Wheels line of toys. Standing alone, *Team Hot Wheels* constitutes qualifying children's programming under federal law and, as a general matter, broadcasting that program does not constitute a violation of any rules. Sinclair also aired a commercial advertisement for Hot Wheels toys. Again, standing alone, there is no general FCC prohibition on broadcasting those types of commercials. The problem—and the violation in this case—arose because Sinclair combined the two. It aired the Hot Wheels commercial during the *Team Hot Wheels* TV show. By operation of federal law, the airing of that particular commercial (an ad for a product that is associated with the children's program) during the children's program itself converts the entire 30-minute *Team Hot Wheels* TV show from a program that qualifies as children's programming to one that does not. Because all 30 minutes are treated as commercial programming in this scenario, the broadcasters in this case exceeded the allowable number of commercial minutes during children's programming.

At bottom, there is no question in this case that Sinclair exceeded the FCC's limits on commercial material in children's programming. A technical error at its central facility caused the broadcaster to insert those ads for Hot Wheels toys during the kids' show *Team Hot Wheels*. This happened 11 times over a single month in 2018. After discovering this, Sinclair fixed the error and disclosed it to the Media Bureau.

Ordinarily, the parties would have entered a consent decree and the licensee would have agreed to a penalty. After all, nobody disputes that a violation took place. But that is not what happened here. Rather than settle what everyone understood to be a short-lived error, the FCC decided to throw the book and impose a forfeiture of $2,652,000.[145]

Let's put that amount in context. When a broadband provider charged customers for equipment they did not order, the FCC settled that violation for $2.3 million.[146] When an individual transmitted false distress calls and sent unauthorized radio signals that maliciously interfered with NYPD officers' communications, the FCC proposed a $404,166 forfeiture.[147] For a 911 outage spanning ten states and affecting thousands of calls, the FCC entered settlements between $470,000 and $3.8 million.[148]

So, perhaps unsurprisingly, today's $2.652 million penalty is not how any of this should work under the law. Under the Communications Act and the FCC's rules, most forfeitures against broadcasters are limited to $61,238 per violation and capped at $612,395 for any single act. A violation of the children's programming rules results in a base forfeiture of $8,000, and an upward adjustment is typically not much greater than that. While a higher forfeiture may be warranted in egregious circumstances, in other cases a company will get away with a mere warning.

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[145] In this Order, the FCC also fined other broadcasters that reran the programming with fines as high as $140,000.

[146] *Comcast Corporation*, Order, 31 FCC Rcd 11431 (2016).

[147] *Jay Peralta*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 3246, 3246-47, paras. 2-4 (2017).

[148] Press Release, *Four Communications Providers Settle FCC Investigations Into Compliance With 911 Rules*, https://docs.fcc.gov/public/attachments/DOC-378732A1.pdf.

To evade these authorities and precedents, today's Order justifies its $2.65 million penalty through a series of moves that do not withstand scrutiny. The FCC treats a single error at Sinclair's central facility as 83 separate rule violations, one for each station that broadcast the material. Then, after dinging the company for the same conduct 83 times over, the FCC dings Sinclair again by increasing the penalty based on the violation's "geographic reach" across 83 markets. The FCC calls the violation "willful" even as it acknowledges elsewhere that it was "inadvertent." It tars the company as a repeat offender even though the most recent incident happened nearly 20 years ago. The FCC characterizes Sinclair's compliance program as "ineffective" because, as the Order tells it, the violations demonstrated that the compliance program could not possibly have been effective. Under this circular logic, no set of internal controls could get credit in an enforcement action. And finally the FCC increases the forfeiture for Sinclair's deep pockets.

Our enforcement practices are at a fork in the road after the Supreme Court's latest string of administrative law decisions. The FCC is not safe anymore to disregard clear limits on its statutory authority after *Loper Bright*. Nor can this agency get away with arbitrary and capricious decision-making by ignoring obvious counterarguments and considerations, as *Ohio v. EPA* makes clear. And after *Jarkesy*, the FCC is on thinning ice when it decides the legality of its own enforcement actions involving forfeitures.

As I've said before, it is time for the FCC to start the process of fundamentally reforming our enforcement practices—lest the courts step in, including in cases where bad actors deserve accountability. I think the days are numbered for FCC enforcement decisions that rest on stacked penalties, creative math, surprise standards, and extraneous behavioral conditions.

I dissent.

STATEMENT OF
COMMISSIONER NATHAN SIMINGTON, DISSENTING

Re: *Cunningham Broadcast Corporation, et al.*, Forfeiture Order (August 14, 2024)

Under new and controlling Supreme Court precedent, the Commission's authority to assess monetary forfeitures as it traditionally has done is unclear. Until the Commission formally determines the bounds of its enforcement authority under this new precedent, I am obligated to dissent from any decision purporting to impose a monetary forfeiture. I call on the Commission to open a Notice of Inquiry to determine the new constitutional contours of Commission enforcement authority.

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

In the Matter of	)	
	)	
Establishing a 5G Fund for Rural America	)	GN Docket No. 20-32

SECOND REPORT AND ORDER, ORDER ON RECONSIDERATION, AND SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: August 14, 2024 **Released: August 29, 2024**

Comment Date: 30 days after publication in the Federal Register
Reply Comment Date: 45 days after publication in the Federal Register

By the Commission: Chairwoman Rosenworcel and Commissioners Starks and Gomez issuing separate statements; Commissioner Carr dissenting and issuing separate statement.

TABLE OF CONTENTS

Heading Paragraph #

I. INTRODUCTION 1
II. BACKGROUND 6
III. IDENTIFYING AREAS ELIGIBLE FOR 5G FUND SUPPORT 13
A. Defining the Areas Eligible for 5G Fund Support 13
1. Technology for Determining Eligible Areas 16
2. Speed Thresholds for Determining Eligible Areas 23
3. Environment for Determining Eligible Areas 30
4. Limiting Eligibility to Areas With Locations or Roads 34
5. Generating Areas Eligible for 5G Fund Support at the Hex-9 Level 44
6. Source and Timing for Determining Final List of Eligible Areas 52
B. Puerto Rico and the U.S. Virgin Islands 57
IV. 5G FUND BUDGET 61
V. ACCEPTING BIDS AND IDENTIFYING WINNING BIDS 86
A. Metric for Accepting Winning Bids and Identifying Winning Bids 86
1. Bidding and Support Metric 87
2. The Adjustment Factor as Adopted in 2020 91
3. An Adjustment That Weights Bids and Support Prices Based on Service Availability 96
B. Minimum Geographic Area for Bidding 98
VI. COMPLIANCE WITH 5G FUND PUBLIC INTEREST OBLIGATIONS AND PERFORMANCE REQUIREMENTS 103
A. Metric for Measuring Compliance with 5G Fund Public Interest Obligations and Performance Requirements 103
B. Methodologies for Demonstrating Compliance with 5G Fund Performance Requirements 107
VII. SCHEDULE FOR TRANSITIONING FROM MOBILE LEGACY HIGH-COST SUPPORT TO 5G FUND SUPPORT 113
VIII. CERTIFICATION OF NOTICE OF 5G FUND PHASE I AUCTION REQUIREMENTS AND PROCEDURES 118
IX. CYBERSECURITY AND SUPPLY CHAIN RISK MANAGEMENT 121
X. USE OF OPEN RADIO ACCESS NETWORK TECHNOLOGIES IN 5G FUND SUPPORTED NETWORKS 137

XI. PROMOTING DIGITAL EQUITY AND INCLUSION 154
XII. CTIA PETITION FOR PARTIAL RECONSIDERATION OF THE 5G FUND REPORT AND ORDER 157
XIII. NON-SUBSTANTIVE RULE CLARIFICATIONS 163
XIV. SECOND FURTHER NOTICE OF PROPOSED RULEMAKING 164
XV. PROCEDURAL MATTERS 174
XVI. ORDERING CLAUSES 183
APPENDIX A – FINAL RULES
APPENDIX B – SUPPLEMENTAL FINAL REGULATORY FLEXIBILITY ANALYSIS
APPENDIX C – SUPPLEMENTAL INITIAL REGULATORY FLEXIBILITY ANALYSIS

I. INTRODUCTION

1. Today, we take important and necessary steps to implement the framework for the 5G Fund for Rural America (5G Fund) to support the build out of advanced, 5G mobile wireless broadband networks for those who live, work, and travel in rural areas. After over a decade of hard work to reach this pivotal moment, the 5G Fund reflects the Commission's persistent efforts to reform and redirect universal service funds for mobile broadband to areas of the country that need them the most.[1] As we finalize the details for the 5G Fund, we are confident that our conclusions below are solidly grounded in the improved mobile coverage data obtained in the Broadband Data Collection (BDC), which is reflected on our new National Broadband Map and provides us with the most comprehensive picture to date about where mobile broadband service is and is not across the entire country.[2] Unquestionably, the Commission's decision to wait to proceed with a 5G Fund Phase I auction until we had these data to rely on has dramatically improved our understanding of where high-speed mobile broadband service is being provided and has significantly enhanced our ability to hold a successful 5G Fund auction. We are now far better informed regarding which communities lack mobile broadband service.

2. As the Commission noted when it adopted the *5G Fund Further Notice of Proposed Rulemaking* (*5G Fund FNPRM*), the National Broadband Map reflects the stark reality that over 14 million homes and businesses nationwide continue to lack access to 5G mobile wireless broadband service.[3] The Commission therefore undertook a tailored effort to refresh the record and reignite the 5G Fund's plan to expand the deployment of 5G service to those rural communities that remain trapped on the wrong side of the digital divide. After careful consideration of the record gathered in this proceeding, we conclude that the determinations we reach herein will best incentivize the deployment of networks providing advanced, 5G mobile wireless broadband in areas of the country where, absent subsidies, such service will continue to be lacking.[4]

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[1] *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Report and Order, 35 FCC Rcd 12174 (2020), modified by *Errata* released Nov. 10, 2020, Nov. 27, 2020, and Jan. 11, 2021 (*5G Fund Report and Order*).

[2] *See National Broadband Map,* https://broadbandmap.fcc.gov/home (last visited Mar. 15, 2024). At the time the *5G Fund Report and Order* was adopted, the BDC was known as the Digital Opportunity Data Collection.

[3] *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Further Notice of Proposed Rulemaking, FCC 23-74, 2023 FCC LEXIS 2941, at *31, para. 14 (2023) (*5G Fund FNPRM*). This figure reflected data as of December 2022 where broadband serviceable locations lacked mobile 5G coverage at speed thresholds of at least 7/1 Mbps in an in-vehicle environment. *Id.*

[4] *See generally Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Report, 37 FCC Rcd 10041 (2022), https://docs.fcc.gov/public/attachments/FCC-22-67A1.pdf (*Future of USF Report*). As the Commission explained, it is committed to interagency coordination of high-cost support and the Infrastructure Investment and Jobs Act (Infrastructure Act) support. *Id.* at 10066, para. 46. Funding for deployment under the Infrastructure Act, however, focuses on fixed services, not mobile services. *Id.* at 10069, para. 53 n.204 (citing NTIA, Notice of Funding Opportunity; Broadband Equity, Access, and Deployment (BEAD) Program at 15 n.10 (May 13, 2022) (*BEAD Program NOFO*), https://broadbandusa.ntia.doc.gov/sites/default/files/2022-

(continued….)

3. Specifically, in this *Second Report and Order and Order on Reconsideration*, we: (1) modify the definition of the areas that will be eligible for support in the 5G Fund Phase I auction and include areas in Puerto Rico and the U.S. Virgin Islands that meet this eligible area definition in the 5G Fund Phase I auction; (2) increase the budget for Phase I of the 5G Fund and the Tribal reserve budget; (3) modify the metric for accepting and identifying winning bids and adopt a service-based weighting factor for bidding in the 5G Fund Phase I auction; (4) explain how we will aggregate areas eligible for 5G Fund support to minimum geographic areas for bidding; (5) explain our approach to generally align the methodologies for demonstrating compliance with the 5G Fund public interest obligations and performance requirements with those used in the BDC; (6) modify the schedule for transitioning from mobile legacy high-cost support to 5G Fund support consistent with recent legislative amendments; (7) require each 5G Fund Phase I auction applicant to certify, under penalty of perjury, that it has read the public notice adopting procedures for the auction, and that it has familiarized itself with those procedures and any requirements related to the support made available for bidding in the auction; (8) require 5G Fund support recipients to implement cybersecurity and supply chain risk management plans as a condition of receiving support; and (9) encourage 5G Fund support recipients to incorporate Open Radio Access Network (Open RAN) technologies in networks funded through the 5G Fund through the use of incentive funding and an opportunity to seek additional time to meet their 5G Fund public interest obligations and performance requirements by the established service deployment milestones.

4. We also resolve the issues raised in the pending petitions for reconsideration of the Commission's *5G Fund Report and Order*.[5] With the decisions we reach today, we advance the Commission's extensive efforts to modernize high-cost support for mobile broadband services[6] and

05/BEAD%20NOFO.pdf (stating that the Assistant Secretary, pursuant to authority in Infrastructure Act, § 60102(a)(2)(L), adopts the criteria that Reliable Broadband Service must be, among other things, a fixed broadband service). Insofar as the BEAD Program will not fund mobile broadband deployment, the Commission has stated that pausing the process of preparing for a 5G Fund auction "would have detrimental impacts on consumers' access to advanced mobile wireless service." *Report on the Future of Universal Service Fund Support*, 37 FCC Rcd at 10069, para. 54.

[5] The Commission received five timely filed petitions for reconsideration of the *5G Fund Report and Order*. *See* The Rural Wireless Association, Inc. and NTCA – The Rural Broadband Association, Joint Petition for Reconsideration, GN Docket No. 20-32 (filed Dec. 28, 2020) (*RWA/NTCA Joint Petition for Reconsideration*); The Coalition of Rural Wireless Carriers, Petition for Reconsideration, GN Docket No. 20-32 (filed Dec. 28, 2020) (*CRWC Petition for Reconsideration*); CTIA, Petition for Partial Reconsideration, GN Docket No. 20-32 (filed Dec. 28, 2020); Smith Bagley, Inc, Petition for Reconsideration, GN Docket No. 20-32 (filed Dec. 28, 2020) (*SBI Petition for Reconsideration*); 5G Fund Supporters, Petition for Partial Reconsideration, GN Docket No. 20-32 (filed Nov. 30, 2020) (*5G Fund Supporters Petition for Reconsideration*); *see also Petitions for Reconsideration of Action in Proceeding*, Public Notice, Report No. 3165 (Jan. 6, 2021).

[6] Beginning in its 2011 *USF/ICC Transformation Order*, the Commission took numerous steps to comprehensively reform and modernize the universal service program to ensure that robust, affordable, fixed, and mobile broadband service are available to Americans living in rural, insular, and high cost areas of the country. *See Connect America Fund et al.*, WC Docket 10-90 et al., Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*), *aff'd sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (*In re FCC 11-161)*. Among other things, the Commission established a two-phased Mobility Fund dedicated to targeting universal service support for mobile services in a cost-effective manner to no more than one provider per area in areas where a private-sector business case was lacking. *See id.* at 17674-75, 17773, 17779, 17819, 17821, paras. 28, 299, 316, 481, 486. In Phase I of the Mobility Fund, which was composed of a general Mobility Fund and a Tribal Mobility Fund, the Commission awarded almost $350 million in one-time universal service support through two reverse auctions. *See 5G Fund Report and Order*, 35 FCC Rcd at 12176-77, para. 6. In 2017, the Commission adopted rules for Mobility Fund Phase II that provided $4.53 billion in ongoing support over a ten-year term, redirected universal service funds to areas of the country unlikely to receive 4G Long Term Evolution (LTE) service absent subsidies, and established the framework for a challenge process to resolve disputes about areas that were found to be presumptively ineligible for support. *See Connect America Fund; Universal Service Reform – Mobility Fund*, WC Docket No. 10-90; WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 32 (continued….)

proceed with confidence that we are stretching our limited universal service fund dollars to support advanced, 5G mobile wireless broadband service to as many areas where Americans live, work and travel as possible.

5. In this *Second Further Notice of Proposed Rulemaking*, we seek comment on whether to require a winning bidder in the 5G Fund Phase I auction to demonstrate during the long-form application process, and prior to being authorized to receive support, that it has obtained the consent of the relevant Tribal government(s) for any necessary access to deploy network facilities using its 5G Fund support on Tribal lands within the area(s) of its winning bid(s). We seek comment on whether including a Tribal consent requirement would advance the goals of the 5G Fund and would be administratively efficient for all parties and the Commission. We tentatively conclude that adopting a Tribal consent requirement in our 5G Fund rules is consistent with our long-standing recognition that engagement between Tribal governments and communications providers, particularly early engagement, is an important element to promote the successful deployment and provision of service on Tribal lands. We also seek comment on how to structure any such Tribal consent requirement we may adopt for the 5G Fund.

II. BACKGROUND

6. In October 2020, the Commission established the 5G Fund and determined that it would use multi-round reverse auctions to distribute up to $9 billion, in two phases, to retarget mobile universal service in the high-cost program to bring voice and 5G mobile broadband service to rural areas of the country unlikely to otherwise see unsubsidized deployment of 5G-capable networks.[7] The Commission decided that it would use new, more precise, verified mobile coverage data gathered through the BDC to determine the areas eligible for support in a 5G Fund auction.[8] The Commission defined the areas eligible for support in the 5G Fund Phase I auction as those that lack unsubsidized 4G LTE and 5G broadband service by at least one service provider based on BDC data.[9] The Commission also decided

FCC Rcd 2152, 2154, para. 2 (2017) (*Mobility Fund Phase II Report and Order*); *Connect America Fund; Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, WT Docket No. 10-208, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282 (2017) (requiring mobile wireless providers to submit 4G LTE coverage maps and adopting a process for challenging those coverage maps). After questions arose about the accuracy of the submitted coverage maps, the Commission launched an investigation into the 4G LTE coverage data submitted by some providers and suspended the challenge process pending the investigation. *See* News Release, FCC, FCC Launches Investigation into Potential Violations of Mobility Fund Phase II Mapping Rules (Dec. 7, 2018), https://docs.fcc.gov/public/attachments/DOC-355447A1.pdf. Commission staff ultimately determined that the coverage maps submitted by certain carriers overstated actual coverage and did not reflect on-the-ground performance in many instances, and recommended that the Commission terminate the challenge process because the coverage maps were not "a sufficiently reliable or accurate basis upon which to complete the challenge process as it was designed." Rural Broadband Auctions Task Force, Mobility Fund Phase II Coverage Maps Investigation Staff Report at 2, para. 6 (2019) (*Mobility Fund Phase II Coverage Maps Investigation Staff Report*), https://docs.fcc.gov/public/attachments/DOC-361165A1.pdf. The Commission proposed, and later established, the 5G Fund as a comprehensive replacement for Mobility Fund Phase II, and adopted the framework and rules for the 5G Fund. *See generally Establishing a 5G Fund for Rural America; Universal Service Reform – Mobility Fund*, GN Docket No. 20-32, WT Docket No. 10-208, Notice of Proposed Rulemaking and Order, 35 FCC Rcd 3994, 3996, para. 2 (2020) (*5G Fund NPRM*); *5G Fund Report and Order,* 35 FCC Rcd 12174.

[7] *5G Fund Report and Order*, 35 FCC Rcd at 12176, para. 4. In adopting a budget of up to $9 billion for the 5G Fund, the Commission explained that support would be awarded in two phases, with up to $8 billion for Phase I, of which it would reserve $680 million of support for service to Tribal lands, and at least $1 billion in Phase II, as well as any unawarded funds from Phase I. *Id.* at 12185, para. 28.

[8] *See id.* at 12179, para. 11; *see also 5G Fund NPRM*, 35 FCC Rcd at 4007-08, paras. 37-39.

[9] *5G Fund Report and Order*, 35 FCC Rcd at 12181, para. 17.

that it would accept bids and identify winning bids in a 5G Fund auction using a support price per adjusted square kilometer.[10]

7. The Commission also concluded in the *5G Fund Report and Order* that "[r]ural Americans deserve timely deployment of service by legacy recipients of high-cost support that is comparable to what is being offered in urban areas, and [that its] stewardship of the Universal Service Fund demands that [it] specify and clarify the obligations of legacy support recipients."[11] Consistent with this conclusion, the Commission adopted additional 5G public interest obligations and performance requirements, as well as associated reporting requirements, for competitive eligible telecommunications carriers (ETCs) to continue to receive mobile legacy high-cost support.[12] The Commission also adopted a requirement that competitive ETCs receiving mobile legacy high-cost support use an increasing percentage of their support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G service in their subsidized areas.[13] Furthermore, the Commission noted that it would terminate support payments to competitive ETCs receiving mobile legacy high-cost support that fail to comply with their public interest obligations and performance requirements.[14] The Commission explained that such rules would help to ensure that the areas served by legacy support providers enjoyed the benefits that 5G promises.[15]

8. Pursuant to the rules adopted in the *5G Fund Report and Order*, both recipients of mobile legacy high-cost support and recipients of 5G Fund auction support are required to meet minimum baseline performance requirements for data speed, latency, and data allowance, including: (1) deploying 5G networks that meet at least the 5G-NR (New Radio) technology standards developed by the 3rd Generation Partnership Project with Release 15 (or any successor release that may be adopted by the

[10] *Id.* at 12194-95, para. 48; *see also 5G Fund NPRM*, 35 FCC Rcd at 4014, para. 57. Under this approach, each eligible area would have an associated number of square kilometers that would be subject to an adjustment factor that would assign a weight to each geographic area and apply that adjustment factor to bidding for support amounts, and support amounts for an area would be determined by multiplying an area's associated adjusted square kilometers by the relevant price per square kilometer. *See 5G Fund Report and Order*, 35 FCC Rcd at 12194-95, 12196-97, paras. 48, 54-55. For example, an area with 100 square kilometers and an adjustment factor of 1.2 would have 100×1.2 or 120 adjusted square kilometers. *Id*. at 12195, para. 48 n.124.

[11] *5G Fund Report and Order*, 35 FCC Rcd at 12199-200, para. 62.

[12] *See generally id*. at 12212-14, paras. 91-100. We use the term "mobile legacy high-cost support" and "mobile legacy support" herein to refer specifically to the high-cost support that was frozen in the *USF/ICC Transformation Order*, *see USF/ICC Transformation Order*, 26 FCC Rcd at 17832, para. 519, and is being disbursed to competitive ETCs to provide mobile wireless service. As part of its 2011 high-cost program reforms, the Commission eliminated a legacy support mechanism for providing universal service fund support to competitive ETCs, including mobile providers (subject to a freeze and a five-year transition period), and adopted a two-phased Mobility Fund. *USF/ICC Transformation Order*, 26 FCC Rcd at 17675, para. 28. Pursuant to the terms of the *USF/ICC Transformation Order,* because the Mobility Fund Phase II auction did not take place by July 1, 2014, the Commission paused the phase down of frozen mobile legacy high-cost support at the 60% frozen support level. *See id.* at 17832, para. 519. To ensure that its new rules were being followed, the Commission adopted reporting requirements for each competitive ETC receiving legacy high-cost support for mobile wireless service to file an initial report of the provider's service offerings in each of its subsidized service areas detailing how it was using such legacy support. *5G Fund Report and Order*, 35 FCC Rcd at 12212-13, paras. 91-94. Additionally, the Commission's rules require that carriers receiving mobile legacy support must file annual reports regarding their efforts to provide 5G services throughout their subsidized service areas, as well as certifications that the support recipient is in compliance with its public interest obligations and performance requirements. *Id*. at 12213-14, paras. 95-99. The Commission also adopted a high-level requirement that mobile legacy high-cost support recipients submit 5G service milestone reports. *Id.* at 12215, para. 100.

[13] *5G Fund Report and Order*, 35 FCC Rcd at 12200-01, para. 65.

[14] *Id.* at 12217, para. 107.

[15] *Id*. at 12178, para. 10.

Office of Economics and Analytics (OEA) and Wireline Competition Bureau (WCB) after appropriate notice and comment) with median download and upload speeds of at least 35 Mbps and 3 Mbps and with minimum cell edge download and upload speeds of 7 Mbps and 1 Mbps; (2) meeting end-to-end round trip data latency measurements of 100 milliseconds or below; and (3) offering at least one service plan that includes a minimum monthly data allowance that is equivalent to the average United States subscriber data usage.[16] The Commission explained that these performance requirements, along with public interest obligations for reasonably comparable rates, collocation, and voice and data roaming, will ensure that rural areas receive service reasonably comparable to high-speed mobile broadband service available in urban areas from both mobile legacy support recipients and 5G Fund support recipients.[17]

9. To ensure that 5G Fund support recipients meet their public interest obligations and performance requirements in areas where they receive support, the Commission adopted interim and final service deployment milestones along with reporting requirements to monitor their progress. Specifically, the Commission adopted milestones requiring a 5G Fund support recipient to offer 5G service meeting established performance requirements to at least 40% of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state by the end of the third full calendar year following authorization of support, to at least 60% of the total square kilometers by the end of the fourth full calendar year, and to at least 80% of the total square kilometers by the end of the fifth full calendar year.[18] Moreover, the Commission adopted a final service deployment milestone that would require a 5G Fund support recipient to offer 5G service that meets the established 5G Fund performance requirements to at least 85% of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state by the end of the sixth full calendar year following authorization of support.[19] Additionally, a 5G Fund support recipient is required to demonstrate by the end of the sixth full calendar year following authorization of support that it provides service that meets the established 5G performance requirements to at least 75% of the total square kilometers within each of its individual biddable areas.[20]

10. Figure 1 below depicts USAC's online map delineating the boundaries of the subsidized service areas of each competitive ETC receiving mobile legacy high-cost support used in determining which areas are subsidized for this purpose.[21] The charts in Figures 2 and 3 below provide more detail about the distribution of mobile legacy high-cost support by state.

[16] *Id*. at 12183-84, para. 20; *see also id*. at 12206, para. 78.

[17] *Id.* at 12184, para. 21.

[18] *Id.* at 12204, para. 73.

[19] *Id.* at 12204, para. 74; *see also 5G Fund NPRM*, 35 FCC Rcd at 4026, para. 95.

[20] *5G Fund Report and Order*, 35 FCC Rcd at 12204, para. 74; *see also 5G Fund NPRM*, 35 FCC Rcd at 4027, para. 96.

[21] The Commission stated in the *5G Fund Report and Order* that it will use Geographic Information Systems (GIS) data from the Universal Service Administrative Company (USAC) delineating the boundaries of the subsidized service areas of each competitive ETC receiving mobile legacy high-cost support in determining which areas are subsidized for this purpose. *5G Fund Report and Order*, 35 FCC Rcd at 12181, para. 17 n.43; *see 5G Fund NPRM*, 35 FCC Rcd at 4017-18, para. 71 & n.104.

Figure 1: USAC Mobile CETC Service Area Boundaries Map[22]

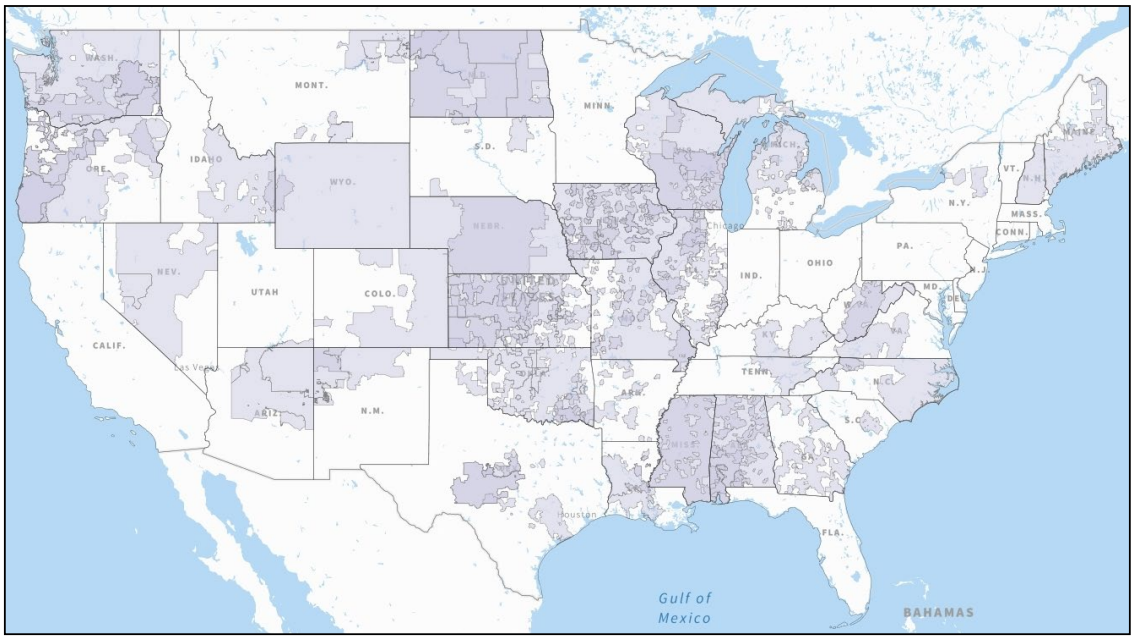
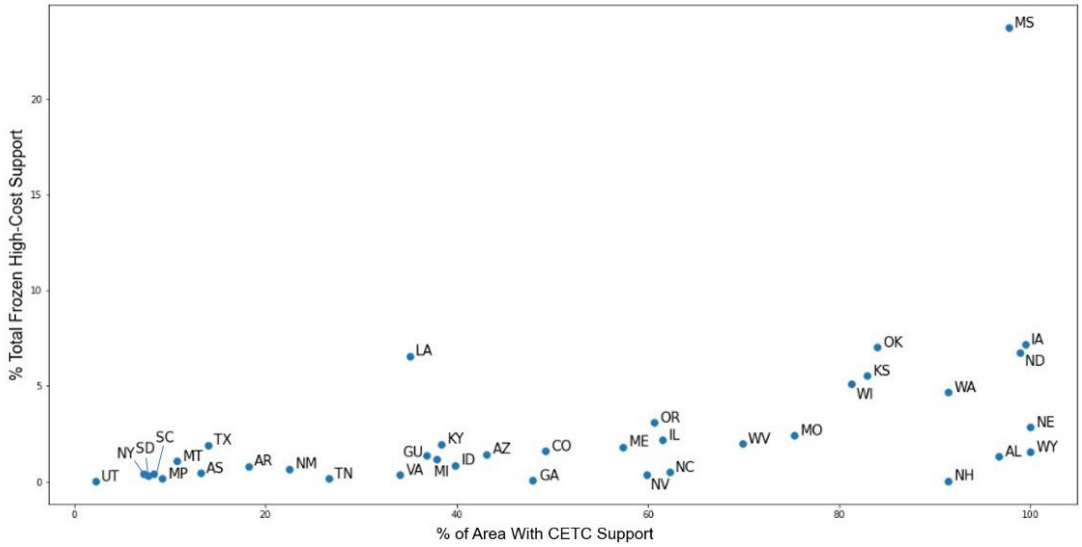
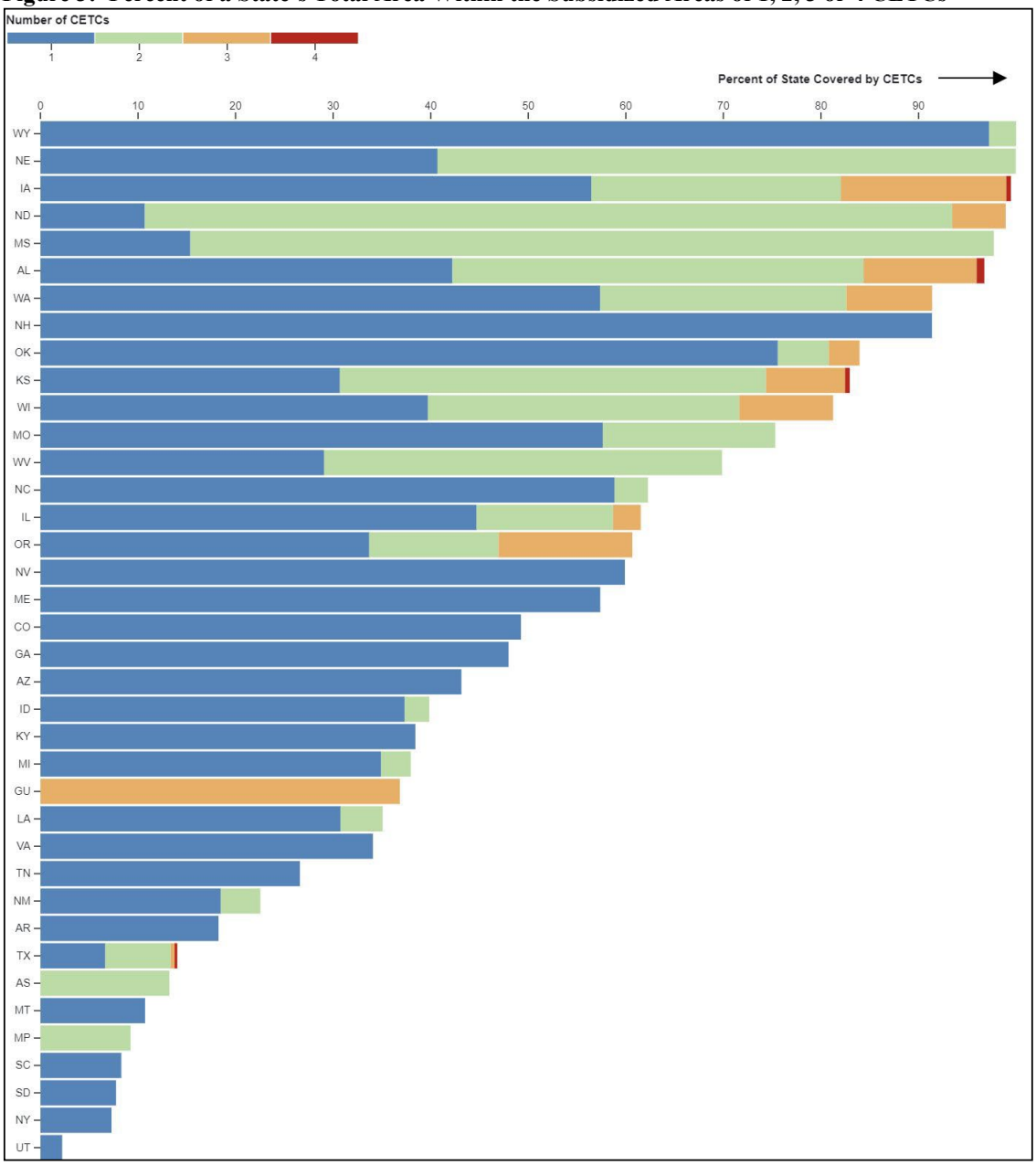


Figure 2: Percent of a State's Total Area Within a Subsidized CETC Area and the Percent of Total High-Cost Subsidy Directed to That State



[22] Mobile CETC Service Area Boundaries Map, https://data.usac.org/publicreports/cetc-map/ (data as of Feb. 16, 2023; image generated Aug. 28, 2023). The following states and Washington, D.C. do not have any mobile legacy high-cost support service areas: California, Connecticut, Delaware, Florida, Hawaii, Indiana, Maryland, Massachusetts, Minnesota, New Jersey, Ohio, Pennsylvania, Rhode Island, and Vermont.

Figure 3: Percent of a State's Total Area Within the Subsidized Areas of 1, 2, 3 or 4 CETCs



11. The Commission decided in the *5G Fund Report and Order* that it would wait to hold an auction to award 5G Fund support until it had new, more precise, verified mobile coverage data obtained through the BDC, and explained that waiting for the development of a National Broadband Map was critical to the 5G Fund's success.[23] Our National Broadband Map, which reflects the most recently available data submitted in the BDC concerning mobile broadband service availability, provides us with a

[23] *5G Fund Report and Order*, 35 FCC Rcd at 12179, para. 11.

substantially improved understanding about where such service is—and is not—available.[24] Moreover, in areas where mobile broadband service is available, this map provides an improved picture of the type(s) of service available, the speeds at which service is available, and the environment(s) in which service is available.[25]

12. Armed with this data, the Commission adopted the *5G Fund FNPRM* on September 21, 2023, to refresh the record and help inform the decisions we make below about how Phase I of the 5G Fund should operate.[26] The *5G Fund FNPRM* therefore sought comment on a limited set of issues that are critical to the 5G Fund's success, namely: (1) defining the areas that will be eligible for 5G Fund support; (2) reassessing the budget for the 5G Fund; (3) potentially reconsidering the use of adjusted square kilometers as the metric for accepting bids and identifying winning bids in a 5G Fund auction; (4) aggregating areas eligible for 5G Fund support to minimum geographic areas for bidding; (5) measuring a 5G Fund support recipient's compliance with its public interest obligations and performance requirements based on any modified metric for accepting bids and identifying winning bids; (6) modifying the schedule for transitioning from mobile legacy high-cost support to 5G Fund support, consistent with recent legislative amendments; (7) requiring each 5G Fund Phase I auction applicant to certify, under penalty of perjury, that it has read the public notice adopting procedures for the auction, and that it has familiarized itself with those procedures and any requirements, terms, and conditions related to the support made available for bidding in the auction; (8) requiring 5G Fund support recipients to implement cybersecurity and supply chain risk management plans; (9) determining whether and how this proceeding might create an opportunity to support further deployment of Open Radio Access Network (Open RAN) technologies; and (10) asking how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority to address any such issues.[27]

III. IDENTIFYING AREAS ELIGIBLE FOR 5G FUND SUPPORT

A. Defining the Areas Eligible for 5G Fund Support

13. We modify the definition of areas eligible for support in the 5G Fund Phase I auction to be those areas that: (1) show a lack of unsubsidized[28] 5G mobile wireless broadband service at speeds of at least 7/1 Mbps in an outdoor stationary environment by at least one service provider based on mobile coverage data submitted in the BDC, (2) are not in urban areas, as defined by the U.S. Census Bureau, and (3) contain at least one location or at least some portion of a road.[29]

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[24] *5G Fund FNPRM* at *26-27, para. 11. *See* Updated National Broadband Map, released November 17, 2023, https://broadbandmap.fcc.gov/home (last visited Mar. 12, 2024). The Updated National Broadband Map released on November 17, 2023 shows the Fabric Version 3 location data and broadband availability data as of June 30, 2023.

[25] *5G Fund FNPRM* at *26-27, para. 11. *See BDC Mobile Technical Requirements Order*, 37 FCC Rcd 3007, 3008, para. 1 (WTB/OEA/OET 2022). In the BDC, the term "environment" in the context of mobile services refers to service provided in an outdoor stationary environment or an in-vehicle mobile environment. *Id.* at 3024, para. 29.

[26] *See generally 5G Fund FNPRM.*

[27] *Id.* at *20-90, paras. 9-54.

[28] Data submitted in the BDC does not include the subsidy status of a reported service or provider. As noted above, to determine whether an area lacks unsubsidized service, we evaluate the subsidy status of a service provider by using information provided from USAC regarding the distribution of mobile legacy high-cost support from the universal service fund and competitive eligible telecommunications carrier (CETC) study boundaries. *See supra* n.21.

[29] Consistent with the Commission's decision in the *5G Fund Report and Order* prohibiting any provider with enforceable 5G deployment obligations to use 5G Fund support to fund such deployments, we expect to give providers with enforceable 5G deployment obligations an opportunity to make pre-auction, binding commitments to deploy 5G in certain areas, thereby removing those areas from the inventory of areas eligible for the auction. *See 5G Fund Report and Order*, 35 FCC Rcd at 12247-49, paras. 180-83. The Commission previously concluded that

(continued….)

14. As the Commission noted in the *5G Fund FNPRM*, throughout this proceeding, several parties have taken issue with the previously adopted eligible areas definition—i.e., areas where mobile coverage data submitted in the BDC show a lack of both unsubsidized 4G LTE and unsubsidized 5G broadband service by at least one service provider[30]—and have advocated that the Commission more broadly define as eligible for 5G Fund support any areas that lack unsubsidized 5G mobile broadband service.[31] The Commission also received two petitions seeking reconsideration of the eligible areas definition adopted in the *5G Fund Report and Order*, both of which ask us to define as eligible for 5G Fund support any area that lacks unsubsidized 5G broadband service.[32] We are persuaded by the comments filed in response to the *5G Fund FNPRM* that, for a variety of reasons, unsubsidized providers of 4G LTE service may lack motivation to upgrade their networks to 5G technology in rural areas and thus may be unlikely to do so without incentives.[33] To provide such incentives, we therefore modify the

T-Mobile would be able to make such commitments due to its commitments to the Commission resulting from its transaction with Sprint and directed OEA and WCB to consider, among other things, whether there are similarly situated entities that should be permitted to make pre-auction, binding commitments with respect to certain areas. *Id*. at 12248, para. 182. Given WTB's familiarity with enforceable commitments that have been made with the Commission, we direct WTB to work with OEA and WCB with respect to eligibility for this pre-selection process and on the procedure for making pre-auction binding commitments. In particular, we direct OEA, WTB, and WCB to determine whether T-Mobile is eligible to participate in the pre-auction binding commitment process in light of its assertion that it has satisfied its rural deployment obligations that formed the basis of the Commission's decision in 2020. *See* Letter and Fourth Annual Progress Report from Nancy J. Victory, Counsel for T-Mobile US, Inc., DLA Piper, to Joel Taubenblatt, Chief, FCC Wireless Telecommunications Bureau, WT Docket No. 22-211 at 5 (May 31, 2024).

[30] *5G Fund Report and Order*, 35 FCC Rcd at 12181, para. 17.

[31] *5G Fund FNPRM* at *23-26, para. 10 & nn.26, 27.

[32] *See CRWC Petition for Reconsideration* at 14 (asking the Commission to "reassess its determination of eligible areas after it has accurate 4G/5G maps through the [BDC] process," and then "define as eligible any area that lacks unsubsidized 5G service"); *RWA/NTCA Joint Petition for Reconsideration* at 6 (asking the Commission to "determine that all areas shown by the [BDC] to be lacking unsubsidized 5G deployments will be eligible for funding in the 5G [F]und auction or, in the alternative, define 4G LTE service for purposes of defining eligible areas as service meeting a speed threshold of 35/3 Mbps with a latency of 100 ms"). The Commission sought comment on these petitions. *See Petitions for Reconsideration of Action in Proceeding*, Public Notice, Report No. 3165 (Jan. 6, 2021). These petitioners filed comments in response to the *5G Fund FNPRM* in which they reiterate their earlier arguments concerning the definition of eligible areas and provide additional and updated support for their positions. *See* CRWC Comments at 6; RWA Comments at 2-3.

[33] *See* ARA PAWR Comments at 3 ("The availability of subsidized 4G is indeed not a guarantee of 5G upgrade in the future."); AST&Science Comments at 12 ("the Commission would be wrong to assume that all areas that receive unsubsidized 4G service will support unsubsidized 5G service [because] [i]n some areas, unsubsidized 4G service may have proven to be a financial drain on a carrier such that unsubsidized 5G service will not be established without assistance [and] [i]n other areas, the costs of upgrading to 5G service may necessitate service fee increases that the market will not support."); CCA Comments at 4, 6 ("The record in this proceeding demonstrates that . . . unsubsidized 4G areas do not tend to show a likelihood of unsubsidized 5G deployments such that these areas should be excluded from 5G Fund eligibility" because "[u]nsubsidized 4G providers have limited motivation to upgrade to 5G coverage in rural areas for a number of reasons, including the financial challenge of such rural upgrades."); NTCA Comments at 2 (asserting that there is little to justify or even absorb the cost of delivering 5G broadband service in sparse rural areas where the distance between buildings is significant, the population small, and often there is not a major highway passing through the area, and that "predicting that entities currently offering unsubsidized 4G LTE coverage in these areas might someday increase that coverage to 5G would miss the mark [and] . . . would instead result in the very areas the Commission intends to support through the 5G Fund remaining on the wrong side of the digital divide."); US Cellular Comments at 30-34 (noting that "it is apparent from the [map in Figure 1 in the *5G Fund FNPRM* depicting the areas without unsubsidized mobile broadband service] that unsubsidized carriers have not rushed in [the three years since the *5G Fund Report and Order* was adopted] to close the mobile service gap in rural America" and explaining that both high initial capital costs and ongoing operation

(continued….)

definition of eligible areas adopted in the *5G Fund Report and Order*. However, we are also mindful that there are rural areas that lack unsubsidized 4G LTE service and thus lack access to any type of advanced high-speed mobile broadband service. Accordingly, as more fully explained below, we will apply a service-based weighting factor in 5G Fund Phase I auction bidding to incentivize the deployment of 5G mobile broadband service in areas that lack unsubsidized 4G LTE service.[34]

15. Consistent with our decision today to modify the definition of areas eligible for support in the 5G Fund Phase I auction to be those areas where mobile coverage data submitted in the BDC show a lack of unsubsidized 5G mobile broadband service at speeds of at least 7/1 Mbps in an outdoor stationary environment by at least one service provider, we also grant the Petitions for Reconsideration filed by CRWC, NTCA, and RWA to the extent they request that the Commission define the areas eligible for the 5G Fund Phase I auction as those where BDC data show a lack of unsubsidized 5G mobile broadband service.[35]

1. Technology for Determining Eligible Areas

16. The record overwhelmingly supports modifying the definition of areas eligible for support in the 5G Fund Phase I auction to be those areas where BDC mobile coverage data show a lack of unsubsidized 5G mobile broadband service by at least one service provider, even if those areas are served by 4G LTE service.[36] As the Competitive Carriers Association (CCA) emphasizes, "the 5G Fund should be truly focused on 5G,"[37] and "[t]he relevant question for 5G Fund eligibility is the presence or absence of currently-available 5G service in that area."[38] CCA maintains that defining eligibility for 5G Fund support based on this baseline question will extend 5G service to both areas currently receiving only 4G service and those that do not receive 4G service.[39] CCA notes that expanding eligibility to areas in which 4G LTE service is available but 5G service is not "appropriately focuses the 5G Fund on expanding

costs present barriers to unsubsidized 5G deployment and "[make] it difficult for any carrier to justify the disproportionate investment needed to build new cell sites and upgrade towers in sparsely populated areas."); Letter from Sean Lev, Christopher Wright, Jennifer Bagg, and Deepika Ravi, Counsel to CCA, and Angela Simpson, General Counsel/SVP Legal & Regulatory Affairs, and Alexandra Mays, Assistant General Counsel & Director, Regulatory Affairs, CCA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 20-32, at 25-26 (filed Nov. 16, 2023) (CCA Aug. 2 *Ex Parte* Letter).

[34] *See infra* Section V.A. We will use a speed threshold of 5/1 Mbps for purposes of determining the areas that lack unsubsidized 4G LTE in connection with this weighting approach. *See 5G Fund FNPRM* at *35-37, para. 17 (seeking comment on using a speed threshold of 5/1 Mbps with respect to 4G LTE service as the benchmark when determining areas eligible for support in the 5G Fund Phase I auction). For 4G LTE, the BDC requires mobile broadband service providers to submit propagation maps and propagation model details that demonstrate where mobile wireless users should expect to receive minimum user speeds of 5/1 Mbps at the cell edge, with a cell edge probability of not less than 90% and a cell loading of not less than 50%, in accordance with the Broadband DATA Act. *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195 and 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd at 7460, 7479, para. 44 (2020) (*BDC Second Report and Order*); *accord* 47 CFR § 1.7004(c)(3)(i)-(ii); *see* 47 U.S.C. § 642(b)(2)(B)(ii) (establishing minimum speeds of 5/1 Mbps as a requirement of demonstrating 4G LTE coverage).

[35] *See CRWC Petition for Reconsideration* at 11-14; *RWA/NTCA Joint Petition for Reconsideration* at 2-6.

[36] AST&Science LLC (AST&Science) Comments at 12-13; Competitive Carriers Association (CCA) Comments at 4-8; The Coalition for Rural Wireless Carriers (CRWC) Comments at 6-9; Michael Ravnitzky (Ravnitzky) Comments at 3; NTCA – The Rural Broadband Association (NTCA) Comments at 2-3; The Rural Wireless Association, Inc. (RWA) Comments at 2-3; United States Cellular Corporation (US Cellular) Comments at 26-29; Verizon Comments at 7-8; RWA Reply at 2-3; CCA Aug. 2 *Ex Parte* Letter at 25.

[37] CCA Comments at 4

[38] *Id.* at 8.

[39] *Id.* at 8 n.25.

access to 5G service . . . [and] also avoids the potentially harmful consequences of stranding 4G-served areas without the potential for 5G service for an extended period of time."[40]

17. AT&T, Inc. (AT&T) and T-Mobile USA, Inc. (T-Mobile) are the only commenters that support continuing to define eligible areas as those that lack unsubsidized 4G LTE and 5G mobile broadband service. AT&T "supports prioritizing 5G Fund support for areas without 4G LTE or 5G service" and submits that "[t]his could be accomplished by conducting a more targeted 5G Fund Phase I auction based on areas without 4G LTE and 5G service . . . [and] then expand[ing] the eligible areas [for the 5G Fund Phase II auction] to also include those that have 4G LTE service if the BDC maps at the time support [such an expansion]."[41] AT&T argues that "[5G Fund support] should only be expended for areas that will not receive 5G service without private investment" and asserts that "the Commission . . . should first direct [its limited funds] to [areas] most in need—[those] that do not have 4G LTE or 5G service[,] . . . [which] will allow more time for private investment to upgrade 4G LTE coverage areas to 5G without [5G Fund] support but will also eventually allow support in the event it is not economical for a 4G LTE area[] to be [upgraded] without government support."[42] T-Mobile argues that "[t]argeting unserved areas is consistent with the framework of previous universal service auctions . . . [and] will avoid waste and inefficient use of resources due to overbuilding."[43] T-Mobile submits that retaining the existing eligible areas definition "will also help target funding to areas that lack mobile broadband service, as there are many places throughout the United States that lack even 4G LTE service," and maintains that "[p]rioritizing areas that lack 4G LTE or 5G will ensure that funding is targeted to areas that lack any service."[44]

18. Several commenters address the questions posed by the Commission about what motivations there are for unsubsidized providers of 4G LTE service to upgrade their networks to 5G technology in rural areas.[45] AST&Science, CCA, CRWC, RWA, and Smith Bagley, Inc. (SBI) each submit that there is no reasonable basis to conclude that the provision of unsubsidized 4G LTE service in rural areas serves as an indicator that 5G mobile broadband service will be deployed in those areas absent subsidies.[46] They argue that unsubsidized 4G LTE providers lack incentives and thus have limited motivation to upgrade their networks to support 5G service in rural areas,[47] with AST&Science and CCA specifically noting the financial challenges of such rural upgrades as one of the main reasons.[48] CCA contends that the record in this proceeding clearly demonstrates that the Commission's assumption in the *5G Fund Report and Order* that areas with unsubsidized 4G service tend to show a likelihood of unsubsidized 5G deployments such that they should be excluded from 5G Fund eligibility is incorrect and risks widening the digital divide

[40] *Id.* at 8; CCA Aug. 2 *Ex Parte* Letter at 5-6, 24.

[41] AT&T Reply at 5.

[42] *Id.* at 5.

[43] T-Mobile Comments at 9.

[44] *Id*. at 10. T-Mobile asserts that "[a]s T-Mobile and other providers are continuing to invest and expand 5G coverage, the Commission should be careful to avoid wasting universal service funding by committing billions of dollars to locations or roads that may receive 5G service in the near future." *Id*. at 6.

[45] *See 5G Fund FNPRM* at *34-35, para. 16.

[46] AST&Science Comments at 12-13; CCA Comments at 5; CRWC Comments at 9-14; CRWC Reply at 4; RWA Comments at 2-3; SBI Reply at 27-28.

[47] AST&Science Comments at 12-13 (stating it would be a mistake for the Commission to assume that any unmet needs for 5G service will be addressed without subsidies in all areas where unsubsidized 4G services exist); CCA Comments at 4-8; CRWC Comments at 9; RWA Comments at 2-3; SBI Reply at 26-28.

[48] AST&Science Comments at 12-13 (noting that in some areas, unsubsidized 4G service may have proven to be a financial drain on a carrier such that 5G service will not be deployed without assistance, while in others, the costs of upgrading to 5G service may necessitate service fee increases that the market will not support); CCA Comments at 6.

instead of closing it.[49] CRWC, US Cellular, and SBI each cite CRWC's claim in its Petition for Reconsideration of the *5G Fund Report and Order* that "it would be[] premature in the extreme for the Commission to assume [in 2020] that, within the next several years, all rural areas that currently have 4G service will see [deployment of] 5G service [at levels meeting Commission's adopted performance requirements]" and each notes "that the facts appear to bear out [CRWC's earlier assertion]" because "[t]he BDC map [in Figure 1 of the *5G Fund FNPRM*] continues to show vast swaths of rural America lacking unsubsidized 4G LTE service at 5/1 Mbps as well as unsubsidized 5G service at 7/1 Mbps or better."[50] According to US Cellular, another disincentive for providers to upgrade from 4G to 5G is that while upgrades from 3G to 4G LTE service have in the past served to deliver access to new services, such as Internet access and streaming, that increased usage and in turn carrier revenues, "almost every American already has a mobile device of some sort, even if they live in an area without high-quality coverage and service [and] [a]s a result, investing to upgrade to 5G-level service does not deliver substantial new revenues to a carrier from non-business customers, at least not yet."[51]

19. Verizon notes that "[w]hile many areas that have unsubsidized 4G LTE coverage will soon obtain 5G coverage through the operation of the competitive market, some areas with 4G LTE coverage will require universal service support to upgrade to 5G."[52] Verizon submits that the risk of preempting near-term 5G deployments by subsidizing them in areas where unsubsidized 4G LTE networks have been deployed—which the Commission previously sought to avoid—has already been reduced by the extensive unsubsidized 5G deployment that has occurred during the three-year pause in implementation of the 5G Fund, and "will be further reduced by the time the Commission holds the [5G Fund] Phase I auction . . . as those unsubsidized deployments continue to expand.[53] Verizon contends that as a result, "[b]y the time [the Commission] holds the [5G Fund] Phase I auction, it will be more reasonable for the Commission to assume that any remaining 4G LTE-only areas shown on the BDC maps require universal service support to upgrade to 5G."[54] NTCA maintains that "in sparse rural areas where the distance between buildings is significant, the population small, and often there is not a major highway passing through the area, there is little to justify or even absorb the cost of delivering 5G [mobile] broadband service" and thus "predicting that entities currently offering unsubsidized 4G LTE coverage in these areas might someday increase that coverage to 5G would miss the mark."[55] NTCA further submits that "[s]uch

[49] CCA Comments at 5; CCA Reply at 4 (asserting that "[d]eployment of 5G service remains stagnant because there is little-to-no business case to support providers' 5G deployment in many rural or other high-cost areas").

[50] CRWC Comments at 9-10 (footnote omitted); US Cellular Comments at 30 (footnote omitted); *accord* SBI Reply at 26. CRWC, US Cellular, and SBI submit that notwithstanding record low interest rates in effect at the time of, and following, the adoption of the *5G Fund Report and Order* and recent Commission auctions of spectrum suitable for 5G deployments, "unsubsidized carriers have not rushed in over the past three years to close the mobile service gap in rural America . . . [and] it appears there is a great deal of work to do" to upgrade areas that lack 4G LTE service, let alone upgrading to 5G service. CRWC Comments at 10; US Cellular Comments at 30; *accord* SBI Reply at 26.

[51] US Cellular Comments at 33; CCA Reply at 4-5 (stating that "CCA agrees with [US Cellular's] observation that 'there is little or no motivation' 'for unsubsidized providers of 4G LTE service to upgrade their networks to 5G technology in rural areas'" and noting that, as other [c]ommenters correctly observe, . . . absent support, carriers are unlikely to expend the considerable resources required to build, upgrade, operate, and maintain new 5G cell sites in rural areas and such areas will continue to be left behind").

[52] Verizon Comments at 7-8.

[53] *Id*. at 8.

[54] *Id.* at 8.

[55] NTCA Comments at 2.

a baseless predictive judgment would instead result in the very areas the Commission intends to support through the 5G Fund remaining on the wrong side of the digital divide."[56]

20. Conversely, T-Mobile is the only commenter that argues that the Commission's earlier assumption was correct because, "[a]s in 2020, 5G deployments are likely in areas where unsubsidized 4G LTE networks have already been deployed . . . [and] [t]he market forces that brought unsubsidized 4G LTE to an area are likely to result in a provider's decision to upgrade their service to 5G."[57] T-Mobile submits that the Commission's approach in the *5G Fund Report and Order* for defining eligible areas "will help to mitigate overbuilding as providers continue to deploy 5G service to meet market demands."[58] However, RWA disagrees, arguing that "T-Mobile provide[s] no evidence to support the [Commission's] assumption [in the *5G Fund Report and Order*] that 5G deployments are likely in areas where unsubsidized 4G LTE networks have already been deployed . . . [and is] only able to point to 'market forces' that it argues will drive 5G deployment in areas where there is unsubsidized 4G LTE deployment and a general concern [regarding] overbuilding."[59] RWA notes that, to the contrary, BDC filing data show that "unsubsidized carriers have not [in fact] rushed to deploy 5G mobile service in rural America [during] the . . . three years since the *5G Fund [Report and] Order* was adopted."[60] RWA contends that "the record clearly shows that rural areas served only by 4G LTE should be funded by the 5G Fund due to the high risk of being left behind in 5G rural deployments."[61]

21. We agree with commenters that defining eligible areas based on a lack of unsubsidized 5G mobile service is more consistent with the 5G-centered approach envisioned for the 5G Fund. While we are mindful of the need to avoid overbuilding, we conclude that retaining the eligible areas definition adopted in the *5G Fund Report and Order* could exclude some areas where unsubsidized 4G LTE service is being provided that will not be upgraded to 5G service without 5G Fund support. Moreover, we find the risk of overbuilding such areas is outweighed by the benefit of ensuring that we do not inadvertently strand areas to lesser mobile broadband technology and speeds. As noted above, the Commission recognized in 2020 that at least two providers—T-Mobile and DISH—would be deploying 5G mobile broadband service in rural areas in the then-near term pursuant to their enforceable merger commitments.[62] For this reason, the Commission decided it would first afford T-Mobile, and potentially others, an opportunity to make pre-auction, binding commitments to deploy 5G service in certain areas to allow the Commission to remove such areas from the inventory of areas eligible for the auction, and thereby avoid overbuilding in rural areas where it is known that a provider plans to deploy unsubsidized 5G mobile broadband service.[63]

22. We decline to adopt the approach proposed by AT&T that would stagger the implementation of the 5G Fund by first awarding support to "areas that do not have 4G LTE or 5G service [in order to] allow more time for private investment to upgrade 4G LTE coverage areas to 5G service without support from the 5G Fund."[64] AT&T's proposal essentially asks us to retain the definition of eligible areas that the Commission adopted in 2020 for an indeterminate period of time while we continue to evaluate if the market will bring advanced, 5G mobile broadband service to those areas absent subsidies. T-Mobile similarly suggests in support of retaining that definition that the Commission wait to "hold[] the 5G Fund

[56] *Id.* at 2.

[57] T-Mobile Comments at 9 (footnote omitted).

[58] *Id.* at 10.

[59] RWA Reply at 2 (footnote omitted).

[60] *Id.* at 2-3 (citing CRWC Comments at 9-14).

[61] *Id.* at 3.

[62] *5G Fund Report and Order*, 35 FCC Rcd at 12246, 12247, paras. 178, 180.

[63] *Id.* at 12248, para. 182.

[64] AT&T Reply at 5.

Phase I Auction [until] pending wireless industry developments have been resolved" in order to "maximize the impact of the 5G Fund and minimize inefficient overbuilding."[65] In support of waiting to move forward toward the 5G Fund Phase I auction until unsubsidized 5G mobile broadband service deployments play out, T-Mobile notes the Commission's decision to wait to decide "'how and/or whether future planned processes, such as [Phase II of the Rural Digital Opportunity Fund], remain necessary after the Commission's creation of the Fabric and deployment commitments under BEAD and/or other Infrastructure Act programs are made.'"[66] However, unlike the timing for the creation of the BDC Fabric and the deployment commitments under BEAD and/or other Infrastructure Act programs, which have more structured parameters and are largely within the control of the government, decisions about where unsubsidized 5G mobile broadband service will be deployed and on what timeline rest solely with the carriers deploying such service. Moreover, one of the underlying policy principles of the 5G Fund is to direct high-cost universal service support to areas of the country where, absent subsidies, they are unlikely to experience advanced, 5G mobile broadband service. We therefore find both AT&T's and T-Mobile's approaches are wholly inconsistent with our decision herein to target 5G Fund support to the greatest number of rural areas as possible where people live, work, and travel within the available budget. Although we are not persuaded that we should delay the 5G Fund Phase I auction until after BEAD support has been awarded, as more fully explained below, we will nonetheless assess eligible area determinations to ensure that 5G Fund support does not duplicate BEAD funding efforts.[67]

2. Speed Thresholds for Determining Eligible Areas

23. Although virtually all commenters support basing the determination of eligible areas on where BDC mobile coverage data show a lack of unsubsidized 5G broadband service by at least one service provider, their positions about which speed thresholds to use in connection with applying this definition to determine eligible areas differ. Brian Dang (Dang), T-Mobile, and Verizon each express support for using 7/1 Mbps as the speed threshold for 5G service.[68] Dang asserts that "setting the benchmark for 5/1 Mbps for 4G and 7/1 Mbps for 5G seems to strike a reasonable balance for considering the mobile user experience."[69] T-Mobile notes that the Commission has expressed that "[a] speed threshold [of 7/1 Mbps] is likely to be attainable by mobile broadband service providers deploying 5G-NR service over smaller channel blocks of low-band spectrum."[70] T-Mobile submits that defining eligible areas as those that lack 35/3 Mbps 5G coverage "would certainly result in overbuilding areas that have 5G from unsubsidized providers and would divert resources away from the areas that need it most—namely, areas that still lack *any* 5G or 4G LTE coverage at all."[71] T-Mobile maintains "[t]he Commission can carry out its obligation to be 'a fiscally responsible steward of [the] limited universal service funds' and fulfill its 'commitment to preventing overbuilding' by reaffirming its decision to use speed thresholds that mirror the mapping parameters adopted for the BDC."[72] T-Mobile notes that "[t]he BDC uses 5/1 Mbps

[65] T-Mobile Comments at 7.

[66] *Id.* at 7 (quoting *Future of USF Report*, 37 FCC Rcd at 10068-69, para. 52).

[67] *See infra* paragraphs 76-82.

[68] Brian Dang (Dang) Comments at 1; T-Mobile Comments at 11; Verizon Comments at 9.

[69] Dang Comments at 1.

[70] T-Mobile Comments at 11 (citing *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195 and 11-10*,* Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd at 7460, 7480, para. 45 (2020) (*BDC Second Report and Order*).

[71] T-Mobile Comments at 11 (emphasis in original).

[72] *Id.* at 12 (footnote omitted).

as the speed threshold for 4G LTE coverage and 7/1 Mbps as the speed threshold for 5G coverage," and contends that "those same thresholds should be used for identifying eligible areas for the 5G Fund."[73]

24. Michael Ravnitzky recommends "us[ing] a minimum speed threshold of 25 Mbps/3 Mbps to define unsubsidized 5G service [for funding 5G service for Native American, Native Alaskan Native Hawaiian, Puerto Rican, and U.S. Virgin Island communities]" because it "is consistent with the Commission's current definition of fixed broadband service and reflects the minimum level of service quality that these communities deserve and need."[74]

25. AST&Science, CCA, CRWC, RWA, SBI, and US Cellular each express support for using 35/3 Mbps as the speed threshold for 5G service.[75] CRWC reiterates the request made in its pending Petition for Reconsideration that the Commission "'define as eligible any area that lacks unsubsidized 5G service meeting the performance requirements set forth for 5G Fund auction winners' . . . [i.e.,] [a]ny area lacking mobile broadband at a median speed of [35/3 Mbps], with 90% cell edge reliability, with no more than 100 milliseconds . . . of latency."[76] CCA, CRWC, and US Cellular acknowledge that making every area lacking 5G service at a speed threshold of 35/3 Mbps eligible for the 5G Fund Phase I auction could mean areas with median speeds that are close to 35/3 Mbps might receive support, but they each submit that this could be addressed by "giv[ing] a preference to areas that are unserved or underserved, weighting the 5G Fund auction so that these areas would be funded before any support is distributed in areas having median speeds close to 35/3 Mbps,"[77] or by "tak[ing] steps to coordinate or time [the] 5G Fund [Phase I] auction to more completely consider the impacts of a robust mobile BDC challenge process and/or the impacts of BEAD-funded projects on the mobility landscape."[78] CRWC and US Cellular contend that using a speed threshold of 7/1 Mbps for 5G service does not go far enough to fulfill the statutory goal of "provid[ing] consumers in rural areas with access to service quality that is reasonably comparable to that which is available in urban areas,"[79] but submit that if the Commission does not adopt the eligible areas definition CRWC advocates for in its Petition for Reconsideration, "making eligible for 5G Fund support

[73] *Id.* at 12.

[74] Ravnitzky Comments at 1, 3.

[75] AST&Science Comments at 13; CCA Comments at 8-11; CRWC Comments at 6-9; RWA Comments at 3; US Cellular Comments at 26-29; CCA Reply at 2, 8-11; CRWC Reply at 3-4; SBI Reply at 28-29; CCA Aug. 2 *Ex Parte* Letter at 6, 20, 24.

[76] CRWC Comments at 6 (footnote omitted) (quoting *CRWC Petition for Reconsideration* at 14).

[77] CRWC Comments at 7; *accord* US Cellular Comments at 27; CCA Reply at 11. CCA, CRWC, and US Cellular argue "the risk of funding an area that currently has higher speeds is far outweighed by the risk of not funding areas that have relatively low [5G] speeds (just above 7/1 Mbps)," because it "means that areas having [5G service at speeds of] 8/1 or 10/1 Mbps . . . would receive no USF investment for the foreseeable future." CRWC Comments at 7 (emphasis omitted); *accord* US Cellular Comments at 27; *see* CCA Reply at 11. CRWC further argues that a 7/1 Mbps speed is "unacceptable" and contends mobile broadband nationwide is "now over 83/8 Mbps, with latency at 32 [milliseconds], and urban Americans seeing upwards of 4 Gbps speeds." CRWC Comments at 7-8 (footnote omitted). SBI similarly asserts that using a speed threshold of 7/1 Mbps for 5G service to determine areas eligible for 5G Fund support means that "areas that are just a few Mbps above [this] threshold may not see additional investment for up to a decade." SBI Reply at 28.

[78] CCA Reply at 11; *see also* CRWC Comments at 18, 22; US Cellular Comments at 14, 22. As more fully explained below, while we are not persuaded that we should delay the 5G Fund Phase I auction until after BEAD support has been awarded, we will take steps to ensure that 5G Fund support does not duplicate BEAD funding efforts. *See infra* paragraphs 76-82.

[79] CRWC Comments at 8; *accord* US Cellular at 28. *See also* CCA Aug. 2 *Ex Parte* at 20-21. CCA, CRWC, and US Cellular contend that a "minimum desired experience" test is insufficient with respect to meeting the "reasonably comparable" standard for broadband in rural areas in section 254 of the Communications Act, as amended (Act), 47 U.S.C. § 254(b)(3). CRWC Comments at 8; *accord* CCA Reply at 9; US Cellular Comments at 28.

any area lacking 5G technology at a speed of 7/1 Mbps or better" represents "a significant and commendable improvement over the eligibility provisions [adopted] in the *5G Fund [Report and] Order*."[80] SBI likewise believes a speed threshold of 7/1 Mbps for 5G service does not go far enough, and supports adopting the eligible areas definition CRWC advocates in it Petition, but submits that if the Commission does not use a speed threshold of 35/3 Mbps for purposes of determining eligible areas, it should alternatively provide for a middle ground data collection by replacing the 7/1 Mbps collection in the BDC with 20/2 Mbps, so that all rural Americans receiving service at less than 20/2 Mbps can access 5G Fund support investments.[81]

26. CCA compares the mobile speeds to fixed service speeds and argues that "[defining the speed threshold for] 5G connectivity as merely 7/1 Mbps is inconsistent with the Commission's role as a global leader in technological innovation and connectivity . . . [and] also falls short of the speed threshold expectations the Administration and the Commission have expressed in other programs—for example, [Broadband Equity Access and Deployment (BEAD)] Program connectivity requires a speed threshold of 100/20 Mbps, and Alternative-Connect America[] Cost Model II ('A-CAM II') connectivity requires 25/3 Mbps."[82] CCA also "disagrees with the [Commission's] assumption [in the *5G Fund FNPRM*] that download and upload speeds of at least 7/1 Mbps are the typical minimum desired mobile experience for 5G service,"[83] asserting that "[this speed threshold] myopically focuses on mobile phone 5G connectivity" even though 5G encompasses much more than that.[84] CCA also argues that "us[ing] a 5/1 Mbps speed threshold for 4G connectivity and a 7/1 Mbps speed threshold for 5G connectivity minimizes the significant differences between 4G and 5G technology and user experience."[85] CCA advocates using a speed threshold of 35/3 Mbps to define 5G service, contending that the 7/1 Mbps speed threshold the Commission proposes to set for 5G is "a fraction of the median nationwide speed" of over 83/8 Mbps and the speeds exceeding 4 Gbps that are enjoyed by Americans living in urban areas.[86]

27. We conclude that using a speed threshold of 7/1 Mbps for 5G for purposes of determining eligible areas will promote the expansion of 5G mobile broadband coverage at a speed threshold of at least 35/3 Mbps while avoiding the potential for overbuilding in areas where a provider already offers some level of unsubsidized 5G service (i.e., at 7/1 Mbps) and could upgrade to higher speeds in the future.[87] Conversely, using a speed threshold of 35/3 Mbps to determine eligible areas would result in

[80] CRWC Comments at 6; US Cellular Comments at 26-27.

[81] SBI Reply at 28-29.

[82] CCA Comments at 7 (footnotes omitted). CCA acknowledges that "these programs' speed thresholds target fixed deployment," but contends that "the Commission should not set an unreasonably lower speed threshold for 5G funding eligibility when it is clear that carriers can and do provide [service at higher speeds]," and submits that "[d]oing so would be arbitrary and push the U.S. further behind many countries that have 5G services at much higher speeds than what the Commission has contemplated." CCA Comments at 7-8.

[83] *Id.* at 7-8 (citing *5G Fund FNPRM* at *36-37, para. 17 n.39).

[84] CCA Comments at 9. ARA PAWR Rural Wireless Living Lab (ARA PAWR) similarly notes that "[t]he target rates tend to be low and inefficient to support many of the emerging rural applications, [such as] connected and automated vehicles, precision agriculture, remote education and work via extended reality" and submits that "[i]t will be invaluable to set the target rates with emerging applications in mind." ARA PAWR Comments at 3.

[85] CCA Comments at 10.

[86] CCA Reply at 8-9.

[87] We note that for mobile services, the Commission standardized the speed parameters that providers use in generating their BDC coverage areas, and for 5G mobile broadband service, those speed parameters are standardized at 7/1 Mbps and 35/5 Mbps. The BDC therefore collects 5G coverage data based only on speed thresholds of 7/1 Mbps and 35/3 Mbps. *See BDC Second Report and Order*, 35 FCC Rcd at 7479-80, para. 45. As a result, the Commission does not have data on 5G mobile broadband coverage at speed thresholds of 25/3 Mbps, 83/8 Mbps, 100/20 Mbps—which are all associated with performance requirements through which fixed service is funded (e.g., (continued….)

many more areas being eligible for support, which would unnecessarily tax the 5G Fund Phase I budget. Further, using a speed threshold of 35/3 Mbps would result in overbuilding in areas where providers will upgrade their 7/1 Mbps service to 35/3 Mbps service absent a subsidy. Moreover, we expect that a speed threshold of 7/1 Mbps reflects the minimum desired typical mobile user experience across broad 5G coverage areas.[88] We continue to believe that we should not use the same 35/3 Mbps speed threshold for purposes of determining areas eligible for 5G Fund support that support recipients are required to achieve in meeting their 5G Fund performance requirements. We note that CCA's assertion that the Commission is "[defining] 5G connectivity as merely 7/1 Mbps"[89] is incorrect and conflates our decision to use 7/1 Mbps as the speed threshold for purposes of determining eligible areas with the minimum speed threshold of 35/3 Mbps that a support recipient must achieve in order to meet its 5G Fund performance requirements.[90] This performance requirement will ensure that areas currently lacking unsubsidized 7/1 Mbps will not be left behind in experiencing the higher speeds that areas with 7/1 Mbps service are likely to experience as the result of provider network upgrades.[91] For these reasons, we also deny the Petitions for Reconsideration filed by CRWC, NTCA, and RWA to the extent they request that the Commission define areas eligible for the 5G Fund Phase I auctions as those that lack unsubsidized 5G mobile broadband service at speeds of at least 35/3 Mbps.[92]

28. We disagree with commenters' assertion that, if a 35/3 Mbps threshold is used to determine an area's eligibility for 5G Fund support, issues with support funds being diverted from unserved or underserved areas to fund areas with service "close to 35/3 Mbps" can be addressed by distributing support first to areas with service speeds not "close to 35/3 Mbps."[93] Such a process would be inconsistent with the mechanism we adopted to assign support under the 5G Fund, namely a reverse auction that considers in a single auction all eligible areas and that aims to assign the full budget to those eligible areas. A second reverse auction for the "close to 35/3 Mbps" areas would be required, with a corresponding rulemaking and pre-auction process to determine the areas that would be held back from the initial auction, the portion of the budget that would be withheld for later assignment, the timing of the later assignment mechanism, and any of a number of additional details that would need to be resolved for such a process to be carried out. Therefore, for this reason and for the reasons we adopt the 7/1 threshold more generally, we decline to accept the commenters' proposal and, as we explain in our decision today, we exclude from eligibility areas that already have some level of 5G service (at speeds faster than 7/1

the BEAD Program, A-CAM II)—or any other speed threshold combinations, and therefore can use only the speed threshold of 7/1 Mbps or 35/3 Mbps for which mobile coverage data is available in the BDC for purposes of determining eligible areas.

[88] *BDC Second Report and Order*, 35 FCC Rcd at 7480, para. 45. *But see* CCA Aug. 2 *Ex Parte* Letter at 19.

[89] CCA Comments at 7; CCA Aug. 2 *Ex Parte* Letter at 5-6.

[90] *See* 47 CFR §§ 54.1015(a), (c)(1) (requiring 5G Fund support recipients to deploy 5G-NR service at speeds of at least 35/3 Mbps).

[91] *See* 47 CFR § 54.1015(c)(1) (requiring 5G Fund support recipients to deploy 5G service with median speeds of at least 35/3 Mbps). We note that this approach is consistent with the approach adopted by the Commission in the *Mobility Fund Phase II Report and Order* with respect to determining eligible areas. *See Mobility Fund Phase II Report and Order*, 32 FCC Rcd at 2173, para. 51.

[92] *See CRWC Petition for Reconsideration* at 14 (asking the Commission to "define as eligible any area that lacks unsubsidized 5G service meeting the performance requirements set forth for 5G Fund auction winners); *RWA/NTCA Joint Petition for Reconsideration* at 6 (asking the Commission to "determine that all areas shown by the [BDC] to be lacking unsubsidized 5G deployments will be eligible for funding in the 5G fund auction or, in the alternative, define 4G LTE service for purposes of defining eligible areas as service meeting a speed threshold of 35/3 Mbps with a latency of 100 ms").

[93] CRWC Comments at 7; *accord* US Cellular Comments at 27; CCA Reply at 11.

Mbps). Instead, we target our limited universal service support funds to areas that do not already enjoy a provision of service that far exceeds areas that have service offerings no better than 4G LTE.

29. As noted above, we will use a speed threshold of 5/1 Mbps with respect to 4G LTE service in connection with identifying any areas within the universe of areas eligible for the 5G Fund Phase I auction that lack unsubsidized 4G LTE, for purposes of incentivizing the deployment of 5G service in areas that lack unsubsidized 4G LTE service. We note that the BDC collects 4G LTE coverage areas based on speed thresholds of 5/1 Mbps in accordance with the Broadband DATA Act,[94] and we conclude that using this speed threshold for this purpose is appropriate.[95]

3. Environment for Determining Eligible Areas

30. The record is split on whether the Commission should use outdoor stationary or in-vehicle BDC coverage maps to determine eligible areas. AT&T, CTIA, T-Mobile, and Verizon each express support for using outdoor stationary BDC coverage maps to identify areas that are eligible for 5G Fund support.[96] AT&T argues that the lack of standardized parameters for in-vehicle coverage maps "compromises the value of such maps and would only further complicate the distribution of 5G Fund support" and that "utilizing in-vehicle coverage maps instead of outdoor stationary maps will increase the eligible areas and allow support in areas that already have some amount of 5G coverage."[97] CTIA asserts that "[w]hile the idea of using in-vehicle mobile coverage maps might have some facial appeal, [it] remains concerned that such maps fail to account for significant variables . . . [such as] the location of the device within the vehicle, the type of vehicle, whether the windows are up or down, and the vehicle speed."[98] "Given the potential for inconsistency among in-vehicle mobile coverage maps, CTIA urges the Commission to use coverage maps produced to show outdoor stationary coverage . . . [in order to] use a more stable and reliable coverage dataset as the basis for the 5G Fund . . . [and] target 5G Fund subsidies to the areas most in need of support as the outdoor stationary maps provide a more targeted list of eligible areas."[99]

31. T-Mobile submits that "outdoor stationary data is a far more reliable and realistic basis for determining where wireless coverage is available than in-vehicle coverage data for several reasons."[100] T-Mobile argues that "[g]iven the number of variables, providers will inevitably use different parameters to model their in-vehicle coverage, making it practically impossible to make meaningful [apples-to-apples] comparisons between mobile providers' in-vehicle coverage maps."[101] T-Mobile notes that "[t]he variability of in-vehicle mobile speed testing also introduces unnecessary complications in the challenge process . . . [because], for purposes of the BDC, speed tests taken on bicycles, motorcycles, snowmobiles, and all-terrain vehicles are all considered tests from in-vehicle mobile environments, as are tests conducted in soft-top convertibles, hard-top sedans, SUVs, pickup trucks, and any type of recreational

[94] *See* 47 U.S.C. § 642(b)(2)(B)(ii) (establishing minimum speeds of 5/1 Mbps as a requirement of demonstrating 4G LTE coverage).

[95] Brian Dang and T-Mobile also express support for using 5/1 Mbps as the speed threshold for 4G LTE. Dang Comments at 1; T-Mobile Comments at 11.

[96] AT&T Reply at 5-6; CTIA Comments at 5; T-Mobile Comments at 12-13; Verizon Comments at 8-9.

[97] AT&T Reply at 5-6.

[98] CTIA Comments at 5 (footnote omitted). T-Mobile also notes that, because "[t]he Commission did not standardize any of the key parameters that affect the results of in-vehicle coverage, such as vehicle speed, the position of the phone inside the car, and the type of car, . . . in-vehicle data [will be] much more variable and therefore [provide a] less reliable basis for determining the actual coverage of an area." T-Mobile Comments at 13.

[99] CTIA Comments at 5.

[100] T-Mobile Comments at 12-13.

[101] *Id*. at 13.

vehicle, [which] entails a wide range of 'in-vehicle testing scenarios.'"[102] Verizon supports "using the outdoor stationary 7/1 Mbps 5G coverage map . . . [to] ensure that the entire budget is used to expand high-speed 5G coverage in areas that have little or no 5G coverage at the time of the auction, i.e., [those] that do not even meet the 7/1 Mbps outdoor stationary standard."[103] Verizon opposes "identifying eligible areas using the in-vehicle maps [because it] would allow part or all of the budget to be used to upgrade existing networks in those areas that meet the outdoor stationary 7/1 Mbps standard but fall short of the in-vehicle standard."[104]

32. CCA, RWA, and US Cellular express support for using in-vehicle BDC coverage maps to identify areas that are eligible for 5G Fund support.[105] CCA argues that coverage maps based on in-vehicle mobile environments "better reflects the purposes of the 5G Fund—achieving ubiquitous connectivity—by accounting for the mobile nature of 5G usage.[106] RWA similarly asserts that "[g]iven the inherent mobility aspect of in-vehicle data, [using] such data will best represent where 5G Fund support is needed to provide 5G mobility coverage.[107] RWA submits that "[w]hile there may be multiple variables related to in-vehicle mobile data collection, such data provides a more accurate picture of actual mobile coverage that consumers will experience in the relevant areas."[108] RWA further notes that "using in-vehicle mobile data would ease the costs of the challenge process as drive testing is a much more cost-efficient and effective way to measure mobile coverage as opposed to conducting measurements in off-road areas, which are expensive and difficult to access in rural and remote areas."[109] US Cellular likewise contends that "[a]n in-vehicle measurement standard aligns more closely with how mobile handsets interact with cell towers and will result in improved service quality for voice calls and data sessions conducted in a mobile environment."[110]

33. We are concerned that the use of in-vehicle mobile coverage maps could result in significant overbuilding, as claimed by commenters that oppose using such coverage maps. We conclude that relying on outdoor stationary coverage data will avoid potentially overbuilding in areas where a provider already offers some level of unsubsidized 5G service and could upgrade to better service in the future. We note that outdoor stationary coverage estimates are generally larger than those generated for in-vehicle mobile coverage, and therefore relying on them will reduce the likelihood of overbuilding.[111] Additionally, unlike in-vehicle mobile coverage data, outdoor stationary coverage data are unperturbed by

[102] *Id*. at 13 (footnote omitted).

[103] Verizon Comments at 9.

[104] *Id*. at 9.

[105] CCA Comments at 11; RWA Comments at 4; US Cellular Comments at 22; RWA Reply at 4-6.

[106] CCA Comments at 11.

[107] RWA Comments at 4.

[108] RWA Reply at 5. RWA maintains that if the Commission's goal is "expand[ing] 5G to rural areas where consumers live, work, and travel, ensuring that such consumers have 5G connectivity on rural roads is critical to that goal." *Id*. at 5-6. RWA contends that "[o]utdoor stationary mobile data does not depict actual mobile coverage and [thus] should not be used as a methodology for determining eligible areas for consumers traveling through rural areas on rural roads." *Id.* at 6.

[109] *Id.* at 5.

[110] US Cellular Comments at 22.

[111] *See* FCC, *National Broadband Map*, https://broadbandmap.fcc.gov/area-summary/mobile?version=jun2023&zoom=4&tech=tech5g_spd1&env=1 (last visited Mar. 15, 2024) and https://broadbandmap.fcc.gov/area-summary/mobile?version=jun2023&zoom=4&tech=tech5g_spd1&env=0 (last visited Mar. 15, 2024). Looking at data from June 30, 2023, as updated on February 7, 2024, about 34% of the U.S. is covered by 5G service at 7/1 according to in-vehicle mobile coverage data, whereas the analogous outdoor stationary data show that about 46% of the U.S. is covered.

the lack of standard assumptions about characteristics such as vehicle type and speed. In balancing our obligation to exercise fiscal responsibility to avoid excessive subsidization and the goal of deploying 5G services to where people live, work, and travel, we find the best approach is to use outdoor stationary BDC coverage maps in determining eligible areas.

4. Limiting Eligibility to Areas With Locations or Roads

34. Because we intend to direct 5G Fund Phase I support to areas where people live, work, and travel, we will limit the areas eligible for the 5G Fund Phase I auction to areas that contain at least one location or at least some portion of a road. We will determine the areas that contain locations using the Broadband Serviceable Location Fabric (Fabric) created for the BDC.[112] We will use all locations included in the Fabric dataset, not just those that are identified as BSLs. This broader set of locations includes structures—such as community anchor institutions and large enterprises—that subscribe to, or would be expected to subscribe to, non-mass market broadband service. Including these locations, as well as BSLs, ensures that we will capture more of the areas where people live, work, and travel. We will determine the areas that contain roads using road data from OpenStreetMap (OSM).[113] We will define "roads" for purposes of determining areas eligible for the 5G Fund Phase I auction as those that include the following categories of roads: primary roads; secondary roads; local neighborhood roads, rural roads, and city streets; vehicular trails; ramps; private roads; parking lot roads; and winter trails. These categories of roads are encompassed in the OSM "highways" category, which includes motorways, trunks, primary roads, secondary roads, tertiary roads, residential roads, service roads, and tracks, and the associated links.[114] Defining roads in this manner is consistent with how we have defined roads for purpose of other mobile universal service auctions.[115] Further, because this definition includes many different types of roads, it helps ensure that areas where people live, work, and travel will be eligible for 5G Fund Phase I support.

35. Given that we are limiting the areas eligible for support in the 5G Fund Phase I auction to those that contain locations or roads, we do not believe it is necessary to also exclude water-only areas from eligibility. Further, excluding water-only areas from eligibility as part of the process of generating eligible areas could exclude portions of roads, such as bridges and causeways, that are located in water-only areas but which we believe should be eligible for support.

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[112] The Fabric is a dataset of every location (building or structure) in the United States and its Territories identified as a single point or record defined by a set of geographic coordinates that fall within the footprint of a structure, with each point assigned a unique Commission-issued Location ID. *See* FCC, *About the Fabric: What a Broadband Serviceable Location (BSL) Is and Is Not* (July 18, 2023), https://help.bdc.fcc.gov/hc/en-us/articles/16842264428059-About-the-Fabric-What-a-Broadband-Serviceable-Location-BSL-Is-and-Is-Not. Within the location records included in the Fabric are a subset of business, residential, or mixed-use locations at which mass-market fixed broadband internet access service are or could be installed, referred to as Broadband Serviceable Locations (BSLs). *Id.*

[113] OSM is a free, editable map of the world that is updated and maintained by a community of volunteers via open collaboration. *See* https://wiki.openstreetmap.org/wiki/About_OpenStreetMap (last visited Mar. 15, 2024). OSM is published and freely licensed under an Open Database License, which allows anyone to access, use, and share the data. *See id*. Contributors collect data from surveys, trace from permitted aerial photography and satellite imagery, and import other geographical data in the public domain (such as U.S. TIGER) and from freely licensed geodata sources. *See id*. These contributions are immediately ingested by OSM, resulting in a map made by local experts with data that can be as current as the time of access/download. *See id*.

[114] *See* https://wiki.openstreetmap.org/wiki/Key:highway (last visited Mar. 15, 2024).

[115] *See, e.g., Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901*, Public Notice, 27 FCC Rcd 4725, 4736, para. 24 (WTB/WCB 2012).

36. Urban areas, as defined by the U.S. Census Bureau,[116] will not be eligible for support in the 5G Fund Phase I auction, because we conclude that making these areas eligible for support would be inconsistent with the objective of the 5G Fund program to fund the deployment of 5G service in rural areas.[117]

37. Commenters generally support the Commission's approach to limiting eligible areas to those areas that contain locations or roads in furtherance of its goal of directing 5G Fund Phase I support to areas where people live, work, and travel.[118] AT&T "supports limiting eligible areas to those resolution 9 hexagons [(hex-9s)[119]] that contain locations *and/or* certain roads," noting that if eligible areas were defined as "those areas where *both* locations *and* roads exist, it would overly limit the areas eligible for 5G Fund support, contrary to the Commission's goal of reaching all areas where people live, work, and travel."[120] CCA "agrees with AT&T that defining eligible areas as those where 'locations and roads exist" would be overly limiting and contrary to the Commission's goal of reaching all areas where people live, work, and travel, and advocates for "a definition of eligibility that includes both unserved roads and unserved locations" because it would "appropriately reflect the mobile nature of 5G service."[121] Michael Ravnitzky submits that limiting eligible areas to those that contain BSLs and/or roads will help "direct 5G Fund support [in Native American, Native Alaskan Native Hawaiian, Puerto Rican, and U.S. Virgin Island communities] to areas where people live, work, and travel and avoid wasting resources on areas that are uninhabited or inaccessible."[122]

38. In its initial comments, RWA advocates "limit[ing] eligible areas to roadways, rather than locations,"[123] and expresses concern that relying solely on locations would "disregard[] the inherent

[116] *See* United States Census Bureau, *Urban and Rural*, https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html (last updated Sept. 26, 2023).

[117] The limited comment we received on this issue supports excluding urban areas from eligibility for support in support in the 5G Fund Phase I auction. *See* Verizon Comments at 10 (arguing that only hex-9s located outside urban areas, as defined by the U.S. Census Bureau, should be eligible for 5G Fund support because "[c]overage gaps in urban areas are more likely to reflect siting and permitting hurdles than the business case challenges that the 5G Fund is designed to address"); AT&T Reply at 6 (agreeing with Verizon that "coverage gaps in urban areas are likely to reflect siting and permitting hurdles than a lack of interest by private investment").

[118] *See* AT&T Comments at 1, 4, 8; CCA Comments at 12; CCA Reply at 6; CTIA Reply at 4 (noting support in the record for "limit[ing] eligible areas to those that contain BSLs *and/or* roads . . . [to direct funding to] areas where people live, work, and travel while making economical use of finite universal service resources"); Michael Ravnitzky Comments at 3; New York State Public Service Commission (NYPSC) Comments at 2; T-Mobile Comments at 15; Verizon Comments at 9-10.

[119] H3 hexagonal geospatial indexing system (H3 system) is an open-source GIS dataset developed by Uber Technologies, Inc., that overlays the globe with hexagonal cells of different sizes at various resolutions, from zero to 15. *See* Isaac Brodsky, *H3: Uber's Hexagonal Hierarchical Spatial Index* (June 27, 2018), https://eng.uber.com/h3/. The smallest hexagonal cells are at resolution 15, in which the average hexagonal cell has an area of approximately 0.9 square meters, and the largest are at resolution 0, in which the average hexagonal cell has an area of approximately 4.25 million square kilometers. *See id.* The H3 system is designed with a nested structure wherein a lower resolution cell (the "parent" hexagon) contains approximately seven hexagonal cells at the next higher resolution (its "children" where each "child" is a smaller, nested hexagon), which fit approximately within the "parent" hexagon. *See id.* ("H3 supports sixteen resolutions. Each finer resolution has cells with one seventh the area of the coarser resolution. Hexagons cannot be perfectly subdivided into seven hexagons, so the finer cells [i.e., the 'children'] are approximately contained within a parent cell. The identifiers for these child cells can be easily truncated to find their ancestor cell at a coarser resolution, enabling efficient indexing.").

[120] AT&T Comments at 4.

[121] CCA Reply at 6.

[122] Ravnitzky Comments at 1, 3.

[123] RWA Comments at 4-5; RWA Reply at 6.

mobility of 5G mobile services and could potentially be duplicating efforts made by the BEAD Program and other federal broadband programs which provide funding for both fiber and wireless projects, which focus on locations."[124] RWA maintains in its reply comments that the Commission should limit eligible areas to roadways if the 5G Fund budget is limited to $9 billion, but submits that "if additional funding is available, locations should also be included."[125] While acknowledging that serving both roads and locations is important, RWA expresses concern that "[if] locations [are included] in eligible areas, the funding may not go as far and the [Commission] could duplicate efforts of the [BEAD] Program and other federal broadband funding programs that [fund] . . . projects to serve locations."[126]

39. Other commenters ask the Commission to expand the eligibility criteria to specifically include agricultural lands.[127] Verizon supports expanding the eligibility criteria to include "rural hex-9s with roads, BSLs, or agricultural lands," and urges the Commission to "focus[] support on unserved areas that would have the most significant demand for mobile broadband service and require relatively smaller subsidies, rather than on areas that would have little demand for mobile broadband service and require larger subsidies."[128] Verizon submits that "including agricultural lands in the definition of eligible areas . . . will ensure that more of the nation's farmland gains the benefits of precision agriculture," which it notes is one of the goals articulated in the 5G *Fund Report and Order*.[129] WIA similarly advocates for including agricultural areas within the geographic areas determined to be eligible for 5G Fund support, and asks the Commission to specifically include such areas as eligible for 5G Fund support.[130] WIA acknowledges the importance of mobile service on roadways, but submits that there are areas that extend well beyond the reach of roads that need mobile connectivity as well (e.g., agricultural communities cultivating land).[131] WIA argues that support areas must include those that are crucial to economic activity, tourism, and public safety in which competitive solutions do not exist, noting that farmers now use a host of precision technologies to manage their operations that cannot be used without mobile connectivity.[132] John Deere Corporation (Deere) agrees with WIA, and urges the Commission to both include agricultural areas and farmlands within the areas that are eligible to receive 5G Fund support and make them the focus of the $1 billion in 5G Fund support that was set aside for precision agriculture in the *5G Fund Report and Order*.[133]

40. We decline either to narrow or expand the eligibility-limiting criteria used to determine areas eligible for the 5G Fund Phase I auction in response to these comments. Although BEAD and other programs fund the deployment of fixed broadband services to fixed locations, these locations also indicate where people use mobile devices and where they live, work, and travel. Thus, we disagree with RWA that we should limit the eligibility criteria for determining eligible areas to those areas with roads only. With respect to expanding the eligibility criteria to specifically include agricultural areas, as requested by Verizon, WIA, and Deere, we note that the Commission explained in the *5G Fund Report and Order* that "Phase II [of the 5G Fund] . . . will focus support to specifically target the deployment of technologically

[124] RWA Comments at 4-5.

[125] RWA Reply at 6.

[126] *Id.* at 6.

[127] John Deere Corporation (Deere) Reply at 3-4; Verizon Comments at 9-10; WIA Comments at 4-6.

[128] Verizon Comments at 9 (emphasis omitted).

[129] *Id.* at 10.

[130] WIA Comments at 6.

[131] *Id.* at 4-6. RWA expresses support for WIA's suggestion that "5G Fund support [be used] to deploy 5G in areas 'in between' roadways and serviceable locations that can help support the development of precision agriculture." RWA Reply at 6.

[132] WIA Comments at 5.

[133] Deere Reply at 3.

innovative 5G networks that facilitate precision agriculture."[134] Specifically, including agricultural areas would therefore be outside the scope of the 5G Fund Phase I auction. We further note that any agricultural areas located within an area determined to be eligible for the 5G Fund Phase I auction will indeed be eligible for support in that auction; the criteria we adopt today for determining the eligible areas will not categorically remove agricultural lands. Additionally, we believe the broad definition of "roads" we will use for purposes of determining the areas eligible for support in the 5G Fund Phase I auction may result in coverage reaching agricultural areas and farmlands because providers, when engineering their networks to cover the roads, are likely to cover such areas if they are in close proximity. Accordingly, we do not take any additional steps here to ensure that support under Phase I of the 5G Fund reaches agricultural lands specifically.

41. Several commenters address both the categories of roads and the data source(s) that the Commission should use for purposes of determining the eligible areas that contain roads. RWA and CCA advocate using the following roadways, as defined by the U.S. Census Bureau: primary roads; secondary roads; local neighborhood roads, rural roads, and city streets; vehicular trails; ramps; private roads; parking lot roads; and winter trails.[135] CCA asks the Commission to consider including other types of unserved roadways in determining an area eligible for support, "even if they are not captured in U.S. Census Bureau [road] data or are located close to a served roadway."[136] CCA submits that "the Commission cannot and should not assume a local road, alleyway, or agricultural road in a rural area receives or will receive unsubsidized 5G service simply because a highway in that same area receives 5G service," and urges the Commission to "consider data at a granular level to avoid leaving behind unserved roadways in areas where another roadway in that area is receiving 5G service."[137] CCA also expresses support for looking beyond roadways and including other unserved areas—such as waterways, agricultural lands, farmland and other cultivable land, parks, and trails—for purposes of determining an area's eligibility for support.[138] NYPSC asks the Commission to consider including waterways and other frequented areas, such as state parks, as well as remote areas, in making eligible area determinations, noting that "wired services may be unreliable or unavailable [in these rural and remote areas]."[139] SBI advocates making all active roads used on remote Tribal lands eligible for support if the Commission decides to limit eligible areas to those that contain locations or roads because "[t]housands of Tribal locations in SBI's service area are beyond the reach of the U.S. Postal Service as they receive no home delivery and they have no Postal Service address."[140] SBI notes that "[t]hese remote locations often are connected to primary roads by very small unpaved dirt roads through the high desert," many of which SBI states "are considered to be service and private roads[] categorized as S.1740" under the U.S. Census Bureau's feature class codes.[141] SBI submits that "[t]hese roads, which likely fall into the 1.6, 1.7, or 1.8 category in the OpenStreetMap hierarchy, must be included as eligible areas" if the Commission chooses to use OpenStreetMap.[142] SBI notes that that "there are substantial road areas in between homes and major roads that could be excluded if the Commission limits eligibility to only [hex-9s] with developed

[134] *5G Fund Report and Order,* 35 FCC Rcd at 12184, para. 22.

[135] RWA Comments at 4; CCA Reply at 6-7.

[136] CCA Reply at 7. CCA also urges the Commission to make use of available data at a granular level when making road-based eligibility determinations in order to identify unserved areas. CCA Reply at 6.

[137] CCA Reply at 7.

[138] *Id*.

[139] NYPSC Comments at 2, 3.

[140] SBI Reply at 30; *see id.* at 29-31.

[141] *Id*. at 30.

[142] *Id*. at 30-31 (emphasis omitted).

roads or locations."[143] SBI states that unlike much of the rest of the nation, this undeveloped network of roads comprise a substantial area within which Tribal residents will travel, and notes that the health and safety benefits of access to mobile services (especially 911 service) compel the Commission to ensure that all of these minor roads are considered when making eligible area determinations.[144]

42. CCA, Deere, RWA, and WIA each support using U.S. Census Bureau TIGER data when making road-based eligible area determinations.[145] WIA and Deere note that agricultural communities may fall outside of the maps for roads, and therefore caution against using a single data source, such as OpenStreetMap, to determine eligible areas that contain roads.[146] WIA and Deere therefore urge the Commission to instead rely on multiple sources, including the TIGER road miles database, the U.S. Department of Agriculture's cultivated land layer, and other sources, to provide redundancy and help ensure that all agricultural communities are included within the areas eligible to receive 5G Fund support.[147]

43. We conclude that the definition of roads, and the source of road data, we adopt here is broadly consistent with the categories of roads commenters ask us to consider when identifying the eligible areas that contain roads.[148] In addition, including areas with Fabric locations will ensure that the roads leading to those locations generally will receive 5G coverage even if such roads do not fall within the categories of roads we adopt today.[149] While we appreciate commenters' interest in using more than one road data source for redundancy and completeness, we believe that using multiple road data sources would be unwieldly and could cause confusion, and thus decline to do so. We conclude that using OpenStreetMap as the single road data source is beneficial because it includes all the road categories in the definition we adopt, it is updated more frequently than TIGER data, and it reflects input from the public.

5. Generating Areas Eligible for 5G Fund Support at the Hex-9 Level

44. We adopt our proposal to express the specific geographic areas eligible for 5G Fund as hex-9s, with certain modifications.[150] In the *5G Fund FNPRM*, we noted that in order to limit the areas eligible for support in the 5G Fund Phase I auction to those that contain locations or roads, we would need to designate the geographic areas that contain locations and/or roads.[151] The Commission sought comment on its approach to identifying specific geographic areas eligible for 5G Fund support, and the idea of expressing those eligible areas as hex-9s.[152] However, we are persuaded that a more granular

[143] *Id*. at 31.

[144] *Id*.

[145] CCA Reply at 6; Deere Reply at 3-4; RWA Comments at 4; WIA Comments at 5.

[146] WIA Comments at 5; Deere Reply at 3-4.

[147] WIA Comments at 5; Deere Reply at 3-4.

[148] RWA Comments at 4; CCA Reply at 6-7; SBI Reply at 30-31. As noted above, water-only areas will not be excluded from eligibility. *See* NYPSC Comments at 2, 3.

[149] *See* CCA Reply at 7; SBI Reply at 30-31; WIA Comments at 4-5.

[150] *See 5G Fund FNPRM* at *39-43, paras. 20-21.

[151] *Id.* at *38-43, paras. 19-21.

[152] *Id.* at *43, para. 21. The Commission explained that under this approach, "areas eligible for 5G Fund support [would be converted] to, and [made] available in the form of, [hex-9s]," noting that "unlike 'raw' coverage footprints based on propagation model output, which do not conform to any defined boundary, hex-9s are standardized and can be clearly identified and referenced." *Id.* The Commission noted that "because hex-9s are relatively small, with an average area of approximately 0.1 square kilometer, any reduction in map resolution when converting from raw propagation model output (as filed by providers) to hex-9s is minimal," and that "the use of

(continued….)

analysis of coverage is needed to address concerns raised by commenters. We will therefore analyze mobile broadband coverage by first translating "raw" mobile coverage polygons to resolution 11 hexagons (hex-11s) and then evaluating the coverage of the hex-11s that compose a hex-9, using the process described below.[153]

45. A hex-9 will be eligible for 5G Fund support if it includes roads or locations and if a certain share of its component hex-11s *lack* unsubsidized 5G coverage and are in non-urban areas.[154] Here, 5G coverage is based on the "raw" polygon coverage areas submitted by providers in their biannual BDC submission for 5G outdoor-stationary service at 7/1 Mbps.[155] We will determine whether coverage is subsidized or unsubsidized using information from USAC on legacy support and CETC study area boundaries. Hex-11s are two levels more granular than hex-9s in the H3 system hierarchy and are therefore the "grandchildren" hexagons of hex-9s. Hex-11s have an average area of 2,150 square meters (about half an acre), which is smaller than the maximum area of the bin sizes used by providers when generating raw coverage areas submitted in the BDC.[156]

46. To understand how we will determine which hex-9s are eligible for support, it may be helpful to examine the inverse, i.e., how a hex-9 is defined as *served*. For each hex-9, we will determine the number of served grandchild hex-11s relative to the total number of grandchild hex-11s.[157] To find the number of served hex-11s, we will overlay hex-11 areas on a provider's unsubsidized 5G coverage polygon and urban areas. If any of those boundaries overlap the centroid, the geographic center point, of the hex-11, then we will treat the entire hex-11 as being covered by that boundary. Any hex-11 covered by unsubsidized 5G coverage or in an urban area will be considered served and counted in the number of served hex-11s. The total number of grandchild hex-11s of a hex-9 is typically 7x7, or 49.[158] If a substantial majority of the grandchild hex-11s are served, then the grandparent hex-9 will be considered served. For purposes of making this determination, we consider a "substantial majority" to be 70% or more.[159] Any hex-9 that is not served in this way is therefore considered unserved and will be eligible for 5G support, as long as it *also contains* at least one location or at least some portion of a road.

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hex-9s can strike the appropriate balance between the benefits of their use and this loss in granularity, particularly given that the data as filed are based on models of coverage." *Id*.

[153] We direct OEA, WCB, and WTB to make additional details regarding the methodology used to generate eligible areas available with the publication of the list of eligible areas.

[154] Non-urban areas are those outside the U.S. Census definition of urban areas. As noted above, urban areas can be presumed for this purpose to be implicitly covered by unsubsidized 5G, and thus ineligible for support in the 5G Fund Phase I auction.

[155] As noted above, we define the areas eligible for support in the 5G Fund Phase I auction as those areas that lack unsubsidized 5G mobile broadband service at speeds of at least 7/1 Mbps in an outdoor stationary environment by at least one service provider.

[156] The maximum resolution allowed when generating mobile broadband coverage areas under the BDC requirements is 100 meters. *See* 47 CFR § 1.7004(c)(3)(iii). This resolution would result in a bin or pixel, the individual square generated by a propagation model to represent predicted coverage, with an area of 10,000 square meters.

[157] For both the numerator and the denominator, the centroid—i.e., the geographic center point—of the hex-11 must fall within the boundary of United States or its territories to be counted.

[158] It would not be 49 when a hex-9 straddles an international boundary or coastline, for instance, and some its component hex-11s fall outside the United States or in coastal waters.

[159] For hex-9s with both land and water grandchild hex-11s, only the land hex-11s are considered in this calculation. We note that although the Commission has not formally defined what constitutes a "substantial majority," it has concluded that it is more than a simple majority. *See, e.g., Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 11-42, 09-197, and 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC

(continued….)

47. CCA supports converting the areas eligible for 5G Fund support into hex-9 standardized units and excluding from 5G Fund eligibility any hex-9 unit that overlaps with a relevant mobile coverage area, such that the entire hex-9 area is considered covered or served.[160] Verizon also supports converting the areas eligible for 5G Fund support into hex-9s and notes that the Commission's BDC challenge and verification processes also use hex-9s.[161] Verizon also advocates making bidding units with only a handful of eligible hex-9s ineligible for support, consistent with the Commission's decision in the *5G Fund Report and Order* to exclude geographic areas with *de minimis* eligible areas.[162] ARA PAWR submits that using the H3 system can be an efficient way to identify specific geographic areas but notes that one challenge with that approach is the need to have multiple resolution implementations based on the geographical location.[163] AT&T expresses support for limiting the areas eligible for 5G Fund support to hex-9s in rural areas that are not 100% served.[164]

48. While not opposing converting eligible areas to hex-9s, T-Mobile notes that there are some issues with doing so. T-Mobile submits that "translating providers' submitted BDC coverage data into hex-9 cell maps does not result in a perfect match."[165] T-Mobile notes that "[t]he BDC rules require mobile wireless providers to report coverage using 100 meter by 100 meter square pixels, but [because] hex-9 cells are larger than these pixels[,] . . . providers' coverage data is more granular than the hex-9 cells used in the Commission's maps," and as a result, "translating providers' coverage data into hex-9 maps inevitably introduces some degree of inaccuracy and imprecision."[166] In an *ex parte* presentation, T-Mobile submits that "[u]sing more granular hexagonal areas for the 5G Fund, such as hex-10 or hex-11 cells, may help mitigate [the hex-9 translation issue]."[167] We agree. Overlaying hex-11 cells onto the raw coverage data submitted by mobile service providers and generating eligible hex-9s based on the percentage of unserved hex-11s will allow for a more granular assessment of coverage data in the geographic areas than the coverage data as rendered on the National Broadband Map. This approach also is more accurate and granular than the approach we outlined in the *5G Fund FNPRM* and will alleviate

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Rcd 3962, 3993, para. 86 (2016) (*Lifeline Third Report and Order*); *In Re Fed.-State Joint Bd. on Universal Serv.*, Recommended Decision, 17 FCC Rcd 14095, 14105-06, para. 25 (2002) (holding that because "only 50.5 percent of U.S. households use computers to access" the Internet, a substantial majority of subscribers did not use computers to access the Internet). In the context of the Lifeline program, the Commission decided to "establish minimum service standards for all Lifeline supported services based on services to which a 'substantial majority' of consumers have already subscribed" and "conclude[d] that 70 percent of consumers constitutes a 'substantial majority' as it relates to fixed broadband speeds." *Lifeline Third Report and Order*, 31 FCC Rcd at 3989, 3992, 3993, paras. 74, 81, n.240, 86. The Commission also concluded in the context of Lifeline program mobile services that "after the phase-in of mobile data usage allowance standards, [it would] update mobile broadband standards for data usage allowance in line with the principle of supporting services that a "substantial majority" of American consumers subscribe to," and that "given the types of data that are [publicly] and regularly available, the minimum service standard for mobile broadband data usage allowance will be 70 percent of the calculated average mobile data usage per household." *Id.* at 3995, para. 94.

[160] CCA Comments at 12.

[161] Verizon Comments at 7; *see also BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3089 (explaining that the mobile challenge process methodology will group speed test measurements that fall within the same hex-9 cell for purposes of determining whether a sufficient number of hex-9 areas contain speed test results necessary to create a cognizable challenge to the parent hex-8 cell).

[162] Verizon Comments at 11 (citing *5G Fund Report and Order*, 35 FCC Rcd 12196, para. 52).

[163] ARA PAWR Comments at 3.

[164] AT&T Reply at 6.

[165] T-Mobile Comments at 16.

[166] *Id.* (footnotes omitted).

[167] Letter from Christopher Wieczorek, T-Mobile USA, Inc., to Marlene H. Dortch, Secretary, FCC, GN Docket No. 20-32, at 2 (filed Nov. 16, 2023) (T-Mobile Nov. 16 *Ex Parte* Letter).

certain concerns raised by commenters about converting coverage to hex-9s.[168] Because hex-11s are so small, there is little to no loss in granularity when converting from raw coverage areas to hex-11s, even when using the centroid method.

49. T-Mobile also argues that "smaller hexagonal cell[s] would require higher resolution terrain and clutter maps that are not readily available," "would require changes to the BDC submission processes," and "would . . . dramatically increase the size of the data files and computer processing requirements in a way that is unachievable."[169] We disagree with these arguments because the approach we adopt today would not require mobile service providers to submit coverage data into the system based upon hex-11s, thus obviating the potential computer processing requirements and other logistical hurdles to gathering the data based on hex-11s.

50. T-Mobile notes that "[i]n the *5G Fund FNPRM*, the Commission propose[d] to treat an entire hex-9 cell as served—and thus ineligible for 5G Fund support—if a provider's coverage data overlaps any portion of that hex-9 cell."[170] "[T]o ensure complete, robust rural coverage," T-Mobile argues that "hex-9 cells that are only partially covered (e.g., cells where BDC shows only 25%, 50%, or 75% coverage) should be included in the 5G Fund Phase I Auction to avoid denying support to unserved locations."[171] T-Mobile submits that this will "ensure[] that locations are not excluded because they are within a hex-9 cell [with less than 100% coverage] . . . [and] is consistent with the goal[] of the BDC . . . to produce more granular results."[172] In its reply comments, AT&T agrees with T-Mobile that eligible areas should include hex-9s that are not 100% served.[173] CTIA likewise supports excluding hexagons that are 100% covered and including those that are partially covered, and submits that this approach will mitigate the risk highlighted by T-Mobile of skewing support away from areas where unsubsidized service is actually unavailable.[174]

51. We will exclude from eligibility any hex-9s that are 100% covered by unsubsidized 5G service. However, we disagree with CCA that a hex-9 with any 5G coverage should be excluded from 5G Fund eligibility, because doing so would leave behind too many areas from gaining 5G coverage. We will therefore also make some hex-9s that are partially covered eligible for 5G Fund support, depending on the percentage of the hex-9 that is covered. To address commenters' concerns about excluding from eligibility hex-9s with only a small percentage of their area covered by unsubsidized 5G service, we will determine the eligibility of a hex-9 based on whether the percentage of its nested, non-urban "grandchild" hex-11s with unsubsidized 5G mobile coverage represents a "substantial majority" of the hex-11s in that hex-9. As noted above, we conclude that unsubsidized 5G mobile coverage of 70% or more represents a substantial majority.[175] Under this approach, a hex-9 will be ineligible if 70% or more of its nested, non-urban "grandchild" hex-11s show unsubsidized 5G coverage. We believe that our methodology strikes the appropriate balance between not leaving too many areas and locations ineligible for support and avoiding supporting areas that are largely covered by 5G service without a subsidy.

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[168] *See 5G Fund FNPRM* at *38-43, paras. 19-21. Our approach here is also more granular than the methodology used to report and depict mobile broadband coverage on the National Broadband Map, which considers a hex-9 covered if its centroid is overlapped by a provider's raw mobile broadband coverage area. FCC, *Broadband Data Collection: Specifications for Data Downloads from the National Broadband Map, Section 3.1.2.1*, at 5 (Mar. 11, 2024), https://us-fcc.box.com/v/bdc-data-downloads-output.

[169] T-Mobile Nov. 16 *Ex Parte* Letter at 2.

[170] T-Mobile Comments at 17 (citing *5G Fund FNPRM* at *42-43, para. 21).

[171] T-Mobile Comments at 17-18.

[172] *Id.* at 18.

[173] AT&T Reply at 6.

[174] CTIA Reply at 4.

[175] *See supra* note 157.

6. Source and Timing for Determining Final List of Eligible Areas

52. As the basis for determining the final list of areas eligible for support in the 5G Fund Phase I auction, we will use the most recent vintage of BDC mobile availability data published on the National Broadband Map that the public have had the opportunity to challenge.[176] We direct OEA, WCB, and WTB to implement this approach and to release the final list of eligible areas for that auction at least 30 days prior to the start of bidding in the auction. We intend to publish a "preview" map of the eligible areas based on the vintage (the "as-of date") of the BDC mobile availability data that we plan to use as the basis for the final eligible areas. The Commission also anticipates publishing an updated preview of the eligible areas before the short-form application filing window for the auction opens. This updated preview would be based on the same vintage of BDC mobile availability data and reflect any mobile challenges to that vintage resolved at the time of release. We conclude that providing both an initial and an updated preview of the eligible areas during the pre-auction process will afford potential auction applicants sufficient time to determine whether additional challenges to the data are needed, and to submit those challenges so that they can be processed and adjudicated sufficiently in advance of when the Commission expects to generate the final list of eligible areas. It will also enable them to make a more informed decision applying for, and bidding in, the auction.

53. We recognize that, depending on the timing for the 5G Fund Phase I auction, this approach means that we would not use the most recent vintage of published BDC mobile availability data as the basis for the eligible areas.[177] If we were to commit to using the most recent vintage of published BDC mobile availability data, there might be little or no time for the public to submit, and for the Commission to resolve, challenges to such coverage data; as a result, some areas that should be eligible for the auction might be excluded. We therefore conclude that, on balance, using a prior vintage of BDC mobile availability data to determine the final list of eligible areas is preferable because it will afford greater opportunity for public review, challenge submissions, Commission adjudications, and for provider updates on the National Broadband Map to be considered.

54. Michael Ravnitzky supports the proposal to make the map of eligible areas available no later than 30 days in advance of bidding, submitting that "this approach will ensure that the eligible areas are based on the most recent and accurate data available."[178] CCA expresses concern about the Commission's proposal "to use mobile availability data published no later than 30 days prior to the start of bidding as the basis for [determining] final eligible areas," arguing that "[p]articipating carriers will need to engage in considerable preparation for bidding and [that] 30 days is insufficient for small carriers with limited resources to review the data, make decisions regarding participating in the auction, and take the steps necessary to prepare for the auction."[179] CCA asserts that "[t]he Commission should ensure that

[176] The methodologies, processes, and timelines applicable to mobile challenges submitted under the BDC rules will apply. *See generally BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3010-54, paras. 8-85; *BDC Third Report and Order*, 36 FCC Rcd at 1164-74, paras. 97-124; *see also National Broadband Map: 2024 Key Dates* (Jan. 19, 2024), https://www.fcc.gov/sites/default/files/national-broadband-map-2024-key-dates.pdf. For example, a speed test conducted using a 5G-capable device in an area where a provider claims 4G LTE and 5G-NR service but the results show less than 5/1 Mbps would count as a negative test for both the 4G LTE and 5G-NR coverage. *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3023, para. 27 (allowing "a speed test conducted using a device capable of connecting to a higher-generation technology, but that only connects to a lower-generation technology, to count as a test for the higher generation technology"). Alternatively, such a test would count as a positive test for 5G-NR if the test result is higher than 7/1 Mbps, even if the test is taken over a 4G LTE connection. *See id.*

[177] Carriers must submit their mobile availability data in the BDC on or before March 1 of each year (reflecting data as of December 31 of the prior year) and on or before September 1 of each year (reflecting data as of June 30 of the current year). *See* 47 CFR § 1.7002; *see* FCC, *National Broadband Map: Key 2024 Dates*, https://www.fcc.gov/BroadbandData (last updated Jan. 19, 2024).

[178] Ravnitzky Comments at 3.

[179] CCA Comments at 12.

there is sufficient time between when the final [eligible areas] data is made available and the start of bidding, so that adequate preparation can occur."[180] CCA also urges the Commission to "permit a robust mobility mapping challenge to run its course[] to detect and resolve any significant concerns regarding the accuracy of the current coverage maps."[181]

55. CTIA submits that "[the 5G Fund] program timelines should be aligned with the BDC timeline to enable the use of the most recent version of the [National Broadband Map] that has been verified by the challenge process."[182] While CTIA does not specifically oppose the Commission's specific proposed timing, it asserts that "[d]epending on the timing of when the map is published, 30 days may not be sufficient to ensure that the map can be validated through the challenge process."[183] "Since challenges are ordinarily accepted on a rolling basis, CTIA recommends that the Commission provide a target date for eligible parties to submit challenges for consideration in the map that will be used to determine eligible areas for the 5G Fund . . . [that is] sufficiently far in advance of the start of bidding to ensure that potential bidders in the auction have an adequate opportunity to evaluate the updated coverage data and its impact on their participation."[184] While not specifically addressing the Commission's specific proposed timing, RWA asserts that the Commission should set a deadline for determining the final areas eligible for the 5G Fund Phase I auction prior to making this determination, in order to enable providers to determine the most opportune time to file challenges to the BDC maps that the Commission will rely on to determine the areas eligible for the auction, noting that "[i]f a provider files a challenge too early, such challenge may be moot by the time a later version of the BDC map is released due to continued 5G build out by nationwide carriers."[185] RWA further notes that "[f]iling such challenges is also extremely costly for rural providers, making the timing of filing challenges even more difficult . . . [because] filing challenges to overstated coverage in perpetuity is economically infeasible for rural carriers."[186] RWA submits that "[p]roviding a date when the final eligible areas will be determined will provide needed clarity and avoid wasteful spending by carriers filing premature challenges . . . [and ensure] that industry and the Commission are in a better position to understand the impact of the BEAD Program, [as contemplated by the Commission in the *5G Fund FNPRM*]."[187]

56. The iterative nature of the National Broadband Map, which is published twice a year and updated on a bi-weekly basis to reflect provider updates and the results of challenges, addresses commenters concerns about the Map showing the most up-to-date coverage data. We therefore strongly encourage the public to review and, to the extent appropriate, challenge these data as soon as possible so that any challenges can be resolved by Commission staff prior to our announcement of the final eligible

[180] *Id.* at 12-13; CCA Reply at 18.

[181] CCA Reply at 17-18; CCA Aug. 2 *Ex Parte* Letter at 2 (asserting that the Commission's current broadband maps are neither reliable nor accurate and that its challenge process "is deeply flawed and in need of reform."). We note that the generalized concerns raised by CCA are not supported by any evidence submitted to the Commission in the challenge or crowdsource process. Moreover, the information cited by CCA in a recent *ex parte* filing relies in large part on references to the fixed challenge process as a basis for expressing concern about mobile data. *See* CCA Aug. 2 *Ex Parte* Letter at 9, n.42, 14 & nn. 69-72; *see generally id.* Exh. A (including comments that discuss all of the BDC challenge processes, including the Broadband Serviceable Location Fabric and fixed availability).

[182] CTIA Comments at 5.

[183] *Id.* at 6.

[184] *Id.*.

[185] RWA Comments at 5.

[186] *Id.*

[187] RWA Comments at 6; *see* RWA Reply at 6-7.

areas.[188] As outlined in the Commission's rules, speed tests submitted as part of the BDC mobile challenge process are valid for up to one year[189] and are combined with other tests conducted in nearby geographic areas to create a cognizable challenge to the mobile data once the geographic, testing, and temporal thresholds outlined in the BDC mobile challenge process have been met.[190] If a challenge is upheld, the challenged area will be removed from the National Broadband Map,[191] and the results of upheld challenges will continue to be reflected in future versions of the National Broadband Map, including future data vintages. The challenge outcome will remain until a mobile challenge restoration process has been implemented and a provider has successfully followed that process to demonstrate that coverage in the challenged area is available in a subsequent vintage after the loss or concession of a challenge.[192]

B. Puerto Rico and the U.S. Virgin Islands

57. Consistent with the underlying policy objectives of the Commission's decisions in the Bringing Puerto Rico Together Fund and the Connect USVI Fund,[193] we conclude that areas in Puerto

[188] Challenges may take as long as 180 days to be reflected in corrections to the National Broadband Map. *See* 47 CFR § 1.7006(e)-(f). The mobile challenge process has been open for nearly two years, and to date, the Commission has received over 270,000 individual challenge and crowdsource speed test submissions, resulting in over 175 challenges being sent to mobile providers for response. The Commission is also aware of two attempted bulk mobile challenge submissions, both of which were unsuccessful due to missing data elements. One of those submissions was later shared with Commission staff and helped to inform a mobile verification. The Commission continues to fulfill its statutory obligation to verify the coverage maps, and it is in the process of finalizing multiple ongoing mobile verifications and audits. To date, the Commission has not been presented with additional evidence of widespread overreporting by mobile providers. Although CCA asserts that "the Commission has not received enough challenges . . . to pressure test the accuracy of the mobile broadband maps," *see* CCA Aug. 2 *Ex Parte* Letter at 11, CCA admits that its "carrier members . . . have refrained from participating in the challenge process so far given the lack of clarity on what data will be relevant to 5G Fund eligibility," *see* CCA Aug. 2 *Ex Parte* Letter at 2, 10.

[189] *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3049, para. 70.

[190] *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3012, 3025-28, paras. 12, 31-35 (adopting a proposal to combine speed tests conducted by consumers, governmental agencies, and other entities to determine whether the thresholds for a cognizable challenge have been met, and citing *BDC Third Report and Order*, 36 FCC Rcd at 1168, para. 105), 3036-41, paras. 50-56 (explaining and adopting the thresholds that aggregated groups of speed tests will be required to meet to establish a cognizable challenge).

[191] *See* 47 CFR § 1.7006(e)(5).

[192] Once an area is successfully challenged and the challenge is upheld, the provider will not simply be able to add the area back to their availability filing in the next biannual filing period. Instead, to show that a provider can serve a previously challenged area in a future BDC filing, it will need to separately submit the same type of detailed infrastructure data for the successfully challenged area that the Commission can require in an audit or verification (i.e. the type of data that would be sufficient to invalidate challenge speed tests through the challenge process).

[193] *Connect America Fund*, WC Docket No. 10-90, Order, 32 FCC Rcd 7981, 7981, 7983, 7985, paras. 1, 3, 7, 14-15 (2017) (directing USAC to make available, at the carrier's election, a single advance payment of up to seven months of high-cost support to facilitate expeditious restoration of essential communications services); *The Uniendo a Puerto Rico Fund and the Connect USVI Fund; Connect America Fund,* WC Docket Nos. 18-143, 10-90, and 14-58, Order and Notice of Proposed Rulemaking, 33 FCC Rcd 5404, 5408, 5423-24, paras. 13, 82 (2018) (*PR-USVI Stage 1 Order*) (establishing the two stages of the Bringing Puerto Rico Together Fund and the Connect USVI Fund, providing immediate Stage 1 support to help restore voice and broadband service on the islands following the devastation to the communications networks caused by Hurricanes Irma and Maria, and proposing to carve Puerto Rico and the U.S. Virgin Islands out from the Mobility Fund Phase II auction and instead provide support under Stage 2 of the Funds to rebuild, improve, and expand voice and broadband networks on the islands in the longer term); *The Uniendo a Puerto Rico Fund and the Connect USVI Fund; Connect America Fund,* WC Docket Nos. 18-143, 10-90, and 14-58, Report and Order and Order on Reconsideration, 34 FCC Rcd 9109, 9162-63, 9165, paras. 101, 110 (2019) (*PR-USVI Stage 2 Order*) (adopting a three-year funding period and budget for Stage 2 mobile (continued….)

Rico and the U.S. Virgin Islands that meet the eligible areas definition for the 5G Fund will be included in the 5G Fund Phase I auction. We consider this conclusion to be a natural progression from the Commission's decision to provide support to mobile carriers in Puerto Rico and the U.S. Virgin Islands to restore and harden their networks after the devastation caused by Hurricanes Irma and Maria to the Commission's gradual transition to allow carriers in these areas to use a portion of the support they receive toward deploying high-speed 5G mobile services.[194] As the Commission anticipated in both the *PR-USVI Stage 2 Order,* and more recently in the *Transitional Support Report and Order*, the time has come to establish a competitive funding mechanism for the long-term expansion of advanced telecommunications access and next generation wireless services for Puerto Rico and the U.S. Virgin Islands,[195] and we conclude that it is now appropriate to view the funding needs for support for mobile broadband services in Puerto Rico and the U.S. Virgin Islands through the same lens as other areas eligible for support under the 5G Fund. Accordingly, eligible areas in Puerto Rico and the U.S. Virgin Islands will be included in the 5G Fund Phase I auction, and winning bidders that are authorized to receive 5G Fund Phase I support in those areas will be subject to the same terms and conditions as winning bidders authorized to receive support in other eligible areas.[196]

58. Over the past six years, the Commission has dedicated significant effort and financial support to accomplish the restoration of mobile communication networks in Puerto Rico and the U.S. Virgin Islands. In recognition of the advancements that have been made to achieve this goal, in its 2019 *PR-USVI Stage 2 Order*, the Commission began the process of transitioning from offering restorative support to a plan that would begin to offer support to mobile carriers to deploy high-speed 5G mobile services in areas that that would otherwise not see such services absent subsidies.[197] Thus, in Stage 2 of the Bringing Puerto Rico Together Fund and the Connect USVI Fund, the Commission adopted a three-year funding period and budget pursuant to which carriers could elect to receive up to 75% of the support for which they are eligible to restore, harden, and expand their networks using 4G LTE or better technology capable of providing service at speeds of at least 10/1 Mbps, and up to 25% of the support for which they are eligible to deploy 5G mobile networks capable of providing service at speeds of at least 35/3 Mbps.[198] In so doing, the Commission stated that it expected to establish a competitive funding mechanism for the long-term expansion of advanced telecommunications access and next-generation wireless services for

support under the Bringing Puerto Rico Together Fund and the Connect USVI Fund as an alternative to mobile high-cost support); *The Uniendo a Puerto Rico Fund and the Connect USVI Fund; Connect America Fund,* Report and Order and Order on Review, FCC 23-32, 2023 FCC LEXIS 1152, at *1, 17-19, paras. 1, 14-17 (2023) (*Transitional Support Report and Order*) (adopting a transitional support period of up to 24 months for mobile carriers in Puerto Rico and the U.S. Virgin Islands receiving support under Stage 2 of the Bringing Puerto Rico Together Fund and the Connect USVI Fund to allow these carriers to continue to strengthen and harden their networks and make advanced telecommunications service more resilient while the Commission develops a long-term funding mechanism for mobile support in these Territories).

[194] *PR-USVI Stage 1 Order*, 33 FCC Rcd at 5405, 5408-11, paras. 2-4, 14-22.

[195] *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9162-63, 9165, paras. 101, 110 (adopting a three-year funding period and budget for Stage 2 mobile support under the Bringing Puerto Rico Together Fund and the Connect USVI Fund as an alternative to mobile high-cost support as an interim step to establishing a competitive funding mechanism for long-term expansion of advanced telecommunications access and next generation wireless services in Puerto Rico and the U.S. Virgin Islands); *Transitional Support Report and Order* at *19, *21-22, paras. 17, 20.

[196] *See generally,* 47 CFR §§54.1011-54.1021.

[197] *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9170-72, paras. 119-24.

[198] *Id.* at 9163, paras. 101-02. Providers are currently receiving transitional support at levels lower than in Stage 2; this support is intended to harden and improve the resiliency and redundancy of facilities for 4G LTE or better technologies during natural disasters, but may be used for both 4G LTE and 5G-NR-capable networks in order to encourage the deployment of 5G-NR service while also ensuring resilient networks. *Transitional Support Report and Order* at *29-32, paras. 27-28.

Puerto Rico and the U.S. Virgin Islands by the conclusion of Stage 2.[199] However, in June 2023, when Stage 2 mobile support under the Bringing Puerto Rico Together Fund and the Connect USVI Fund was scheduled to conclude,[200] this next stage of the implementation of the 5G Fund had not yet begun. Without another option on the immediate horizon, and not wanting to lose the momentum that had been achieved in Puerto Rico and the U.S. Virgin Islands, the Commission adopted an additional transitional support period of up to 24 months to allow eligible mobile carriers currently receiving Stage 2 mobile support to continue receiving support until the Commission could develop a long-term funding mechanism.[201] The Commission nonetheless stated in the *Transitional Support Report and Order* that transitional support would end sooner than 24 months if a long-term funding mechanism were established before the transition period ends.[202]

59. We recognize that our decision to use the 5G Fund as the long-term competitive funding mechanism to advance high-speed, mobile broadband for eligible areas in Puerto Rico and the U.S. Virgin Islands may raise concerns for certain commenters.[203] Although some parties support the inclusion of eligible areas in Puerto Rico and the U.S. Virgin Islands in the 5G Fund because they maintain that the award of 5G Fund support has the potential to bring new services and service providers to these areas,[204] other commenters contend there should be a separate, specific funding mechanism for Puerto Rico and the U.S. Virgin Islands that addresses the unique challenges that service providers face there.[205] One commenter even argues that the Commission should continue offering support to providers through the Bringing Puerto Rico Together Fund and the Connect USVI Fund, and also include eligible areas in Puerto Rico in the 5G Fund.[206]

60. In reaching today's decision, we are mindful that, had it not been for the catastrophic damage caused by Hurricanes Irma and Maria, eligible areas in Puerto Rico and the U.S. Virgin Islands would have remained in Mobility Fund Phase II, which was later replaced by the 5G Fund. Moreover, after carefully reviewing the record on this issue, we have determined that there is no reasonable basis for Puerto Rico and the U.S. Virgin Islands to continue to be treated differently than other U.S. islands and territories, which also face the same factors that challenge the deployment of mobile service as those cited

[199] *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9163, para. 102.

[200] *Transitional Support Report and Order* at *1, para. 1.

[201] *Id.* at *1, 17-19, paras. 1, 14-17.

[202] *Id*. at *20-21, paras. 19-20.

[203] *See, e.g.*, Liberty Mobile Puerto Rico Inc. and Liberty Mobile USVI Inc. (Liberty Mobile) Comments at 11 ("The same considerations that support the Commission's decision to establish the Alaska Plan and to exclude Alaska from the 5G Fund apply to Puerto Rico and USVI."); T-Mobile Reply at 1-2.

[204] *See, e.g.*, AST&Science Comments at 10 (reasoning that 5G Fund support, unlike the dedicated funding that went to incumbent carriers after the hurricanes, has the potential to bring in new services and service providers to the Territories, such as AST's satellite services); Ravnitzky Comments at 1 ("I urge the Commission to adopt policies and rules that will ensure that these communities are not left behind in the 5G era.").

[205] Liberty Mobile Comments at 8-9 (contending that the Commission has previously noted Puerto Rico's specific challenges, including its "mountainous terrain that limits signal propagation and [its] lower median household income compared to the United States" (internal quotation marks omitted)); Puerto Rico Telephone Company (PRTC) Comments at 2-5; Vitelcom Cellular, Inc. and Choice Communications LLC dba Viya Wireless (Viya Wireless) Comments at 2-4 (stating that in the U.S. Virgin Islands "poverty is double the U.S. average, and unemployment is two and a half times higher"; the GAO "recently concluded that the USVI faces serious demographic and economic challenges which impede efforts to grow its economy and attract investors" and that "[w]ithout tourism fully recovered, and weak financial management practices persisting, long-term economic growth and diversification remain a challenge").

[206] The Negociado de Telecomunicaciones de Puerto Rico (the Puerto Rico Telecommunications Regulatory Bureau) Comments at 5 (contending that "[t]here is no barrier facing the Commission [from including] areas in Puerto Rico [in] the 5G Fund and then prudently incorporate[ing] these areas into a long-term mechanism).

by commenters, including the economy, the costs of shipping materials from the mainland, and the limited availability of trained workers.[207] While we acknowledge and are not unsympathetic to these obstacles, we conclude that Puerto Rico and the U.S. Virgin Islands no longer warrant continued separate, dedicated, mobile funding mechanisms. As stewards of universal service support, we have an obligation to be fiscally responsible and to ensure that our limited resources are used efficiently.[208] Although the Commission stated in the *Transitional Support Report and Order* that transitional support would end sooner than 24 months if a long-term funding mechanism were established, we find that providing carriers in Puerto Rico and the U.S. Virgin Islands that are not winning bidders in the 5G Fund Phase I auction with a two-year phase down of the transitional support being provided under the Bringing Puerto Rico Together Fund, on the same terms and conditions as those being adopted for mobile legacy high-cost support recipients, will provide the continuity of support necessary to preserve the Commission's investment in restoring and hardening networks impacted by the hurricanes in these Territories. We conclude that our decision today serves the public interest and reduces the administrative burdens of continuing to manage separate funding mechanisms. Accordingly, areas in Puerto Rico and the U.S. Virgin Islands that meet the eligible areas definition for the 5G Fund will be included in the 5G Fund Phase I auction, subject to the same terms and conditions as other eligible areas, and the transition from the transitional support being provided under the Bringing Puerto Rico Together Fund and the Connect USVI Fund to 5G Fund support in Puerto Rico and the U.S. Virgin Islands, or to a two-year phase down of transitional support, will occur on the same terms and schedule adopted below.[209]

IV. 5G FUND BUDGET

61. We increase the budget for Phase I of the 5G Fund from up to $8 billion to up to $9 billion by including the $1 billion that previously had been allocated by the Commission in the *5G Fund Report and Order* for Phase II, as suggested in the record.[210] In so doing, we affirm the Commission's prior

[207] *See, e.g.*, Viya Wireless Comments at 2-3 (noting that "[p]ersistent supply chain problems and inflation that have complicated deployment and maintenance for providers on the mainland, are significantly greater in an insular Territory [like the U.S. Virgin Islands] with no road or rail access to any mainland U.S. port or manufacturing facility"); Puerto Rico Telephone Company Comments at 5 (arguing that compared to other carriers it faces "(i) higher shipping-related costs; (ii) higher operational costs associated with the topography of Puerto Rico, such as the rough, hilly terrain and heavy tropical vegetation in sparsely populated inland areas; and (iii) higher operational costs associated with the tropical climate of Puerto Rico, which is corrosive to telecommunications equipment, leading to accelerated deterioration of equipment; and (iv) severe tropical weather in the Caribbean, which leads to frequent power outages that can damage equipment and which requires frequent reconstruction of existing infrastructure due to relentless storm and hurricane damage"); Liberty Mobile Reply at 1-2; T-Mobile Reply at 4-5 (stating that "[a]s the only provider that operates both in the continental United States and Puerto Rico, T-Mobile has first-hand knowledge of these challenges, including": (1) isolated island locations, (2) tropical climate, (3) mountainous interior, (4) severe weather, (5) seismically active area, (6) fragile power grid, and (7) supply chain and materials availability).

[208] *See* 47 U.S.C. § 254 (c)(1) ("Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services.").

[209] *See infra* Section VII. For areas in Puerto Rico and the U.S. Virgin Islands, the transitional support being provided under the *Transitional Support Order* is the "mobile legacy high-cost support" that will transition to 5G Fund support or be subject to phase down (whichever is applicable). *See Transitional Support Order* at *22-25, paras. 22-23. Mobile wireless carriers receiving transitional support in areas in Puerto Rico and the U.S. Virgin Islands that are subject to a two-year phase down, as described in detail below, will receive support amounts as specified in 47 CFR § 54.307(e)(5)-(7), and will be subject to the same public interest obligations, performance requirements, reporting requirements, and non-compliance mechanisms adopted for mobile legacy high-cost support recipients specified in 47 CFR § 54.322.

[210] *5G Fund Report and Order*, 35 FCC Rcd at 12185, para. 28 (adopting a 5G Fund budget of up to $9 billion to be awarded in two phases: up to $8 billion dollars in Phase I and at least $1 billion in Phase II); *see* CCA Comments at

(continued….)

commitment to reassess the appropriate amount needed for the 5G Fund Phase II budget, including support that will be necessary for carriers to commit to the deployment of technologically innovative 5G networks that facilitate precision agriculture, following Phase I.[211] From this 5G Fund Phase I budget of up to $9 billion, we also proportionately increase the amount we reserve for service to Tribal lands from up to $680 million to up to $765 million,[212] and here too reaffirm the Commission's commitment to revisit the amount of this reserve after the conclusion of the 5G Fund Phase I auction.[213]

62. Our budget determinations today remain grounded in our effort to balance the policy objectives of the 5G Fund with our obligation to exercise fiscal responsibility to avoid excessive subsidization, recognizing that the cost of subsidies distributed through the 5G Fund will ultimately be borne by consumers and businesses.[214] We also heed the concerns of many commenters that caution the Commission against raising the 5G Fund budget to the detriment of the Universal Service Fund (USF) contribution factor.[215]

63. We nonetheless recognize the apprehension expressed by commenters that, particularly due to inflationary factors, an $8 billion budget for 5G Fund Phase I auction may be insufficient to achieve our policy goals.[216] The Commission has long acknowledged that extending deployment of 5G networks in rural areas will require significant expenditures.[217] We are mindful that the magnitude of such expenditures may only continue to increase. While many commenters favor raising the 5G Fund Phase I auction budget, most did not propose any alternative budget amount other than suggesting that the Commission should employ a cost model approach.[218] In reaching our decision today, we are persuaded, however, by the argument suggested in the record to increase the Phase I auction budget to include up to the full $1 billion previously allocated to the Phase II budget,[219] holding open a decision on the budget that will be necessary for Phase II of the 5G Fund. We recognize that Phase II will focus support on precision agriculture,[220] and our decision to reallocate the budget does not diminish that intention. Furthermore, precision agriculture connectivity relies upon a wide variety of broadband deployment

21-22 (commenting that the Commission should repurpose the $1 billion earmarked for precision agriculture funding and move those funds into the broader 5G Fund).

[211] *5G Fund Report and Order*, 35 FCC Rcd at 12188, para. 34.

[212] *Id.* at 12188, para. 35; *see also* National Tribal Telecommunications Association (NTTA) Reply at 2, 6 (advocating that that Tribal reserve budget is critical to narrowing the Tribal digital divide); SBI Reply at 18 (stating that the Commission should increase the budget for the Tribal reserve). .

[213] *5G Fund Report and Order*, 35 FCC Rcd at 12188, para. 35.

[214] *Id.* at 12186, para. 30 (citing 47 U.S.C. § 254).

[215] AT&T Comments at 8; CTIA Comments at 13-14; T-Mobile Comments at 2; Verizon Comments at 5; AT&T Reply at 3-4. *But see* US Cellular Comments at 24.

[216] AST&Science Comments at 5; CCA Comments at 18 (explaining that "inflation has risen . . . at a dizzying pace, at one point in 2022 soaring to a four-decade high of 9.1%"); RWA Comments at 8 (citing "rising inflation" as a factor in favor of raising the budget); US Cellular Comments at 15 (contending the budget is "well short" of what is necessary to achieve the objectives Congress has set for the Commission); WIA Comments at 4 ("It is well established that the most remote areas are disproportionately more expensive to serve."); CCA Reply at 12 ("[T]he 5G Fund budget must be increased."); CCA Aug. 2 *Ex Parte* Letter at 16.

[217] *5G Fund Report and Order,* 35 FCC Rcd at 12186, para. 29; *see also id*. at 12188, para. 34.

[218] AST Comments at 5-6; CRWC Comments at 18-20; RWA Comments at 7; US Cellular Comments at 24; WIA Comments at 4 *But see* AT&T Comments at 2-4; CCA Aug. 2 *Ex Parte* Letter at 17.

[219] *See* CCA Comments at 21-22 (commenting that the Commission should consider repurposing the $1 billion earmarked for precision agriculture funding and move those funds into the broader 5G Fund).

[220] *5G Fund Report and Order,* 35 FCC Rcd at 12187, para. 31.

technologies,[221] and the landscape of broadband infrastructure in rural areas continues to evolve.[222] We conclude that repurposing the budget amount previously allocated to Phase II of the 5G Fund strikes an appropriate balance in responding to commenters that advocate an increase in the Phase I budget, while also being conscious of our fiscal obligations to be good stewards of the Universal Service Fund.

64. We find that this 12.5% increase in the 5G Fund Phase I auction budget will help compensate for the inflationary pressures cited by commenters that might otherwise reduce the potential for the deployment of 5G service relative to when the budget was adopted in 2020.[223] Likewise, we increase the amount of the budget we reserve for service to Tribal lands proportionally by that same 12.5%. We nonetheless balance our decision to increase the 5G Fund Phase I auction budget with our obligation to ensure that the budget we establish provides sufficient, but not excessive support. We conclude that by distributing up to $9 billion in the 5G Fund Phase I auction, we can make a significant impact on the provision of advanced, high-speed 5G mobile broadband in areas where Americans live, work, and travel, and we will continue to monitor our progress as we review information collected through the BDC, annually.

65. We emphasize that we are aware that this budget, even as modified, will not cover the costs of serving every eligible area that will be offered in the 5G Fund Phase I auction, and we state again that it is not intended to do so.[224] Commenters that continue to argue in favor of using a cost model to

[221] *See generally* Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States, Report (Nov. 6, 2023), https://www.fcc.gov/sites/default/files/2024-Report-PrecisionAg-Task-Force-without-Signatures.pdf.

[222] *See generally* BEAD Program NOFO; U.S. Department of Agriculture, *ReConnect Loan and Grant Program*, https://www.usda.gov/reconnect (last visited Mar. 19, 2024).

[223] The price of broadcast and wireless communications equipment manufacturing increased by 6.18% from May 2020 to August 2023. U.S. Bureau of Labor Statistics, *Databases, Tables & Calculators by Subject*, https://data.bls.gov/timeseries/PCU334220334220 (last visited Mar. 15, 2024). The total compensation for private industry workers in the information industry increased by 13.32% from Q2 2020 to Q3 2023. U.S. Bureau of Labor Statistics, *Databases, Tables & Calculators by Subject*, https://data.bls.gov/timeseries/CIS20151000000000I (last visited Mar. 15, 2024). Assuming the wireless telecommunications industry uses equipment and labor in approximately equal shares, costs in the industry have gone up by approximately 10% since May 2020.

[224] Beginning with its efforts in 2011 to reform mobile high-cost support, the Commission sought comment on alternatives to using a reverse auction mechanism to distribute mobile support, including the use of a model that would estimate costs and revenues, to determine amounts of support to be made available in particular geographic areas. *See USF/ICC Transformation FNPRM*, 26 FCC Rcd at 18082-85, paras. 1174-88. In seeking such comment, the Commission has explained that in contrast to a competitive bidding method, a model-based approach does not include a mechanism for selecting among multiple providers that might be interested in receiving the support being offered. *Id*. at para. 1185. In adopting the requirements for Mobility Fund Phase II, including the use of competitive bidding, the Commission declined to adopt the use of a wireless cost model, finding that commenters that favored a model-based approach were challenging other aspects of the Commission's decision for the fund, including the decision that support should be provided to a single provider in a given area. *See Mobility Fund Phase II Report and Order* 32 FCC Rcd 2159, para. 20. The Commission further determined that parties that were advocating for the use of a model did not acknowledge or resolve the myriad policy goals that are addressed by the use of a reverse auction proposal, and therefore did not offer a realistic alternative – consistent with the Commission's policy decisions – to the proposed use of the auction mechanism. *Id*. In the absence of a workable, nationwide model to award ongoing support that addresses all of the Commission's core policy objectives, the Commission explained that it adopted its decision to use a reverse auction mechanism to distribute Mobility Fund Phase II support. *Id*. In sum, the Commission concluded its decision to utilize a reverse auction to award support to only one provider per area was the best approach to target support to where it is truly needed, eliminates inefficiencies, and helps limit the cost to consumers and businesses. *Id*. The Commission again elected to use a reverse auction instead of cost model in the 5G Fund, finding that an auction, rather than a cost model, would determine the most economically efficient allocation of winning bidders and funding levels across geographic areas. *5G Fund Report and Order*, 35 FCC Rcd at 12184 para. 23-24; *see also id*. at 12198, para. 60. The Commission reiterated its position on cost models and the budget in the *5G Fund FNPRM*. *5G Fund FNPRM*, *50-52, para. 29.

determine the 5G Fund budget[225] disregard the Commission's repeated explanation that relying on cost studies would wholly conflict with our intent to award support in eligible areas in amounts that are competitive, but still acceptable to the providers, as a reverse auction does.[226] In other situations in which the Commission has used a cost model to provide universal service support, the cost model generally served to establish the amount of support that would be offered to eligible legacy providers, and expenditures for those programs are determined by the total of the providers' acceptances of the modelled support offers.[227] The 5G Fund auction operates in a fundamentally different way; a budget is established in advance and the competitive bidding process, not the Commission, determines which providers will receive support and the amount of support they will be eligible to receive. Multiple entities—not only the

[225] *See* AST&Science Comments at 5-6; CCA Comments at 16-17; CRWC Comments at 19-20; RWA Comments at 7; US Cellular Comments at 24; CCA Aug. 2 *Ex Parte* Letter at 17.

[226] *See 5G Fund Report and Order,* 35 FCC Rcd at 12184, para. 23.

[227] For example, A-CAM, the Alternative Connect America Model, "[p]rovides set monthly payments based on a cost model to Rate of Return carriers to build broadband to a specific number of fixed locations in areas eligible for funding." *See* USAC, *High Cost, Funds*, https://www.usac.org/high-cost/funds/ (last visited Mar. 15, 2024). Contrary to the suggestion of some commenters, the Commission's decisions in the context of A-CAM are not dispositive of our decision to use a reverse auction for the 5G Fund. *See* NTCA Comments at 5-6; LMPR/LMUSVI Comments at 10-11; RWA Comments at 11-12; SBI Reply at 24-25. As early as 2011, the Commission determined that it would distinguish the treatment of rate-of-return carriers from price cap companies, and for rate-of-return carriers, it declined to shift support to the model- and competitive bidding-based mechanism it was employing for the Connect America Fund. *See USF/ICC Transformation Order*, 26 FCC Rcd at 17709, para. 117. Specifically, for rate-of-return carriers, the Commission elected to reform legacy support mechanisms and transition towards a more incentive-based form of regulation with better incentives for efficient operations. *Id*. As the Commission explained in 2011, rate-of-return carriers then served less than five percent of access lines in the U.S., and smaller rate-of-return carriers operate in many of the country's most difficult and expensive areas to serve. *Id*. at 17674, para. 26. As a general matter, rate-of-return carriers face the economic challenges of extending service in the high-cost areas of the country. *Id*. Accordingly, the Commission's decisions in the context of A-CAM have been founded upon the investment of billions of dollars in universal service support to upgrade the networks of rate-of-return carriers to deploy higher and higher broadband speeds as the local exchange industry evolved from a voice-centric network into a national broadband network. *See generally Enhanced A-CAM Report and Order* at *42-44, para. 33. In 2016, the Commission provided rate-of-return carriers a voluntary path from traditional rate-of-return support, based on the carrier's costs, to model- based high-cost universal service support (A-CAM I), tailored to reflect the specific characteristics of rate-of-return areas. *See Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 at 3094-117, paras. 17-79 (2016). The A-CAM model was used to establish fixed monthly support amounts over a 10-year term in exchange for broadband deployment to a pre-determined number of eligible locations. *Id*. at 3096-97 paras. 20-22 . A-CAM II was offered for a 10-year term, which ends in 2028. *See* Connect America Fund et al., WC Docket No. 10-90 et al., *Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration*, 33 FCC Rcd 11893, 11912, paras. 58-59 (2018) (*December 2018 Rate-of-Return Reform Order*).

Similarly, despite the suggestion of some commenters, given the unique characteristics of the state, the Alaska Plan differs from other high-cost mobile funding mechanisms. *See e.g.,* SBI Reply at 9-10; *see also 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, 10159, para. 66(2016) (*Alaska Plan Order*). The Commission has recognized that Alaska is unique and that mobility support mechanisms in Alaska need to be flexible enough to account for Alaska's "remoteness, lack of roads, challenges and costs associated with transporting fuel, lack of scalability per community, satellite and backhaul availability, extreme weather conditions, challenging topography, and short construction season." *USF/ICC Transformation Order*, 26 FCC Rcd at 17829, para. 508. The mobile portion of the Alaska Plan established a mechanism to continue the high-cost support that competitive ETCs providing mobile service to remote areas of Alaska were receiving, frozen at December 2014 levels, for a ten-year period, totaling approximately $739 million in mobile high-cost, frozen support. *See Alaska Plan Order*, 31 FCC Rcd at 10159, 10164, paras. 66, 75. The December 31, 2014 support levels were frozen in 2011 in the *USF/ICC Transformation Order*. *See USF/ICC Transformation Order*, 26 FCC Rcd at 17675, para. 29. The mobile wireless portion of the Alaska Plan—like the fixed portion—is scheduled to end on December 31, 2026. *See* 47 CFR § 54.317(d); *Alaska Plan Order*, 31 FCC Rcd at 10159, para. 66.

legacy provider—may qualify to compete for support to an area and the auction will assign support to at most one entity in a fair and transparent process. Support amounts for a particular area will not be lower than an amount that the winning bidder (which knows its situation best) indicates that it is willing to accept in exchange for meeting the program requirements. A cost model may provide a generalized estimate of costs, but modelled costs will be overstated in many cases.[228] Accordingly, we do not base the budget that we adopt for Phase I of the 5G Fund on an estimate of total costs (however estimated, according to a model such as that submitted in the record[229] or any other method), but on a careful balancing of our priorities to expand the deployment of 5G mobile broadband service to rural areas where Americans live, work, and travel with our obligation to be fiscally responsible as the steward of limited universal service funds.[230]

66. Additionally, consistent with the Commission's conclusion in both the *5G Fund Report and Order* and the *Mobility Fund Phase II Report and Order*,[231] we decline to adopt any alternative mechanisms to distribute our limited budget, such as the plan requested by SBI in its Petition for Reconsideration filed in 2020, or as it recently revised and tailored in its reply comments concerning the *5G Fund FNPRM* (collectively SBI's request for a "Remote Tribal Areas Fund").[232] Likewise, we also decline to adopt the suggestion of NTCA to implement a Small Carrier Fund as part of our 5G Fund budget. NTCA renews a similar argument raised in 2020,[233] proposing that the Commission should retain $1.5 billion of the 5G Fund budget and, in lieu of having small carriers participate in an auction, should instead distribute this reserved budget over a ten-year period to current recipients of frozen support that have 500,000 or fewer subscribers in the aggregate in the U.S. Department of Agriculture's Rural-Urban Commuting Area (RUCA) Codes 5-10.[234]

67. We emphasize that we remain committed to reserving support for service to Tribal lands in the 5G Fund, and as the Commission has stated previously, we recognize that "Tribal lands will be more expensive to serve than non-Tribal lands due to their lower population density, and income levels, as well

[228] As the Commission explained in 2020, "[t]he Commission's experience in the CAF Phase II auction demonstrates that competitive bidding can bring costs below projections: the aggregate reserve price of more than 713,000 locations assigned in that auction was $5 billion, compared to total winning bids of $1.5 billion." *5G Fund Report and Order,* 35 FCC Rcd at 12188, para. 34.

[229] *See* Letter from Alexi Maltas, SVP & General Counsel, Competitive Carriers Association, to Marlene Dortch, FCC, GN Docket No. 20-32, *Ubiquitous Mobile Connectivity: A Plan for Nationwide 5G*, Whitepaper, Competitive Carriers Association (November 2021), and CostQuest Associates, *CostQuest National 5G Model: Methodology, Understanding the Costs to Deploy and Serve Unserved Areas Across the U.S. with 5G Mobile Broadband* (Nov. 2021) (filed Nov. 23, 2021) (CCA 5G Mobility Cost Model *Ex Parte* Filing) at 2 (stating that the adopted 5G Fund budget will fall short of supporting nationwide 5G).

[230] *See 5G Fund FNPRM* at *50-52, para. 29; *see also 5G Fund Report and Order,* 35 FCC Rcd at 12184, para. 23, n.59; *In re FCC 11-161,* 753 F.3d at 1055, 1082 (noting that the Commission has the discretion to balance competing universal service principles).

[231] *See 5G Fund Report and Order,* 35 FCC Rcd at 12189, para. 38; *Mobility Fund Phase II Report and Order* 32 FCC Rcd at 2159, para. 20.

[232] *See* SBI Reply at 22-25; *SBI Petition for Reconsideration* at 2-6.

[233] *5G Fund Report and Order,* 35 FCC Rcd at 12185, para. 26.

[234] NTCA Comments at 4-6. Specifically, NTCA "supports making up to $1.5 billion of the proposed $9 billion 5G Fund budget available over a ten-year period to current recipients of frozen support that have 500,000 or fewer subscribers in the aggregate in RUCAs 5-10." NTCA Comments at 4. NTCA stated that "[t]his '5G Small Carrier Fund' would only be available to serve RUCA's 5-10[,] and carriers would be required to identify where they are targeting their support by census tract." *Id*. NTCA further states that "[t]o the extent a carrier receives legacy support in an area not eligible for the 5G Small Carrier Fund (i.e., census tracts in RUCAs 1-4) or proposes to upgrade only some of its currently served census tracts within RUCAs 5-10, available support would be reduced proportionately, based on a measure such as the number of POPs or geography covered." *Id.* at 4 n.4.

as the lack of power or roads in some parts of Indian country and the need for federal approval (such as from the Bureau of Indian Affairs) before broadband can be deployed there."[235] However, as the Commission explained in the *5G Fund Report and Order*, and as we affirm today, we are not persuaded that adopting SBI's request for a Remote Tribal Areas Fund would result in an improved outcome for such areas over our decision to utilize a reverse auction to award a reserved portion of the budget for service to Tribal lands.[236] We therefore deny SBI's Petition for Reconsideration to the extent that it requests that the Commission adopt a special Remote Tribal Area Fund to distribute support rather than using an auction mechanism to distribute 5G Fund support reserved for Tribal areas.[237]

68. We also decline to adopt SBI's most recent version of its proposal to adopt a special case mechanism in lieu of making eligible areas on Tribal lands available in the 5G Fund Phase I auction or its suggestion that we should provide special case treatment for mobile legacy high-cost support in remote Tribal lands not won at auction.[238] While pointing to the rare decisions in which the Commission has awarded universal service support without the use of competitive bidding, SBI is unconvincing in arguing that we should create another exception in this instance.[239] The Commission has previously distinguished areas in Alaska from Tribal lands in the lower 48 states, and SBI has provided no new evidence that the Commission erred in its judgment, simply rearguing the same positions it has offered and the Commission has rejected twice before.[240] As the Commission explained the first time it declined to adopt SBI's request to adopt a funding plan for Tribal areas that was similar to the Alaska plan, "the unique basis for the adoption of the Alaska plan was not the existence of Tribal lands in Alaska" but rather was based on the challenges facing the entire state.[241] We also disagree with SBI that the amount we have reserved for Tribal support is inadequate. As explained above, we have proportionately increased the amount we reserve for service to Tribal lands in the 5G Fund Phase I auction to up to $765 million, which should lessen concerns that the budget reserved for providing support to Tribal lands is underfunded. The 5G Fund has insufficient resources to fund every area of the country that lacks unsubsidized 5G mobile service, and to do so at the level of support estimated to be needed by cost studies or other means, whether those areas are located in remote Tribal areas or otherwise. As stewards of the Universal Service Fund, the Commission has the obligation to adopt policies and procedures for the 5G Fund that benefit the public as a whole and that serve the public interest generally, within our abilities to do so.

69. Similarly, based on the Commission's decisions in the *5G Fund Report and Order*, the current record, and our experience with competitive bidding mechanisms, we are not convinced that NTCA's proposed approach for small carriers would be a more efficient or effective means of awarding support than through an auction.[242] We remain unpersuaded that reserving a portion of the budget to distribute through a Small Carrier Fund improves our ability to better target support or to significantly accelerate 5G deployment in rural areas; thus, we affirm the Commission's decision in the *5G Fund*

[235] *Mobility Fund Phase II Report and Order,* 32 FCC Rcd 2165, para. 33.

[236] *See 5G Fund Report and Order,* 35 FCC Rcd at 12189, para. 38.

[237] *See SBI Petition for Reconsideration* at 11-16 (arguing that the Commission erred in not adopting special case treatment for remote Tribal lands); *see also* SBI Reply at 22-25.

[238] SBI Reply at 23.

[239] *Id.* at 24-25 (arguing that the Commission's decision in the Enhanced A-CAM context and the Alaska Plan to offer support to incumbent carriers without the use of a competitive mechanism is grounds to do the same in remote Tribal areas).

[240] *See Mobility Fund Phase II Report and Order* 32 FCC Rcd at 2166-67, para. 36 (declining to adopt SBI's opt-in funding plan similar to the Alaska Plan); *5G Fund Report and Order,* 35 FCC Rcd at 12189, para. 38 (declining to adopt SBI's plan to fund Tribal areas as an alternative to awarding support through competitive bidding).

[241] *See Mobility Fund Phase II Report and Order* 32 FCC Rcd at 2166-67, para. 36.

[242] *5G Fund Report and Order,* 35 FCC Rcd at 12184-85, paras. 25-26.

Report and Order to distribute its entire budget through a reverse auction.[243] Moreover, we affirm the Commission's prior determination that such a proposal is inconsistent "with our decade-long efforts to reform universal service high-cost support."[244] As the Commission previously explained, to the extent NTCA is correct that carriers receiving legacy high-cost support can deploy 5G networks in their service areas more efficiently, we continue to anticipate they will have an advantage against bidders in the 5G Fund Phase I auction that do not already serve those eligible areas in the auction.[245] In sum, we continue to conclude that using a reverse auction to award 5G Fund support best achieves our policy goals and "that setting aside funds for a limited subset of providers would be an inefficient use of our scarce resources, and could limit our ability to expand 5G coverage to as many unserved areas as possible."[246] As the Commission explained in the *5G Fund Report and Order*, if we were to implement a plan such as this, we "would risk overpaying for 5G networks in some areas that another provider (or even the same legacy support recipient) would be willing to serve for less support through an auction."[247]

70. In contrast to reserving support and awarding it through a specialized fund of any sort, a reverse auction uses competition across areas and within areas to determine which areas will receive support, in what amounts, and which entities will receive that support, all within the available budget. This means the Commission will be able to distribute support across as many square kilometers as possible within the available budget at amounts the winning bidders have agreed to accept, consistent with our fiscal responsibilities. Doing so serves the Commission's policy goals to reform and modernize the distribution of mobile high-cost support, a goal that it has repeatedly articulated since 2011.[248] Moreover, and as explained previously, the funds available to subsidize 5G mobile broadband service are not unlimited, and, as commenters warn, raising the budget does not come without an impact to the universal service contribution factor.[249]

71. For similar reasons, we also decline to increase the 5G Fund Phase I budget further to account for the inclusion of eligible areas in Puerto Rico and the U.S. Virgin Islands in the 5G Fund Phase I auction. We disagree with commenters that suggest that the inclusion of eligible areas from Puerto Rico and the U.S. Virgin Islands will further strain the budget.[250] While increasing the budget might result in areas that have higher costs to serve receiving a winning bid, it is also possible that any additional increase in the budget could be split between supporting new areas and providing greater support to bidders that would have agreed to provide service at lower support amounts. Moreover, increasing the budget to account for the inclusion of additional eligible areas, regardless of where those areas are located, will not ensure any particular eligible area will ultimately receive support through the auction.

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[243] *See 5G Fund Report and Order,* 35 FCC Rcd at 12184, para. 23.

[244] *Id*. at 12185, para. 26.

[245] *Id.*

[246] *5G Fund Report and Order,* 35 FCC Rcd at 12185, para. 27 (footnote omitted).

[247] *Id*.

[248] In the *USF/ICC Transformation Order*, the Commission recognized the value of competitive bidding for awarding high-cost support, for both fixed and mobile, noting that a reverse auction "is the best available tool for identifying" areas where support can make the largest difference, as well as the associated support amounts. *USF/ICC Transformation Order*, 26 FCC Rcd at 17781, para. 322. The Commission cited this decisional point in 2020, explaining that in contrast to the use of competitive bidding, in the existing mobile legacy high-cost support program, neither the areas for which legacy support is disbursed nor the amount of support carriers receive have a direct nexus to the areas most in need of support or the amount needed to provide service therein. *See 5G Fund Report and Order,* 35 FCC Rcd at 12184, para. 23, n.59.

[249] *See e.g.*, AT&T Comments at 1, 2-4 (advocating that the Commission should not significantly expand the already overburdened Universal Service Fund that is long overdue for contribution reform).

[250] *See* RWA Comments at 7; CCA Reply at 14-15; CCA Aug. 2 *Ex Parte* Letter at 17.

72. Lastly, many commenters also advocate that the Commission should continue to consider how other federal and state funding to deploy broadband will impact the provision of 5G mobile broadband service before establishing the budget for the 5G Fund Phase I auction.[251] The majority of such comments focus on the funding stemming from the Infrastructure Investment and Jobs Act (Infrastructure Act),[252] which includes the largest-ever federal broadband investment. Section 60102 of the Infrastructure Act directs the National Telecommunications and Information Administration (NTIA) to establish the BEAD Program, through which NTIA will allocate $42.45 billion to states for grants "to bridge the digital divide."[253]

73. On May 13, 2022, NTIA released the BEAD Program NOFO, detailing the process for requesting BEAD Program funding for reliable broadband service.[254] In it, BEAD defines "Reliable Broadband Service" as service that the Broadband DATA Maps show is accessible to a location via: (i) fiber-optic technology; (ii) Cable Modem/Hybrid fiber-coaxial technology; (iii) digital subscriber line (DSL) technology; or (iv) terrestrial fixed wireless technology utilizing entirely licensed spectrum or using a hybrid of licensed and unlicensed spectrum.[255] Broadband networks funded by the BEAD Program must provide download speeds of at least 100 Mbps and upload speeds of at least 20 Mbps and "latency that is sufficiently low to allow reasonably foreseeable, real-time, interactive applications."[256]

74. The BEAD Program NOFO set a July 18, 2022 deadline for NTIA to receive letters of intent from states and territories, as well as an August 15, 2022 deadline for any supplemental information.[257]

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[251] *See* CCA Comments at 19 (stating that "the Commission should determine how the amount already earmarked for wireline deployment subsidies in the BEAD Program and similar programs instituted since the *5G Fund Report and Order* will impact wireless deployment" and "should consider how 5G Fund support can supplement wireline support to ensure that it meets its goal of universally available connectivity across the nation"); CRWC Comments at iii, 22-24 (stating that the Commission should take into account the BEAD program before it moves forward with the 5G Fund); T-Mobile Comments at 2 ("The [BEAD] Program provides funding to fixed broadband, including fixed wireless infrastructure deployed by licensed providers, which come with the added benefit of supporting 5G mobile service. Moreover, BEAD prioritizes broadband projects that will 'support the deployment of 5G, successor wireless technologies, and other advanced services.'"); T-Mobile Comments at 6-7 (arguing that "[i]n response to the Commission's *Notice of Inquiry* on its *Report on the Future of the Universal Service Fund*, T-Mobile, Verizon, and NTCA recommended pausing new USF support for high-cost deployments, including the 5G Fund, until the Commission could assess the impact of new federal funding for broadband deployments"); US Cellular Comments at 10-11 (maintaining that "the impact of the BEAD Program should be taken into account before the Commission moves forward [with the 5G Fund]"); CRWC Reply at 1-2 (explaining that T-Mobile and Verizon agreed with CRWC's contention that "5G Fund support would be distributed more efficiently if the Commission allows BEAD Program support to lead, so that new BEAD-funded fiber can be used to connect towers built with 5G Fund support, and to increase capacity at existing towers currently using microwave backhaul"); SBI Reply at 17-18 (urging that "[b]ecause of the ability to leverage BEAD support, the Commission should first determine where BEAD program funds will deploy fiber before conducting the 5G Fund auction, to stretch 5G Fund program support to the greatest extent possible"); US Cellular Reply at 3 (explaining that "[g]iven the magnitude of the overlap between the fixed and mobile broadband gaps in America, limited government dollars will be most efficiently spent if the FCC does not run the 5G Fund auction until after we know where BEAD will deploy critical infrastructure. BEAD-funded fiber will decrease the cost of constructing, maintaining, and upgrading towers providing mobile broadband service, while BEAD-funded fixed wireless access will automatically bring 5G mobility coverage in addition to home Internet for no additional cost, alleviating the need for 5G Funds in those areas."); CCA Aug. 2 *Ex Parte* Letter at 18-19.

[252] Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021) (Infrastructure Act).

[253] *Id.* § 60102(h)(4)(A)(i).

[254] *See* BEAD Program NOFO.

[255] *Id*. at I(C)(u).

[256] Infrastructure Act § 60102(h)(4)(A)(i).

[257] BEAD Program NOFO at 1, 8, 17, 23-24.

The BEAD Program NOFO also specifies a number of program requirements, including principles that states and territories must observe in their subgrantee selection, prioritization, and scoring processes. In particular, the BEAD Program NOFO prohibits states and territories from "treat[ing] as 'unserved' or 'underserved' any location that is already subject to an enforceable federal, state, or local commitment to deploy qualifying broadband" at the conclusion of the state's or territory's challenge process.[258] States and territories must also ensure that subgrantees comply with obligations spelled out in the BEAD Program NOFO regarding network capabilities (i.e., speed, latency, and uptime), deployment requirements, and service obligations.[259] Finally, the BEAD Program NOFO requires states and territories to ensure that prospective subgrantees have the managerial and financial capacity to meet the commitments of the subgrant and any BEAD program requirements.[260]

75. In recognition of the Infrastructure Act and the BEAD Program, in August 2022, the Commission released a report to Congress outlining the future of the Universal Service Fund.[261] In that report, the Commission explained that "[f]unding for deployment under the Infrastructure Act focuses on fixed services, not mobile services.[262] The Commission also noted that it "has a unique role to play in supporting the deployment of mobile broadband to maintain connectivity wherever people live, work, or travel."[263] The *Future of USF Report* recommended that the Commission include, as part of its long-term plans, an evaluation of the impact of the BEAD Program and other federal and state broadband infrastructure investments discussed in this report on future mobile deployments.[264]

76. The 5G Fund will support the deployment of advanced mobile broadband by requiring that support recipients deploy 5G-NR service at speeds of at least 35/3 Mbps. As the Commission explained in 2020, "we believe support is best directed to modern 5G deployments rather than further deployments of 4G LTE technology."[265] The 5G Fund therefore requires support recipients to meet public interest obligations to provide voice and 5G broadband service, and to satisfy distinct, measured performance requirements as a condition of receiving support.[266] The 5G Fund and the BEAD Program therefore clearly serve very different purposes.

77. Moreover, most recently, in the 2024 *Section 706 Report*, we concluded that "[b]ased on the separate use cases for fixed and mobile broadband as well as evidence that consumers tend to subscribe to both services when they can . . . fixed and mobile broadband services are not full substitutes."[267] As we explained in that report, "[b]oth services are necessary to ensure that all Americans have access to

[258] *Id.* at 36-37.

[259] *Id*. at 36-39.

[260] *Id*.

[261] *Future of USF Report*, 37 FCC Rcd 10041.

[262] *Future of USF Report*, 37 FCC Rcd at 10069, para. 53 (citing *BEAD Program NOFO* at 15 n.10 (stating that the Assistant Secretary, pursuant to authority in Infrastructure Act, § 60102(a)(2)(L), adopts the criteria that Reliable Broadband Service must be, among other things, a fixed broadband service)).

[263] *Future of USF Report*, 37 FCC Rcd at 10069, para. 53.

[264] *Id*. at para. 54.

[265] *5G Fund Report and Order,* 35 FCC Rcd at 12206, para. 79.

[266] *Id*. at 12183, para. 20.

[267] *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2024 Section 706 Report, GN Docket No. 22-270, FCC 24-27, para. 18, n.60 (If the demand for a second good increases when the price of a first good increases, then the two goods are substitutes. If the demand for a second good increases when the price of the first good decreases, then the two goods are complements. Hal R. Varian, Intermediate Microeconomics: A Modern Approach 111-12 (9th ed. 2014) (W. W. Norton & Company, 2014) (rel. March 18, 2024).

advanced telecommunications capability."[268]

78. Similarly, in evaluating the impact of the BEAD Program on our implementation of the 5G Fund, we find that both programs are necessary to ensuring that all Americans have access to advanced telecommunications capability. The 5G Fund supports mobile broadband, BEAD supports fixed broadband, although some states may incorporate a provision among their prioritization selection criteria for subgrantees that favors a fixed broadband deployment that also supports mobile broadband. To date, however, the record does not indicate that any state has incorporated a mobile broadband service performance requirement on par with the 5G Fund's requirement for providing 5G-NR service at speeds of at least 35/3 Mbps.[269] Likewise, although we have seen at least one state incorporate a commitment for a subgrantee to advance mobile broadband in order to receive BEAD funding, that commitment is to provide only 4G LTE service.[270] For this reason, we are not persuaded by commenters that urge us to delay the 5G Fund Phase I auction until after BEAD support has been awarded because BEAD funding could be used to support mobile services as part of the BEAD recipients' broader deployment commitments.[271] We find that moving ahead expeditiously with support for robust mobile broadband will best advance our shared goal of ensuring that all Americans have access to advanced telecommunications services.

79. We are nonetheless mindful of our obligation to share information regarding our efforts to implement the 5G Fund with the U.S. Department of Agriculture (USDA) and NTIA, consistent with the Broadband Interagency Coordination Act (BICA).[272] On June 25, 2021, the Commission, USDA, and NTIA announced they had entered into an agreement to share information about existing or planned projects that have received, or will receive, funding through the Commission's high-cost programs and programs administered by NTIA and the USDA,[273] as required by BICA.[274] Representatives of the

[268] *Id*. at para. 18, n.61 (citing *2021 Report*, 36 FCC Rcd at 840-41, para. 10; *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 19-285, 2020 Broadband Deployment Report, 35 FCC Rcd 8986, 8990-91, paras. 11-12 (2020) (*2020 Report*); *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 18-238, 2019 Broadband Progress Report, 34 FCC Rcd 3857, 3861, para. 11 (2019) (*2019 Report*); *2016 Report*, 31 FCC Rcd at 699-719, paras. 1-44.

[269] *See* T-Mobile Comments at 7-8 (citing BEAD Program NOFO at 42) (T-Mobile explains that BEAD also prioritizes broadband projects that will "support the deployment of 5G, successor wireless technologies, and other advanced services."). Neither T-Mobile's Comments nor the BEAD Program NOFO define the meaning of the "deployment of 5G" in terms of what speed of mobile service may receive such prioritization.

[270] *See* ConnectLA – Louisiana's Office of Broadband Development and Connectivity, *BEAD Initial Proposal Vol. 2* at 107-08, https://connect.la.gov/media/a40jyhpl/louisiana-ip-vol-2-final.pdf (last visited Mar. 15, 2024).

[271] *See*, *e.g.*, CCA Comments at 19, CRWC Comments at 22-24, T-Mobile Comments at 7-8, US Cellular Comments at 2-3, SBI Reply at 17-18.

[272] Broadband Interagency Coordination Act. Pub. L. No. 116-260, 134 Stat. 3214, Div. FF, tit. IX, § 904 (2020) (codified at 47 U.S.C § 1308 et seq.).

[273] Press Release, FCC, NTIA and USDA Announce Interagency Agreement to Coordinate Broadband Funding Deployment (June 25, 2021), https://www.fcc.gov/document/fcc-ntia-usda-sign-interagency-pact-broadband-funding-deployment (*FCC, NTIA, USDA Interagency Agreement Press Release*).

[274] 47 U.S.C § 1308(b)(2); *see also* Memorandum of Understanding Regarding Information Sharing Between the FCC, the U.S. Department of Agriculture, the National Telecommunications and Information Administration of the U.S. Department of Commerce, and the U.S. Department of Treasury, dated as of May 9, 2022, https://docs.fcc.gov/public/attachments/DOC-404166A1.pdf; Memorandum of Understanding Regarding Information Sharing Between the FCC, the U.S. Department of Agriculture, National Telecommunications and Information Administration of the U.S. Department of Commerce, and the U.S. Department of Treasury, dated as of May 9, 2024, https://docs.fcc.gov/public/attachments/DOC-383278A1.pdf (renewing the 2022 Memorandum of Understanding).

agencies have been meeting regularly pursuant to the agreement.[275] On February 17, 2023, the Commission released a report on the effectiveness of BICA, detailing the steps that the agencies were taking to ensure the most effective allocation of broadband funding.[276]

80. Given our decision to make areas that lack unsubsidized 5G mobile broadband service at speeds of at least 7/1 Mbps eligible for support in the 5G Fund Phase I auction, areas that are being offered "unsubsidized"[277] 4G LTE service, or even low levels of 5G service, will still be included in the auction. After carefully considering the issue of whether duplicative support for advanced, 5G mobile wireless service might result from BEAD funding being awarded in substantially the same geographic area as support being offered in the 5G Fund Phase I auction,[278] we conclude that, in the event that a BEAD subgrantee has made an enforceable commitment to a state, prior to the Commission's release of the final list of eligible areas, to deploy 5G-NR service at a speed of at least 35/3 Mbps in an in-vehicle environment, we will consider that area to be ineligible for 5G Fund support, and we will not include such an area in the 5G Fund Phase I auction.[279] We adopt this speed determination of at least 35/3 Mbps here for the purposes of evaluating whether an enforceable commitment to a state for the award of BEAD funding duplicates the policy goals and deployment requirements we establish for the 5G Fund such that the area should be considered to be ineligible for such support. We direct OEA and WCB to determine during the pre-auction process, and after notice and comment, the procedures for removing areas from the final list of eligible areas for the 5G Fund Phase I auction. [280]

81. Because any BEAD-related enforceable commitments to deploy advanced, 5G mobile networks would be new network deployments—just like those deployed with support from the 5G Fund—we do not want to remove BEAD-funded areas summarily from the 5G Fund and risk the possibility that consumers in those areas might be left to accept a reduced level of service for an indeterminate period of time. For similar reasons, we conclude that an enforceable commitment to a state must also require that the BEAD subgrantee deploy 5G-NR service at speeds of at least 35/3 Mbps in an in-vehicle environment within the same milestone deadlines that apply to 5G Fund support recipients, thereby meeting the Commission's performance requirements for the 5G Fund. To ensure that an enforceable commitment made with BEAD funding complies with the 5G Fund's 5G-NR service and at

[275] *See FCC, NTIA, USDA Interagency Agreement Press Release*.

[276] Wireline Competition Bureau, Report on the Effectiveness of the Broadband Interagency Coordination Agreement Pursuant to § 1308 of the Broadband Interagency Coordination Act (2023), https://docs.fcc.gov/public/attachments/DOC-391167A1.pdf; *see also* Press Release, FCC, FCC Reports to Congress on Success of Broadband Interagency Coordination Act (Feb. 17, 2023), https://docs.fcc.gov/public/attachments/DOC-391169A1.pdf.

[277] Any advanced mobile service offered by a provider that has accepted BEAD funding would be considered to be unsubsidized because the BEAD program provides subsidies for the provision of fixed wireless service. *See BEAD Program NOFO* at 15 n.10 (stating that the Assistant Secretary, pursuant to authority in Infrastructure Act, § 60102(a)(2)(L), adopts the criteria that Reliable Broadband Service must be, among other things, a fixed broadband service).

[278] *See 5G Fund NPRM* at *66, para. 43 ("Given that the BEAD Program does not provide funding for mobile broadband deployment, we seek comment on whether our proposals herein, together with the rules and procedures already adopted for the 5G Fund, are sufficient to ensure that the Commission efficiently and effectively facilitates the deployment of mobile broadband service to those areas where support is most needed." (footnote omitted)).

[279] In order for an area subject to an enforceable commitment to be considered ineligible for support in the 5G Fund Phase I auction, the commitment must require deployment of 5G-NR service at speeds of at least 35/3 Mbps to the entire area that would have otherwise been eligible for support in the 5G Fund Phase I auction. To the extent any provider has an enforceable commitment to a state or locality or instrumentality thereof outside of the BEAD Program, we will treat such enforceable commitments the same as set forth in this section.

[280] We anticipate that OEA will propose a process whereby NTIA, representatives of state BEAD programs, BEAD subgrantees, or other interested parties could submit written evidence of an enforceable state commitment to deploy 5G-NR service at speeds of at least 35/3 Mbps.

least 35/3 Mbps speed requirements for the purposes of determining whether to remove such an area from eligibility from the 5G Fund, the enforceable state commitment must also include verification processes that involve the submission of infrastructure data or on-the-ground test data to verify that the BEAD subgrantee has met these service and speed requirements. We direct OEA and WCB to determine during the pre-auction process, and after notice and comment, a verification process that would demonstrate that a BEAD subgrantee has made an enforceable commitment to meet these service and speed requirements, prior to removing an area from the final list of eligible areas for the 5G Fund Phase I auction.

82. The Commission has previously taken aggressive measures post-auction to not award universal service support to areas where it has determined that there is an existing provision of service in an area or a significant concern regarding wasteful spending.[281] Accordingly, we direct OEA and WCB to seek comment in the pre-auction process on whether and how to establish a post-auction, pre-authorization procedure wherein an interested party could submit proof to the Commission prior to the award of 5G Fund support that demonstrates that there is a BEAD award that includes an enforceable state commitment for the deployment of verifiable mobile 5G-NR service at speeds of at least 35/3 Mbps that conflicts with a winning bid for an area offered in the 5G Fund Phase I auction. In the event such a process is implemented, consistent with our past practice, we anticipate that we would take similar action here, up to and including declining to authorize support for that area. Thus, applicants in the 5G Fund Phase I auction are encouraged to perform due diligence, research, and analysis and factor into their bids and bidding strategies any state BEAD requirements that include a commitment from a subgrantee to deploy 5G-NR service at speeds of at least 35/3 Mbps as a condition to receiving BEAD funds.

83. We recognize that offering support for advanced, 5G mobile broadband service that duplicates BEAD funding efforts would defeat the policy goals established for the 5G Fund. To that end, as explained above, the Commission is carefully coordinating its 5G Fund plans with other government agencies, including NTIA, as required by BICA.[282] Moreover, we agree with commenters that advocate that BEAD funding can be leveraged to amplify the reach of 5G Fund support.[283] We further agree that there are many benefits that can be derived from a 5G Fund support recipient's ability to capitalize on any advancements in fixed broadband service being offered in rural America, particularly so that new BEAD-funded fiber can be used to connect towers built with 5G Fund support, and can increase capacity at existing towers currently using microwave backhaul.[284] Insofar as it may cost a 5G support recipient less to provide 5G mobile broadband service in a rural area where a fixed broadband network has been, or will be, deployed with BEAD funding, we expect that a bidder in the 5G Fund Phase I auction for such an area would be willing to bid to accept less support than if the area did not have a fixed service offering. Additionally, we anticipate that even if the 5G Fund Phase I auction were to be held prior to all BEAD program support being awarded, applicants seeking to participate in a 5G Fund auction will have sufficient information about their own and others' current or future service offerings, including reasonably certain BEAD deployments, through basic due diligence to factor into their bids and bidding strategies the potential impact that BEAD funding may have on the market.[285]

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[281] *See* FCC, *Letters to Long-Form Applicants*, https://us-fcc.app.box.com/s/lq4iqpjt8ukal4wve6hbrkbs5473kpcw (last visited Mar. 15, 2024).

[282] 47 U.S.C. § 1308(b)(2).

[283] *See, e.g.*, SBI Reply at 17-18 ("To the extent that fiber moves closer to SBI's towers, and to areas where SBI would build new towers, the cost of installing 5G for both SBI and the USF program goes down.").

[284] *See*, *e.g.*, CRWC Reply at 1-2.

[285] On June 28, 2023, NTIA issued the BEAD Challenge Process Policy Notice, providing guidance on several BEAD Program processes, such as the identification of existing broadband funding and the required challenge processes that states must conduct, that aim to avoid broadband funding overlaps. *See* Department of Commerce, National Telecommunications and Information Administration, BEAD Challenge Process Policy Notice (June 28, 2023), https://ntia.gov/sites/default/files/publications/bead_challenge_process_policy_notice_final.pdf (BEAD

(continued….)

84. For these reasons, we disagree with commenters that advocate that we should delay the implementation of the 5G Fund while we determine the potential impact of BEAD funding on the deployment of mobile broadband services. Waiting to implement the 5G Fund until all BEAD funding is assigned and the success of that program is analyzed would do a disservice to Americans who live, work, and travel in rural areas, who should not be denied access to mobile services that are reasonably comparable to those provided in urban areas.[286] Delaying the 5G Fund would also require us to continue the current inefficient practice of providing legacy high-cost support in areas of the country where there is already unsubsidized mobile service and would thus be contrary to the policy initiatives the Commission has advocated since the adoption of the *USF/ICC Transformation Order*.[287] Not only does the legacy high-cost support often reach areas where unsubsidized service exists, but also it is often duplicative—i.e., given to more than one mobile provider serving the same area. Continued delay of the transition away from legacy support is antithetical to our efforts in this proceeding to avoid providing support to the same area where another mobile service provider is receiving or will receive support to deploy 5G service. It would also undermine the underlying policy goal of our BICA obligations, which is to avoid duplicating government subsidies for the same service in the same area. Having undertaken a tailored effort to refresh the record and reignite the 5G Fund, we are now well-positioned to make these determinations and ultimately begin the process to incentivize the deployment of networks providing advanced, 5G mobile broadband in areas where, absent subsidies, such service will continue to be lacking. Accordingly, we conclude that the 5G Fund can enhance achievements of the BEAD program rather than conflict with them.

85. By adopting a budget of up to $9 billion for the 5G Fund Phase I auction, using a reverse auction to distribute support, and committing to reassess the amount that will be needed for Phase II of the 5G Fund in the future, we will support the advancement of high-speed 5G mobile broadband in areas where Americans live, work, and travel. Moreover, we continue to anticipate, as the Commission did in 2020 that many providers will use private capital in conjunction with 5G Fund support to build their 5G networks.[288] We therefore adopt a 5G Fund Phase I budget today that again "seeks to balance the various competing objectives in section 254 of the Communications Act of 1934, as amended (the Act),[289] including the objective of providing support that is sufficient, but not so excessive so as to impose an undue burden on consumers and businesses."[290] Accordingly, we conclude that setting the 5G Fund

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Challenge Process Policy Notice) (last visited Mar. 15, 2024). The BEAD Challenge Process Policy Notice explains how, as part of BEAD Program challenge process, the states and other eligible entities conducting challenge processes must accept or reject certain kinds of evidence for challenges to the identification of previous federal, state, or local enforceable commitments, challenges to claimed broadband availability at particular locations, and challenges demonstrating that there is planned service to locations without an enforceable commitment. *Id.* at 15-19.

[286] As the Commission has previously explained, insofar as the BEAD Program serves to fund fixed wireless broadband deployment, the Commission has stated that pausing the process of preparing for a 5G Fund auction "would have detrimental impacts on consumers' access to advanced mobile wireless service." *Future of USF Report*, 37 FCC Rcd at 10069, para. 54.

[287] *See generally, USF/ICC Transformation Order,* 26 FCC Rcd 17663.

[288] *See 5G Fund Report and Order,* 35 FCC Rcd at 12188, para. 34.

[289] 47 U.S.C. § 254.

[290] *See 5G Fund Report and Order,* 35 FCC Rcd at 12186, para. 30 (citing judicial interpretation of these objectives, as well as the Commission's *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, Order on Remand and Memorandum Opinion and Order, 25 FCC Rcd 4072, 4088, para. 30 (2010) (*Qwest II Remand Order*) (defining "sufficient" as "an affordable and sustainable amount of support that is adequate, but no greater than necessary, to achieve the goals of the universal service program"). Moreover, the courts have held that the Commission enjoys broad discretion when conducting exactly this type of balancing. *See, e.g.*, *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095, 1103 (D.C. Cir. 2009); *Fresno Mobile Radio, Inc. v. FCC*, 165 F.3d 965, 971 (D.C. Cir. 1999); *see also Qwest II Remand Order*, 25 FCC Rcd at 4088, para. 29 ("[A] proper balancing inquiry must

(continued….)

Phase I budget at up to $9 billion establishes a significant start to support the build out of advanced, 5G mobile wireless broadband networks in unserved and underserved rural areas.

V. ACCEPTING BIDS AND IDENTIFYING WINNING BIDS

A. Metric for Accepting Winning Bids and Identifying Winning Bids

86. We adopt a bidding and support price metric based on dollars per square kilometer that, as described below, includes a weighting factor that weights bids and support prices based upon service availability within an eligible area. In the *5G Fund FNPRM*, the Commission sought comment on using a bidding and support price metric based on dollars per square kilometer in the event that it decides to limit eligible areas to hex-9s that have locations and/or roads.[291] The Commission also sought comment on whether to adjust the square kilometers associated with an eligible area using either the adjustment factor that was adopted in 2020 or another approach.[292] Based on our policy goal to use the available budget most efficiently to provide 5G coverage to places where people live, work, and travel, we decline to employ the adjustment factor that the Commission adopted in the *5G Fund Report and Order* as part of the metric for accepting and identifying winning bids in a 5G Fund auction, because doing so would prioritize sparsely populated areas over areas where people live, work and travel as indicated by available data.[293] However, consistent with alternatives proposed in the current record, we adopt an alternative adjustment approach to differentiate between eligible areas that lack 4G-LTE service by an unsubsidized provider and those that have such service, as addressed below.

1. Bidding and Support Metric

87. In the *5G Fund Report and Order*, the Commission decided that it would accept bids and identify winning bids in the 5G Fund Phase I auction using a support price per adjusted square kilometer.[294] Under this metric, each eligible area would be associated with a number of units equal to the square kilometers of the area multiplied by an adjustment factor that was also adopted in the 2020 proceeding.[295] The corresponding support amount for an area would be the number of adjusted square kilometers multiplied by the price.[296] Today, we retain a bidding and support metric based on dollars per adjusted square kilometer, but as explained further below, modify the factors upon which we will base the adjustment.

88. In the *5G Fund FNPRM*, the Commission asked whether there were alternative bidding and support metrics that might target unserved locations and/or unserved road miles more specifically, if eligible areas were limited to those census tracts that include unserved locations and/or roads.[297] The Commission further asked whether a single targeted metric would appropriately balance unserved road

take into account [the Commission's] generally applicable responsibility to be a prudent guardian of the public's resources.").

[291] *5G Fund FNPRM* at *57, para. 34.

[292] *Id.* at *57-58, para. 34.

[293] *See 5G Fund Report and Order,* 35 FCC Rcd at 12196-97, paras. 54-55 & n.135 (describing how the auction would work with the adjustment factor); *see Office of Economics and Analytics and Wireline Competition Bureau Adopt Adjustment Factor Values for the 5G Fund*, GN Docket No. 20-32, Public Notice, 35 FCC Rcd 12975 (OEA/WCB 2020) (*5G Fund Adjustment Factor Values Public Notice*); *see also Office of Economics and Analytics and Wireline Competition Bureau Seek Comment on Adjustment Factor Values for the 5G Fund*, GN Docket No. 20-32, Public Notice, 35 FCC Rcd 5704, 5706-08, paras. 7-11 (OEA/WCB 2020) (seeking comment on the factors to be considered in the models used to determine the adjustment factor);.

[294] *See 5G Fund Report and Order,* 35 FCC Rcd at 12198-99, para. 54.

[295] *Id.* at 12196-97, para. 48.

[296] *See Id*.

[297] *5G Fund FNPRM* at *57, paras. 35-37.

miles and unserved locations—for example, by using a weighted sum of unserved locations and unserved road miles—and how the balancing weights should be determined.[298]

89. There are no objections in the record to basing the bidding and support metric on square kilometers. Verizon affirms our choice of square kilometers, noting that "[b]ecause hex-9s are small—with an area of just 0.1 square kilometers—a per-square kilometer bidding and support metric is likely sufficient to ensure that roads or locations in the supported hex-9s have access to 5G service."[299]

90. CCA urges us not to use a metric based on the number of locations in an eligible area, since "[s]uch an approach would inappropriately adopt a fixed-centric basis for support price calculation."[300] We agree that an appropriate metric should target support for mobile service more broadly than solely based on locations. Accordingly, consistent with the goals of this proceeding to expand 5G coverage to areas where people live, work, and travel, we will use a bidding and support metric based on dollars per square kilometer.[301]

2. The Adjustment Factor as Adopted in 2020

91. We will not use the adjustment factor that was adopted in the *5G Fund Report and Order* for bidding in the 5G Fund Phase I auction.[302] We will, however, retain the adjustment factor for purposes of disaggregating legacy support.[303] We base our decision not to use the adjustment factor in bidding on the inconsistency between our goal of ensuring that the available budget is used to benefit as many people as possible and the purpose of the adjustment factor, as adopted in the *5G Fund Report and Order*. Our goal in 2020 was to allow the more costly eligible areas (defined, in part, by low population density and difficult terrain) to compete on a more equal basis with the eligible areas that were less costly to serve.[304] By applying such an adjustment factor, sparsely populated, particularly costly areas that would have a high adjustment factor and areas that could be served at lower cost per square kilometer, would have had approximately equal chances of winning support in the auction. Applying such an adjustment factor would have shifted funds away from more populated and traveled eligible areas, which is in conflict with our goal of targeting unserved and underserved residents, workers, and travelers. The Commission therefore sought comment on whether to use this adjustment factor, to adopt an alternative adjustment factor that would provide some advantage to particularly costly areas that nonetheless are areas with a considerable number of homes, businesses, and other locations and/or roads that are frequently traveled, or to abandon the use of any adjustment factor altogether.[305] With respect to our decision to retain the adjustment factor adopted in the *5G Fund Report and Order* for purposes of disaggregating legacy support, our rationale in 2020 for adopting the adjustment factor remains unchanged.[306]

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[298] *Id.*.

[299] Verizon Wireless Comments at 11-12.

[300] CCA Comments at 26.

[301] This decision also accords with CCA Comments at 3, 29 (urging that bidding and price support metrics support the 5G Fund's goals).

[302] *See 5G Fund Report and Order*, 35 FCC Rcd at 12198-99, para. 54.

[303] *See id.* at 12199, para. 54; *see also 5G Fund Adjustment Factor Values Public Notice,* 35 FCC Rcd at 12975-76, 12980-82, paras. 1-3, 11-14.

[304] *5G Fund FNPRM* at *57, para. 34.

[305] *Id.* at *57-58, para. 34.

[306] *See 5G Fund Adjustment Factor Values Public Notice,* 35 FCC Rcd at 12981-82, paras. 13-14; *see also 5G Fund Report and Order,* 35 FCC Rcd at 12198, para. 59 ("Using an adjustment factor [for the purposes of the disaggregation of legacy support] is appropriate because it will alleviate potential concerns over a carrier losing a disproportionate amount of its legacy support resulting from a disaggregation methodology in which more costly areas would be treated the same as less costly areas with respect to subsidies received.").

92. Relatively few parties commented on the continued use of the adjustment factor for bidding as adopted in the *5G Fund Report and Order*. Of those that submitted comments or reply comments on the issue, four parties—CRWC, RWA, SBI, and US Cellular—indicate that we should eliminate the adjustment factor only if we adopt a larger budget,[307] with CRWC noting that "[i]f the budget comes up short, funds will exhaust before the higher-cost areas, which are the areas most in need of support, receive any support."[308] T-Mobile recommends that we "reaffirm [the Commission's] approach of using an adjustment factor to prioritize areas that are the most costly and least profitable to serve."[309]

93. Verizon, on the other hand, urges us to eliminate the adjustment factor for bidding. It asserts that "[t]he Commission should maximize the impact of the limited 5G Fund budget by focusing support on those unserved areas that would have the most significant demand for mobile broadband service and require relatively smaller subsidies, rather than on areas that would have little demand for mobile broadband service and require larger subsidies."[310] We agree with Verizon that we should discontinue use of the adjustment factor for bidding as adopted in the *5G Fund Report and Order*, and with Verizon's reasoning that 5G Fund support dollars should instead be targeted to those currently unserved and underserved areas where more people are likely to live, work, and travel.

94. With respect to commenters' arguments that the bidding adjustment factor should be eliminated only if we significantly increase the budget, we are not persuaded that it would be a cost-effective use of 5G Fund support to increase the budget for the purpose of extending support to areas that would have been given an advantage with the current adjustment factor. As a threshold matter, and as addressed above, the adjustment factor would shift funds away from more populated and travelled areas to more remote areas, which is in conflict with our goal of covering as many areas where people live, work, and travel as possible. Therefore, we do not support the adjustment factor as originally designed, as suggested here. Second, under this reverse auction mechanism, a large increase in the budget would not translate into a similarly large increase in the total area that can be assigned 5G Fund support. Instead, the additional funds would be divided between support to some higher-cost areas that would not have been assigned support otherwise and support at unnecessarily high prices to the same areas that would win support under a lower budget.[311] Thus, we believe it would be an inefficient use of federal resources to increase the budget for the purpose of extending support to the most remote areas. Finally, even if we were persuaded that that the original adjustment factor should be retained (which we are not) or that increasing the budget significantly would be an acceptable alternative to the adjustment factor (which we also are not), fiscal responsibility precludes us from increasing the 5G Fund budget by more than the $1 billion increase set forth above. Although $1 billion is a substantial increase, it is likely less of an increase than is envisioned by the commenters.[312] Therefore, for all of these reasons, we are

[307] *See* CRWC Comments at 21; RWA Comments at 8; USCC Comments at 25; *see also* SBI Reply at 31-32 (asserting that the adjustment factor should be eliminated only if the budget is increased, but additionally noting that Tribal lands are so costly to serve that separate service requirements, or a special Tribal-specific program, is needed to address Tribal lands).

[308] CRWC Comments at 21.

[309] T-Mobile Comments at 15.

[310] Verizon Comments at 9.

[311] Under the descending price clock reverse auction mechanism, the budget clears and support assignment begins when total requested support at the current clock price is equal to or less than the budget. If the budget is increased significantly without a proportional increase in the number and cost distribution of eligible areas, the clearing round support price will be higher. Some of the more costly areas will likely be assigned at the higher support level, but the most costly areas will not receive support. Lower cost areas—those that would have won support under the original budget—will be funded, but at prices well above those they would have been willing to accept.

[312] CRWC, for example, in discussing a "sufficient" budget for the 5G Fund, cites to an estimate of $36 billion shortly before its comment that "there is nothing wrong with removing the adjustment factor, *as long as the budget is sufficient.*" Comments of CRWC at 20, 21 & n.46.

unpersuaded that increasing the budget by significantly more than $1 billion for the purpose of reaching the hardest-to-serve areas is a fiscally responsible approach to spending our limited universal service funds.

95. Given our decision today to eliminate the use of the adjustment factor adopted in the *5G Fund Report and Order* for bidding in the 5G Fund Phase I auction, we also dismiss as moot the Petition for Reconsideration filed by the 5G Fund Supporters to the extent that it requests relief concerning the use of the adjustment factor adopted in the *5G Fund Report and Order* for bidding in that auction.[313]

3. An Adjustment That Weights Bids and Support Prices Based on Service Availability

96. In its discussion in the *5G Fund FNPRM* of the bidding and support metric and the adjustment factor adopted in the *5G Fund Report and Order*, the Commission asked "whether [it] should adopt an alternative approach that would provide some advantage to particularly costly areas that nonetheless are areas with a considerable number of homes, business[es], and other locations, and/or roads that are frequently travelled."[314] Several commenters suggest prioritizing areas based upon the level of service that is available.[315] To address these concerns, we will implement a service-based weighting factor for those areas that lack 4G LTE service.[316] While eligible areas will include both those that lack unsubsidized 5G broadband service but have access to unsubsidized 4G LTE and areas that lack both unsubsidized 5G service and any 4G LTE service, we find there are greater public benefits of providing 5G service to areas that lack 4G LTE than the benefits of 5G accruing to other eligible areas. As such, a weighting factor based on this distinction is warranted. We are mindful, however, of our primary responsibility to use the budget cost-effectively to provide support to people where they live, work, and travel. Accordingly, unlike the adjustment factor that was calculated to allow a bid to compete on an equal basis with bids to provide service to a geographic area with several times the number of square kilometers for the same support amount,[317] the weighting factor is intended to give bids for unserved areas an advantage, but not so great an advantage as to result in a significant reduction in the number of square kilometers that can be covered with 5G Fund support.

97. Therefore, we adopt a service-based weighting factor. Consistent with their existing authority concerning the distribution of universal service support,[318] we direct OEA, WCB, and WTB to establish during the pre-auction process, after notice and comment, the size of this service-based weighting factor. We direct OEA, WTB, and WCB to take into account the need to balance our fiscal responsibility to award 5G Fund support cost-effectively with a recognition that there may be additional challenges to and public benefits from providing service to areas that lack 4G LTE service.

B. Minimum Geographic Area for Bidding

98. We will use census tracts as the minimum geographic unit for bidding in the 5G Fund Phase I

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[313] *See 5G Fund Supporters Petition for Reconsideration* at 1, 3-5 (asking the Commission to reconsider the timing for establishing the adjustment factor criteria for the 5G Fund Phase I auction and to explain the algorithm behind the adjustment factor it will use to prioritize communities with persistent poverty in the auction).

[314] *5G Fund FNPRM* at *58, para. 34.

[315] *See*, *e.g.*, Verizon Comments at 11; US Cellular Comments at 27; Letter from David A. LaFuria, Counsel for United States Cellular Corporation, to Marlene H. Dortch, Secretary, FCC (filed Jan. 16, 2024) at 2; CRWC Comments at 7; T-Mobile Comments at 14-15.

[316] To eliminate confusion with the adjustment factor adopted in the *5G Fund Report and Order*, which we will retain for purposes of disaggregating legacy support, we refer to the service-based factor we adopt here as a "weighting factor."

[317] *5G Fund FNPRM* at *57, para. 34.

[318] *See* 47 CFR §§ 0.21, 0.91, 0.271, 0.272, 0.273, 0.291, 0.302, 0.304.

auction[319] and will aggregate all of the eligible hex-9s into a census tract for purposes of bidding.[320] Our goal in adopting census tracts rather than hexes as the minimum geographic area for bidding is to ensure that a wide variety of interested bidders, including small entities, have the flexibility to design a network that matches their business model and technical capabilities and that allows them to efficiently achieve their public interest obligations and performance requirements. After considering the record on this issue, we conclude that, on balance, using census geographies is preferable to using hex areas. Census geographies provide a more efficient and appropriate way to group areas eligible for the 5G Fund into larger geographic areas for purposes of bidding for areas along state boundaries, particularly in view of our decision to convert those areas to hex-9s.[321]

99. Commenters are equally split on whether the Commission should use census geographies or the H3 hexagonal geospatial indexing system (H3 system) to group eligible hex-9s for bidding. CCA and Verizon each support aggregating eligible hex-9s into census geographies.[322] Verizon advocates grouping eligible hex-9s into census tracts or larger for ease of auction administration, and contends that using hexes—whether at the resolution 5 hexagon (hex-5) or resolution 6 hexagon (hex-6) level—"would introduce unnecessary complexity into the auction, require considerable software development by potential bidders, and could reduce auction participation."[323]

100. AT&T and Michael Ravnitzky, on the other hand, support using the H3 system to aggregate areas eligible for support to minimum geographic areas for bidding because, they assert, it is a logical approach and aligns areas eligible for 5G Fund support with the BDC mobile mapping and challenge processes, would be more efficient than trying to aggregate eligible hex-9s into census block groups (CBGs) or census tracts, and provides a consistent and flexible framework for defining and mapping eligible areas.[324] AT&T contends that "[a]ggregation of [eligible] hex-9s at the hex-6 level, which covers on average 36 square kilometers, best reflects the design of wireless infrastructure in rural areas with various terrain and foliage that has not already attracted private investment . . . [and] is more manageable [for providers than] committing to cover locations or certain roads in a hex-5 area, [which cover] 252 square kilometers."[325] Ravnitzky suggests "[u]s[ing] resolution 8 hexagons or higher for aggregating eligible areas . . . [to] provide sufficient granularity and accuracy for capturing the variations in cost and value of providing 5G service in different areas," and "group[ing] adjacent hexagons into larger geographic units based on their proximity, similarity, and contiguity . . . [to] create more coherent and efficient geographic units for bidding and support purposes."[326]

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[319] The Commission concluded in the *5G Fund Report and Order* that the minimum geographic unit for bidding would be no larger than a census tract and no smaller than a census block group, as designated by the U.S. Census Bureau. *5G Fund Report and Order*, 35 FCC Rcd at 12195, para. 50.

[320] *See supra* Section III.A; *see also 5G Fund FNPRM* at *61-63, para. 39 (seeking comment on what aggregation scheme would be an efficient and appropriate way to group eligible areas into larger geographic areas for purposes of bidding)

[321] *See supra* Section III.A.

[322] CCA Comments at 27; Verizon Comments at 10-11.

[323] Verizon Comments at 10-11.

[324] AT&T Comments at 1, 4-5; Ravnitzky Comments at 5.

[325] AT&T Comments at 5.

[326] Ravnitzky Comments at 5. Ravnitzky recommends "[u]s[ing] a minimum geographic unit size of 10 or more hexagons for aggregating eligible areas . . . [to] strike a balance between allowing bidders to target specific areas of interest and preventing excessive fragmentation and cherry-picking of eligible areas," and "[u]s[ing] a maximum geographic unit size of 100 or less hexagons . . . [to] strike a balance between allowing bidders to achieve economies of scale and preventing excessive aggregation and monopolization of eligible areas." *Id.* He further recommends "[a]llow[ing] bidders to bid on individual hexagons or combinations of hexagons within a geographic unit, subject to (continued….)

101. We conclude that, on balance, aggregating eligible hex-9s to census geographies is preferable, irrespective of the resolution of hexagon level used. Census geographies aggregate to the state level, and eligible telecommunications carriers (ETC) designations—which all winning bidders are required to obtain prior to being authorized for support[327]—are issued by state. In contrast, hex boundaries are not coterminous with state, county, and international boundaries. Additionally, due to the nature of the H3 system, in which not all higher resolution hexagons (e.g., hex-9) are contained within the boundaries of their ancestor lower resolution hexagons (e.g., hex-6 or hex-5), use of a lower resolution hexagon, such as hex-5 or hex-6, as the minimum geographic unit for bidding runs the risk that entire portions of the eligible areas, which will be converted to and expressed at the hex-9 level, may fall outside of the hex-5 or hex-6 boundary to which they are aggregated.[328] Because we would have to use fairly large hex areas for bidding units, we would have to account for many hexagons covering multiple state and international boundaries, which would complicate an applicant's inventory selections and state ETC designations. For these reasons, we do not agree that aggregating eligible hex-9s into larger hexagons would be more efficient than aggregating them to census tracts.

102. We further conclude that aggregating to census tracts, as opposed to census block groups (CBGs), is preferable for several reasons. First, because the boundaries of a CBG are often defined by roads, using CBGs could have the unintentional effect of leaving the road that bounds a CBG not served by the bidder that wins support for the CBG. Using census tracts minimizes that problem. Second, wireless networks are often built to cover areas that are larger than a CBG with a single cell site. Third, because census tracts are larger than CBGs, using census tracts will also help mitigate the risk of funding duplicative, overlapping networks if two different bidders were to win support for adjacent CBGs. Finally, using census tracts, as opposed to CBGs, will result in a smaller number of biddable items, which will make bidding in the auction more manageable.

VI. COMPLIANCE WITH 5G FUND PUBLIC INTEREST OBLIGATIONS AND PERFORMANCE REQUIREMENTS

A. Metric for Measuring Compliance with 5G Fund Public Interest Obligations and Performance Requirements

103. In the *5G Fund FNPRM*, the Commission sought comment on its approach to making any necessary corresponding modifications concerning the metric used to measure a 5G Fund support recipient's compliance with its public interest obligations and performance requirements if the Commission were to modify the bidding and support price metric that was adopted in the *5G Fund Report and Order*.[329] All commenters that address this issue support the Commission's approach for doing so,[330] and no commenter opposes it. As discussed above, we intend to use a bidding and support price metric for the 5G Fund Phase I auction that is based on dollars per adjusted square kilometer.[331] Because the metric for measuring compliance with the 5G Fund public interest obligations and performance

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a minimum bid increment and a maximum bid amount" to afford bidders the flexibility "to express their preferences and valuations for different areas more accurately and efficiently," and allowing Tribal entities "to bid on geographic units that correspond to their tribal boundaries or service territories, regardless of the size or shape of those units[,] . . . [to] respect the sovereignty and autonomy of these entities and facilitate their participation in the auction." *Id.* at 5-6.

[327] 47 CFR § 54.1014(b)(2)(iv).

[328] *5G Fund FNPRM* at *63, para. 39 (seeking comment on whether to aggregate all eligible hex-9s to another geographic area, such as the hex-5s). Moreover, we note that the average hex-5 has an average area that is larger than the average areas of either of the two census geographies considered, and thus may not provide the best opportunity for bidders to target their bids to win support for the areas they are interested in serving.

[329] *Id.* at *63-65, paras. 40-42.

[330] *See* CCA Comments at 27; Ravnitzky Comments at 6.

[331] *See supra* Section V.A.

requirements adopted in the *5G Fund Report and Order* is already based on square kilometers,[332] no modifications to the previously adopted compliance metric are necessary as a result of our decision today regarding the bidding and support price metric that will be used for the 5G Fund Phase I auction.

104. A few commenters suggest other changes concerning the public interest obligations and performance requirements adopted in the *5G Report and Order*. RWA asks the Commission to update the 3GPP performance standard for eligible 5G services to at least 3GPP Release 17, given that the 3GPP Release 15 standard adopted in the *5G Fund Report and Order* is now outdated.[333] ARA PAWR suggests that the Commission consider bidder capability in setting deployment milestones by, for example, giving a rural carrier trying to cover a very remote area more time to meet deployment milestones,[334] while SBI states that a better alternative to using adjustment factors is "changing the performance criteria for remote areas . . . [to] reduce the performance requirements commensurate with microwave backhaul capabilities."[335] According to SBI, carriers serving very remote areas (as defined by the Commission) "could be much more competitive in an auction if they are required to deliver mobile 4G LTE service at a median speed of 7/1 Mbps, rather than a median speed of 35/3 with 5G."[336] T-Mobile expresses support for the 5G Fund milestones, but suggests that the Commission create incentives to encourage 5G Fund support recipients to deploy service to more than 85% of an area by the final deployment milestone by reducing support proportionally to the percent of uncovered area between 85% and 100% and requiring recipients who deploy service to at least 85% but less than 100% of their winning geographic areas to return that support on a prorated basis.[337] T-Mobile also notes that "[t]he Commission could consider giving [support recipients] an extra year to meet the higher [deployment] thresholds."[338]

105. We note that when the Commission adopted the *5G Fund Report and Order*, it stated that 5G Fund support recipients would be required to comply with "at least the 5G-NR . . . technology standards developed by [3GPP] with Release 15 or any successor release that may be adopted by [OEA and WCB] after notice and comment."[339] Given that two successor releases have been completed since the 3GPP Release 15 standard was adopted for 5G Fund support recipients in the *5G Fund Report and Order*, we direct OEA and WCB to initiate a notice-and-comment rulemaking to determine whether and how to update the 3GPP standard.[340]

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[332] *5G Fund Report and Order*, 35 FCC Rcd at 12204, paras. 73-74; 47 CFR § 54.1015(b) (requiring a support recipient to offer 5G service meeting established public interest obligations and performance requirements to increasing percentages of the total square kilometers associated with the eligible areas for which it is authorized to receive 5G Fund support in a state).

[333] RWA Comments at ii, 9-10. RWA notes that 3GPP Release 18 (5G-Advanced) is expected to be rolled out in the fourth quarter of 2023, and that development of 3GPP Release 19 is set to begin in December 2023. *Id.* at 9.

[334] AWA PAWR Comments at 3.

[335] SBI Reply at 32-33.

[336] *Id.* at 33. SBI notes that there is precedent for this in the Commission's Alaska Plan, "where affected wireless carriers were given special buildout requirements." *Id.*

[337] T-Mobile Comments at 3, 19. Under this approach, a support recipient that deploys service to exactly 85% of the square kilometers in a given area by the end of year six would be required to return 15% of the total allocated support for that area; deployment to 95% would require returning 5% of the total support, etc. *Id.* at 19.

[338] *Id*.

[339] 47 CFR § 54.1015(a); *accord 5G Fund Report and Order*, 35 FCC Rcd at 12183, 12203, paras. 20, 70.

[340] The "Releases" page on 3GPP's website shows that work on 3GPP Releases 16 and 17 has been completed and they are now available, and that work on 3GPP Release 18 is expected to be completed later this year. *See* 3GPP Specifications & Technologies, Releases, https://www.3gpp.org/specifications-technologies/releases (last visited Mar. 19, 2024). We also note that, in making its determination that entities seeking to receive support from the 5G Fund must have access to spectrum and sufficient bandwidth (at a minimum, 10 megahertz x 10 megahertz using

(continued….)

106. We decline to make any of the other changes suggested by commenters concerning the previously adopted performance requirements. We find that the suggestions offered by ARA PAWR and SBI that we adopt differing compliance deadlines and performance standards for support recipients serving remote areas to be inconsistent with the 5G Fund's policy goals of ensuring the rapid deployment of 5G mobile wireless broadband networks. T-Mobile's suggestions are similar to suggestions offered earlier in the 5G Fund proceeding,[341] which the Commission declined to adopt as both unworkable and unrealistic.[342] As the Commission observed in the *5G Fund Report and Order*, "[t]here may be isolated areas that are particularly challenging to serve even in terrain that is otherwise not difficult to serve, and adopting a 100% coverage requirement could drastically increase costs in a 5G Fund auction if bidders reasonably conclude that certain areas they would otherwise be interested in serving are cost prohibitive due to an especially challenging terrain feature like a ravine or mountaintop," which "would [] potentially distort the 5G Fund auction with little gain."[343] We conclude that the Commission struck an appropriate balance in adopting an 85% final coverage requirement in the *5G Fund Report and Order*, and find that T-Mobile has not offered anything in its comments that persuades us to depart from the Commission's earlier conclusions.

B. Methodologies for Demonstrating Compliance with 5G Fund Performance Requirements

107. Consistent with the recommendations of many commenters, we modify the methodologies for demonstrating compliance with 5G Fund performance requirements adopted in the *5G Fund Report and Order* to align largely with those adopted for the BDC verification process. In the *5G Fund Report and Order*, the Commission decided it would generally align with the BDC the methodologies used by 5G Fund support recipients to demonstrate compliance with their interim and final performance requirement milestones.[344] The Commission concluded that standardizing the data required for compliance reporting was likely to ease the burden on support recipients, while collecting sufficient data to confirm that the 5G Fund's requirements have been met.[345] In the *5G Fund FNPRM*, the Commission proposed and sought comment on requiring 5G Fund support recipients to use the methodologies adopted for the BDC mobile verification process as the basis for substantiating coverage

frequency division duplex (FDD) or 20 megahertz using time division duplex (TDD)) capable of supporting 5G services in the particular area(s) for which they intend to bid, the Commission observed in the *5G Fund Report and Order* that 3GPP Release 16 had finalized a list of various frequency bands for North America that appeared at that time to be capable of supporting 5G. *5G Fund Report and* Order, 35 FCC Rcd at 12254, para. 197 n.491. Given the passage of time and 3GPP's ongoing work since the *5G Fund Report and Order* was adopted, we direct OEA, WCB, and WTB to determine in the pre-auction process, and after notice and comment, whether there are 5G-capable spectrum bands other than those identified in 3GPP Release 16 that entities seeking to receive support from the 5G Fund could use to meet the 5G Fund public interest obligations and performance requirements.

[341] *See* California Public Utilities Commission Comments on *2020 5G Fund Notice of Proposed Rulemaking* at 5 (asking the Commission to adopt a higher service deployment milestone coverage requirements of 90% by the end of year six and 100% by the end of year seven).

[342] *5G Fund Report and Order*, 35 FCC Rcd at 12205, para. 76 n.191. The Commission agreed with CTIA that "'a 100% service requirement will create an impossible standard for winning bidders and the Commission to verify build-out.'" *Id.* (quoting CTIA Reply on *2020 5G Fund Notice of Proposed Rulemaking* at 6-7).

[343] *5G Fund Report and Order*, 35 FCC Rcd at 12205, para. 76. We note that the Commission also previously declined to adopt a 100% final deployment milestone percentage for Mobility Fund II based on commenters' arguments in that proceeding that a 100% buildout requirement is unrealistic in remote areas as well as most rural areas, and could discourage bids. *See MF-II Report and Order*, 32 FCC Rcd at 2193-95, para. 97, nn.255 & 259.

[344] *5G Fund Report and Order*, 35 FCC Rcd at 12233-34, paras. 143, 145.

[345] *Id.* at 12230-34, paras. 137-46.

and demonstrating compliance with the 5G Fund interim and final deployment milestones.[346] In addition, the Commission sought comment on whether 5G Fund support recipients should be required to submit on-the-ground test data for areas that are accessible and infrastructure data for areas that are inaccessible.[347] The Commission also sought comment on whether 5G Fund support recipients should submit infrastructure data sufficient to generate a "core coverage area," as defined in the BDC mobile verification process, and on-the-ground test data for areas outside of that core coverage area, or should instead be allowed to submit either type of data regardless of the type of area in which they are deploying service.[348] The Commission also described and sought comment on the specific on-the-ground test data and infrastructure data 5G Fund support recipients would need to submit.[349]

108. In response to the *5G Fund FNPRM*, many commenters express support generally for harmonizing the 5G Fund's compliance processes with the BDC's verification processes.[350] We agree with commenters and adopt the Commission's proposal to largely align the methodologies for demonstrating compliance with the 5G Fund interim and final deployment milestones with those adopted for the BDC mobile verification process. We find this approach will give 5G Fund support recipients the same flexibilities afforded under the BDC rules to choose which type of verification data to submit. This approach also affords Commission staff the right to collect additional data as necessary.[351] We therefore amend the Commission's rules as necessary to accommodate such alignment, consistent with the specific needs of the 5G Fund. Based on supportive comments in the record, we require that, in its interim and final milestone reports, each 5G Fund support recipient (1) certify that the 5G mobile broadband coverage data filed in its BDC biannual submissions demonstrate that its deployments in the area(s) for which it receives 5G Fund support meet the 5G Fund coverage, speed, and latency requirements, and (2) substantiate its reported 5G mobile coverage data by submitting either on-the-ground test data or infrastructure information. A support recipient can submit either type of information (either on-the-ground test data or infrastructure data), regardless of whether it is deploying service in an accessible or inaccessible area,[352] but it must submit at least one type of data for a whole state. A support recipient may submit different types of data for different states and may voluntarily submit the additional data type for part or all of a state.[353] As discussed below, 5G Fund support recipients submitting on-the-ground data

[346] *Id.* at *69-73, paras. 45-47. These BDC methodologies allow mobile providers to choose to submit either on-the-ground test data or infrastructure data to verify coverage in response to a mobile verification request from the Commission. *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3055, para. 86.

[347] *5G Fund FNPRM* at *70, para. 45.

[348] *Id*.

[349] *Id.*at *71-73, paras. 46-47.

[350] CCA Comments at 27; Michael Ravnitzky Comments at 6; T-Mobile Comments at 20; Verizon Comments at 12; CTIA Reply at 4-5; *see also* AT&T Reply at 6-7 (supporting using the BDC mobile verification process methodology as the basis for 5G Fund support recipients to substantiate coverage and demonstrate compliance with 5G Fund interim and final deployment milestones). No commenters opposed this approach.

[351] *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 11-10, 19-195, Third Report and Order, 36 FCC Rcd 1126, 1146, para. 47 (2021) (*BDC Third Report and Order*); *accord* 47 CFR § 1.7006(c) (OEA and WTB may require the submission of additional data when necessary to complete a verification inquiry).

[352] *5G Fund FNPRM* at *69, para. 45; T-Mobile Comments at 20 (encouraging the Commission to give providers the same flexibility they have under the BDC rules to choose which verification process to use); AT&T Reply at 7.

[353] For example, a 5G Fund support recipient may submit only infrastructure information reflecting coverage their supported area in State A, and only on-the-ground data for the sampled area(s) in State B, but it may not submit only infrastructure information in a census tract in State A and only on-the-ground data in a different census tract in State A. This does not preclude a 5G Fund support recipient from submitting both infrastructure information and on-the-ground data, so long as it submits one type of data for all of its supported areas in a state. A 5G Fund support (continued….)

will do so for a sample of hex-9s within its supported area, whereas support recipients submitting infrastructure information are required to submit data for all cell sites and antennas that serve a 5G Fund recipient's supported area. This approach is consistent with the BDC verification process, in which providers submitting on-the-ground data do so for a statistically valid sample of areas within a targeted area, whereas providers submitting infrastructure information do so for the entire targeted area.[354] We direct 5G Fund support recipients to indicate which type of data they will submit for each state. To ensure the accuracy of the data being submitted, we require 5G Fund support recipients to have their on-the-ground or infrastructure data certified by an engineer with the same qualifications as required for submitting the BDC biannual filings that apply under section 1.7004 of the Commission's rules.[355]

109. *On-the-Ground Test Data.* In the *5G Fund Report and Order*, the Commission required 5G Fund support recipients to conduct on-the-ground speed tests to substantiate 5G broadband coverage,[356] and adopted specific methodologies for on-the-ground speed tests to substantiate 5G broadband data.[357] Additionally, the Commission determined it would defer the adoption of additional requirements and parameters for such on-the-ground measurement tests until the pre-auction process.[358] As discussed above, 5G Fund support recipients have the option of submitting either on-the-ground test data or infrastructure information, on a state-by-state basis. We require 5G Fund support recipients submitting on-the-ground data to do so in accordance with the parameters and specifications established in the BDC mobile verification process[359] and the *BDC Data Specifications for Mobile Speed Test Data*,[360] and further require that all tests be taken in an in-vehicle mobile environment only.[361] A 5G Fund support recipient must submit on-the-ground test data for a sample of hex-9s within its supported area within a state. The sample will be statistically appropriate and selected by Commission staff.[362]

110. We also require a 5G Fund support recipient's cumulative on-the-ground test data within a sampled area to show that at least 90% of its speed test measurements report 5G-NR service at minimum download and upload speeds of at least 35/3 Mbps in an in-vehicle environment, and that at least 90% of tests record latency of 100 milliseconds or less for each of the support recipient's interim and final deployment milestones. We note this is a change from the performance requirements adopted in the *5G Fund Report and Order*, which require 5G Fund support recipients to meet baseline performance speed requirements of a *median* of 35 Mbps download and 3 Mbps upload, and with at least 90 percent of

recipient shall submit its interim service and final service milestone reports, including on-the-ground measurement tests or infrastructure information, in the Broadband Data Collection portal. 47 CFR § 54.1019(a).

[354] *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3058-59, para. 94.

[355] 47 CFR § 1.7004(d).

[356] *5G Fund Report and Order*, 35 FCC Rcd at 12230-31, para. 137.

[357] *Id.* at 12232, para. 140; *accord* 47 CFR § 54.1019(a)(2)(i)-(iii).

[358] *Id.* at 12231, para. 137.

[359] *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3062, para. 99; *accord* 47 CFR § 1.7006(c)(1)(i) (testing parameters), (ii) (test metrics).

[360] FCC, *Broadband Data Collection Data Specifications for Mobile Speed Test Data* (Nov. 18, 2022), https://us-fcc.app.box.com/v/bdc-mobile-speedtest-spec.

[361] As more fully explained below, unlike for the BDC, 5G Fund support recipients must demonstrate their compliance with the 5G Fund performance requirements by submitting tests that are taken in an in-vehicle mobile environment only.

[362] 47 CFR § 1.7006(c). The use of hex-9s is a variation from the mobile verification process, which uses a sample of hex-8s. Because eligible and supported areas in the 5G Fund Phase I will be based on hex-9s, we adopt a methodology that relies on hex-9s instead of hex-8s. If the number of supported hex-9s in a state is too small to sample a subset of them, all hexagons may be selected in that area, or the small area will be combined with other nearby area(s) where support has been awarded, to the extent they exist for the support recipient, to create a larger area that can be sampled.

measurements recording data transmission rates of not less than 7 Mbps download and 1 Mbps upload.[363] However, requiring 5G Fund support recipients to submit cumulative test data showing that at least 90% of its speed test measurements report 5G-NR service at *minimum* download and upload speeds of at least 35/3 Mbps in an in-vehicle environment more closely aligns with the requirements adopted for BDC reporting.[364] We therefore amend section 54.1015(c)(1) of our rules in connection with aligning the methodologies for demonstrating compliance with the 5G Fund interim and final deployment milestones with those adopted for the BDC mobile verification process to specify that 5G Fund support recipients must meet a minimum baseline performance speed requirement of 35 Mbps download and 3 Mbps upload in an in-vehicle environment, with at least 90 percent of measurements recording these data transmission speeds. When conducting tests to demonstrate compliance with its 5G Fund performance milestones, a 5G Fund support recipient must record and submit at least two tests within each of the selected hexagons where the time of the tests are at least four hours apart, irrespective of date.[365] However, if the 5G Fund support recipient has, and submits with its speed tests, actual cell loading data for the cell(s) covering the sampled hexagon showing that the median loading, measured in 15-minute intervals, did not exceed the BDC-modeled loading factor for the one-week period prior to the speed test submission, then the 5G Fund support recipient must submit two speed tests for the sampled hexagon, but without the restriction of testing four hours apart.[366] Further, the target of at least 35/3 Mbps speed must be taken in an in-vehicle mobile environment.[367] For in-vehicle tests, 5G Fund support recipients must conduct tests with the antenna located inside the vehicle to replicate typical consumer behavior and ensure more equivalent comparisons between the on-the-ground test data submitted by support recipients and the typical

[363] *5G Fund Report and Order*, 35 FCC Rcd at 12232-33, para. 141 (requiring that "cumulative test data results show at least 90% of measurements report 5G service record download and upload speeds of at least 7/1 Mbps, and record *median* download and upload speeds of at least 35/3 Mbps" (emphasis added)); 47 CFR § 54.1015(c)(1); *5G Fund FNPRM* at *72, para. 46 (proposing that, "a 5G Fund support recipient's cumulative test data will be required to show that at least 90% of measurements report 5G service at download and upload speeds of at least 7/1 Mbps and *median* download and upload speeds of at least 35/3 Mbps" (emphasis added)).

[364] 47 CFR § 1.7004(c)(3)(i) (requiring reporting 5G-NR services using "a minimum expected user download speed of 7 Mbps and user upload speed of 1 Mbps, and a minimum expected user download speed of *35 Mbps and user upload speed of 3 Mbps at the cell edge*" (emphasis added)), (ii) (requiring providers' BDC coverage maps to "reflect coverage areas where users should expect to receive the minimum required download and upload speeds *with cell edge coverage probability of not less than 90%* and a cell loading of not less than 50%" (emphasis added)).

[365] *See BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3061, para. 97; 47 CFR § 1.7006(c) (requiring providers to conduct tests with the antenna located inside the vehicle).

[366] *See* 47 CFR § 1.7006(c); *see also 5G Fund FNPRM* at *71-73, para. 46 (seeking comment on the numeric and temporal aspects of speed tests).

[367] We emphasize that 5G Fund support recipients must submit tests taken in an in-vehicle mobile environment only, and recognize that this requirement differs from the BDC verification process, in which providers must conduct on-the-ground speed tests for the technology (4G and/or 5G) and environment (outdoor stationary or in-vehicle mobile) listed within hexagons that require verification. 47 CFR § 1.7006(c)(1)(ii)(K); *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3016, 3062, paras. 18, 99; *see also BDC Third Report and Order*, 36 FCC Rcd at 1149, paras. 57-58 (adopting an approach for verifying providers' claims of mobile coverage that allows mobile providers to submit on-the-ground test data (i.e., both mobile and stationary drive-test data)). However, we note that in the *5G Fund Report and Order*, the Commission made clear that "because [it has] a heightened obligation to ensure the prudent use of universal service support, [it] . . . may go further than the requirements adopted in the [BDC] proceeding, or otherwise adopt more stringent requirements during the pre-auction process." *5G Fund Report and Order*, 35 FCC Rcd at 12232, para. 139. Given that we are providing universal service support through the 5G Fund for the deployment of 5G-NR service in rural areas, we conclude that requiring 5G Fund support recipients to submit tests taken in an in-vehicle mobile environment only is appropriate, because measuring 5G-NR service at speeds of at least 35/3 Mbps in an in-vehicle environment reflects the most stringent and robust measurement we are collecting from providers in the BDC and will help ensure that rural areas receive service that is reasonably comparable to the service offered in urban areas.

consumer experience.[368]

111. *Identifying Areas for On-the-Ground Testing.* In the *5G Fund FNPRM*, the Commission proposed to use a methodology for demonstrating compliance with 5G Fund performance milestones that is similar to that adopted for the BDC mobile verification process, except that 5G Fund support recipients would be required to submit speed test data for all supported areas, rather than a sample of areas, and the area would be hex-9, rather than the hex-8 area used in BDC mobile verification process.[369] As discussed above, if a support recipient chooses to submit on-the-ground test data, it must do so for a sample of hex-9s. The Commission received limited feedback in response to its proposal to require on-the-ground testing in all supported areas.[370] However, T-Mobile argued that mandatory on-the-ground testing for all supported areas could become "prohibitively expensive and time consuming."[371] We agree and therefore require that tests conducted and submitted for a sample of hex-9s within the supported area of a state. However, the sampling methodology used in the BDC mobile verification process may not translate well to demonstrating compliance with 5G Fund performance milestones.[372] Therefore, we decline to adopt a specific sampling methodology at this time and direct OEA, WTB, and WCB to both establish the methodology that will be used by all 5G Fund support recipients to demonstrate compliance with their 5G Fund performance requirements and generate the sample of hex-9s for which each 5G Fund recipient must submit on-the-ground data at the time of its interim and final deployment milestones.

112. *Infrastructure Data.* In the *5G Fund FNPRM*, we proposed to require 5G Fund support recipients to submit the same infrastructure data required in the BDC mobile verification process to substantiate coverage in the areas for which they receive 5G Fund support.[373] We adopt this proposal, and require 5G Fund support recipients electing to substantiate their 5G Fund milestones with infrastructure data to submit all of the infrastructure data that providers submit as part of the BDC mobile verification process for all cell sites and antennas that serve a 5G Fund recipient's supported area.[374] In its comments, Verizon asks the Commission to specify how it will use infrastructure data to verify compliance with the deployment obligations.[375] Similar to BDC mobile verifications, staff will use the infrastructure data to estimate a "core coverage area," in which coverage at the modeled throughput is highly likely to exist at or above the minimum values reported in the provider's submitted coverage data.[376] For any areas that are outside of the "core coverage area" but within the required coverage area, Commission staff will

[368] *BDC Mobile Technical Requirements Order*, 37 FCC Rcd 3062, para. 99; *see* 47 CFR § 1.7006(c).

[369] *5G Fund FNPRM* at *71-72, para. 46.

[370] T-Mobile Comments at 20; The Puerto Rico Telecommunications Regulatory Bureau Comments at 7 (advocating using randomized mobile in-vehicle service auditing to assure that 5G Fund and BDC reporting is complete and accurate).

[371] T-Mobile Comments at 20.

[372] In the BDC mobile verification process, a verification inquiry can be conducted only when there is a "credible basis" for believing the provider's coverage may be inaccurate, while the basis for verifying coverage is different in the 5G Fund context. *BDC Third Report and Order*, 36 FCC Rcd at 1146, para. 47; *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3055-56, para. 88 (explaining credible basis), 3058-60, paras. 94-96 (explaining the sampling methodology for identifying areas in need of verification by way of on-the-ground testing).

[373] *5G Fund FNPRM* at *73, para. 47. In the context of BDC mobile verifications, a provider must submit additional information beyond what is submitted as part of its biannual BDC availability data (propagation modeling details, as well as link budget and clutter data), including cell-site and antenna data for the targeted area. *BDC Mobile Technical Requirements Order*, 37 FCC Rcd at 3063-64, para. 104.

[374] *See* 47 CFR § 1.7006(c)(2)(i); FCC, *Broadband Data Collection Data Specifications for Provider Infrastructure Data in the Challenge, Verification, and Audit Processes §§ 1.1-1.9* (Feb. 20, 2024), https://us-fcc.app.box.com/v/bdc-infrastructure-spec.

[375] Verizon Comments at 13.

[376] *BDC Mobile Technical Requirements Order*, 37 FCC Rcd 3064, para. 104.

consider additional information submitted by the 5G Fund support recipient, such as on-the-ground test data, and may request such data from the provider if not already submitted.[377] To facilitate the process of Commission staff review of a 5G Fund support recipient's data, we direct staff to notify the support recipient of any additional requests for information, and we amend section 54.1019 of our rules to account for such case-by-case information requests.

VII. SCHEDULE FOR TRANSITIONING FROM MOBILE LEGACY HIGH-COST SUPPORT TO 5G FUND SUPPORT

113. Consistent with the strong consensus among commenters, we conclude that the phase down of mobile legacy high-cost support will commence upon the release of a public notice announcing the authorization of 5G Fund support, as more fully explained below. In view of the provision in the Consolidated Appropriations Act of 2023 requiring that any support mechanism that serves as an alternative to Mobility Fund Phase II "shall maintain existing high-cost support to competitive eligible telecommunications carriers until support under such mechanism commences,"[378] the Commission sought comment in the *5G Fund FNPRM* on a proposal to treat the release of the public notice announcing the close of the 5G Fund Phase I auction to be the point at which support under the 5G Fund "commences."[379]

114. Many commenters maintain that the proposal suggested by the Commission in the *5G Fund FNPRM* is inconsistent with the language in the Consolidated Appropriations Act of 2023.[380] We are therefore persuaded that we should follow the recommendations of commenters to commence the phase down of mobile legacy high-cost support upon the release of a public notice announcing the authorization of 5G Fund support.

115. Under this approach, we will commence the two-year phase down of mobile legacy high-cost support in all areas that are ineligible for inclusion in the 5G Fund Phase I auction upon the release of the first public notice announcing the authorization of support in any eligible area. Similarly, the five-year phase down of mobile legacy high-cost support for eligible areas that are not won in the 5G Fund Phase I auction, where the carrier is a legacy support recipient and receives the minimum level of sustainable support for the area for which it receives support, will also commence upon the release of the first public notice announcing the authorization of the award of support in any eligible area. For eligible areas won in the 5G Fund Phase I auction in which the winning bidder is also the legacy support recipient for the area won, legacy support will cease and 5G Fund support will commence after the release of the public notice announcing the authorization of the award of support for that area.[381] For eligible areas that are won in the 5G Fund Phase I auction in which the legacy support carrier is not the winning bidder in the area, a two-year phase down of mobile high-cost legacy support will "commence" after the release of

[377] *Id*. If any areas outside the core coverage area but within the required coverage area are inaccessible, the Commission will consider whether alternatives to on-the-ground drive testing data are appropriate to validate coverage in such areas.

[378] Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Div. E, Title VI § 624, 136 Stat. 4459, 4702; *see also 5G Fund Report and Order*, 35 FCC Rcd at 12218-19, paras. 109-10 (discussing prior appropriations rider).

[379] *5G Fund FNPRM* at *74, para. 48.

[380] CCA Comments at 24-26; CRWC at 25-26, RWA Comments at 11-13; US Cellular Comments at 37; CRWC Reply at 7; RWA Reply 7-8; SBI Reply at 33; US Cellular Reply at 11.

[381] We recognize that this may create an incentive for winning bidders to delay prosecuting their long-form applications to the extent that the legacy support they currently receive is greater than 5G Fund support. Nonetheless, we expect long-form applicants to expeditiously complete their applications and respond in a timely manner to staff requests for additional or missing information. We note that in the Rural Digital Opportunity Fund Phase I auction, we dismissed the long-form applications of some winning bidders for this reason. *See, e.g.*, *Rural Digital Opportunity Fund Support Authorized for 1,865 Winning Bids; Bid Defaults Announced*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, 37 FCC Rcd 11410, 11418 n.57 (WCB/OEA 2022) (finding Xiber to be in default after denying waiver due to Xiber's ongoing failure to meet the filing deadline for its audited financials).

the public notice announcing the authorization of the award of support for that eligible area.[382] Likewise, for eligible areas not won in the 5G Fund Phase I auction where the carrier is a legacy support recipient but does not receive the minimum level of sustainable support for the area for which it receives support, a two-year phase down of mobile high-cost legacy support will "commence" after the release of the first public notice announcing the authorization of the award of support for any eligible area. As explained above, areas in Puerto Rico and the U.S. Virgin Islands will proceed on the same transition schedule to either 5G Fund support or a two-year phase down of transitional support from the Bringing Puerto Rico Together Fund and the Connect USVI Fund, whichever is applicable. We conclude that this approach complies with the text of the Consolidated Appropriations Act of 2023. Accordingly, we adopt the following schedule for transitioning[383] from mobile legacy high-cost support to 5G Fund support:

Area Eligibility	Auction Result	Bidder or Recipient Status	Support Type and Timing[384]
Ineligible			Two-year phase down of legacy support for all ineligible areas commences on the first day of the month after the release of the first public notice announcing the authorization of 5G Fund support in any eligible area
Eligible	Won in auction	Carrier is the winning bidder and is the legacy support recipient for` the area it won	Legacy support ceases and 5G Fund support commences in an area on the first day of the month after the release of the public notice announcing the authorization of 5G Fund support for that area
Eligible	Won in auction	Carrier is a legacy support recipient but is not the winning bidder in the area for which it receives support	Two-year phase down commences in an area on the first day of the month after the release of the public notice announcing the authorization of 5G Fund support in that area
Eligible	Not won in auction	Carrier is a legacy support recipient but does not receive the minimum level of sustainable support for the area for which it receives support	Two-year phase down of legacy support commences on the first day of the month after the release of the first public notice announcing the authorization of 5G Fund support in any eligible area won in the auction
Eligible	Not won in auction	Carrier is a legacy support recipient and receives the minimum level of sustainable support for the area for which it receives support	Legacy support continues for no more than five years and the phase down of such support commences on the first day of the month after the release of the first public notice announcing the authorization of 5G Fund support in any eligible area won in the auction

[382] *See, e.g.*, CCA Comments at 26 ("Timing the phase down of legacy support to when money is flowing from the 5G Fund to the carriers best reflects the intent of Congress and best serves the public interest by foreclosing any lapse in funding.").

[383] Consistent with our decision above to include areas in Puerto Rico and the U.S. Virgin Islands that meet the eligible areas definition in the 5G Fund, these Territories will be subject to this transition schedule.

[384] For areas in Puerto Rico and the U.S. Virgin Islands, the transitional support being provided under the *Transitional Support Order* is the "mobile legacy high-cost support" that will transition to 5G Fund support or be subject to a two-year phase down (whichever is applicable). *See Transitional Support Order* at *22-25, paras. 22-

(continued….)

116. Other than the changes necessary to make our legacy support transition schedule consistent with the language in the Consolidated Appropriations Act of 2023, we make no other modifications to the decisions adopted in the *5G Fund Report and Order* regarding the transition from mobile legacy high-cost support to 5G Fund support.[385] The Commission was clear in the *5G Fund Report and Order* that "the continuation of legacy support is an interim measure" as it implemented its plans for the 5G Fund.[386] We therefore decline to accept any of the alternatives to the Commission's long-standing plan to phase down mobile legacy high-cost support suggested by commenters.[387] Those alternative approaches are contrary to the Commission's more than decade-old goal of reforming high-cost support and closing the digital divide, as well as the steps the Commission has taken to ensure the efficiency and good stewardship of its limited universal service fund dollars.[388] As explained by the Commission in 2020, and as addressed above in our discussion of the 5G Fund budget, "the Commission's experience awarding support via competitive bidding has shown it to be an effective use of ratepayer funds and none of these commenters has convinced us that departing from that approach is warranted."[389]

117. Consistent with today's decision that the phase down of mobile legacy high-cost support will commence upon the release of a public notice announcing the authorization of 5G Fund support, as well as Congress's language in the Consolidated Appropriations Act of 2023,[390] we dismiss CRWC's Petition for Reconsideration as moot to the extent that its arguments concern the transition schedule for

23. Notwithstanding the schedule adopted in the *Transitional Support Order*, the Commission will extend transitional support beyond the 24-month period as needed to facilitate the phase down schedule adopted herein and comply with the Consolidated Appropriations Act of 2023. *See 5G Fund FNPRM* at *74-75, para. 48 (seeking comment on whether the Consolidated Appropriations Act of 2023 requires the Commission to modify any other aspects of its plan for transitioning from mobile legacy high-cost support to 5G Fund support); *see id.* at *48, para. 26 (seeking comment on whether to make 5G Fund support available to areas in Puerto Rico and the U.S. Virgin Islands meeting the eligible areas definition, subject to the same terms and conditions as 5G Fund support awarded in other eligible areas); *see also Transitional Support Order* at *20-22, paras. 19-21. As noted above, mobile wireless carriers receiving transitional support in areas in Puerto Rico and the U.S. Virgin Islands that are subject to phase down will receive support amounts as specified in 47 CFR § 54.307(e)(5)-(7), and will be subject to the same public interest obligations, performance requirements, reporting requirements, and non-compliance mechanisms adopted for mobile legacy high-cost support recipients specified in 47 CFR § 54.322.

[385] *See 5G Fund Report and Order,* 35 FCC Rcd at 12221-28, paras. 116-30.

[386] *Id*. at 12217, para. 107.

[387] CRWC Comments at 29 (suggesting the Commission should abandon the complete phase down of legacy support); NTCA Comments at 3-6 (advocating the Commission should adopt a separate "Small Carrier Fund"); RWA Comments at 11-12 (stating the Commission should extend the two-year phase down of legacy support to three years); US Cellular Comments at 38-41 (advocating the Commission should abandon the complete phase down of legacy high-cost mobile support and adopt its proposed "Supplemental 5G Plan"); CRWC Reply at 4-6; RWA Reply at 8; SBI Reply at 23-24 (advocating that the Commission should not discontinue preservation of support in remote Tribal lands); US Cellular Reply at 7-10.

[388] *See 5G Fund Report and Order,* 35 FCC Rcd at 12223, para. 120. We also emphasize that, as the Commission previously determined, in an area where the legacy support provider becomes the winning bidder for 5G Fund support, if it "defaults on its bid prior to authorization, or otherwise fails to be authorized, we will not award 5G Fund support for that area. However, to avoid perverse incentives, consistent with our decision to maintain support to preserve service only in areas that lack a winning bid, a carrier receiving legacy support in the area of its winning bid will not receive preservation-of-service support and will instead be subject to phase down if not authorized to receive 5G Fund support." *Id*. at 12227, para. 128.

[389] *Id*. at 12203, para. 68; *see also supra* Section IV.

[390] *See* Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Div. E, Title VI § 624, 136 Stat. 4459, 4702 (requiring that any support mechanism that serves as an alternative to Mobility Fund Phase II "shall maintain existing high-cost support to competitive eligible telecommunications carriers until support under such mechanism commences").

mobile legacy high-cost support.[391] Additionally, for the same reasons expressed above, we deny the Petition for Reconsideration filed by SBI to the extent that it requests that the Commission reconsider the five-year phase down of mobile legacy high cost support for a carrier receiving the minimum sustainable level of support in an area that is eligible for 5G Fund support, but is not the winning bidder for that area.[392] This request for reconsideration conflicts with the Commission's plan to reform high-cost support and Congress's intention for the Commission to transition to a more modern support mechanism.

VIII. CERTIFICATION OF NOTICE OF 5G FUND PHASE I AUCTION REQUIREMENTS AND PROCEDURES

118. Consistent with the approach taken in our recent spectrum auctions, we require any applicant seeking to participate in the 5G Fund Phase I auction to certify, under penalty of perjury, in its short-form application that the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements, terms, and conditions associated with the receipt of 5G Fund support.[393] This certification helps ensure that an applicant educates itself about the procedures for auction participation and that, prior to submitting a short-form application, the applicant understands its obligation to stay abreast of relevant, forthcoming information.[394] As with other certifications required in the short-form application, an applicant's failure to make this required certification in its short-form application by the applicable filing deadline will render its application unacceptable for filing, and its application will be dismissed with prejudice.[395]

119. As noted in the *5G Fund FNPRM*, the Commission has a longstanding policy that expressly places a burden upon each auction applicant to be thoroughly familiar with the procedures, terms, and conditions contained in the relevant auction procedures public notice and any future public notices that may be released in the auction proceeding.[396] Both the Commission and OEA, in conjunction with WTB and the Media Bureau, have reinforced this policy in recent spectrum auctions by adopting a requirement that each auction participant certify, under penalty of perjury, that it has read the Procedures Public Notice for the applicable auction, and that it has familiarized itself with the auction procedures and with the requirements related to the licenses made available for bidding.[397] In adopting this certification

[391] *See CRWC Petition for Reconsideration* at 2-10.

[392] *See SBI Petition for Reconsideration* at iii, 16-18.

[393] *See 5G Fund FNPRM* at *75, para. 49.

[394] While this certification refers to information regarding auction procedures and the requirements, terms, and conditions associated with the receipt of 5G Fund support that is available at the time of certification, potential auction applicants are on notice from the time the auction procedures are adopted that their educational efforts must continue even after their short-form applications are filed. Commission staff routinely makes available detailed educational materials, such as interactive, online tutorials and technical guides, to enhance interested parties' comprehension of the pre-bidding and bidding processes and to help minimize the need for applicants to engage outside engineers, legal counsel, or other auction experts.

[395] *See* 47 CFR § 1.21001(f)(2).

[396] *5G Fund FNPRM* at *76-78, para. 50 (citing, as examples, *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, WC Docket Nos. 19-126 and 10-90, Public Notice, FCC Rcd 6077, 6081, para. 7 (2020); *Tribal Mobility Fund Phase I Auction Rescheduled For December 19, 2013; Notice and Filing Requirements and Other Procedures for Auction 902*, AU Docket No. 13-53, Public Notice, 28 FCC Rcd 11628, 11647, para. 53 (2013)).

[397] *See, e.g.*, *Auction of Flexible-Use Licenses in the 2.5 GHz Band for Next-Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 108*, AU Docket No. 20-429, Public Notice, 37 FCC Rcd 4370, 4381-83, paras. 24-28 (2022) (*Auction 108 Procedures Public Notice*); *Certification Adopted for Auction of Flexible-Use Service Licenses in the 3.45–3.55 GHz Band For Next-Generation Wireless Services,* AU Docket No. 21-62, Public Notice, 36 FCC Rcd 8444 (OEA/WTB 2021) (*Auction 110 Certification Public Notice*); *Auction of Construction Permits for Full Power Television Stations; Notice and*

(continued….)

requirement for prior auctions, the Commission noted that it was intended to bolster applicants' efforts to educate themselves to the greatest extent possible about the procedures for auction participation and to ensure that, prior to submitting their short-form applications, applicants understood their obligation to stay abreast of relevant, forthcoming information.[398] The Commission and OEA reasoned in the context of spectrum auctions that familiarity with the Commission's rules and procedures governing the auctions would help bidders avoid the consequences to them associated with defaults, which also cause harm to other applicants and the public by reducing the efficiency of the auction process and reducing the likelihood that the license or construction permit will be assigned to the bidder that values it the most.[399] Moreover, the Commission has also previously expressed in the context of spectrum auctions that the certification requirement will help ensure that an "auction applicant . . . has investigated and evaluated those technical and marketplace factors that may have a bearing on its potential use of any licenses won at auction."[400]

120. All commenters that address this certification requirement support it.[401] We conclude that applicants for universal service support in the 5G Fund Phase I auction will benefit from this certification because, as with spectrum auctions, familiarity with the rules and procedures governing the 5G Fund Phase I auction could help bidders avoid the consequences to them associated with defaults, which in turn harms other applicants and the public by reducing the efficiency of the auction process and potentially stranding areas without 5G mobile service. We further conclude that such a certification will promote the integrity of, and public confidence in, the Commission's auction processes, as well as help ensure that recipients of 5G Fund Phase I support are aware of and better prepared to comply with their public interest obligations and performance requirements. For these reasons, we will require each 5G Fund Phase I auction applicant to make the following certification, under penalty of perjury, in its short-form application:

> that the applicant has read the public notice adopting procedures for the 5G Fund Phase I auction, and that it has familiarized itself with those procedures and any requirements, terms, and conditions associated with receipt of 5G Fund support.

IX. CYBERSECURITY AND SUPPLY CHAIN RISK MANAGEMENT

121. We require 5G Fund support recipients to implement both an operational cybersecurity risk management plan and a supply chain risk management plan as a condition of receiving 5G Fund support, as discussed in the *5G Fund FNPRM*.[402]

122. *Cybersecurity Risk Management.* Consistent with the Enhanced Alternative-Connect

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Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 112, AU Docket No. 21-449, Public Notice, 37 FCC Rcd 1155, 1162-1163, paras. 19-23 (OEA/MB 2022) (*Auction 112 Procedures Public Notice*).

[398] *Auction 108 Procedures Public Notice*, 37 FCC Rcd at 4382, para. 25; *Auction 110 Certification Public Notice*, 36 FCC Rcd at 8445, para. 4; *Auction 112 Procedures Public Notice*, 37 FCC Rcd at 1162, para. 20.

[399] *Auction 108 Procedures Public Notice* 37 FCC Rcd at 4382, para. 25; *Auction 110 Certification Public Notice*, 36 FCC Rcd at 8445, para. 4; *Auction 112 Procedures Public Notice*, 37 FCC Rcd at 1162, para. 20.

[400] *Auction of Flexible-Use Service Licenses in the 2.5 GHz Band for Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auction 108*, AU Docket No. 20-429, Public Notice, 36 FCC Rcd 645, 648, para. 8 (2021); *see also Auction of Flexible-Use Service Licenses in the 3.45-3.55 GHz Band for Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auction 110*, AU Docket No. 21-62, Public Notice, 36 FCC Rcd 6100, 6105, para. 12 (2021); *Auction of Construction Permits for Full Power Television Stations; Comment Sought on Competitive Bidding Procedures for Auction 112*, AU Docket No. 21-449, Public Notice, 36 FCC Rcd 16222, 16224, para. 6 (OEA/MB 2021).

[401] *See* AT&T Comments at 5; CCA Comments at 27; Ravnitzky Comments at 7.

[402] *5G Fund FNPRM* at *80-86, para. 52.

America Cost Model (Enhanced A-CAM) and BEAD programs,[403] 5G Fund support recipients' cybersecurity risk management plans must reflect at least the National Institute of Standards and Technology's Framework for Improving Critical Infrastructure Cybersecurity v.1.1 (2018) (NIST Framework),[404] or any successor version of the NIST Framework,[405] and must reflect established cybersecurity best practices that address each of the Core Functions described in the NIST Framework, such as the standards and controls set forth in the Cybersecurity & Infrastructure Security Agency (CISA) Cybersecurity Cross-sector Performance Goals and Objectives (CISA CPGs)[406] or the Center for Internet Security Critical Security Controls (CIS Controls).[407] We delegate to the Public Safety and Homeland Security Bureau the authority to update these requirements, after notice and comment, to require that 5G Fund recipients' cybersecurity risk management plans reflect NIST Framework v.2.0 (2024) or any other successor versions that may be released.

123. *Supply Chain Risk Management.* Support recipients' supply chain risk management plans must incorporate the key practices discussed in NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry,[408] and related supply chain risk management guidance

[403] *See Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support et al.,* Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 23 FCC LEXIS 2023, at *157-68, paras. 109-14 (2023) (*Enhanced A-CAM Report and Order*); *BEAD Program NOFO* at 70-71. We note that the BEAD program specifically requires that a recipient's cybersecurity risk management plan reflect the standards and controls set forth in Executive Order 14028. *Id*. (citing The White House, Executive Order 14028 (2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/12/executive-order-on-improving-the-nations-cybersecurity/ (Executive Order 14028)). However, the development of standards and controls pursuant to Executive Order 14028 are still ongoing. Efforts to amend the Federal Acquisition Regulation to standardize common cybersecurity contractual requirements across all Executive agencies for unclassified information systems, to increase the sharing of information about cyber threats and incident information between the Federal government and certain providers, and to require certain contractors to report cyber incidents to the Federal government to facilitate effective cyber incident response and remediation are not yet final. A proposed rule to implement sections 2(i) and 8(b) of Executive Order 14028 was published in the Federal Register on October 3, 2023. Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA), Federal Acquisition Regulation: Cyber Threat and Incident Reporting and Information Sharing, 88 Fed. Reg. 68,055 (Oct. 3, 2023). The public comment period for that item closed on December 4, 2023. Work on a proposed rule in case number 2023-002 that would implement section 4(n) of Executive Order 14028 is ongoing. *See* Open FAR Cases as of 3/15/2024 at 6, https://www.acq.osd.mil/DPAP/dars/opencases/farcasenum/far.pdf (last visited Mar. 15, 2024). While we recognize these continuing efforts elsewhere in the federal government, we will not expressly require that a 5G Fund recipient implement the standards and controls developed pursuant to Executive Order 14028. Once those standards and controls are finalized, however, we will consider them to be established cybersecurity best practices for purposes of the 5G Fund cybersecurity requirements that we adopt today.

[404] NIST, *Framework for Improving Critical Infrastructure Cybersecurity, v.1.1* (April 16, 2018), https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf.

[405] A 5G Fund recipient will be considered in compliance with this requirement if its cybersecurity risk management plan reflects version 2.0 of the NIST Framework, or any successor versions that may be released, so long as the cybersecurity risk management plan otherwise meets the requirements adopted here. *See* NIST, *Framework for Improving Critical Infrastructure Cybersecurity, v.2.0* (Feb. 26, 2024), https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.29.pdf. (NIST Framework v.2.0).

[406] *See* CISA, *Cross-Sector Cybersecurity Performance Goals and Objectives*, https://www.cisa.gov/cpgs (last visited Mar. 15, 2024).

[407] *See* Center for Internet Security, *Critical Security Controls Version 8,* https://www.cisecurity.org/controls (last visited Mar. 15, 2024) (providing security controls grouped by priority and feasibility for different sizes and resources of businesses in Implementation Groups).

[408] *See*; NIST, *Key Practices in Cyber Supply Chain Risk Management: Observations from Industry (2021)*, https://csrc.nist.gov/publications/detail/nistir/8276/final (last visited Mar. 15, 2024) (presenting the following as key practices: 1) integrating cyber supply chain risk management across the organization; 2) establishing a formal (continued….)

from NIST 800-161.[409]

124. We require winning bidders to submit their cybersecurity risk management and supply chain risk management plans to USAC, and to certify that they have done so, by a date to be announced by Public Notice or within 30 days after approval under the Paperwork Reduction Act (PRA), whichever is later.[410] Consistent with the penalties adopted for the Enhanced A-CAM program, failure to submit such plans and make the required certification will result in 25% of monthly support being withheld until the recipient comes into compliance.[411] Once the 5G Fund support recipient comes into compliance, the Administrator will stop withholding support, and the support recipient will receive all of the support that had been withheld as a result of the recipient's failure to comply with the cybersecurity and supply chain risk management requirements we adopt here. These requirements will improve the cybersecurity and supply chain risk management of the nation's mobile broadband networks and protect consumers from online risks, such as fraud, theft, and ransomware, that can be mitigated or eliminated through the implementation of widely-accepted security measures.

125. Commenters generally support the requirement that 5G Fund support recipients implement cybersecurity and supply chain risk management plans.[412] Only one commenter, US Cellular, opposes such a requirement on the grounds that it "may place undue burdens and costs on 5G Fund support recipients."[413] Similarly, while generally supporting the requirements, the CCA urges us to "ensure that any such standards, while achieving cybersecurity and risk management goals, avoid

cybersecurity supply chain risk management program; 3) knowing and managing critical components and suppliers; 4) understanding the organization's supply chain; 5) collaborating closely with key suppliers; 6) including key suppliers in resilience and improvement activities; 7) assessing and monitoring throughout the supplier relationship; and 8) planning for the full life cycle).

[409] NIST, *Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations (2022)*, https://csrc.nist.gov/publications/detail/sp/800-161/rev-1/final (last visited Mar. 15, 2024) (NIST 800-161) (identifying critical success factors for cyber supply chain risk management).

[410] RWA suggests that 5G Fund support recipients' initial cybersecurity and supply chain risk management plans be submitted to USAC simultaneously with the day the 5G Fund support commences. *See* RWA Comments at 14. However, in view of our decision to require 5G Fund support recipients to implement operational cybersecurity and supply chain risk management plans as a condition of receiving support, we conclude that an earlier submission deadline is appropriate so that there is sufficient time to review a support recipient's plans prior to the authorization of support.

[411] *See FNPRM* at *83-85, para. 52 & n.101 (citing *Enhanced A-CAM Report & Order* at *157, para. 109). A 5G Fund support recipient may consider its "plans" for addressing cybersecurity and supply chain risks to be separate because they entail different kinds of actions, but they may satisfy this requirement by submitting to USAC a single document that contains both their cybersecurity risk management and supply chain risk management plans. This will likely be the case for most, if not all, support recipients because implementing the National Institute of Standards and Technology (NIST) Framework, as we require such recipients to do, includes an examination and treatment of supply chain risks.

[412] RWA Comments at 13 ("RWA fully supports the adoption of such cybersecurity requirements and firmly believes that cybersecurity and supply chain risk management is critically important in modern broadband networks. Ensuring proper cybersecurity measures are put into place by providers serves the public interest."); NTCA Comments at 7 ("NTCA and its members understand the importance of good cyber practices and do not take issue with the Commission's proposal to require 5G Fund recipients to adopt and implement C-SCRM Plans."); The Puerto Rico Telecommunications Regulatory Bureau Comments at 8 ("The Bureau supports the Commission's proposal to require 5G Fund recipients [to] have operational cybersecurity and supply chain plans."); AT&T Comments at 6 ("AT&T supports 5G Fund recipients being required to implement a cybersecurity risk management plan that reflects the latest version of the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, and that reflects an established set of cybersecurity best practices."); *see also* Ravnitzky Comments at 8; NYSPSC Comments at 2-3; CCA Comments at 27-28.

[413] US Cellular Comments at 42.

imposing onerous or piecemeal burdens on carriers."[414]

126. However, the cybersecurity and supply chain risk management requirements we adopt for 5G Fund support recipients are designed to mitigate concerns that development and implementation of cybersecurity plans are expensive and time consuming. As US Cellular itself explains, the NIST Framework is not a one-size-fits-all approach to cybersecurity and represents a flexible approach that "promotes customization and prioritization, allowing organizations to tailor their approach according to specific needs."[415] We therefore afford carriers the flexibility to develop plans that fit within their budgetary constraints, so long as they meet the baseline requirements. Moreover, we decline to require 5G Fund support recipients to certify that they have implemented the NIST Framework at a particular implementation tier, as suggested by Verizon,[416] as doing so would reduce flexibility and potentially impose unnecessary costs on providers. For the same reasons, we also decline to adopt the additional requirements recommended by the Puerto Rico Telecommunications Regulatory Bureau.[417]

127. Our approach will also likely reduce compliance costs by allowing 5G Fund support recipients that have already implemented the NIST Framework to comply with this requirement without redoing their plans so long as such plans include already implemented established cybersecurity best practices. To further mitigate costs for small providers, as suggested by commenter Michael Ravnitzky,[418] we encourage 5G Fund support recipients to take advantage of existing federal government resources designed to share supply chain security risk information with trusted communications providers and suppliers and facilitate the creation of cybersecurity and supply-chain risk management plans.[419]

128. In the *5G FNPRM*, we proposed to require a 5G Fund recipient's cybersecurity risk management plan to reflect "an established set of best practices, such as the [CISA CPGs] or the [CIS Controls].[420] Some commenters took issue with this proposal, expressing concerns about a prescriptive mandate that would require the use of either the CISA CPGs or the CISA Controls, without regard to the wider universe of established best practices that are currently available and that may be a better fit for

[414] CCA Comments at 28.

[415] *Id.* Other commenters agree that the NIST Framework provides an appropriate foundation for the required cybersecurity plans. *See* CTIA Comments at 8 ("CTIA supports the FCC's proposal for 5G Fund support recipients' cybersecurity risk management plans to reflect this core risk management document."); Verizon Comments at 13 ("To the extent the Commission goes forward with its proposal to require fund recipients to demonstrate they have a minimum level of cybersecurity in place, any such requirement should be future-proof, consistent with existing industry best practices, and harmonized with cybersecurity requirements elsewhere in the federal government. The Commission can best achieve those goals by leveraging the NIST Cybersecurity Framework ('CSF'), which for more than a decade has been the cornerstone for cybersecurity risk management by a wide variety of entities, including communications providers.").

[416] Verizon Comments at 15-16.

[417] The Puerto Rico Telecommunications Regulatory Bureau Comments at 8-9 (recommending the Commission adopt the use of the Cybersecurity Preparedness Evaluation Tool (CEPT) developed by the National Association of Regulatory Utility Commissioners (NARUC)).

[418] Ravnitzky Comments at 8.

[419] *See* FCC, *Cyber Planner*, https://www.fcc.gov/cyberplanner (last visited Mar. 15, 2024); *see also* FCC, *Cybersecurity for Small Businesses*, https://www.fcc.gov/communications-business-opportunities/cybersecurity-small-businesses (last visited Mar. 15, 2024); CISA, *CISA Cybersecurity Awareness Program Small Business Resources*, (Nov. 29, 2021), https://www.cisa.gov/publication/stopthinkconnect-small-business-resources;National Institute of Standards and Technology, *Small Business Cybersecurity Corner, Planning Tools & Workbooks*, https://www.nist.gov/itl/smallbusinesscyber/planning-tools-workbooks (last visited Mar. 15, 2024); *see also* CISA, *ICT Supply Chain Resource Library,* https://www.cisa.gov/ict-supply-chain-resource-library (last visited Mar. 15, 2024).

[420] *5G Fund FNPRM*, 2023 FCC LEXIS at *81-84, para. 52.

their particular circumstances.[421] We emphasize that the approach we adopt here does *not* require the use of either of these best practices, and is instead intended to afford 5G Fund support recipients the flexibility to implement *any* established best practices, including those identified in the relevant Informative References published by NIST,[422] so long as they address each of the Core Functions of the NIST Framework, as the CISA CPGs and the CIS Controls do. To that end, the rule that we adopt amends the language proposed in the *5G Fund Further Notice* to make clear that, rather than requiring the use of a complete set of best practices compiled by a third party, a 5G Fund recipient may use best practices selected from a variety of sources, so long as they are established and, in aggregate, they address each of the NIST Framework's Core Functions.

129. AT&T is the only commenter that takes issue with the requirement that 5G Fund support recipients' supply chain risk management plans incorporate guidance from NIST 800-161.[423] AT&T notes that NIST 800-161 itself states that it "is not one-size-fits-all" and that "the guidance . . . should be adopted and tailored to the unique size, [resources], and risk circumstances of each enterprise."[424] As with the NIST Framework, we believe that the flexibility provided within NIST 800-161 will benefit 5G Fund support recipients for the very reasons stated by AT&T. We do not view the use of NIST 800-161 as imposing rigid requirements. Instead, it serves as a baseline for ensuring that each 5G Fund support recipient has implemented an effective supply chain risk management plan that is appropriately tailored to its individual needs.

130. *Updating Cybersecurity and Supply Chain Risk Management Plans.* Consistent with the requirements adopted for both the Enhanced A-CAM and BEAD Programs, we also require that a 5G Fund support recipient submit an updated plan to USAC within 30 days after making any substantive modification to its cybersecurity or supply chain risk management plan.[425] A modification to a cybersecurity or supply chain risk management plan will be considered as substantive if at least one of the following conditions apply:

- There is a change in the plan's scope, including any addition, removal, or significant alteration to the types of risks covered by the plan (e.g., expanding a plan to cover new areas, such as supply

[421] Verizon Comments at 14 ("In contrast, the proposal to mandate a prescriptive set of static 'key practices' from a list of two possible sources would not be sufficiently future-proof, flexible, or harmonized with practices emerging across the ecosystem and at other state or federal regulators. Instead, it would contribute to piecemeal cybersecurity obligations that lack the very attributes that make the CSF appropriate."); CTIA Comments at 8 ("But the Commission should not impose a requirement for 5G Fund support recipients' cybersecurity plans to reflect—in addition to the CSF—'an established set of cybersecurity best practices, such as the standards and controls set forth in the [CISA] Cybersecurity Cross-sector Performance Goals and Objectives or the Center for Internet Security Critical Security (CIS) Controls,' as it did under the Enhanced A-CAM Order." (footnote omitted)); AT&T Comments at 6 ("However, the Commission should not endorse individual programs offered by third parties and, rather, authorize any widely accepted/accredited standards which may include the Center for Internet Security Critical Security (CIS) Controls but also International Organization for Standardization (ISO) 27001 and a variety of others."). *See also* Letter from Amy Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC at 2-4 (filed Mar. 22, 2024); Letter from Amy Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC at 2-3 (filed Apr. 24, 2024); Letter from Amy Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC at 2-3 (filed May 10, 2024); Letter from Amy Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC at 1-2 (filed May 23, 2024); Letter from Amy Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC at 1-2 (filed June 3, 2024) (each encouraging the Commission to adopt CTIA's alternative proposal in the event that it adopts cyber-related requirements).

[422] NIST Framework v.2.0 Informative References Spreadsheet (last updated Feb. 27, 2024), https://www.nist.gov/informative-references.

[423] AT&T Comments at 6-7.

[424] *Id.* at 7 (citing NIST 800-161).

[425] *See Enhanced A-CAM Report and Order* at *163-16648, para. 112; *BEAD Program NOFO* at 70-71.

chain risks to Internet of Things devices or cloud security, could be a substantive change);

- There is a change in the plan's risk mitigation strategies (e.g., implementing a new encryption protocol or deploying a different firewall architecture);
- There is a shift in organizational structure (e.g., creating a new information technology department or hiring a Chief Information Security Officer);
- There is a shift in the threat landscape prompting the organization to recognize the emergence of new threats or vulnerabilities that weren't previously accounted for in the plan;
- Updates are made to comply with new cybersecurity regulations, standards, or laws;
- Significant changes are made in the supply chain, including offboarding major suppliers or vendors, or shifts in procurement strategies that may impact the security of the supply chain; or
- A large-scale technological change is made, including the adoption of new systems or technologies, migrating to a new information technology infrastructure, or significantly changing the information technology architecture.

131. US Cellular opposes the requirement that a 5G Fund support recipient submit an updated plan to USAC within 30 days after making any substantive modification to its cybersecurity or supply chain risk management plan, stating that requiring the submission of an updated plan within 30 days "may pose challenges in responding swiftly to emerging threats or adopting cutting-edge cybersecurity solutions."[426] We disagree. To the extent that a 5G Fund support recipient makes a substantive change to its cybersecurity or supply chain risk management plan in response to a specific threat or the adoption of a new cybersecurity solution, the provider is not required to submit its updated plan until well after that change is made. We see no reason why the need to submit an updated plan after the fact would impact an organization's ability to modify its plan as needed at any given time, particularly given our enumeration above of the types of modifications that will be considered substantive.[427]

132. NTCA expresses concern that 5G Fund support recipients may be required to submit updated cybersecurity and supply chain risk management plans within 30 days after any substantive modifications to the best practices or standards reflected in those plans (e.g., within 30 days after any changes are made to the CISA CPGs or the CIS Controls).[428] This is a misreading of the requirement. While we fully expect that 5G Fund support recipients will regularly update their cybersecurity and supply chain risk management plans as best practices evolve, we do not impose a specific timeframe by which those plans must be updated after a best practices publication has been modified.

133. NTCA and RWA both suggest that, rather than requiring the submission of updated plans within 30 days after any substantive modification, 5G Fund support recipients should be required to file updated plans on an annual basis with their annual report.[429] We do not believe that the requirement we adopt will impose substantial burdens on 5G Fund support recipients. To the contrary, because this requirement aligns with the requirements adopted for the Enhanced A-CAM and BEAD programs, we believe that 5G Fund support recipients that also participate in those programs will benefit from having a single deadline by which they must submit their reports for each program.[430] Moreover, there is nothing

[426] US Cellular Comments at 45.

[427] *See id.* (advocating that, if the Commission does adopt such a requirement, it should adopt a clear definition of the term "substantive modification").

[428] NTCA Comments at 6-8; *see also* AT&T Comments at 9-10.

[429] RWA Comments at 14; NTCA Comments at 9.

[430] Consistent with requirements for other high-cost support recipients, such as Enhanced A-CAM program participants, 5G Fund support recipients must submit an annual report no later than July 1 of each year after the year in which it was authorized to receive support. *See* 47 CFR § 54.313(f)(1) (establishing the deadline for Enhanced A- (continued….)

in the record that explains how 5G Fund support recipients differ from Enhanced A-CAM and BEAD program participants with respect to this requirement such that they merit different treatment.

134. *Annual Certification.* Consistent with the requirements adopted for the Enhanced A-CAM program,[431] we also require that 5G Fund support recipients certify in their annual report following each support year that they have maintained their plans, whether they have submitted modifications in the prior year, and the date any modifications were submitted. If at any point during the support term a 5G Fund support recipient does not have in place operational cybersecurity and supply chain risk management plans meeting the Commission's requirements, we direct WCB to instruct USAC to withhold 25% of the 5G Fund recipient's support until the recipient comes into compliance.[432] As noted above, once the 5G Fund support recipient comes into compliance, support will no longer be withheld and the support recipient will receive all of the support that had been withheld as a result of its non-compliance with the cybersecurity and supply chain risk management requirements.

135. While we decline to adopt NTCA's proposal to treat 5G Fund support recipients' submitted cybersecurity and supply chain risk management plans as presumptively confidential under section 0.457 of the Commission's rules,[433] we recognize that such plans can contain sensitive information regarding providers' operations and networks. As a result, we will provide an abbreviated means by which 5G Fund support recipients may request confidential treatment of their cybersecurity and supply chain risk management plans pursuant to section 0.459 of our rules.[434]

136. We conclude that these requirements will serve to facilitate the nation's cybersecurity and supply chain risk management goals while minimizing the burden on 5G Fund support recipients in complying with such requirements. Our actions emphasize the critical importance of cybersecurity and supply chain risk management in modern broadband networks, consistent with broader initiatives across the federal government.[435] The enforcement mechanism carefully balances compliance with this important requirement with avoiding a disproportionate disruption to providers' support. Adopting these risk management requirements is necessary to ensure that the 5G Fund program does not deprive rural consumers in high-cost areas of receiving 5G mobile service that is equally as secure as the high-speed broadband service deployed pursuant to other federal funding initiatives, including through Enhanced A-CAM[436] and BEAD programs.[437]

X. USE OF OPEN RADIO ACCESS NETWORK TECHNOLOGIES IN 5G FUND

CAM recipients to submit their annual reports to USAC); 47 CFR § 54.1018 (establishing the deadline for 5G Fund support recipients to submit their annual reports to USAC). AT&T supports this approach, stating that "5G Fund participants, who also participate in other programs with similar requirements, should only be required to provide the Commission supporting information about their cybersecurity risk management programs once as opposed to having to do so for each individual program." AT&T Comments at 7.

[431] 47 CFR § 54.313(f)(6)(iii).

[432] 47 CFR § 54.1015(g) ("A support recipient that fails to comply with the public interest obligations or any other terms and conditions associated with receiving 5G Fund support may be subject to action . . . .").

[433] NTCA Comments at 9.

[434] 47 CFR § 0.459(a)(4).

[435] *See generally* Executive Order 14028; NIST, *Key Practices in Cyber Supply Chain Risk Management: Observations from Industry (2021)*, https://csrc.nist.gov/publications/detail/nistir/8276/final (last visited Mar. 15, 2024); Infrastructure Act § 60102(g)(1)(B), 47 U.S.C. § 1702(g)(1)(B) (mandating compliance with "prudent cybersecurity and supply chain risk management practice").

[436] *Enhanced A-CAM Report and Order* at *157-158 para. 109 & n.311.

[437] *See BEAD Program NOFO* at 36-37 & n.52 (encouraging the Commission to "replicate" the BEAD program's cybersecurity and supply chain risk management requirements). *See BEAD Program NOFO* at 70-71.

SUPPORTED NETWORKS

137. We conclude that there are significant public interest benefits to incentivize and to promote the voluntary inclusion of Open Radio Access Network technologies (Open RAN) in networks that are deployed with 5G Fund support by allocating additional funds for this specific purpose. We further conclude that providing a 5G Fund support recipient with a process whereby it can seek additional time to meet the 5G Fund deployment milestones may also further incentivize the inclusion of Open RAN in networks supported through the 5G Fund. As expressed in the *5G Fund FNPRM*, we recognize that this proceeding presents an opportunity for the Commission to assist providers that elect to incorporate Open RAN in their network deployment plans.[438] By providing these additional incentives, we seek to encourage early adoption of Open RAN that will strengthen and secure the advanced, 5G mobile broadband networks that the 5G Fund is subsidizing.

138. As explained more fully in the Commission's recent *Open RAN NOI*, rather than relying on proprietary specifications, "Open RAN modularizes the hardware and software components of the traditional RAN to promote virtualization, to enable [artificial intelligence/machine learning] solutions to optimize performance, and to enable interoperability across multiple vendors."[439] The Commission has also noted that networks deploying Open RAN "have the potential to address national security and other concerns that the Commission and other federal stakeholders have raised in recent years about network integrity and supply chain reliability."[440] Commenters in the instant proceeding also have noted that the incorporation of Open RAN technologies within networks serves many public interest benefits including improving security, lessening provider costs, strengthening the domestic supply chain, and promoting competition.[441]

139. Consistent with record support, we conclude that using the 5G Fund to incentivize the voluntary inclusion of Open RAN in networks deployed with 5G Fund support serves our national priorities.[442] Thus, to incentivize deployment of Open RAN, as detailed below, we offer a process whereby a 5G Fund support recipient can seek a limited extension of its 5G Fund interim and final deployment milestones as set forth in section 54.1015(b) in order to afford it additional time to deploy Open RAN. Additionally, as explained fully below, we will allocate up to an additional $900 million of support in conjunction with implementation of the 5G Fund solely for the purpose of incentivizing providers to deploy Open RAN. This $900 million will allow us to award a 5G Fund support recipient that deploys Open RAN with additional funding in the amount of one-tenth of the support that it is being

[438] *5G Fund FNPRM* at *85-90, paras. 53-54 (citing Promoting Competition in the American Economy, Exec. Order No. 14,036 § 5(l)(iii), 86 Fed. Reg. 36,987, 36,994, (July 9, 2021)).

[439] *Promoting the Deployment of 5G Open Radio Access Networks*, GN Docket No. 21-63, Notice of Inquiry, 36 FCC Rcd 5947, 5950, para. 8 (2021) (*Open RAN NOI*); *see also 5G Fund FNPRM* at *85-87, para. 53 n.110 ("Open RAN is a term that describes a general disaggregation of RAN functionality built using open interface specifications between elements instead of proprietary specifications. Open RAN can be implemented in vendor-neutral hardware and software-defined technology based on open interfaces and community-developed standards providing a flexible and interoperable deployment architecture across multiple vendors.").

[440] *Open RAN NOI*, 36 FCC at 5949, para. 4.

[441] *See, e.g.,* Mavenir Comments at 5-6; US Ignite Comments at 1-2.

[442] *See* DISH Reply at 4-5 ("Indeed, the Administration's National Spectrum Strategy seeks to promote policies that 'drive technological innovation… boost U.S. industrial competitiveness; protect the security of the American people; foster scientific advancements; promote digital equity and inclusion; and maintain U.S. leadership in global markets for wireless equipment and services.' Using the 5G Fund to prioritize Open RAN is consistent with these directives; conversely, failing to provide support to carriers that commit to Open RAN risks undermining these national priorities.").

allocated through the 5G Fund Phase I auction.[443] To receive this additional funding, support recipients must deploy Open RAN technology through their network(s) for which they are authorized to receive 5G Fund support. We find that offering these incentives is consistent with section 254(b)(1)'s requirement that the Commission base its universal service policies on the principles of providing "[q]uality services,"[444] and we believe that providing this additional funding will hasten the deployment of fast, secure, flexible, resilient, advanced, 5G mobile broadband networks throughout rural America. We direct OEA and WTB to develop a post-auction process to evaluate applications for the award of this funding in accordance with the parameters that we adopt below. Additionally, we direct OEA and WTB to adopt provisions to allow a 5G Fund support recipient to seek and receive, if approved by OEA and WTB, an extension of time for its interim and final deployment milestones so that it may include Open RAN in its supported network.

140. As a general policy matter, the federal government has begun to undertake funding efforts that accelerate the development, deployment, and adoption of Open RAN in advanced mobile services.[445] Likewise, the government, together with nine other countries, has recently released a joint statement endorsing principles for secure 6G technology "that recognize the importance of international cooperation in promoting open, secure, resilient, inclusive, interoperable networks, such as Open Radio Access Networks, and safe, resilient, inclusive, and sustainable 6G ecosystem."[446] Incentivizing the inclusion of Open RAN technology in networks subsidized with universal service fund support is therefore consistent with global accord that interoperable networks are of significant importance both currently and in the future.[447]

141. We offer these incentives to 5G Fund support recipients because we anticipate that extending 5G deployment in unserved and underserved areas using Open RAN will be especially beneficial in promoting our 5G Fund goal of ensuring that Americans have access to advanced, 5G

[443] *See* DISH Comments at 6 ("To expedite connectivity in 5G Fund areas, the Commission should also consider providing an additional 10 percent credit to carriers that commit to deploying Open RAN on a faster timeline than required by the Commission's buildout…."); *see also id.* at 9 ("Open RAN is the future of wireless technology and an important driver of U.S. technology leadership. For that reason, any taxpayer funds should be prioritized for carriers that deploy Open RAN, rather than legacy, closed technologies.").

[444] 47 U.S.C. § 254(b)(1); *see, e.g., 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 (2020). The Commission concluded that sections 201(b) and 254(b) of the Act provide sufficient authority to adopt a remove-and-replace requirement (for Huawei and ZTE equipment) for ETCs receiving USF support to promote access to "quality" advanced telecommunications and information services. *Id*. at 14297-98, para. 28. The Commission rejected an argument that "the section 254(b) principles upon which the Commission must 'base policies for the preservation and advancement of universal service' do not include the promotion of national security or equipment regulation applied to a subset of USF recipients." *Id*. at 14299, para. 31.

[445] National Telecommunications and Information Administration, *Public Wireless Supply Chain Innovation Fund Grant Program—Expanding Testing and Evaluation*, Notice of Funding Opportunity (2023), https://www.ntia.gov/sites/default/files/publications/pwscif_final_nofo.pdf (last visited Mar. 15, 2024); Press Release, NTIA, Biden-Harris Administration Awards $42M For Wireless Innovation (Feb. 12, 2024), https://www.ntia.gov/press-release/2024/biden-harris-administration-awards-42m-wireless-innovation; Press Release, NTIA, Biden-Harris Administration Awards Nearly $80M For Wireless Innovation (Jan. 10, 2024), https://www.ntia.gov/press-release/2024/biden-harris-administration-awards-nearly-80m-wireless-innovation.

[446] *See, e.g.*, Press Release, Exec. Office of the President, Joint Statement Endorsing Principles for 6G: Secure, Open, and Resilient by Design (Feb. 26, 2024), https://www.whitehouse.gov/briefing-room/statements-releases/2024/02/26/joint-statement-endorsing-principles-for-6g-secure-open-and-resilient-by-design/.

[447] *See, e.g.*, DISH Reply at 4 ("Verizon also argues that because 'Open RAN is already benefiting from other government programs,' the industry is adequately incentivized to focus on Open RAN without providing 5G Fund priority to carriers that commit to Open RAN. But, contrary to Verizon's assertions, government support of Open RAN only serves to underscore exactly why the Commission should ensure that federal funding continues to facilitate Open RAN deployment.").

mobile broadband services where they live, work, and travel, now and in the long run. Accordingly, currently unserved and underserved areas where 5G Fund support will be used for an Open RAN deployment should be better positioned in the future not to be left behind.

142. In the *5G Fund FNPRM*, the Commission sought comment on whether the 5G Fund could be an appropriate vehicle to further the goals outlined in Executive Order 14036, which encouraged the Commission to "consider providing support for the continued development and adoption of 5G Open [RAN] . . . protocols and software," and if so, what the best mechanism(s) for doing so might be.[448] The Commission asked whether deploying Open RAN networks requires more time such that it would be appropriate to provide an extension of the interim and/or final service milestone deadlines to 5G Fund support recipients that use Open RAN in their network deployments.[449] The Commission also asked how a support recipient could demonstrate that it is using Open RAN and how the Commission could monitor compliance.[450]

143. A number of commenters commend the Commission's consideration of using the 5G Fund to incentivize Open RAN[451] and claim that doing so has the potential to increase competition among vendors, decrease reliance on foreign vendors, increase network security, increase innovation, and lower long-term costs.[452] Many commenters agree with the Commission's observation in its *Enhanced Competition Incentive Program Further Notice of Proposed Rulemaking* that "Open RAN has the potential to allow carriers to promote the security of their networks while driving innovation, in particular in next-generation technologies like 5G, lowering costs, increasing vendor diversity, and enabling more flexible network architecture."[453] Some commenters assert that smaller vendors and rural carriers will need support in order to deploy Open RAN.[454] Mavenir, an equipment manufacturer, suggests that 5G Fund incentives to deploy Open RAN may lessen the barriers to market entry that Open RAN vendors currently face and may encourage closed RAN incumbents to "open" their equipment without additional costs to providers.[455]

144. The Open RAN Policy Coalition suggests that in exchange for "demonstrable commitments" to use 5G Fund support to deploy Open RAN 5G, the Commission offer post-auction incentives for winning bidders, such as additional funding for various phases of the buildout, flexibility in timing for meeting build-out requirements, and also technical assistance, to encourage the deployment of Open RAN in areas receiving 5G Fund support.[456] CTIA agrees with the Open RAN Policy Coalition that

[448] *5G Fund FNPRM* at *85-90, paras. 53-54 (citing Promoting Competition in the American Economy, Exec. Order No. 14,036 § 5(l)(iii), 86 Fed. Reg. 36,987, 36,994, (July 9, 2021)).

[449] *Id.* at *90, para. 54.

[450] *Id*.

[451] *See, e.g.,* DISH Comments at 1; RWA Comments at 14; Mavenir Comments at 1; Ravnitzky Comments at 8; ARA PAWR Comments at 1-3; US Ignite Comments at 1-2.

[452] Ravnitzky Comments at 9.

[453] *See Partitioning, Disaggregation, and Leasing of Spectrum*, WT Docket No. 19-38, Further Notice of Proposed Rulemaking, 36 FCC Rcd 16956, 16977, para. 62 (2021); *see also, e.g.,* DISH Comments at 1; RWA Comments at 14; Mavenir Comments at 1; Ravnitzky Comments at 8; ARA PAWR Comments at 1-3; US Ignite Comments at 1-2.

[454] US Ignite Comments at 1; ARA PAWR Comments at 2.

[455] Mavenir Comments at 5-6.

[456] Letter from Diane Rinaldo, Executive Director, Open RAN Policy Coalition, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 20-32, at 1 (filed Mar. 13, 2024) (ORPC Mar. 13 *Ex Parte* Letter).

voluntary, post-auction incentives such as additional funding may help spur Open RAN deployment.[457]

145. By contrast, other commenters raise practical concerns about using the 5G Fund to support the deployment of Open RAN, contending that Open RAN has not been proven capable of providing 5G service at scale and that more suitable efforts are occurring elsewhere in the government and industry to support its development.[458] And some commenters raise concerns that certain specifications and protocols of Open RAN are still too early in development for a deployment scenario of Open RAN with advanced capabilities (e.g., Massive multiple-input multiple-output (Massive MIMO)),[459] and that Open RAN may need additional time for interoperability testing and network integration to be completed.[460] We are not persuaded, however, that these concerns should preclude us from using universal service support and the 5G Fund proceeding to encourage the use of Open RAN. To the contrary, we believe that the public interest benefits of incentivizing the use of Open RAN in 5G networks outweigh the concerns and, importantly, will hasten its use more widely in areas of the country where it might not otherwise be deployed.

146. Recognizing the practical challenges associated with deploying Open RAN raised by commenters, we have given careful consideration to the suggestion of the Open RAN Policy Coalition that we provide post-auction incentives to winning bidders to promote opportunities for Open RAN deployment.[461] We find that offering additional financial support from the 5G Fund to those support recipients that voluntarily incorporate Open RAN into their networks deployed using 5G Fund support in tandem with offering a process to obtain a potential extension of up to one year of the build-out milestone deadlines will best further the Commission's interests in incentivizing the development and deployment of Open RAN and accommodate the various needs of industry in doing so.

147. *Additional Funding for Deployment of Open RAN*. We will make available this additional high-cost funding exclusively to those 5G Fund support recipients that deploy networks using Open RAN through their network(s) for which they are awarded 5G Fund support. We will award an additional amount of one-tenth of the total support a 5G Fund support recipient is authorized to receive.[462] The inclusion of Open RAN in a network deployed using 5G Fund support will be entirely voluntary, as this additional support is being offered in recognition of the challenges that these service providers may face. Consistent with our goal, as stewards of the Universal Service Fund, of distributing funds in a responsible, and administratively efficient, manner, we require that this additional funding be used to deploy Open RAN and that 5G Fund support recipients that accept this additional funding certify to that effect.

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[457] Letter from Amy E. Bender, Vice-President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 20-32, at 3 (filed Mar. 19, 2024) ("Voluntary, post-auction incentives – such as additional funding, flexibility in build-out deadlines, and technical assistance – may help spur Open RAN deployment, depending on the source and structure any funding, the definition or version of Open RAN, the eligibility criteria for such incentives, and other conditions or requirements that may be associated with such incentives.") (CTIA Mar. 19 *Ex Parte* Letter).

[458] Verizon Comments at 17-18; AT&T Reply at 8; US Cellular Comments at 41-42.

[459] Verizon Comments at 18 (contending that "Open RAN is still under development with specifications, testing, trials and other efforts to advance the capabilities of ORAN architecture" and also claiming that "promotion of Open RAN deployment within the 5G Fund may detract from the overall goals of the fund to increase connectivity"); US Cellular Comments at 42 (claiming Open RAN technology is not mature enough to support commercial deployment and that it will increase the cost of vendor and infrastructure deployments and, in turn, strain the 5G Fund budget); *see also, e.g.*, CCA Comments at 28; AT&T Reply at 8-9; RWA Comments at 18.

[460] Verizon Comments at 18.

[461] ORPC Mar. 13 *Ex Parte* Letter at 1; *see also* CTIA Mar. 19 *Ex Parte* Letter at 3.

[462] We clarify that the amount is based on the 5G Fund support that is authorized following Commission's authorization of support following the long-form application process—not the total amount of an auction bidder's winning bids when the auction closes, to the extent that there is a difference in the two amounts.

148. To avoid a significant increase to the contribution factor from any single Open RAN incentive payment, we have determined to disburse support at specified intervals. Likewise, we seek to ensure that we are able to protect universal service funds in the event that support recipients do not timely deploy Open RAN. Based on our review of the information supporting a request for the additional funding, we will award each authorized support recipient funding related to its Open RAN deployment in three tranches, with the timing of the disbursements to be based on whether a support recipient seeks only the additional funding or both the additional funding and an extension of time to meet the deployment milestones. For 5G Fund support recipients seeking only the additional funding, we will award the support based on the following schedule: (1) one-third of the support upon meeting the Year Three Interim Service Milestone Deadline; (2) one-third upon meeting the Year Four Interim Service Milestone Deadline; and (3) one-third upon meeting the Year Six Final Service Milestone Deadline, at completion of buildout.[463] For support recipients seeking both additional funding and an extension of time of one year, we will award the additional support funding based on the following schedule: (1) one-third upon meeting the Year Four Interim Service Milestone Deadline; (2) one-third upon meeting the Year Five Interim Service Milestone Deadline; and (3) one-third upon completion of buildout at Year Seven.[464] Accordingly, we direct OEA and WTB to establish a process by which this funding may be elected and awarded post-auction.

149. *Extension of Deployment Milestones*. As noted above, to ensure that 5G Fund support recipients meet their obligation to provide advanced, 5G mobile broadband service in areas where they receive support, the Commission adopted interim and final service deployment milestones in the *5G Fund Report and Order* to monitor progress in timely meeting the 5G Fund public interest obligations and performance requirements.[465] Rather than adopt an Open RAN exception to section 54.1015(b) of the Commission's rules, which requires a support recipient to meet all of its interim and final 5G Fund deployment milestones and deadlines,[466] we will instead grant a one-year extension of the deployment milestones for a 5G Fund support recipient that demonstrates that it will incorporate Open RAN into its network. We find that providing flexibility to a 5G Fund support recipient by allowing more time to meet its public interest obligations and performance requirements is warranted here to incentivize the development and deployment of Open RAN networks.

150. Those commenters supporting use of the 5G Fund as a vehicle to promote the development of Open RAN also generally support the idea described in the *5G Fund FNPRM* of extending the milestone deadlines for a support recipient to meet its public interest obligations and performance requirements for those providers who deploy networks using Open RAN.[467] We believe that this approach addresses the concerns raised by some commenters that aspects of Open RAN make it so that deployment requires additional time.[468] In particular, we agree with DISH's argument in response to the Commission's *5G FNPRM* that "…extending buildout requirements for Open RAN deployments [will help] to prevent would-be Open RAN providers from choosing an outdated, closed technology merely to deploy faster."[469] This approach also addresses concerns that incorporating Open RAN in a network deployment could take longer to implement, and that each provider may have different constraints on its

[463] 47 CFR § 54.1015(b).

[464] *Id.*

[465] *See supra* Section II; *5G Fund Report and Order*, 35 FCC Rcd at 12204, para. 73; 47 CFR § 54.1015(b).

[466] 47 CFR § 54.1015(b).

[467] *See, e.g.,* DISH Comments at 9 (extending buildout requirements would prevent "would-be Open RAN providers from choosing an outdated, closed technology merely to deploy faster").

[468] *See, e.g.*, Verizon Comments at 18; US Cellular Comments at 42.

[469] *See* DISH Comments at 9 (citing *5G Fund FNPRM* at *90, para. 54 ("The Commission should also consider extending buildout requirements for Open RAN deployments to prevent would-be Open RAN providers from choosing an outdated, closed technology merely to deploy faster.")).

ability to deploy Open RAN.[470] We are creating separate processes for seeking additional Open RAN funding and for seeking an extension to accommodate the needs and goals of individual support recipients. Accordingly, we direct OEA and WTB to establish a process for a 5G Fund support recipient that needs additional time to obtain an extension of up to one year of the interim and final milestones as set forth in section 54.1015(b) if it can demonstrate that it will incorporate Open RAN into its network(s).[471]

151. Some commenters propose that auction participants that commit to deploying Open RAN should be given an advantage in bidding.[472] DISH advocates for a 40% bidding credit to auction participants that commit to certain Open RAN deployments,[473] and an additional 10% bidding credit to providers that commit to deploying Open RAN on a faster timeline than the Commission otherwise requires.[474] While we find that offering a combination of financial and extended milestone buildout deadline incentives will promote our interest in furthering the adoption of Open RAN solutions in networks for advanced, 5G mobile broadband services, given our goal of fiscal responsibility, we find it inappropriate to adopt a financial incentive as large as the 50% bidding credit that was proposed by DISH. Rather, we conclude that offering a 5G Fund support recipient additional funding in the amount of one-tenth of the total support it is authorized to receive through the 5G Fund Phase I auction, spread over three payments, will sufficiently encourage the deployment of Open RAN. This is especially true in light of some commenters assertions that Open RAN may be more cost-effective[475] because it is easier to administer and will discourage bidders from claiming a credit without sufficient due diligence about their ability to deploy Open RAN. In particular, we agree with DISH 's advocacy that "[d]espite the viability of Open RAN, there are still challenges in the ecosystem – often imposed by RAN incumbents – that can be alleviated by federal funding."[476] We therefore find that providing up to $900 million in funding to incentivize the deployment of Open RAN technology in networks supported through the 5G Fund, which amounts to an addition of 10% in funding beyond the up to $9 billion that will be allocated through the 5G Fund Phase I auction, strikes the proper balance to financially incentivize 5G Fund support recipients to consider deploying this innovative technology.

152. We direct OEA and WTB to establish, after notice and comment, the minimum

[470] AT&T notes that "[w]hile there have been encouraging deployments in enterprise 5G and greenfield environments, Open RAN requires additional steps to enable widescale deployment in large brownfield networks serving complex customer use cases at scale" and "[i]ncumbent suppliers need to open traditionally closed interfaces and significant integration testing must be performed between vendors to resolve questions about system integration cost and complexity, the operational model to support highly distributed infrastructure, ecosystem scalability, technology maturity, the ability for Open RAN to co-exist and integrate with existing network infrastructure, and performance trade-offs with integrated RAN." AT&T Reply at 8-9.

[471] With one exception, all commenters oppose making the deployment of Open RAN mandatory. CCA Comments at 28; RWA Comments at 14; US Cellular Comments at 42; AT&T Reply at 9; Verizon Comments at 17; *cf.* Mavenir Comments at 2 (stating that the Commission should "require 5G Fund recipients to deploy only Open RAN-compliant networks"). Given commenters' concerns that the specifications, testing, and standards for using Open RAN advanced technologies are still under development, and given that some of the major carriers are still assessing Open RAN's benefits, we do not believe Open RAN should be mandatory for 5G Fund support recipients. We also recognize, as AT&T notes, that some providers that have deployed or are currently deploying a greenfield Open RAN network have to consider different capital investment issues than incumbents that are currently integrating 5G networks with 4G LTE networks. AT&T Reply at 9.

[472] *See, e.g.*, Mavenir Comments at 5; RWA Comments at 14; DISH Comments at 9.

[473] *See, e.g.*, DISH Reply at 6 (proposing a 40% bidding credit for Open RAN deployments that are compliant with O-RAN Alliance fronthaul specification 7.2x).

[474] *Id.*

[475] *See, e.g.*, DISH Comments at 3; Mavenir Comments at 3; US Ignite Comments at 1.

[476] DISH Reply at 5.

specifications for Open RAN that a 5G Fund support recipient must implement in the 5G networks it deploys with 5G Fund support to qualify for additional funds and extended milestone deadlines; the mechanism by which such a recipient must demonstrate compliance (both initial and continued) with such specifications; and other requirements, if any, sufficient to justify additional post-auction funding and/or an extension of up to one year to meet the public interest obligations and/or performance requirements consistent with our goals described above.[477] Providing further details regarding the showing a 5G Fund support recipient must make in order to be granted additional funding and/or an extension will help ensure that the incentives discussed here are used appropriately to support the Commission's policy objectives. We further direct OEA and WTB to review each request for additional funding and extension to determine, as appropriate, whether such a request should be granted. OEA and WTB shall grant requests for funding only if the recipient's use of Open RAN technology in networks deployed with 5G support meets the Open RAN specifications that will be adopted by OEA and WTB and the recipient certifies its conformance with those specifications. Likewise, OEA and WTB shall grant an extension of up to one year only if they determine that the 5G Fund support recipient's proposal to deploy Open RAN is reasonably capable of meeting the prescribed minimum specifications.[478] To be clear, these determinations will be made on a case-by-case basis, measured against standards developed by OEA and WTB, taking each recipient's circumstances into account. We further direct OEA and WTB to adopt, after notice and comment, measures to ensure that we can appropriately address an Open RAN support recipient's non-compliance with its commitment to timely deploy a network consistent with the established Open RAN specifications. In particular, OEA and WTB shall address whether recipients should be required to increase the amount of the letter of credit required by section 54.1016 by the amount of the Open RAN support, be subject to a modified timeline before it can begin to decrease the amount of its letter of credit, and be subject to recovery of all distributed support for non-compliance with 5G Fund Open RAN obligations.

153. Our approach factors in the time that we anticipate is needed for the finalization of Open RAN specifications and also allows more time for industry to better address the challenges associated with interoperability and the RAN integration testing. The decision to deploy Open RAN in a network deployed with 5G Fund Phase I support is and will remain entirely optional. Potential bidders need not decide whether to deploy Open RAN or whether to seek the additional funding for Open RAN and/or an extension until after they know where they have been awarded 5G Fund support as well as the showing that will be required to receive the additional funding and/or extension of time.

XI. PROMOTING DIGITAL EQUITY AND INCLUSION

154. The Commission sought comment on how the proposals and issues discussed in the *5G Fund FNPRM* may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority to address any such issues.[479] Although we received a few generalized comments regarding how the Commission's decisions could impact such issues,[480] no commenter offered any proposals for specific program requirements that we should adopt for the 5G Fund or any comments regarding our legal authority to address diversity, equity, inclusion, and

[477] *See* 47 U.S.C. § 155(c)(1) (allowing the Commission to delegate any of its functions to staff).

[478] Reasonably capable means meeting the Commission staff's reasonable expectation that the applicant would be able to meet the relevant Open RAN specifications in the areas where the applicant won support.

[479] *See 5G Fund FNPRM* at *92, para. 55.

[480] Viya Wireless Comments at 3 (contending that including the U.S. Virgin Islands in a nationwide fund may inhibit rather than promote digital equity and inclusion); CTIA Comments at 14 (noting that, "in the absence of broader reforms[,] [increasing the contribution factor] would shift a greater proportion of the funding burden from enterprises to consumers, which could negatively impact affordability and adoption—directly undermining the Commission's universal service goals, as well as digital equity and inclusion"); SBI Reply at 29 (stating that "raising the standard for mobile broadband, especially on Tribal lands, is an essential component to the Congressional and Commission goal of promoting digital equity and inclusion").

accessibility in this proceeding. We therefore lack a record to adopt any specific requirements for the 5G Fund.

155. For similar reasons, we also deny the Petition for Reconsideration filed by the 5G Fund Supporters to the extent it seeks reconsideration of the Commission's decision declining to extend the cable procurement rule requirements to 5G Fund support recipients, which the 5G Fund Supporters contend will ensure that qualified minority and women entrepreneurs receive information about upcoming infrastructure buildout contracts.[481] As the Commission has previously noted, "the cable procurement requirement and [the Commission rule implementing it] flow directly from the statutory mandate pertaining explicitly to the cable industry contained in the 1992 Cable Act."[482] Moreover, although the Commission has sought comment on whether this type of procurement requirement could be applied to the broadcast or other FCC-regulated industries,[483] it has not to date extended the cable procurement rule to any other FCC-regulated industries. Notably, no commenter offered support for adopting this type of procurement requirement for the 5G Fund in response to the Commission's public notice seeking comment on the 5G Fund Supporters' Petition for Reconsideration.[484] Nor did any commenter, including the 5G Fund Supporters, provide any additional information to support adopting this type of procurement requirement for the 5G Fund in response to the *5G Fund FNPRM*. Accordingly, we decline to extend the cable procurement rule requirements to 5G Fund support recipients.

156. As we implement and administer the 5G Fund, however, we remain mindful of the importance of considering how we can promote diversity, equity, inclusion, and accessibility and the impact our rules have on these issues. We emphasize that one of the general principles of the Universal Service Fund is to create equal access for every American to high-speed broadband in underserved and unserved areas.[485] To that end, the Commission has long used its Universal Service high-cost funding programs to further consumer access to broadband and bridge the digital divide. Most recently, the Commission adopted universal service goals for broadband—universal deployment, affordability,

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[481] *5G Fund Report and Order*, 35 FCC Rcd at 12204, para. 72; *5G Fund Supporters Petition for Reconsideration* at 5-8.

[482] *See 2018 Quadrennial Regulatory Review - Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, MB Docket No. 18-349, 33 FCC Rcd 12111, 12146, para. 96 (2018) (*2018 Quadrennial Broadcast Ownership Review NPRM*). The Cable Act of 1992 provides that a cable system must "encourage minority and female entrepreneurs to conduct business with all parts of its operation; and . . . analyze the results of its efforts to recruit, hire, promote, and use the services of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program." 47 U.S.C. § 554(d)(2)(E)-(F). To implement this requirement, the Commission adopted section 76.75(e), which provides that a cable system must "[e]ncourage minority and female entrepreneurs to conduct business with all parts of its operation" and explains that "this requirement may be met by, [for example], . . . [r]ecruiting as wide as possible a pool of qualified entrepreneurs from sources such as employee referrals, community groups, contractors, associations, and other sources likely to be representative of minority and female interests." 47 CFR § 76.75(e).

[483] The Commission sought comment in its *2018 Quadrennial Broadcast Ownership Review NPRM* on a proposal submitted by the Multicultural Media, Telecom and Internet Council (MMTC) concerning extending the cable procurement requirement to the broadcast industry. *See 2018 Quadrennial Broadcast Ownership Review NPRM*, MB Docket No. 18-349, 33 FCC Rcd at paras. 93-100 (seeking comment on, among other things, the Commission's authority to adopt a similar procurement requirement for broadcast licensees, whether specifically identifying minority/female entrepreneurs in such a requirement would trigger heightened judicial scrutiny and, if so, whether it could be drafted to be race- and gender-neutral to avoid potential legal impediments, and the feasibility and utility of imposing such a requirement on the broadcast industry).

[484] *See Petitions for Reconsideration of Action in Proceeding*, Public Notice, Report No. 3165 (Jan. 6, 2021).

[485] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, (1997); *see also* 47 U.S.C. § 254(b)(2) (providing that universal access to advanced telecommunications and information services is a basic policy principle of the universal service program).

adoption, availability, and equitable access to broadband throughout the United States.[486] Accordingly, we are committed to ensuring that the policies and rules we have adopted for the 5G Fund remain in accord with the Commission's general efforts to advance digital equity for all.[487]

XII. CTIA PETITION FOR PARTIAL RECONSIDERATION OF THE 5G FUND REPORT AND ORDER

157. We agree with CTIA that resolving its pending Petition for Partial Reconsideration of the Commission's *5G Fund Report and Order* serves the public interest, and is consistent with our intention to finalize the framework of the 5G Fund.[488] To that end, we grant in part and deny in part CTIA's petition to update the enforcement provisions associated with the award of mobile legacy high-cost support.

158. In the *5G Fund Report and Order*, the Commission adopted non-compliance measures for mobile legacy high-cost support recipients that fail to comply with any of the public interest obligations and/or performance requirements.[489] In particular, the Commission concluded that a non-compliant mobile legacy high-cost support recipient (1) "will receive no further support disbursements"; (2) "may be subject to recovery of up to the amount of support received since the effective date of the Report and Order, FCC 20-150, that was not used for the deployment, maintenance, and operation of mobile networks that provide 5G service"; and (3) "may be subject to further action, including the Commission's existing enforcement procedures and penalties, potential revocation of ETC designation, and suspension or debarment pursuant to § 54.8."[490] To address concerns about the possibility of disproportionate recovery, the Commission limited the amount of mobile legacy high-cost support that would be subject to recovery by indicating that it would not seek to recover any support that a recipient actually spent on the deployment, operation, and/or maintenance of voice and broadband networks that support 5G service, that it would retain the discretion to determine whether to seek up to full recovery of all support that was not spent on the deployment, operation, and/or maintenance of 5G services, and that it would seek to recover only support received since the effective date of the public interest obligations and performance requirements.[491] The Commission also noted that it may apply this recovery measure in cases of voluntary relinquishment of legacy support.[492]

159. CTIA takes issue with these non-compliance measures, contending that the Commission

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[486] *Future of USF Report*, 37 FCC Rcd at 10046, para. 12.

[487] 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.

[488] *See generally CTIA Petition for Reconsideration*; *see also* CTIA Comments at 11 ("Consistent with the Commission's intention to address issues that are necessary to move forward with the 5G Fund successfully, the Commission also should update the penalty mechanisms for legacy support recipients per CTIA's pending petition for partial reconsideration of the *5G Fund Order*.").

[489] *5G Fund Report and Order,* 35 FCC Rcd at 12199, 12217, 12289-90, paras. 61 n.154, 107-08, Appx. A (§ 54.322(k)). These public interest obligations include the requirement that a mobile legacy high-cost support recipient use an increasing percentage of its support for the deployment, maintenance, and operation of mobile networks that provide 5G service. *See id.* at 12199, 12200-01, 12286, paras. 61, 65, Appx. A (§ 54.322(c)) (requiring a mobile legacy high-cost support recipient to (1) use at least one-third of its total monthly support in calendar year 2021 for 5G service; (2) use at least two-thirds of its total monthly support in calendar year 2022 for 5G service; and (3) use all monthly support in calendar year 2023 and thereafter for 5G service).

[490] 47 CFR § 54.322(k)(2); *see 5G Fund Report and Order,* 35 FCC Rcd at 12217, 12290, paras. 107-08, Appx. A (§ 54.322(k)(2)).

[491] *5G Fund Report and Order,* 35 FCC Rcd at 12217, 12290, para. 108, Appx. A (§ 54.322(k)(2)).

[492] *Id.* at 12199, 12290, paras. 61, n.154, Appx. A (§ 54.322(k)(3)).

adopted an unreasonable and unprecedented penalty for those mobile legacy support recipients that do not meet the public interest obligations and performance requirements adopted in the *5G Fund Report and Order*.[493] Specifically, CTIA seeks to limit the recovery of support for non-compliance or voluntary relinquishment of support to the difference between the amount spent on 5G and the amount that our rules require mobile legacy high-cost support recipients to spend on 5G.[494] CTIA argues that it is inequitable for the Commission to recover all previous legacy support that a mobile legacy support recipient did not spend directly on 5G services during the transition to the 5G Fund, even though the Commission allowed mobile legacy support recipients to spend less than 100% of their support on 5G services in the first two years of the transition.[495] Moreover, CTIA asserts that the new rules unreasonably treat the voluntary relinquishment of future support as a "default" and subject to recovery all previous support that was not spent on 5G, even if the prior non-5G spending complied with the requirements adopted by the Commission.[496] CTIA contends that the Commission should revise its rules to make clear that a mobile legacy support recipient that fails to meet the new 5G-related obligations will be subject to recovery only for the portion of past support that the Commission required the ETC to spend on 5G.[497] In addition, CTIA advocates that in no event should the rules allow recovery of previously spent support where the mobile legacy support recipient's only "default" is electing voluntarily to relinquish prospective support.[498]

160. We respond to CTIA's concerns, in part, by amending section 54.322(k)(2) governing the recovery of mobile legacy high-cost support from non-compliant recipients. In particular, we clarify that a non-compliant mobile legacy high-cost support recipient will—not may—be subject to the recovery of the difference between the amount the recipient spent on 5G service and the amount that section 54.322(c) of our rules required the recipient to spend on 5G service. This clarification grants CTIA's request that we "make clear that mobile wireless ETCs who fail to meet the new 5G-related obligations *will* be subject to recovery . . . for the portion of past support that the Commission required the ETC to spend on 5G."[499] Our rules conditioned the continued distribution of mobile legacy high-cost support on the satisfaction of public interest obligations, including the use of an increasing percentage of its support for the deployment, maintenance, and operation of mobile networks that provide 5G service,[500] and required the recovery of funds where the percentage scheme envisioned by the rule is not satisfied.[501] CTIA's argument that the rule operates as an arbitrary penalty is unavailing in the context of the 5G Fund, which created a complex regulatory framework with specific conditions governing receipt of USF support. Our action here is wholly consistent with our obligation to recover federal funds where the associated regulatory requirements are not satisfied.[502] Furthermore, this clarification is generally

[493] *CTIA Petition for Reconsideration* at 2, 3-9; *see also* CTIA Comments at 11-12.

[494] *CTIA Petition for Reconsideration* at 3; *see also* 47 CFR §§ 54.322(c); 54.322(k)(1)-(3).

[495] *CTIA Petition for Reconsideration* at 4-5; CTIA Comments at 12.

[496] *CTIA Petition for Reconsideration* at 7-9; CTIA Comments at 12.

[497] CTIA Comments at 12.

[498] *CTIA Petition for Reconsideration* at 8; CTIA Comments at 12.

[499] *CTIA Petition for Reconsideration* at 3 (emphasis added); *accord* CTIA Comments at 12 (asking the Commission to "revise its rules to make clear that . . . mobile wireless ETCs who fail to meet 5G-related obligations *will* be subject to recovery . . . for the portion of past support that the Commission required the ETC to spend on 5G" (emphasis added)).

[500] 47 CFR § 54.322(c).

[501] 47 CFR § 54.322(k)(2).

[502] Section 54.322(c) of the Commission's rules requires a mobile legacy high-cost support recipient to use an increasing percentage of its support for the deployment, maintenance, and operation of mobile networks that provide 5G service. 47 CFR § 54.322(c); *accord 5G Fund Report and Order*, 35 FCC Rcd at 12199, 12200-01, 12286,
(continued….)

consistent with other universal service high-cost rules, which require a recipient to repay support for locations where it failed to meet its build-out milestones.[503]

161. The Commission's authority to recover such support remains essential and relevant as we move forward with the implementation of the 5G Fund. In adopting the rule that allows the Commission to cease making legacy support payments and pursue the recovery of support that has been awarded but not used for 5G service, the Commission reasoned that "the continuation of legacy support is an interim mechanism in place as [the Commission] implement[s] the 5G Fund, and therefore, unlike the Commission's other modernized support mechanisms, the non-compliance measures here do not benefit from allowing legacy support recipients to come back into compliance prior to the end of the support term."[504] In sum, by providing authority to recover up to all legacy support a carrier received that was not spent toward the deployment, operation, and/or maintenance of 5G service, the Commission reasoned that it "better incentivize[d] 5G deployment."[505] We agree with this reasoning. We also expand on the Commission's conclusion in the *5G Fund Report and Order* that having strong public interest obligations and performance requirements for mobile legacy high-cost support recipients and the ability to enforce our rules in the event of a default, such as by recovering legacy support that was not spent on 5G services, is part of our obligation "[a]s stewards of the Universal Service Fund," and that such provisions will help us "ensure that all Americans living in areas served by these carriers receive the most advanced wireless services."[506]

162. We do, however, find merit in CTIA's argument that section 54.322(k)(2) should be revised because it includes the voluntary relinquishment of *future* support as a "default," even if a carrier's prior spending complied with the requirements adopted by the Commission.[507] We agree with CTIA that revising this limited aspect of the rule avoids creating an incentive for a carrier to continue to accept mobile legacy high-cost support if it otherwise wishes to voluntarily relinquish that support.[508] Accordingly, we grant this aspect of CTIA's Petition for Reconsideration and amend section 54.322(k)(3)

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paras. 61, 65, Appx. A (§ 54.322(c)). To the extent that a support recipient uses funds earmarked for 5G service for another purpose (i.e., not in accordance with section 54.322(c)), the Commission is obligated to recover those funds. *See* U.S. Const. art. IV, § 3, cl. 2 ("[N]othing in this Constitution shall be so construed as to Prejudice any Claims of the United States."); *Royal Indem. Co. v. United States,* 313 U.S. 289, 294 (1941) ("Power to release … the rights and property of the United States is lodged in the Congress by the Constitution. Art. IV, s 3, Cl. 2. Subordinate officers of the United States are without that power, save only as it has been conferred upon them by Act of Congress or is to be implied from other powers so granted."); *Fansteel Metallurgical Corp. v. United States*, 172 F. Supp. 268, 270 (Ct. Cl. 1959) ("[W]hen a payment is erroneously or illegally made[,] it is in direct violation of article IV, section 3, clause 2, of the Constitution[,] . . . [and] it is not only lawful but the duty of the Government to sue for a refund thereof . . . ."). Moreover, as a steward of the funds, the Commission "has an ongoing obligation to protect the [Universal Service] Fund from waste, fraud, and abuse and to ensure that universal service support is used for its intended purposes," *e.g.*, *Sandwich Isles Communications, Inc.; Waimana Enterprises, Inc; Albert S.N. Hee*, File No. EB-IHD-15-00019603, Forfeiture Order, 35 FCC Rcd 10831, 10832, para. 1 (2020); *see also* 47 U.S.C. § 254(e) (requiring that "[a] carrier that receives [federal universal service] support . . . use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."), which, in this case, would be for the deployment, maintenance, and operation of mobile networks that provide 5G service. *See also* Payment Integrity Information Act (PIIA), Pub. L. No. 116-117, 134 Stat. 113 (2019) (requiring agencies to engage in systemic reviews of federal programs to identify the root cause of improper payments and take corrective action).

[503] *See, e.g.*, 47 CFR §§ 54.320(d)(2), 54.806(c).

[504] *5G Fund Report and Order,* 35 FCC Rcd at 12217, para. 107.

[505] *Id*. at 12217, para. 108.

[506] *Id*. at 12217, para. 107.

[507] *CTIA Petition for Reconsideration* at 7-8; *see also* CTIA Comments at 12.

[508] *CTIA Petition for Reconsideration* at 7-8; *see also* CTIA Comments at 12.

of our rules to clarify that, to the extent a carrier receiving mobile legacy high-cost support has been in full compliance with the Commission's rules and subsequently elects to voluntarily relinquish future support, we will not deem the voluntary relinquishment of such future mobile legacy high-cost support alone to be a default for which the Commission will seek the recovery of prior support. However, for the reason discussed above, we deny CTIA's Petition to the extent that it seeks to amend section 54.322(k)(2) to preclude the recovery of legacy support that a mobile legacy high-cost support recipient received—other than the amount specified in section 54.322(c)—that was not spent toward the deployment, operation, and/or maintenance of mobile networks that support 5G service.

XIII. NON-SUBSTANTIVE RULE CLARIFICATIONS

163. We also take this opportunity to make non-substantive editorial changes to the rules adopted by the Commission in the *5G Fund Report and Order* governing the annual reporting requirement for mobile legacy high-cost support recipients.[509] While the majority of the elements of this annual reporting requirement are contained in section 54.322(i) of the Commission's rules, which relates specifically to mobile legacy high-cost support recipients, other elements of this requirement are separately contained in section 54.313 of the Commission's rules, which relates to annual reporting requirements for high-cost recipients generally. We therefore consolidate the requirements contained in section 54.313(n), as adopted in the *5G Fund Report and Order*,[510] into section 54.322(i), to enhance clarity and make it easier for mobile legacy high-cost support recipients to locate all of the elements of their annual reporting requirement. No substantive change is intended or should result from this consolidation. Because these editorial changes are non-substantive, they have no impact on regulated parties or the public, and we find for good cause that notice and comment are unnecessary pursuant to 5 U.S.C. § 553(b)(B).

XIV. SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

164. In this *Second Further Notice of Proposed Rulemaking*, we seek comment on whether to require a winning bidder in the 5G Fund Phase I auction to demonstrate during the long-form application process, and prior to being authorized to receive support, that it has obtained the consent of the relevant Tribal government(s)[511] for any necessary access to deploy network facilities using its 5G Fund support on Tribal lands within the area(s) of its winning bid(s).[512] In its reply comments concerning the *5G Fund*

[509] *5G Fund Report and Order*, 35 FCC Rcd at 12213-14, 12285, 12288-89, paras. 95-99, Appx. A.

[510] The paragraph reference for this rule as adopted in the *5G Fund Report and Order* was incorrectly listed as section 54.313(n), rather than section 54.313(p). *5G Fund Report and Order*, 35 FCC Rcd at 12285, Appx. A; 85 Fed. Reg. 75,770, 75819 (Nov. 25, 2020). Section 54.313(n), as adopted in the *5G Fund Report and Order*, has a delayed effective date and has not yet been made effective. *See* 47 CFR § 54.313, Effective Date Notes, Note 4.

[511] For purposes of a requirement such as this, we would follow our long-standing precedent of using the term "Tribal Government" to mean "the recognized government of an Indian Tribe that has been determined eligible to receive services from the Department of Interior, Bureau of Indian Affairs." *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, Policy Statement, 16 FCC Rcd 4078, 4080 (2000) (*Policy Statement*). The term "Indian Tribe," in turn, is defined in the *Policy Statement* to mean "any Indian or Alaska Native tribe, band, nation, pueblo, village or community which is acknowledged by the federal government to constitute a government-to-government relationship with the United States and eligible for the programs and services established by the United States for Indians." *Id.*

[512] We recognize that the definition of "Tribal lands" adopted by the Commission for the 5G Fund in the *5G Fund Report and Order* may not fully align with a Tribal Government's jurisdiction for purposes of providing Tribal consent for all of the areas within a particular winning bid. *See 5G Fund Report and Order*, 35 FCC Rcd at 12190-93, para. 40-44 (amending section 54.5 of the Commission's rules to provide for "[a] designation process [that] permits expansion of the definition of Tribal lands for the high-cost program upon an appropriate showing that certain areas or communities that fall outside of existing Tribal lands . . . have the same characteristics as exiting Tribal lands," and "designat[ing] three types of off-reservation lands as Tribal lands for purposes of the high-cost program"). In that circumstance, a winning bidder would nonetheless need to obtain Tribal consent for any area(s)

(continued….)

FNPRM, NTTA supports the adoption of a Tribal consent requirement during the long-form process and before the Commission authorizes any 5G Fund support to serve Tribal lands.[513] We seek comment on whether including a Tribal consent requirement would advance the goals of the 5G Fund and would be administratively efficient for all parties and the Commission. We tentatively conclude that adopting a Tribal consent requirement in our 5G Fund rules is consistent with our long-standing recognition that engagement between Tribal governments and communications providers, particularly early engagement, is an important element to promote the successful deployment and provision of service on Tribal lands.[514]

165. In seeking comment on this issue, we ask commenters to provide input on how we can best assess an applicant's eligibility to be authorized to receive 5G Fund support for the purpose of deploying network facilities that would enable 5G mobile broadband service located on Tribal lands, while incorporating Tribal government consent into our approval process. We note that, under the BEAD Program, "an Eligible Entity may not treat as 'unserved' or 'underserved' any location that is already subject to an enforceable federal, state, or local commitment to deploy qualifying broadband" and a commitment to deploy broadband will not be considered an enforceable commitment "unless it includes a legally binding agreement, which includes a Tribal Government Resolution, between the Tribal Government of the Tribal Lands encompassing that location, or its authorized agent, and a service provider offering qualifying broadband service to that location."[515] Does including a requirement for a winning bidder to demonstrate that it has obtained Tribal consent during the 5G Fund Phase I long-form application process ensure that evidence of Tribal government consent will be included in the Commission's process of authorizing the winning bidder to receive support? Does such a requirement also provide such evidence during a 5G Fund support recipient's deployment of network facilities to provide 5G mobile broadband service that are located on Tribal lands?

166. We envision that any Tribal consent requirement we may adopt for the 5G Fund will be a continuation of the Commission's commitment to ensuring Tribal engagement by service providers that receive high-cost universal service support and in furtherance of the Commission's Policy Statement establishing a government-to-government relationship with Tribes. In the *Policy Statement*, the Commission stated that it "recognizes the unique legal relationship that exists between the federal government and Indian Tribal governments, as reflected in the Constitution of the United States, treaties, federal statutes, Executive orders, and numerous court decisions."[516] Most recently, in the *Enhanced A-CAM Report and Order*, the Commission recognized "the deep digital divide that persists between Tribal lands and the rest of the country and emphasized that engagement between Tribal governments and

within the area of a winning bid for which the relevant Tribal Government has jurisdiction to grant such consent before we would award support for that particular winning bid.

[513] NTTA Reply at 2-4. We emphasize that insofar as this proceeding concerns a federal program to distribute high-cost universal service support to carriers who commit to deploy advanced, 5G mobile broadband service to eligible rural areas, including Tribal lands, we do not seek comment on or otherwise address NTTA's comments relating to spectrum over Tribal lands, which are issues that are outside the scope of this proceeding. NTTA Reply at 2, 4-5.

[514] *See USF/ICC Transformation Order*, 26 FCC Rcd at 17868-69, paras. 636-37; *see also Expanding Broadband Service Through the ACAM Program,* Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 2023 FCC LEXIS 2230, at *152, para. 105 (2023) (*Enhanced A-CAM Report and Order).*

[515] BEAD Program NOFO at 36 & n.52; *see also Enhanced A-CAM Report and Order* at *149-50, para. 104 ("In engaging with Tribal governments, Enhanced A-CAM carriers must be aware that the BEAD Program will not recognize the acceptance of an Enhanced A-CAM offer as an enforceable commitment for the deployment of qualifying broadband, 'unless it includes a legally binding agreement, which includes a Tribal Government Resolution, between the Tribal Government of the Tribal Lands encompassing that location, or its authorized agent, and a service provider offering qualifying broadband service to that location.'").

[516] *Policy Statement*, 16 FCC Rcd at 4080 (footnote omitted).

communications providers, either currently providing service or contemplating the provision of service on Tribal lands, is vitally important to the successful deployment and provision of service."[517]

167. As the Commission explained in the *Enhanced A-CAM Report and Order*, the rules governing the disbursement of high-cost universal service support already include an annual requirement for high-cost recipients whose support areas include Tribal lands to undertake Tribal engagement.[518] Pursuant to section 54.313(a)(5) of the Commission's rules, a recipient of high-cost support that serves Tribal lands must demonstrate that it has engaged with the relevant Tribal government on a range of issues, including compliance with local rights of way, land use permitting, facilities siting, and environmental and cultural preservation review processes, as well as Tribal business and licensing requirements, that are necessary for a carrier to obtain.[519] The Commission also reasoned that "[t]hrough these obligatory Tribal engagements, and as demonstrated through successfully satisfying the deployment obligations through previous high-cost programs, carriers receiving high-cost support through previous universal service programs should have received consent from the local Tribal government to satisfy the requisite permissions to deploy to certain locations."[520] Building on its existing rules, and in order to leverage any preexisting coordination and collaboration obligations that a service provider has with a Tribal government to complete the deployment required by Enhanced A-CAM,[521] the Commission also determined that it would require carriers receiving Enhanced A-CAM support to initiate engagement with any relevant Tribal government within 90 days of the Bureau extending an Enhanced A-CAM offer in the *Enhanced A-CAM Report and Order*.[522] In so doing, the Commission explained that it expects "carriers that intend to accept Enhanced A-CAM offers will act in good faith to provide the relevant Tribe(s) with an opportunity to consent to the Enhanced A-CAM carrier's deployment of broadband in the Tribal area."[523]

168. We are mindful that, as NTTA advocates,[524] a similar or even more developed process for the 5G Fund may be appropriate because, whereas an Enhanced A-CAM carrier already had a history of tribal engagement, in the 5G Fund Phase I auction any applicant may bid on support to serve eligible Tribal areas. Given the potential challenges that incorporating a Tribal consent requirement might raise in

[517] *Enhanced A-CAM Report and Order* at *146-47, para. 103 (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17868-69, paras. 636-37); *see also* NTTA Comments on *Enhanced A-CAM NPRM*, WC Docket No. 10-90 et al., at 7 ("[T]ribal governments should have significant input into how federal [universal service support] is utilized on Tribal lands to increase broadband deployment and sustain the affordable provision of broadband internet access service.").

[518] *Enhanced A-CAM Report and Order* at *147-49, para. 103.

[519] 47 CFR § 54.313(a)(5); *see Enhanced A-CAM Report and Order* at *147, para. 103. The Commission also has historic preservation requirements. *See also* https://www.fcc.gov/enforcement/areas/tower-siting-construction; 47 CFR §§ 1.1305-1.1320; 47 CFR §17.4; 47 CFR Part 1, Appendix B and C.

[520] *Enhanced A-CAM Report and Order* at *147, para. 103.

[521] *Id.* at *147-48, para. 103 (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17868-69, paras. 636-37; *Office of Native Affairs and Policy, Wireless Telecommunications Bureau, and Wireline Competition Bureau Issue Further Guidance on Tribal Government Engagement Obligation Provisions of the Connect America Fund*, WC Docket No. 10-90 et al., Public Notice, 27 FCC Rcd 8176 (ONAP/WTB/WCB 2012); *Consumer and Governmental Affairs Bureau Seeks Comment on Effectiveness of Its Tribal Engagement Guidance and to Refresh the Record on Related Petitions for Reconsideration*, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 9508 (CGB 2019)).

[522] *Enhanced A-CAM Report and Order* at *149, para. 104.

[523] *Id.* at *149, para. 104. Since these efforts would constitute Tribal engagement, carriers will report on them in their FCC Form 481. *Id.* at *150-51, para. 104 n.298.

[524] Referencing the Tribal engagement rules the Commission adopted in the Enhanced A-CAM proceeding, NTTA states "[a] similar process for the 5G Fund is perhaps even more important due to the structure of the 5G Fund award system (reverse auction) and the fact that, as it now stands, any provider may bid on eligible Tribal areas." NTTA Reply at 3.

the 5G Fund long-form application process, should we consider following the same Tribal engagement approach as the Commission adopted in the *Enhanced A-CAM Report and Order*? Are the provisions included in the Enhanced A-CAM and/or the BEAD Program good analogues for the 5G Fund, given the differences between fixed service and mobile service? Are there other alternatives that we should consider that would result in more equitable and informed outcomes in connection with using 5G Fund support to fund proposed projects to provide advanced, 5G mobile broadband service using facilities that would be located on Tribal lands that would benefit Tribal communities and serve the public interest? Should the Commission use existing high-cost universal service Tribal engagement requirements to develop the criteria necessary to evidence Tribal consent in order to provide more consistency and predictability for both Tribal governments and service providers during the 5G Fund long-form application authorization process?

169. If we adopt a Tribal consent requirement during the 5G Fund long-form application process, how could we structure a requirement for a 5G Fund Phase I auction winning bidder to demonstrate during the long-form application process, and prior to being authorized to receive support, that it has obtained the relevant Tribal government's consent? Given Tribal sovereignty, how should we address circumstances in which a Tribal government neither declines nor provides consent? How might we use existing Tribal engagement requirements to assess the winning bidder's efforts to obtain Tribal consent? What are the costs and burdens of such requirements to providers? How might they be expected to influence auction participation or bidding for support in Tribal lands? As we consider how to frame a requirement for Tribal consent, we also seek comment on whether we should include parameters similar to the those that the Commission includes for a winning bidder that is applying for a Tribal Land Bidding Credit (TLBC) to demonstrate its compliance with any Tribal consent requirement we may adopt.[525]

170. For instance, using the TLBC requirements as a guide, we could include a requirement that within 180 calendar days after the filing deadline for a 5G Fund long-form application, an applicant seeking 5G Fund support to provide service on Tribal lands must amend its application to submit a certification from the Tribal government(s) that it has granted any required Tribal consent.[526] In particular, we could require that the certification of Tribal consent include: the signature of an official of the Tribal Government and their title; a statement that the Tribal government has not and will not enter into an exclusive contract with the applicant to preclude entry by other carriers and will not unreasonably discriminate among wireless carriers seeking to provide service on the eligible Tribal land; and a statement that the Tribal government will, as applicable, permit the applicant to locate and deploy facilities on the Tribal land consistent with the 5G Fund public interest obligations and performance requirements.[527] The Commission's existing 5G Fund long-form application rules already require an applicant to certify that it will comply with all 5G Fund program requirements, including its public interest obligations and performance requirements, in the areas for which it is a winning bidder, including any such areas that are on Tribal lands.[528] Would using the TLBC certification model, together with this existing long-form application certification required of an applicant seeking to be authorized for 5G Fund support, adequately reflect the contours of Tribal government consent in this context? *Under this model,* once the certifications from the applicant and the consent of the Tribal government(s) being served are received and reviewed by the Commission and determined to be consistent with the 5G Fund rules, 5G Fund support may be authorized. Should we consider revising the TLBC certification parameters for the purposes of the 5G Fund? Should we include any additional provisions to demonstrate Tribal consent if we adopt such a requirement? Should we require fewer or alternative provisions? Should a process such as the TLBC certification process be adopted, we seek comment on how we might be able to incorporate

[525] *See* 47 CFR § 1.2110(f)(3).

[526] *See* 47 CFR § 1.2110(f)(3)(ii)(A).

[527] *See id*.

[528] 47 CFR § 54.1014(b)(2)(vii).

flexibility in such a process.

171. In the event that we adopt a Tribal consent requirement for the 5G Fund Phase I auction long-form application process, how can we ensure that consent is valid throughout the term of support? Should a winning bidder's failure to obtain Tribal consent be considered an auction default under the Commission's existing rules? Should there be additional or alternative compliance or enforcement mechanisms?[529]

172. Finally, if we adopt a Tribal consent requirement for the 5G Fund, how can we assist in dispute resolution in the event that a Tribal government reconsiders its consent? Would the Commission need to adopt a specific Tribal consent dispute resolution process? Commenters should address any other issues the Commission should consider in adopting rules related to a Tribal consent requirement for a 5G Fund Phase I auction long form applicant to demonstrate that it has obtained the consent of the relevant Tribal government(s) for any necessary access to deploy network facilities using its 5G Fund support on Tribal lands within the area(s) of its winning bid(s).

173. Are there any reasons why the Commission should decline to adopt such a requirement? Should the Commission consider requiring something less than Tribal consent (e.g., a different type of engagement than the current requirement in section 54.313(a)(5) of the Commission's rules)?

XV. PROCEDURAL MATTERS

174. *Ex Parte Presentations—Permit-But-Disclose.* The proceeding this Second Further Notice of Proposed Rulemaking initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[530] 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.[531]

175. *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).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs.

[529] 47 CFR § 1.21004(c); *see also* 47 CFR § 54.1014(a)(5).

[530] 47 CFR § 1.1200 *et seq.*

[531] 47 CFR § 1.49(f).

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.

  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

176. *Paperwork Reduction Act.* The Second Report and Order and Order on Reconsideration contains 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 Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements adopted in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002,[532] 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. We describe impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) in Appendix B.

177. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),[533] 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."[534] Accordingly, the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) concerning the possible impact of rule changes in this Second Report and Order and Order on Reconsideration on small entities. The Supplemental FRFA is set forth in Appendix B.

178. The Commission has also prepared a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) concerning the potential impact of rule and policy changes in the Second Further Notice of Proposed Rulemaking on small entities. The Supplemental IRFA is set forth in Appendix C. The Commission invites the general public, in particular small businesses, to comment on the Supplemental IRFA. Comments must be filed by the deadlines for filing comments on the Second Further Notice of Proposed Rulemaking indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the Supplemental IRFA.

179. *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 Second Report and Order and Order on Reconsideration to Congress and the Government

[532] Small Business Paperwork Relief Act of 2002, Pub. L. No. 107-198, 116 Stat 729 (2002); *see* 44 U.S.C. § 3506(c)(4).

[533] *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).

[534] 5 U.S.C. § 605(b).

Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

180. *Providing Accountability Through Transparency Act*: Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of this Second Further Notice of Proposed Rulemaking will be available on https://www.fcc.gov/proposed-rulemakings.

181. *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).

182. *Further Information.* For additional information on this proceeding, contact Kelly Quinn of the Office of Economics and Analytics, Auctions Division, at *kelly.quinn@fcc.gov* or Valerie Barrish of the Office of Economics and Analytics, Auctions Division, at *valerie.barrish@fcc.gov* or (202) 418-0354.

XVI. ORDERING CLAUSES

183. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 4(i), 5, 214, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155, 214, 254, 303(r), 403, 405, this Second Report and Order and Order on Reconsideration IS ADOPTED.

184. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 254, 303(r), 403, and sections 1.1 and 1.421 of the Commission's rules, 47 CFR §§ 1.1, 1.421, this Second Further Notice of Proposed Rulemaking IS ADOPTED.

185. IT IS FURTHER ORDERED that the rules and requirements adopted in the Second Report and Order and Order on Reconsideration WILL BECOME EFFECTIVE thirty (30) days after publication in the *Federal Register*. Sections 54.322(b), 54.322(g), 54.322(h), 54.322(i), 54.322(j), 54.1014(a), 54.1014(b)(2), 54.1018(a), 54.1018(b), 54.1018(c), 54.1018(d), 54.1018(f), 54.1019(a)(1), 54.1019(a)(2), 54.1019(a)(3), 54.1019(b), 54.1022(b), and 54.1022(f) may contain new or modified information collection requirements that require review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The Commission directs OEA, WCB, and WTB to announce the compliance date for these sections in a document published in the *Federal Register* and directs them to cause sections 54.322(l), 54.1014(c), 54.1018(h), 54.1019(e), and 54.1022(g) to be revised accordingly.

186. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 254, 303(r), 403, and sections 1.1 and 1.421 of the Commission's rules, 47 CFR §§ 1.1, 1.421, NOTICE IS HEREBY GIVEN of the proposals described in this Second Further Notice of Proposed Rulemaking.

187. IT IS FURTHER ORDERED that the Joint Petition for Reconsideration filed by The Rural Wireless Association and NTCA – The Rural Broadband Association in GN Docket No. 20-32 on December 28, 2020, IS GRANTED IN PART AND DENIED IN PART, as indicated herein.

188. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by The Coalition of Rural Wireless Carriers in GN Docket No. 20-32 on December 28, 2020, IS DISMISSED IN PART, GRANTED IN PART, AND DENIED IN PART, as indicated herein.

189. IT IS FURTHER ORDERED that the Petition for Partial Reconsideration filed CTIA in GN Docket No. 20-32 on December 28, 2020, IS GRANTED IN PART AND DENIED IN PART, as indicated herein.

190. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by Smith Bagley, Inc. in GN Docket No. 20-32 on December 28, 2020, IS DENIED, as indicated herein.

191. IT IS FURTHER ORDERED that the Petition for Reconsideration filed by 5G Fund

Supporters in GN Docket No. 20-32 on November 30, 2020, IS DISMISSED IN PART AND DENIED IN PART, as indicated herein.

192. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of this Second Report and 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).

193. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL SEND a copy of this Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking including the Supplemental Final Regulatory Flexibility Analysis and the Supplemental Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 to read as follows:

PART 54 – UNIVERSAL SERVICE

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

[INSERT CURRENT AUTHORITY CITATION]

2. Amend § 54.307 by revising paragraphs (e)(5) introductory text, (e)(5)(ii) through (iv), (e)(6), and (e)(7) to read as follows:

§ 54.307 Support to a competitive eligible telecommunications carrier.

* * * * *

(e) * * *

(5) ***Eligibility for interim support before 5G Fund Phase I auction.*** Beginning the first day of the month following December 28, 2020, a competitive eligible telecommunications carrier that receives support pursuant to paragraph (a) or (e)(2) of this section shall no longer receive such support and shall instead receive support as described in paragraph (e)(5).

* * * * *

(ii) Until the first day of the month following the release of the first public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing the authorization of support for any area eligible for support in the 5G Fund Phase I auction as described in paragraph (e)(6) of this section:

(A) A mobile competitive eligible telecommunications carrier that receives support pursuant to paragraph (a) of this section shall receive "monthly baseline support" in an amount equal to one-twelfth (1/12) of its total support received for the preceding 12-month period.

(B) A mobile competitive eligible telecommunications carrier that receives support pursuant to paragraph (e)(2) of this section shall receive support at the same level described in paragraph (e)(2)(iii) of this section.

(iii) For mobile competitive eligible telecommunications carriers that receive support pursuant to paragraph (e)(5)(ii) of this section, beginning the first day of the month following the release of a public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing the final areas eligible for support in the 5G Fund Phase I auction, the geographic boundary for each carrier's subsidized service area shall be subdivided into the smallest constituent piece for which support must be disaggregated and transitioned separately by overlaying on each carrier's subsidized service area boundary data the eligible and ineligible area boundaries, the minimum geographic area for bidding (i.e., census tract boundaries), and the subsidized service area boundary data for other support recipients that receive support pursuant to paragraph (e)(5)(ii) of this section or that receive transitional support pursuant to § 54.1516(c). The percent area for each constituent piece shall then be calculated in order to disaggregate and apportion the legacy high-cost support amount for each area, which shall be calculated by multiplying the monthly support level described in paragraph (e)(5)(ii) of this section by the areal percentage of the constituent piece of the competitive eligible telecommunications carrier's service area, weighted by applying the 5G Fund adjustment factor methodology and values adopted by the Office of Economics and Analytics and Wireline Competition Bureau in Public Notice, DA 20-1361. At the conclusion of this disaggregation process, the sum of the disaggregated support amounts for all constituent parts shall precisely equal the legacy support amount for the carrier's service area consistent with the amount described in paragraph (e)(5)(ii) of this section.

(iv) For mobile competitive eligible telecommunications carriers that receive transitional support pursuant to § 54.1516(c), beginning the first day of the month following the release of a public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing the final areas eligible for support in the 5G Fund Phase I auction, the geographic boundary for each carrier's subsidized service

area shall be subdivided into the smallest constituent piece for which support must be disaggregated and transitioned separately by overlaying on each carrier's subsidized service area boundary data the eligible and ineligible area boundaries, the minimum geographic area for bidding (i.e., census tract boundaries), and the subsidized service area boundary data for other support recipients that receive support pursuant to paragraph (e)(5)(ii) of this section or that receive transitional support pursuant to § 54.1516(c). The percent area for each constituent piece shall then be calculated in order to disaggregate and apportion the transitional support amount for each area, which shall be calculated by multiplying the monthly support level described in § 54.1516(c) by the areal percentage of the constituent piece of the competitive eligible telecommunications carrier's service area, weighted by applying the 5G Fund adjustment factor methodology and values adopted by the Office of Economics and Analytics and Wireline Competition Bureau in Public Notice, DA 20-1361. At the conclusion of this disaggregation process, the sum of the disaggregated support amounts for all constituent parts shall precisely equal the transitional support amount for the carrier's service area consistent with the amount described in § 54.1516(c).

(6) ***Eligibility for support after 5G Fund Phase I auction.***

(i) For all areas that are ineligible for 5G Fund support, a two-year phase down of legacy high-cost support will commence on the first day of the month following the release of the first public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing the authorization of support for any area eligible for support in the 5G Fund Phase I auction. At such time, a mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(5)(iii) or (iv) of this section shall instead receive monthly support amounts for such ineligible areas as follows:

(A) For 12 months starting the first day of the month following the release of the public notice described in paragraph (e)(6)(i) of this section, each mobile competitive eligible telecommunications carrier shall receive a monthly support amount that is two-thirds (2/3) of the level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for each constituent part of its service area that is ineligible for 5G Fund

Phase I support.

(B) For 12 months starting the first day of the month following the period described in paragraph (e)(6)(i)(A) of this section, each mobile competitive eligible telecommunications carrier shall receive a monthly support amount that is one-third (1/3) of the level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for each constituent part of its service area that is ineligible for 5G Fund Phase I support.

(C) Following the period described in paragraph (e)(6)(i)(B) of this section, no mobile competitive eligible telecommunications carrier shall receive monthly support for an area that is ineligible for 5G Fund Phase I support pursuant to this section.

(ii) For all areas that are eligible for support in the 5G Fund Phase I auction, the transition from legacy high-cost support will commence as follows:

(A) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(5)(iii) or (iv) of this section for an area and is the winning bidder for that area in the 5G Fund Phase I auction shall continue to receive support at the same level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, until the first day of the month following the release of a public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing whether or not the carrier is authorized to receive 5G Fund Phase I support.

(*1*) If the mobile competitive eligible telecommunications carrier is authorized to receive 5G Fund Phase I support in that area, beginning the first day of the month following the release of a public notice by the Office of Economics and Analytics and Wireline Competition Bureau authorizing the carrier to receive such support in that area, the carrier shall no longer receive support pursuant to paragraph (e)(5)(iii) or (iv) of this section, as applicable, and shall instead receive monthly support in the amount determined by its 5G Fund Phase I winning bid pursuant to § 54.1017.

(*2*) If the mobile competitive eligible telecommunications carrier is not authorized to receive 5G Fund Phase I support in that area, the carrier shall no longer receive support at the level of monthly support described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for such area, and shall instead receive monthly support as follows:

(*i*) For 12 months starting the first day of the month following release of a public notice announcing that the carrier is not authorized to receive 5G Phase I auction support, the carrier shall receive a monthly support amount that is two-thirds (2/3) of the level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for each constituent part of the area.

(*ii*) For 12 months starting the month following the period described in paragraph (e)(6)(ii)(A)(*2*)(*i*) of this section, the carrier shall receive a monthly support amount that is one-third (1/3) of the level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for each constituent part of the area.

(*iii*) Following the period described in paragraph (e)(6)(ii)(A)(*2*)(*ii*) of this section, the carrier shall not receive monthly support for the area pursuant to this section.

(B) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(5)(iii) or (iv) of this section for an area and is not the winning bidder for such area in the 5G Fund Phase I auction shall continue to receive support at the same level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, until the first day of the month following the release of a public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing the authorization of 5G Fund Phase I support for that area. Thereafter, the carrier shall instead receive monthly support for that area as follows:

(*1*) For 12 months starting the first day of the month following the release of the public notice described in paragraph (e)(6)(ii)(B) of this section, the carrier shall receive a monthly support amount that is two-thirds (2/3) of the level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for each constituent part of the area.

(*2*) For 12 months starting the month following the period described in paragraph (e)(6)(ii)(B)(*1*) of this section, the carrier shall receive a monthly support amount that is one-third (1/3) of the level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for each constituent part of the area.

(*3*) Following the period described in paragraph (e)(6)(ii)(B)(*2*) of this section, the carrier shall not receive monthly support for the area pursuant to this section.

(C) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(5)(iii) or (iv) of this section for an area eligible for support in the 5G Fund Phase I auction, but for which support is not won, and for which the carrier is not receiving the minimum level of support for the area shall, beginning the first day of the month following the release of the first public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing the authorization of support for any eligible area won in the 5G Fund Phase I auction, receive monthly support for that area as follows:

(*1*) For 12 months starting the first day of the month following the release of the public notice described in paragraph (e)(6)(ii)(C) of this section, the carrier shall receive a monthly support amount that is two-thirds (2/3) of the level described in paragraph (e)(5)(iii) or (iv) of this section, as applicable, for each constituent part of the area.

(*2*) For 12 months starting the month following the period described in paragraph (e)(6)(ii)(C)(*1*) of this section, the carrier shall receive a monthly support amount that is one-third (1/3) of the level described in paragraph (e)(5)(iii) or (e)(5)(iv) of this section, as applicable, for each constituent part of the area.

(*3*) Following the period described in paragraph (e)(6)(ii)(C)(*2*) of this section, the carrier shall not receive monthly support for the area pursuant to this section.

(D) A mobile eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(5)(iii) of this section for an area eligible for support in the 5G Fund Phase I auction, but for which

support is not won, and for which the carrier is receiving the minimum level of support for such area, shall continue to receive a monthly support amount for such area at the level described in paragraph (e)(5)(iii) of this section for each constituent part of the area for no more than 60 months from the first day of the month following the release of the first public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing the authorization of support for any eligible area won in the 5G Fund Phase I auction. The "minimum level of sustainable support" is the lowest monthly support received by a mobile competitive eligible telecommunications carrier for the area that has deployed the highest level of technology (e.g., 5G) within the state encompassing the area.

(7) ***Eligibility for support after 5G Fund Phase II auction.*** For all areas that are eligible for support in the 5G Fund Phase II auction, the transition from support described in paragraphs (e)(6)(ii)(B), (C), or (D) of this section, as applicable, will commence as follows:

(i) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(6)(ii)(B), (C), or (D) of this section, as applicable, and is a winning bidder in the 5G Fund Phase II auction for the area for which it receives such support, shall receive support for such area at the same level described in paragraph (e)(6)(ii)(B), (C), or (D) of this section until the first day of the month following the release of a public notice by the Office of Economics and Analytics and Wireline Competition Bureau announcing whether or not to the carrier is authorized to receive 5G Fund Phase II support.

(A) If the mobile competitive eligible telecommunications carrier is authorized to receive 5G Fund Phase II support in the area, the carrier shall no longer receive support pursuant to paragraph (e)(6)(ii)(B), (C), or (D) of this section for such area, and shall instead receive monthly support in the amount determined by its 5G Fund Phase II winning bid pursuant to § 54.1017.

(B) If the mobile competitive eligible telecommunications carrier is not authorized to receive 5G Fund Phase II support in that area, the carrier shall no longer receive support at the level of monthly support

pursuant to paragraph (e)(6)(ii)(B), (C), or (D) of this section for such area, as applicable, and shall instead receive monthly support as follows for such area:

(*1*) For 12 months starting the first day of the month following release of a public notice announcing that the carrier is not authorized to receive 5G Phase II auction support, the carrier shall receive an amount of monthly support that is two-thirds (2/3) of the level described in paragraph (e)(6)(ii)(B), (C), or (D) of this section for the area, as applicable.

(*2*) For 12 months starting the month following the period described in paragraph (e)(7)(i)(B)(*1*) of this section, the carrier shall receive an amount of monthly support that is one-third (1/3) of the level described in paragraph (e)(6)(ii)(B), (C), or (D) of this section for the area, as applicable.

(c) Following the period described in paragraph (e)(7)(i)(B)(*2*) of this section, the carrier shall not receive monthly support for the area pursuant to this section.

(ii) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(6)(ii)(B) or (C) of this section for an area for which support is won in the 5G Fund Phase II auction and for which the carrier is not the winning bidder shall continue to receive support for that area as described in paragraph (e)(6)(ii)(B) or (C) of this section.

(iii) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(6)(ii)(B), (C), or (D) of this section for an area, as applicable, for which support is not won in the 5G Fund Phase II auction, shall continue to receive support for that area as described in paragraph (e)(6)(ii)(B), (C), or (D) of this section.

(iv) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to paragraph (e)(6)(ii)(D) of this section for an area for which support is won in the 5G Fund Phase II auction and for which the carrier is not the winning bidder shall receive the following monthly support amounts for such areas:

(A) For 12 months starting the first day of the month following release of a public notice announcing the close of the 5G Fund Phase II auction, the mobile competitive eligible telecommunications carrier shall receive monthly support that is two-thirds (2/3) of the level described in paragraph (e)(6)(ii)(D) of this section for the area.

(B) For 12 months starting the month following the period described in paragraph (e)(7)(iv)(A) of this section, the mobile competitive eligible telecommunications carrier shall receive monthly support that is one-third (1/3) of the level described in paragraph (e)(6)(ii)(D) of this section for the area.

(C) Following the period described in paragraph (e)(7)(iv)(B) of this section, the mobile competitive eligible telecommunications carrier shall not receive monthly support for the area pursuant to this section.

* * * * *

3. Amend §§ 54.322 by:

a. Removing "§ 54.307(e)(5)(ii), (e)(5)(iii), (e)(6)(iii), or (e)(7)(iii)" and adding in its place "§ 54.307(e)(5)(ii) through (iv), (e)(6)(ii)(D), or (e)(7)(iii)" wherever it appears in paragraphs (a) through (c), (d) introductory text, and (j)(1);

b. Revising paragraph (h)(1);

c. Revising paragraph (i)(1)(i);

d. Redesignating paragraph (i)(1)(vi) as new paragraph (i)(1)(viii);

e. Redesignating paragraphs (i)(1)(iv) and (v) as paragraphs (i)(1)(v) and (vi), respectively;

f. Adding new paragraph (i)(1)(iv);

g. Revising newly redesignated paragraphs (i)(1)(v) and (vi);

h. Adding paragraph (i)(1)(vii);

i. Revising paragraphs (k)(2) and (3); and

j. Adding paragraph (l).

The revisions reads as follows:

§ 54.322 Public interest obligations and performance requirements, reporting requirements, and non-compliance mechanisms for mobile legacy high-cost support recipients.

(a) ***General.*** A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) shall deploy voice and broadband data services that meet at least the 5G-NR (New Radio) technology standards developed by the 3rd Generation Partnership Project with Release 15, or any successor release that may be adopted by the Office of Economics and Analytics and the Wireline Competition Bureau after notice and comment.

(b) ***Service milestones and deadlines.*** A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) shall deploy 5G service that meets the performance requirements specified in paragraph (d) of this section to a percentage of the service areas for which the carrier receives monthly support and on a schedule as specified and adopted by the Office of Economics and Analytics and Wireline Competition Bureau after notice and comment.

(c) ***Support usage.*** A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) shall use an increasing percentage of such support for the deployment, maintenance, and operation of mobile networks that provide 5G service as specified in paragraph (a) of this section and that meet the performance requirements specified in paragraph (d) of this section as follows:

(1) ***Year one support usage.*** The carrier shall use at least one-third (1⁄3) of the total monthly support received pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) in calendar year

2021 as specified in paragraph (c) of this section by December 31, 2021.

(2) ***Year two support usage.*** The carrier shall use at least two-thirds (2⁄3) of the total monthly support received pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) in calendar year 2022 as specified in paragraph (c) of this section by December 31, 2022.

(3) ***Year three and subsequent year support usage.*** The carrier shall use all monthly support received pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) as specified in paragraph (c) of this section in 2023 and thereafter.

(4) ***Year one support usage flexibility.*** If the carrier is unable to meet the support usage requirement in paragraph (c)(1) of this section, the carrier shall have the flexibility to instead proportionally increase the support usage requirement in paragraph (c)(2) of this section such that its combined usage of monthly support received pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) in calendar years 2021 and 2022 is equal to the total amount of such support that the carrier receives annually, provided that the carrier certifies to the Wireline Competition Bureau this amount and that it will make up for any shortfall in a filing due by March 31, 2021 or 30 days after Paperwork Reduction Act approval, whichever is later.

(d) ***Performance requirements.*** A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), (e)(6)(iii), or (e)(7)(iii) shall meet the following minimum baseline performance requirements for data speeds, data latency, and data allowances in areas that it has deployed 5G service as specified in paragraph (a) of this section and for which it receives support for at least one plan that it offers:

* * * * *

(h) ***Initial report of current service offerings.*** (1) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5), (e)(6), or (e)(7) shall submit an initial report describing its current service offerings in its subsidized service areas and how the monthly support

it is receiving is being used in such areas no later than three months after December 28, 2020, and Paperwork Reduction Act approval. This report shall include the following information:

* * * * *

(i) * * *

(1) * * *

(i) Except for areas for which the carriers receives monthly support pursuant to § 54.307(e)(6)(ii) or (e)(7)(iv), updated information regarding the carrier's current service offerings in its subsidized service areas for the previous calendar year, including the highest level of technology deployed, a target date for when 5G broadband service meeting the performance requirements specified in paragraph (d) of this section will be deployed within the subsidized service area, and an estimate of the percentage of area covered by 5G deployment meeting the performance requirements specified in paragraph (d) of this section within the subsidized service area;

* * * * *

(iv) Provide the information and certifications required by § 54.313(a);

(v) Certification that the carrier has filed relevant deployment data (either via FCC Form 477 or the Broadband Data Collection, as appropriate) that reflect its current deployment covering its subsidized service areas;

(vi) Certification that the carrier is in compliance with the public interest obligations as set forth in this section and all of the terms and conditions associated with the continued receipt of monthly support;

(vii) Certification as to whether the carrier used any monthly support it receives pursuant to § 54.307(e)(5), (6), or (7) pursuant to § 54.207(f), and if so, whether the carrier used such support in compliance with § 54.7; and

* * * * *

(j) ***Service milestone reports.***

(1) A mobile competitive eligible telecommunications carrier that receives monthly support pursuant to § 54.307(e)(5)(ii), (e)(5)(iii), (e)(5)(iv), (e)(6)(ii)(D), or (e)(7)(iii) shall submit a report after each of the service milestones described in paragraph (b) of this section by the deadlines established by the Office of Economics and Analytics and Wireline Competition Bureau demonstrating that it has deployed 5G service that meets the performance requirements specified in paragraph (d) of this section, which shall include information as required by the Office of Economics and Analytics and Wireline Competition Bureau in a public notice.

* * * * *

(k) * * *

(2) Upon notification by a carrier of its non-compliance pursuant to paragraph (k) of this section, or a determination by the Administrator or Wireline Competition Bureau of a carrier's non-compliance with any of the public interest obligations set forth in paragraphs (e) through (j) of this section or the performance requirements set forth in paragraph (d) of this section, the carrier will be deemed to be in default, and for monthly support received pursuant to § 54.307(e)(5), (e)(6), or (e)(7), will no longer be eligible to receive such support, will receive no further support disbursements, will be subject to a recovery of the amount of support received since December 28, 2020 that was not used for the deployment, maintenance, and operation of mobile networks that provide 5G service as specified in paragraph (c) of this section, and may be subject to recovery of up to the amount of support received since December 28, 2020, other than the amount specified in paragraph (c) of this section, that was not used for the deployment, maintenance, and operation of mobile networks that provide 5G service as specified in paragraph (a) of this section and that meet the performance requirements specified in paragraph (d) of this section. The carrier may also be subject to further action, including the Commission's existing

enforcement procedures and penalties, potential revocation of ETC designation, and suspension or debarment pursuant to § 54.8.

(3) A mobile competitive eligible telecommunications carrier that voluntarily relinquishes receipt of monthly support pursuant to § 54.307(e)(5), (e)(6), or (e)(7) will no longer be required to comply with the public interest obligations specified in this section.

(l) Compliance with paragraphs (b), (g), (h), (i), and (j) of this section will not be required until after the completion of such review by the Office of Management and Budget as the Office of Economics and Analytics and Wireline Competition Bureau deem necessary. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising or removing this paragraph (l).

4. Amend § 54.1011 by revising paragraphs (c), (d), and (e) to read as follows:

§ 54.1011 5G Fund.

* * * * *

(c) Areas eligible for 5G Fund Phase I support will be those areas identified by the Office of Economics and Analytics and Wireline Competition Bureau in a public notice that:

(1) Show a lack of unsubsidized 5G mobile wireless broadband coverage at a download speed of 7 Mbps and an upload speed of 1 Mbps in an outdoor stationary environment by at least one provider based on the mobile broadband coverage maps created by the Commission pursuant to § 1.7008 of this chapter;

(2) Do not contain urban areas, as defined by the U.S. Census Bureau; and

(3) Contain at least one location or at least some portion of a road.

(d) The Commission will incorporate a service-based weighting factor into the 5G Fund auction design that will assign a weight to each geographic area eligible in the 5G Fund Phase I auction using the weighting values adopted by the Office of Economics and Analytics and Wireline Competition Bureau

and announced in a public notice.

(e) The Commission will incorporate an adjustment factor into the methodology for disaggregation of high-cost legacy support pursuant to § 54.307(e)(5)(iii) and (iv) that will assign a weight to each geographic area using the adjustment factor values adopted by the Office of Economics and Analytics and Wireline Competition Bureau and announced in the *Adjustment Factor Values Public Notice*, DA 20-1361.

5. Amend § 54.1012 by adding paragraph (c) to read as follows:

§ 54.1012 Geographic areas eligible for support.

* * * * *

(c) The geographic areas identified as eligible for support in the 5G Fund Phase I auction will be converted, to, and made available in, the form of hexagons at the resolution 9 level (hex-9s) using the H3 standardized geospatial indexing system defined in § 1.7001(a)(20) of this chapter. All eligible hex-9s will then be grouped into census tracts for purposes of bidding in the auction.

(1) The hex-9s that are eligible for 5G Fund support in the 5G Fund Phase I auction will be generated using the following process:

(i) Overlay resolution 11 hexagons (hex-11s) on the "raw" mobile coverage polygons submitted in the Broadband Data Collection for 5G outdoor stationary coverage at speeds of at least 7/1 Mbps on unsubsidized areas, and on urban areas. If the centroid (i.e., the geographic center point) of the hex-11, overlaps any of those boundaries, then the entire hex-11 is considered covered by that boundary and "served."

(ii) Divide the number of served grandchild hex-11s belonging to the grandparent hex-9 by the total number of grandchild hex-11s belonging to the grandparent hex-9 to determine the percentage of the hex-9 that is considered served. The centroid of a hex-11 must fall within the boundary of United States or its

territories to be included in this calculation. For hex-9s with both land and water grandchild hex-11s, only the land hex-11s are considered in this calculation.

(iii) If a "substantial majority" of the grandchild hex-11s belonging to a grandparent hex-9 are served, then the entire hex-9 will be considered served. For purposes of this determination, a "substantial majority" is 70% or more.

(2) After completing the process described in paragraphs (c)(1)(i) through (iii) of this section, any hex-9 that is not considered served and that also contains at least one location or some portion of a road will be eligible for support in the 5G Fund Phase I auction.

6. Amend § 54.1014 by redesignating paragraph (a)(6) as paragraph (a)(7), adding new paragraph (a)(6), and adding new paragraph (c).

The additions read as follows:

§ 54.1014 Application process.

(a) * * *

(6) Certify, under penalty of perjury, that it has read the public notice adopting procedures for the 5G Fund Phase I auction, and that it has familiarized itself with those procedures and any requirements, terms, and conditions associated with receipt of 5G Fund support; and

* * * * *

(c) Compliance with paragraphs (a) and (b)(2) of this section will not be required until after the completion of such review by the Office of Management and Budget as the Office of Economics and

Analytics and Wireline Competition Bureau deem necessary. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising or removing this paragraph (c).

7. Amend § 54.1015 by revising paragraph (c)(1) to read as follows:

§ 54.1015 Public interest obligations and performance requirements for 5G Fund support recipients.

* * * * *

(c) * * *

(1) 35 Mbps download and 3 Mbps upload in an in-vehicle environment, with at least 90 percent of measurements recording these data transmission speeds; and

* * * * *

8. Amend § 54.1018 by:

a. Revising paragraph (a);

b. Redesignating paragraphs (b), (c), (d), (e), and (f) as paragraphs (c), (d), (e), (f), and (g), respectively;

c. Adding new paragraph (b); and

d. Adding new paragraph (h).

The revisions and additions read as follows:

§ 54.1018 Annual Reports.

(a) A 5G Fund support recipient authorized to receive 5G Fund support shall submit an annual report to the Administrator no later than July 1 of each year after the year in which it was authorized to receive support. Each support recipient shall certify in its annual report that it:

(1) Is in compliance with the public interest obligations, performance requirements, and all of the terms and conditions associated with the receipt of 5G Fund support in order to continue receiving 5G Fund support disbursements; and

(2) Has maintained its cybersecurity and supply chain risk management plans pursuant to § 54.1022.

(b) Each 5G Fund support recipient authorized to receive 5G Fund support shall report in its annual report whether it filed any substantive modifications pursuant to § 54.1022(f) in the prior year, and shall report the date it filed any such substantive modifications.

* * * * *

(h) Compliance with paragraphs (a) through (d) and (f) of this section will not be required until after the completion of such review by the Office of Management and Budget as the Office of Economics and Analytics and Wireline Competition Bureau deem necessary. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising or removing this paragraph (h).

9. Amend § 54.1019 by:

a. Revising paragraphs (a)(1) and (2);

b. Removing paragraph (a)(3);

c. Redesignating paragraph (a)(4) as paragraph (a)(3);

d. Revising newly redesignated paragraph (a)(3);

e. Revising paragraphs (b), (c), and (d); and

f. Adding paragraph (e).

The revisions and additions read as follows:

§ 54.1019 Interim service and final service milestone reports.

(a) * * *

(1) Certifications to representative data submitted in the Broadband Data Collection demonstrating mobile transmissions to and from the network that establish compliance with the 5G Fund coverage, speed, and latency requirements;

(2) On-the-ground test data or infrastructure data to substantiate 5G broadband coverage data;

(i) On-the-ground test data must:

(A) Be collected within each selected hexagon in a sample of hexagons at the resolution 9 level selected by Commission staff;

(B) Be conducted pursuant to the testing parameters and metrics for valid on-the-ground tests described in § 1.7006(c)(1)(i) and (ii) of this chapter;

(C) Show that at least 90% of the support recipient's speed test measurements demonstrate that it has deployed service meeting the 5G Fund performance requirements specified in § 54.1015(c) in the area(s) for which the support recipient is authorized to receive 5G Fund support;

(D) Include at least two tests within each of the selected hexagons where the time of the tests are at least four hours apart, irrespective of date, unless the support recipient has, and submits with its speed tests, actual cell loading data for the cell(s) covering the sampled hexagon showing that the median loading, measured in 15-minute intervals, did not exceed the modeled loading factor for the one-week period prior to the submission, in which case the support recipient must submit two speed tests for each hexagon and the two tests need not be recorded four hours apart;

(E) Be conducted in an in-vehicle mobile environment with the antenna located inside the vehicle.

(ii) Infrastructure data must include the information described in § 1.7006(c)(2)(i) of this chapter for all cell sites and antennas within the area(s) for which the support recipient is authorized to receive 5G Fund support;

(3) Additional information as required by Commission staff.

(b) All data submitted and certified to in compliance with a recipient's public interest obligations in the milestone report must be certified by an engineer with the same qualifications as required for submitting the Broadband Data Collection biannual filings described in § 1.7004 of this chapter.

(c) Each service milestone report must be submitted via the Commission's Broadband Data Collection portal.

(d) All data submitted in and certified to in any service milestone report shall be subject to verification by the Administrator and Commission staff for compliance with the 5G Fund performance requirements specified in § 54.1015(c).

(e) Compliance with paragraphs (a)(1) through (3) and (b) of this section will not be required until after the completion of such review by the Office of Management and Budget as the Office of Economics and Analytics and Wireline Competition Bureau deem necessary. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising or removing this paragraph (e).

10. Add § 54.1022 to read as follows:

§ 54.1022 Cybersecurity and supply chain risk requirements.

(a) A 5G Fund support recipient must implement operational cybersecurity and supply chain risk management plans meeting the requirements of this section as a condition of receiving 5G Fund support.

(b) A 5G Fund support recipient must certify that it has implemented plans required under paragraph (a) of this section and submit the plans to the Administrator by the date announced by the Office of Economics and Analytics and the Wireline Competition Bureau in a public notice or within 30 days after approval under the Paperwork Reduction Act, whichever is later.

(c) A 5G Fund support recipient that fails to comply with any 5G Fund cybersecurity or supply chain risk management requirement is subject to the following non-compliance measures:

(1) The Wireline Competition Bureau shall direct the Administrator to withhold 25 percent of the 5G Fund support recipient's monthly support for failure to comply with paragraph (b) of this section until the support recipient makes the required certification and submits the required plans.

(2) At any time during the support term, if a 5G Fund support recipient does not have in place operational cybersecurity and supply chain risk management plans meeting the requirements of this section, the Wireline Competition Bureau shall direct the Administrator to withhold 25 percent of the support recipient's monthly support.

(3) Once the 5G Fund support recipient comes into compliance, the Administrator shall stop withholding support, and the support recipient will receive all of the support that had been withheld pursuant to this section.

(d) A 5G Fund support recipient's cybersecurity risk management plan must reflect at least the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity v.1.1 (2018) (NIST Framework) or any successor version of the NIST Framework, and must reflect established cybersecurity best practices that address each of the Core Functions described in the NIST Framework, such as the standards and controls set forth in the Cybersecurity & Infrastructure Security Agency (CISA) Cybersecurity Cross-sector Performance Goals and Objectives or the Center for Internet Security Critical Security Controls.

(e) A 5G Fund support recipient's supply chain risk management plan must incorporate the key practices discussed in NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry, and related supply chain risk management guidance from NIST 800-161.

(f) If a 5G Fund support recipient makes a substantive modification to a plan under this section, the carrier must file an updated plan with the Administrator within 30 days of making the modification. A modification to a plan under this section is substantive if at least one of the following conditions apply:

(1) There is a change in the plan's scope, including any addition, removal, or significant alternation to the types of risks covered by the plan (e.g., expanding a plan to cover new areas, such as supply chain risks to Internet of Things devices or cloud security, could be a substantive change);

(2) There is a change in the plan's risk mitigation strategies (e.g., implementing a new encryption protocol or deploying a different firewall architecture);

(3) There is a shift in organizational structure (e.g., creating a new information technology department or hiring a Chief Information Security Officer);

(4) There is a shift in the threat landscape prompting the organization to recognize that emergence of new threats or vulnerabilities that were not previously accounted for in the plan;

(5) Updates are made to comply with new cybersecurity regulations, standards, or laws;

(6) Significant changes are made in the supply chain, including offboarding major suppliers or vendors, or shifts in procurement strategies that may impact the security of the supply chain; or

(7) A large-scale technological change is made, including the adoption of new systems or technologies, migrating to a new information technology infrastructure, or significantly changing the information technology architecture.

(g) Compliance with paragraphs (b) and (f) of this section will not be required until after the completion of such review by the Office of Management and Budget as the Office of Economics and Analytics and Wireline Competition Bureau deem necessary. The Commission will publish a document in the *Federal Register* announcing that compliance date and revising or removing this paragraph (g).

APPENDIX B

Supplemental Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was incorporated in the *5G Fund Further Notice of* Proposed *Rulemaking* (*5G Fund FNPRM*), released in September 2023.[2] The Commission prepared Regulatory Flexibility Analyses in connection with the *5G Fund NPRM* and *5G Fund Report and Order*.[3] The Commission sought written public comment on the proposals and issues raised in the *5G Fund NPRM*, and the *5G FNPRM*, including comment on the IRFA, and Supplemental IRFA. No comments were filed addressing the IRFAs. This Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) in the *5G Fund Report and Order* to reflect actions taken in the *5G Fund FNPRM*, and conforms to the RFA.[4]

A. Need for, and Objectives of, the Second Report and Order and Order on Reconsideration

2. We take important and necessary steps in the *5G Fund Second Report and Order and Order on Reconsideration* to implement the framework for the 5G Fund for Rural America (5G Fund) to support the build out of advanced, 5G mobile wireless broadband networks for those who live, work, and travel in rural areas. After over a decade of hard work to reach this pivotal moment, the 5G Fund reflects the Commission's persistent efforts to reform and redirect universal service funds for mobile broadband to areas of the country that need them the most. As we finalize the details for the 5G Fund, we are confident that our conclusions in the *5G Fund Second Report and Order* are solidly grounded in the improved mobile coverage data obtained in the Broadband Data Collection (BDC), which is reflected on our new National Broadband Map and provides us with the most comprehensive picture to date about where mobile broadband service is and is not across the entire country.[5] Unquestionably, the Commission's decision to wait to proceed with a 5G Fund Phase I auction until we had these data to rely on has dramatically improved our understanding of where high-speed mobile broadband service is being provided and has significantly enhanced our ability to hold a successful 5G Fund auction. We are now far better informed regarding which communities lack mobile broadband service.

[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. 857 (1996).

[2] *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Further Notice of Proposed Rulemaking, FCC 23-74, 2023 LEXIS 2941, at *31-32, para. 14 (2023) (*5G Fund FNPRM*).

[3] *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, WT Docket No. 10-208, Notice of Proposed Rulemaking and Order, 35 FCC Rcd 3994, at App. C (2020) (*5G Fund NPRM*); *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Report and Order, 35 FCC Rcd 12174, 12304, at App. B (2020), modified by *Errata* released Nov. 10, 2020, Nov. 27, 2020, and Jan. 11, 2021 (*5G Fund Report and Order*). The Commission received five timely filed petitions for reconsideration of the *5G Fund Report and Order*. *See* The Rural Wireless Association and NTCA – The Rural Broadband Association, Joint Petition for Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); The Coalition of Rural Wireless Carriers, Petition for Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); CTIA, Petition for Partial Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); Smith Bagley, Inc, Petition for Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); 5G Fund Supporters, Petition for Partial Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Nov. 30, 2020); *see also Petitions for Reconsideration of Action in Proceeding*, Public Notice, Report No. 3165 (rel. Jan. 6, 2021).

[4] *See* 5 U.S.C. § 604.

[5] *See National Broadband Map*, https://broadbandmap.fcc.gov/home (last visited Mar. 15, 2024). At the time the *5G Fund Report and Order* was adopted, the BDC was known as the Digital Opportunity Data Collection.

3. As the Commission noted when it adopted the *5G Fund FNPRM*, the National Broadband Map reflects the stark reality that over 14 million homes and businesses nationwide continue to lack access to 5G mobile wireless broadband service. The Commission therefore undertook a tailored effort to refresh the record and reignite the 5G Fund's plan to expand the deployment of 5G service to those rural communities that remain trapped on the wrong side of the digital divide. After careful consideration of the record gathered in this proceeding, we conclude that the determinations we reached in the *5G Fund Second Report and Order and Order on Reconsideration* will best incentivize the deployment of networks providing advanced, 5G mobile wireless broadband in areas of the country where, absent subsidies, such service will continue to be lacking.

4. Specifically, in the *5G Fund Second Report and Order and Order on Reconsideration* we: (1) modify the definition of the areas that will be eligible for 5G Fund support and include areas in Puerto Rico and the U.S. Virgin Islands that meet this eligible area definition in the 5G Fund Phase I auction; (2) increase the budget for Phase I of the 5G Fund and the Tribal reserve budget; (3) modify the metric for accepting and identifying winning bids and adopt a service-based weighting factor for bidding in the 5G Fund Phase I auction; (4) explain how we will aggregate areas eligible for 5G Fund support to minimum geographic areas for bidding; (5) explain our approach to aligning the methodologies for demonstrating compliance with the 5G Fund public interest obligations and performance requirements with those used in the BDC; (6) revise the schedule for transitioning from mobile legacy high-cost support for 5G Fund support consistent with recent legislative amendments; (7) require each 5G Fund Phase I auction applicant to certify, under penalty of perjury, that it has read the public notice adopting procedures for the auction, and that it has familiarized itself with those procedures and any requirements related to the support made available for bidding in the auction; (8) require 5G Fund support recipients to implement cybersecurity and supply chain risk management plans as a condition of receiving support; and (9) encourage 5G Fund support recipients to incorporate Open Radio Access Network (Open RAN) technologies in networks funded through the 5G Fund through the use of incentive funding and an opportunity to seek additional time to meet their 5G Fund public interest obligations and performance requirements by the established service deployment milestones.

5. We also resolve the issues raised in the pending petitions for reconsideration of the Commission's *5G Fund Report and Order*. With the decisions we reach today, we advance the Commission's extensive efforts to modernize high-cost support for mobile broadband services[6] and

[6] Beginning in its 2011 *USF/ICC Transformation Order*, the Commission took numerous steps to comprehensively reform and modernize the universal service program to ensure that robust, affordable, fixed, and mobile broadband service are available to Americans living in rural, insular, and high cost areas of the country. *See Connect America Fund et al.*, WC Docket 10-90 et al., Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*), *aff'd sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). Among other things, the Commission established a two-phased Mobility Fund dedicated to targeting universal service support for mobile services in a cost-effective manner to no more than one provider per area in areas where a private-sector business case was lacking. *See id.* at 17674-75, 17773, 17779, 17819, 17821, paras. 28, 299, 316, 481, 486. In Phase I of the Mobility Fund, which was composed of a general Mobility Fund and a Tribal Mobility Fund, the Commission awarded almost $350 million in one-time universal service support through two reverse auctions. *See 5G Fund Report and Order*, 35 FCC Rcd at 12176-77, para. 6. In 2017, the Commission adopted rules for Mobility Fund Phase II that provided $4.53 billion in ongoing support over a ten-year term, redirected universal service funds to areas of the country unlikely to receive 4G Long Term Evolution (LTE) service absent subsidies, and established the framework for a challenge process to resolve disputes about areas that were found to be presumptively ineligible for support. *See Connect America Fund; Universal Service Reform – Mobility Fund*, WC Docket No. 10-90; WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152, 2154, para. 2 (2017) (*Mobility Fund Phase II Report and Order*); *Connect America Fund; Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, WT Docket No. 10-208, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282 (2017) (requiring mobile wireless providers to submit 4G LTE coverage maps and adopting a process for challenging those coverage maps). After questions arose about the accuracy of the submitted coverage maps, the Commission launched an investigation into the 4G LTE coverage data submitted by some providers and suspended the challenge process pending the investigation. *See* News Release, FCC, FCC Launches Investigation

(continued….)

proceed with confidence that we are stretching our limited universal service fund dollars to support advanced, 5G mobile wireless broadband service to as many areas where Americans live, work and travel as possible.

B. Summary of Significant Issues Raised by Public Comment in Response to the Supplemental IRFA

6. There were no comments filed that specifically addressed the rules and policies presented in the Supplemental IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

7. Pursuant to the Small Business Jobs Act of 2010,[7] which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

8. 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.[8] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[9] In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act.[10] 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.[11]

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into Potential Violations of Mobility Fund Phase II Mapping Rules (Dec. 7, 2018), https://docs.fcc.gov/public/attachments/DOC-355447A1.pdf. Commission staff ultimately determined that the coverage maps submitted by certain carriers overstated actual coverage and did not reflect on-the-ground performance in many instances, and recommended that the Commission terminate the challenge process because the coverage maps were not "a sufficiently reliable or accurate basis upon which to complete the challenge process as it was designed." Rural Broadband Auctions Task Force, Mobility Fund Phase II Coverage Maps Investigation Staff Report at 2, para. 6 (2019), https://docs.fcc.gov/public/attachments/DOC-361165A1.pdf (last visited Mar. 15, 2024) (*Mobility Fund Phase II Coverage Maps Investigation Staff Report*). The Commission proposed, and later established, the 5G Fund as a comprehensive replacement for Mobility Fund Phase II, and adopted the framework and rules for the 5G Fund. *See generally Establishing a 5G Fund for Rural America; Universal Service Reform – Mobility Fund*, GN Docket No. 20-32, WT Docket No. 10-208, Notice of Proposed Rulemaking and Order, 35 FCC Rcd 3994, 3996, para. 2 (2020) (*5G Fund NPRM*); *5G Fund Report and Order,* 35 FCC Rcd 12174.

[7] 5 U.S.C. § 604(a)(3).

[8] *See id.*.

[9] *See* 5 U.S.C. § 601(6).

[10] *See* 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."

[11] *See* 15 U.S.C. § 632.

9. As noted above, Regulatory Flexibility Analyses were incorporated into the *5G Fund NPRM*,[12] the *5G Fund Report and Order*,[13] and the *5G Fund FNPRM*.[14] In those analyses, we described in detail the small entities that might be significantly affected. In this Supplemental FRFA, we hereby incorporate by reference the descriptions and estimates of the number of small entities from the previous Regulatory Flexibility Analyses in the *5G Fund NPRM*,[15] the *5G Fund Report and Order*,[16] and the *5G Fund FNPRM*.[17]

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

10. The *5G Fund Second Report and Order and Order on Reconsideration* modifies some of the compliance requirements adopted in the *5G Report and Order* based on the proposals and/or the other issues on which the Commission sought comment in the *5G Fund FNPRM*. Such modifications could impact the reporting, recordkeeping, and other compliance requirements for small and other providers that receive 5G Fund support.

11. In the *5G Fund Second Report and Order and Order on Reconsideration,* we modify the methodologies by which 5G Fund support recipients must demonstrate compliance with their 5G Fund performance requirements to largely align with those adopted for the BDC verification process. At present, the record contains insufficient information to either quantify compliance costs for small entities as a result of the modified methodologies for 5G Fund support recipients, or determine whether there will be a need for small entities to hire attorneys, engineers, consultants, or other professionals. However, we note that our approach in largely aligning the methodologies for 5G Fund support recipients to demonstrate and report compliance with the 5G Fund performance requirements is likely to ease the burden on small and other 5G Fund support recipients, and afford such support recipients the same flexibilities afforded under the BDC rules to choose which type of verification data to submit.

12. The *5G Fund Second Report and Order and Order on Reconsideration* also adopts a requirement that each 5G Fund support recipient implement cybersecurity and supply chain risk management plans as a condition of receiving 5G Fund support. Cybersecurity risk management plans must reflect at least the National Institute of Standards and Technology's Framework for Improving Critical Infrastructure Cybersecurity v.1.1 (2018) (NIST Framework),[18] or any successor version of the NIST Framework, and must reflect established cybersecurity best practices that address each of the Core Functions described in the NIST Framework, such as the standards and controls set forth in the Cybersecurity & Infrastructure Security Agency (CISA) Cybersecurity Cross-sector Performance Goals and Objectives (CISA CPGs)[19] or the Center for Internet Security Critical Security Controls (CIS Controls).[20] Support recipients' supply chain risk management plans must incorporate the key practices

[12] *5G Fund NPRM* at App. C.

[13] *5G Fund Report and Order* at App. B.

[14] *5G Fund FNPRM* at Appx. A.

[15] *5G Fund NPRM* at App. C.

[16] *5G Fund Report and Order* at App. B.

[17] *5G Fund FNPRM* at App. A.

[18] NIST, Framework for Improving Critical Infrastructure Cybersecurity, v.1.1 (April 16, 2018), https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf.

[19] *See* CISA, *Cross-Sector Cybersecurity Performance Goals and Objectives*, https://www.cisa.gov/cpgs (last visited Mar. 15, 2024).

[20] *See* Center for Internet Security, *Critical Security Controls Version 8,* https://www.cisecurity.org/controls (last visited Mar. 15, 2024) (providing security controls grouped by priority and feasibility for different sizes and resources of businesses in Implementation Groups).

discussed in NISTIR 8276, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry,[21] and related supply chain risk management guidance from NIST 800-161.[22] We also require that a 5G Fund support recipient submit an updated plan to USAC within 30 days after making any substantive modification to its cybersecurity or supply chain risk management plan.[23] 5G Fund support recipients must also certify in their annual report following each subsequent support year that they have maintained their plans, whether they have submitted modifications in the prior year, and the date any modifications were submitted. If at any point during the support term a 5G Fund support recipient does not have in place operational cybersecurity and supply chain risk management plans meeting the Commission's requirements, 25% of the 5G Fund recipient's support will be withheld until the recipient comes into compliance.[24] There were no comments that specifically addressed this modification as presented in the Supplemental IRFA. In addition, the record does not include a detailed cost-benefit analysis that would enable us to quantify compliance costs for small entities, including whether there will be a need for small entities to hire attorneys, engineers, consultants, or other professionals.

13. We note however, that the cybersecurity and supply chain risk management requirements adopted for 5G Fund support recipients in the *5G Fund Second Report and Order and Order on Reconsideration* are designed to mitigate concerns that development and implementation of cybersecurity plans are expensive and time consuming. The requirements therefore afford small and other carriers the flexibility to develop plans that fit within their budgetary constraints, so long as they meet the baseline requirements. Our approach will also likely reduce compliance costs by allowing 5G Fund support recipients that have already implemented the NIST Framework to comply with this requirement without redoing their plans so long as they implement an established set of cybersecurity best practices. To further mitigate costs for small carriers, we also encourage 5G Fund support recipients to take advantage of existing federal government resources designed to share supply chain security risk information with trusted communications providers and suppliers and facilitate the creation of cybersecurity and supply-chain risk management plans.[25]

14. In addition, we adopt a requirement that any applicant seeking to participate in the 5G Fund Phase I auction to certify in its short-form application, under penalty of perjury, that the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with

[21] *See* The White House, Executive Order 14028 (2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/12/executive-order-on-improving-the-nations-cybersecurity/; NIST, Key Practices in Cyber Supply Chain Risk Management: Observations from Industry (2021), https://csrc.nist.gov/publications/detail/nistir/8276/final (last visited Mar. 15, 2024) (presenting the following as key practices: 1) integrating cyber supply chain risk management across the organization; 2) establishing a formal cybersecurity supply chain risk management program; 3) knowing and managing critical components and suppliers; 4) understanding the organization's supply chain; 5) collaborating closely with key suppliers; 6) including key suppliers in resilience and improvement activities; 7) assessing and monitoring throughout the supplier relationship; and 8) planning for the full life cycle).

[22] NIST, Cybersecurity Supply Chain Risk Management Practices for Systems and Organizations (2022), https://csrc.nist.gov/publications/detail/sp/800-161/rev-1/final (last visited Mar. 15, 2024) (identifying critical success factors for cyber supply chain risk management).

[23] *See Enhanced A-CAM Order* at 55, para. 112; *BEAD Program NOFO* at 70-71.

[24] 47 CFR § 54.1015(g) ("A support recipient that fails to comply with public interest obligations or any other terms and conditions associated with receiving 5G Fund support may be subject to action . . . .").

[25] *See* FCC, *Cyber Planner*, https://www.fcc.gov/cyberplanner (last visited Mar. 15, 2024); *see also* FCC, *Cybersecurity for Small Businesses*, https://www.fcc.gov/communications-business-opportunities/cybersecurity-small-businesses (last visited Mar. 14, 2024); CISA, *CISA Cybersecurity Awareness Program Small Business Resources*, https://www.cisa.gov/publication/stopthinkconnect-small-business-resources (last visited Mar. 14, 2024); NIST, *Planning Tools & Workbooks*, https://www.nist.gov/itl/smallbusinesscyber/planning-tools-workbooks (last visited Mar. 15, 2024); *see also* CISA, *ICT Supply Chain Resource Library,* https://www.cisa.gov/ict-supply-chain-resource-library (last visited Mar. 15, 2024). .

the auction procedures and with the requirements, terms, and conditions associated with the receipt of 5G Fund support.[26] As with other certifications required in the short-form application, an applicant's failure to make this required certification in its short-form application by the applicable filing deadline will render its application unacceptable for filing, and its application will be dismissed with prejudice.[27] Typically, the auction procedures inform prospective applicants that they should familiarize themselves with the Commission's general competitive bidding rules, Commission decisions regarding competitive bidding procedures, application requirements, obligations of universal service support recipients, and the Commission's service rules support granted in the auction, and that they must be thoroughly familiar with the procedures, terms, and conditions contained in the public notice adopting procedures for the auction.[28] We therefore do not expect that the adopted certification requirement will increase the need for small entities to hire attorneys, engineers, consultants, or other professionals because it does not increase the level of education or due diligence beyond what was required of applicants prior to the adoption of the certification requirement, and thus it should not increase an applicant's burden in complying with the additional certification requirement.

F. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

15. 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."[29]

16. In the *5G Fund Second Report and Order and Order on Reconsideration*, the Commission adopted rules seeking to balance its proposals in the *5G Fund FNPRM* with proposed alternatives commenters submitted and weighing their benefits against the potential costs to small and other entities. Some key areas of focus addressed in the adopted rules are discussed below.

17. *Definition of Eligible Areas*. The *5G Fund Second Report and Order and Order on Reconsideration* modifies the definition of the areas that will be eligible for 5G Fund Phase I support to be those areas where BDC mobile coverage data show a lack of unsubsidized 5G mobile broadband service at speeds of at least 7/1 Mbps in an outdoor stationary environment by at least one service provider, even if those areas are served by 4G LTE service. The Commission will also apply a service-based weighting factor in 5G Fund Phase I auction bidding to incentivize the deployment of 5G service in areas that lack unsubsidized 4G LTE service. We considered retaining the eligible areas definition adopted in the *5G Fund Report and Order*, however, we believe that this modification to the definition of areas eligible for 5G Fund support ensures that a wide variety of small entities and other interested bidders will have greater flexibility to design a network that matches their business model and that allows service providers to achieve their performance benchmarks and public interest obligations efficiently.

18. *Technology for Determining Eligible Areas.* The Commission considered, as an alternative to defining areas eligible for 5G Fund Phase I support as those where BDC mobile coverage data show a lack of unsubsidized 5G service by at least one service provider, retaining the definition of eligible areas as those areas that lack both unsubsidized 4G LTE and unsubsidized 5G broadband service, as adopted in the *5G Fund Report and Order*. As the Commission noted in the *5G Fund FNPRM*, however, throughout this proceeding, several parties have taken issue with the eligible areas definition,

[26] *See 5G Fund FNPRM* at *75, para. 49.

[27] *See* 47 CFR § 1.21001(f)(2).

[28] *See, e.g.*, *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, WC Docket Nos. 19-126 and 10-90, Public Notice, FCC Rcd 6077, 6081, para. 7 (2020).

[29] 5 U.S.C. § 604(a)(6).

and have advocated that the Commission define as eligible for 5G Fund support any areas that lack unsubsidized 5G mobile broadband service.[30] We expect that small entities and other interested parties will benefit from our modification of the definition of eligible areas because it is likely to increase the total number of areas that are available in a 5G Fund auction and eligible for 5G Fund support, thus creating additional opportunities for them to expand their businesses.

19. *Speed Thresholds for Determining Eligible Areas.* Another alternative the Commission considered was a defining the areas eligible for 5G Fund support as those areas that lack unsubsidized 5G service at a speed threshold of 35/3 Mbps. We conclude that using a speed threshold of 7/1 Mbps for 5G for purposes of determining eligible areas will promote the expansion of 5G coverage to as many areas as possible, while also avoiding the potential for overbuilding in areas where a provider already offers some level of unsubsidized 5G service and could upgrade such service to higher speeds in the future.[31] We further determine that using a speed threshold of 35/3 Mbps to determine eligible areas will result in more areas being eligible for support, taxing the 5G Fund Phase I budget unnecessarily, especially in light of the increased number of eligible areas that we anticipate as a result of our other modifications to the definition. Increasing the number of eligible areas to such a great extent will likely reduce the support that may be available to winning bidders. We believe that defining areas eligible for 5G Fund support as those that lack unsubsidized 5G service at speeds of at least 7/1 Mbps strikes an appropriate balance of increasing the number of areas eligible for support without overly taxing the budget.

20. *Environment for Determining Eligible Areas*. The Commission also considered defining the areas eligible for 5G Fund Phase I support as those areas that lack unsubsidized 5G mobile broadband service at speeds of at least 7/1 Mbps in an in-vehicle environment. We conclude that using coverage maps based on an outdoor stationary environment for purposes of determining areas eligible for the 5G Fund Phase I auction is preferable to using in-vehicle BDC coverage maps because the key parameters for outdoor stationary coverage have been standardized.

21. *5G Fund Budget*. In the *5G Fund Second Report and Order and Order on Reconsideration*, the Commission modified the budget for Phase I of the 5G Fund auction by increasing it to include up to the $1 billion that previously had been allocated to Phase II by the Commission in the *5G Fund Report and Order and Order on Reconsideration*. A number of commenters, some of which include small entities, advocated for an increase in the original budget of $8 billion for Phase I. We conclude that adopting an increased budget for Phase I will benefit all 5G Fund recipients, including those that are small entities. We decline to adopt an alternative approach that would use a cost model to determine the 5G Fund budget, as such an approach would conflict with our interest in awarding support in eligible areas in amounts that are competitive, but still acceptable to providers.

22. *Bidding and Support Price Metric*. In addition, the *5G Fund Second Report and Order and Order on Reconsideration* adopts a bidding and support price metric of dollars per square kilometer that includes a service-based weighting factor that weights bids and support prices based on upon service availability within the area. This service-based weighting factor will distinguish between areas that lack unsubsidized 5G broadband service but have access to unsubsidized 4G LTE service, and areas that lack both 5G and 4G LTE service. We adopt this approach as an alternative to the adjustment factor that was adopted in the *5G Fund Report and Order* for bidding.

23. *Certification of Notice of 5G Fund Phase I Auction Requirements and Procedures.* With respect to the requirement that any applicant seeking to participate in the 5G Fund Phase I auction must certify in its short-form application, under penalty of perjury, that the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements, terms, and conditions associated with the receipt of 5G Fund support, the

[30] *5G Fund FNPRM* at *22-27, para. 10 & nn.26, 27.

[31] The BDC collects 5G coverage areas based on speed thresholds of both 7/1 Mbps and 35/3 Mbps. *See BDC Second Report and Order*, 35 FCC Rcd at 7479-80, para. 45.

Commission has a longstanding policy that expressly places a burden upon each auction applicant to be thoroughly familiar with the procedures, terms, and conditions contained in the relevant auctions procedures public notice and any future public notices that may be released in the auction proceeding.[32]

24. However, the Commission has taken steps to minimize any economic impact of the certification requirement on small entities through the many free resources we provide to potential auction participants. The public notice adopting the procedures for each auction will be posted to the auction's website prior to the opening of the application window, and other relevant orders are available through EDOCS, the Commission's online document database (www.fcc.gov/edocs). We believe that reading these materials will be sufficient for applicants to certify that they have familiarized themselves with the relevant auction procedures and other requirements. The Commission also makes available additional educational materials to help potential auction participants understand the auction process, including short-form filing instructions and a tutorial. Further, we make this information publicly available, easily accessible, and without charge to benefit all potential auction applicants, including small entities, thereby lowering their administrative costs to comply with the Commission's competitive bidding rules.

25. Small entities participating in auctions may also seek clarification of, or guidance regarding, auction procedures, the competitive bidding rules, and any requirements related to the authorizations or support to be made available through the auction from Commission staff prior to each auction's application window. Additionally, an FCC Auctions Hotline provides small entities one-on-one access to Commission staff for information about the auction process and procedures. The FCC Auctions Technical Support Hotline is another resource that provides technical assistance to applicants, including small entities, on issues such as access to or navigation within the electronic short-form application and use of the bidding system.

26. *Cybersecurity and Supply Chain Risk Management*. The Commission also considered, as an alternative approach to the requirement that 5G Fund support recipients submit updated plans within 30 days of making any substantive modifications to those plans, a requirement that plans be updated on an annual basis. We do not believe that the requirement we adopt will impose substantial burdens on 5G Fund support recipients. To the contrary, because this requirement aligns with the requirements adopted other support programs, we believe that small entity 5G Fund support recipients that also participate in those programs will benefit from having a single deadline by which they must submit their reports for each program.

27. In general, the cybersecurity and supply chain risk management requirements we adopted for 5G Fund support recipients are designed to mitigate concerns that development and implementation of cybersecurity plans are expensive and time consuming. The NIST Framework is not a one-size-fits-all approach to cybersecurity and represents a flexible approach that promotes customization and prioritization, allowing organizations to tailor their approach according to specific needs. We therefore afford small and other carriers the flexibility to develop plans that fit within their budgetary constraints, so long as they meet the baseline requirements.

28. *Use of Open Radio Access Network Technologies in 5G Fund Supported Networks*. To promote and incentivize the voluntary inclusion of Open Radio Access Network (Open RAN) technology networks deployed using 5G Fund support, we offer a process whereby a 5G Fund support recipient can seek a limited extension of its 5G Fund interim and final deployment milestones as set forth in section 54.1015(b) of the Commission's rules in order to afford it additional time to deploy Open RAN. Additionally, we allocate up to an additional $900 million of support in conjunction with implementation of the 5G Fund solely for the purpose of incentivizing providers to deploy Open RAN. Specifically, we

[32] *5G Fund FNPRM* at *75-79, para. 50 (citing, as examples, *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, WC Docket Nos. 19-126 and 10-90, Public Notice, FCC Rcd 6077, 6081, para. 7 (2020); *Tribal Mobility Fund Phase I Auction Rescheduled For December 19, 2013; Notice and Filing Requirements and Other Procedures for Auction 902*, AU Docket No. 13-53, Public Notice, 28 FCC Rcd 11628, 11647, para. 53 (2013)).

will allow a winning bidder that is authorized to receive 5G Fund support to apply for additional funding of one-tenth of the total support that the 5G Fund support recipient is authorized to receive to be spent on the deployment of Open RAN, to be awarded in a post-auction process. To receive this additional funding, support recipients must deploy Open RAN technology through their network(s) for which they are authorized to receive 5G Fund support. We direct OEA and WTB to establish a process by which this additional funding may be elected and awarded post-auction in accordance with the parameters set forth in the *5G Fund Second Report and Order*. Additionally, we direct OEA and WTB to establish a process for a 5G Fund support recipient that needs additional time to obtain an extension of up to one year of the interim and final deployment milestones as set forth in section 54.1015(b) if it can demonstrate that it will incorporate Open RAN into its network(s). Alternatives approaches that we considered in determining how best to encourage the use of Open RAN technologies included granting bidding credits to 5G Fund Phase I applicants that agree to use Open RAN technologies in their deployments as well as mandating the use of such technologies in deployments built with 5G Fund support. We concluded that the adopted approach will allow time for the Open RAN specifications to become more settled for the case of a deployment scenario with Open RAN advanced capabilities and also for industry to better address the challenges associated with interoperability and the RAN integration testing. This approach could benefit small providers, many of which have limited resources, by allowing them the flexibility to choose an option that may provide an extension of compliance deadlines.

G. Report to Congress:

29. The Commission will send a copy of the *5G Fund Second Report and Order and Order on Reconsideration*, including this Supplemental FRFA, in a report to Congress.[33] In addition, the Commission will send a copy of the *5G Fund Second Report and Order and Order on Reconsideration*, including this Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *5G Fund Second Report and Order and Order on Reconsideration* and Supplemental FRFA (or summaries thereof) will also be published in the Federal Register.[34]

[33] 5 U.S.C. § 801(a)(1)(A).

[34] *See id*. § 604(b).

APPENDIX C

Supplemental Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Federal Communications Commission (Commission) has prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the Second Further Notice of Proposed Rulemaking (*Second Further Notice*) to supplement the Commission's Regulatory Flexibility Analyses completed in the *5G Fund NPRM, 5G Fund Report and Order*, *5G Fund FNPRM*, and *5G Fund Second Report and Order and Order on Reconsideration*.[2] Written public comment are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments on the *Second Further Notice*. The Commission will send a copy of the *Second Further Notice*, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[3] In addition, the *Second Further Notice* and Supplemental IRFA (or summaries thereof) will be published in the Federal Register.[4]

A. Need for, and Objectives of, the Proposed Rules

2. In the *Second Further Notice*, we seek comment on whether to require a winning bidder in the 5G Fund Phase I auction to demonstrate during the long-form application process, and prior to being authorized to receive support, that it has obtained the consent of the relevant Tribal government(s)[5] for any necessary access to deploy network facilities using its 5G Fund support on Tribal lands within the

[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. 857 (1996).

[2] *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, WT Docket No. 10-208, Notice of Proposed Rulemaking and Order, 35 FCC Rcd 3994, App. C (2020) (*5G Fund NPRM*); *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Report and Order, 35 FCC Rcd 12174, 12304, App. B (2020), modified by *Errata* released Nov. 10, 2020, Nov. 27, 2020, and Jan. 11, 2021 (*5G Fund Report and Order*); *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Further Notice of Proposed Rulemaking, 2023 LEXIS 2941 at App. A (2023); *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Second Report and Order and Order on Reconsideration, GN Docket No. 20-32, FCC 24-[[XX]] (2024) (*5G Fund Second Report and Order and Order on Reconsideration*). The Commission received five timely filed petitions for reconsideration of the *5G Fund Report and Order*. *See* The Rural Wireless Association and NTCA – The Rural Broadband Association, Joint Petition for Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); The Coalition of Rural Wireless Carriers, Petition for Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); CTIA, Petition for Partial Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); Smith Bagley, Inc, Petition for Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Dec. 28, 2020); 5G Fund Supporters, Petition for Partial Reconsideration, *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32 (filed Nov. 30, 2020); *see also* Petitions for Reconsideration of Action in Proceeding, Public Notice, Report No. 3165 (rel. Jan. 6, 2021). The issues raised in each of these petitions are resolved in the *5G Fund Second Report and Order and Order on Reconsideration*.

[3] 5 U.S.C. § 603(a).

[4] *Id.*

[5] For the purposes of a requirement such as this, we follow our long-standing precedent of using the term "Tribal Government" to mean "the recognized government of an Indian Tribe that has been determined eligible to receive services from the Department of Interior, Bureau of Indian Affairs." *Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*, Policy Statement, 16 FCC Rcd 4078, 4080 (2000) (*Policy Statement*). The term "Indian Tribe," in turn, is defined to mean "any Indian or Alaska Native tribe, band, nation, pueblo, village or community which is acknowledged by the federal government to constitute a government-to-government relationship with the United States and eligible for the programs and services established by the United States for Indians." *Id.*

area(s) of its winning bid(s).[6] We seek comment on whether including a Tribal consent requirement would advance the goals of the 5G Fund and would be administratively efficient for all parties and the Commission. We tentatively conclude that adopting a Tribal consent requirement in our 5G Fund rules is consistent with our long-standing recognition that engagement between Tribal governments and communications providers, particularly early engagement, is an important element to promote the successful deployment and provision of service on Tribal lands.[7] In seeking comment on this issue, we ask commenters to provide input on how we can best assess an applicant's eligibility to be authorized to receive 5G Fund support for the purpose of deploying network facilities that would enable 5G mobile broadband service located on Tribal lands, while incorporating Tribal government consent into our approval process.

B. Legal Basis

3. The proposed action is authorized pursuant to sections 4(i), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended,[8] and sections 1.1 and 1.421 of the Commission's rules.[9]

C. Description and Estimate of the Number of Small Entities Impacted 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. As noted above, Regulatory Flexibility Analyses were incorporated into the *5G Fund NPRM, 5G Fund Report and Order*, *5G Fund FNPRM*, and *5G Fund Second Report and Order and*

[6] We recognize that the definition of "Tribal lands" adopted by the Commission for the 5G Fund in the *5G Fund Report and Order* may not fully align with a Tribal Government's jurisdiction for purposes of providing Tribal consent for all of the areas within a particular winning bid. *See 5G Fund Report and Order*, 35 FCC Rcd at 12190-93, para. 40-44 (amending section 54.5 of the Commission's rules to provide "[a] designation process for the 5G Fund that permits expansion of the definition of Tribal lands for the high-cost program upon an appropriate showing that certain areas or communities that fall outside of existing Tribal lands . . . have the same characteristics as exiting Tribal lands," and "designat[ing] three types of off-reservation lands as Tribal lands for purposes of the high-cost program"). In that circumstance, a winning bidder would nonetheless need to obtain Tribal consent for any area(s) within the area of a winning bid for which the relevant Tribal Government has jurisdiction to grant such consent before we would award support for that particular winning bid. .

[7] *See USF/ICC Transformation Order*, 26 FCC Rcd at 17868-69, paras. 636-37; *see also Expanding Broadband Service Through the ACAM Program,* Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 2023 FCC LEXIS 2230, at *152, para. 105 (2023) (*Enhanced A-CAM Report and Order).*

[8] 47 U.S.C. §§ 154(i), 214, 254, 303(r), and 403.

[9] 47 CFR §§ 1.1 and 1.42.

[10] 5 U.S.C. § 603(b)(3).

[11] *See id*. § 601(6).

[12] *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."

[13] 15 U.S.C. § 632.

Order on Reconsideration.[14] In those analyses, we described in detail the small entities that might be significantly affected. In this Supplemental IRFA, we hereby incorporate by reference the descriptions and estimates of the number of small entities from the previous Regulatory Flexibility Analyses in the *5G Fund NPRM, 5G Fund Report and Order, 5G Fund NPRM, 5G Fund Report and Order*, *5G Fund FNPRM*, and *5G Fund Second Report and Order and Order on Reconsideration*.[15]

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

6. In the *5G Fund Report and Order*, the Commission adopted requirements for winning bidders to submit a post-auction long-form application in which they must submit ownership, agreement, and spectrum access information, as well as information about their qualifications, funding, and the networks they intend to use to meet their 5G Fund public interest obligations and performance requirements.[16] In the *Second Further Notice,* we seek comment on whether to add to the existing long-form application requirements a requirement that a winning bidder in the 5G Fund Phase I auction demonstrate during the long-form application process that it has obtained the consent of the relevant Tribal government(s) for any necessary access to deploy network facilities using its 5G Fund support on Tribal lands within the area(s) of its winning bid(s). If the Commission ultimately adopts a rule that would amend its existing rules to require that 5G Fund Phase I auction winning bidders make this demonstration during the long-form application process, it would impact the reporting, recordkeeping, and other compliance requirements for small business and other carriers that apply for 5G Fund support to serve Tribal lands within the area(s) of their winning bid(s).

7. In assessing the cost of compliance for small entities, record does not include a detailed cost-benefit analysis that would allow the Commission to quantify such costs, including whether small entities will be required to hire professionals, and therefore cannot currently quantify the cost of compliance resulting from an adopted requirement that winning bidders demonstrate during the long-form application process that they have obtained the consent of the relevant Tribal government(s) for any necessary access to deploy network facilities using its 5G Fund support on Tribal lands within the area(s) of their winning bid(s). We anticipate, however, that the comments the Commission receives will discuss the compliance costs or burdens resulting from any potential changes to the long-form application rules, and may help the Commission identify and evaluate other relevant compliance matters for small entities associated with this possible requirement, should changes be adopted in this proceeding.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

8. The RFA requires an agency to describe any significant alternatives that could minimize impacts to small entities 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."[17]

9. We have taken steps to minimize any economic impact from a potential requirement that a winning bidder in the 5G Fund Phase I auction demonstrate during the long-form application process

[14] *5G Fund NPRM* at App. C; *5G Fund Report and Order* at App. B; *5G Fund NPRM* at App. A; *5G Fund Second Report and Order and Order on Reconsideration* at App. C.

[15] *5G Fund NPRM* at App. C; *5G Fund Report and Order* at App. B; *5G Fund NPRM* at App. A; *5G Fund Second Report and Order and Order on Reconsideration* at App. C.

[16] 47 CFR § 54.1014(b)(2).

[17] 5 U.S.C. § 603(c).

that it has obtained the consent of the relevant Tribal government(s) for any necessary access to deploy network facilities using its 5G Fund support on Tribal lands within the area(s) of its winning bid(s) on small entities. For example, given the potential challenges that incorporating a Tribal consent requirement might raise in the 5G Fund long-form application process, we seek comment in the *Second Further Notice* on whether we should consider following the same Tribal engagement approach used by the Commission in the Enhanced A-CAM program, rather than adopting a Tribal consent requirement. We also ask in the *Second Further Notice* whether there are other alternatives to a Tribal consent requirement we should consider that would result in more equitable and informed outcomes in connection with using 5G Fund support to fund proposed projects to provide advanced, 5G mobile broadband service using facilities that would be located on Tribal lands that would benefit Tribal communities and serve the public interest.

10. We likewise seek comment in the *Second Further Notice* on how we could structure a potential requirement for a 5G Fund Phase I auction winning bidder to demonstrate during the long-form application process that it has obtained the relevant Tribal government's consent and, for example, whether we should include parameters similar to the those that the Commission includes for a spectrum auction winning bidder that is applying for a Tribal land bidding credit (TLBC) for a 5G Fund winning bidder to demonstrate its compliance with any Tribal consent demonstration requirement we may adopt. We also seek comment on whether, if we were to include parameters similar to the those that the Commission includes for a spectrum auction winning bidder that is applying for a Tribal land bidding credit in any such 5G Fund Tribal consent requirement we may adopt, whether we should include all of the TLBC certification parameters for the purposes of the 5G Fund or, alternatively, whether we should adopt additional or fewer provisions than required for spectrum auction winning bidders seeking a TLBC. Further, we seek comment on how we might be able to incorporate flexibility if we were to adopt a process such as the TLBC certification process in connection with any Tribal consent demonstration requirement we may adopt. Finally, we seek comment whether we should consider requiring something less than Tribal consent of winning bidders (e.g., a different type of engagement than the current requirement in section 54.313(a)(5)).

11. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments and costs and benefits analyses filed in response to the *Second Further Notice*. Our evaluation of this information will shape the final alternatives it considers, the final conclusions it reaches, and any final actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

12. None.

STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL

Re: *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking (August 28, 2024)

There are more than 14 million homes and businesses in the United States that lack access to modern wireless service. There are millions more people who live, work, and travel in these locations and struggle with their mobile connections. So many of the people who spend their time in these communities can tell you with pinpoint accuracy where they can and cannot get a reliable signal. They are frustrated. They see how every day that goes by without service leaves rural areas further behind and at greater risk of being disconnected from modern economic life.

At the Federal Communications Commission we have a choice. We can continue to leave tens of millions of people in this country without reliable wireless service—or we can do something about it.

Today we choose action. We choose to establish the 5G Fund for Rural America because it is time to set out a clear path forward to reach those in this country who lack adequate wireless service. Waiting any longer to modernize our approach to universal service support for wireless communications only consigns communities without signals to many more years on the wrong side of the digital divide.

We are doing this now because for the first time we have comprehensive data about the state of wireless service across the country. To put a finer point on it, we now know exactly where there are mobile dead zones. This is thanks to the extraordinary work of our Broadband Data Task Force, which has carefully used the authority we have under the Broadband DATA Act to map what areas need assistance so we can use this information to direct universal service funding going forward. That means the 5G Fund for Rural America will be data driven like nothing that has come before.

We are doing this now because the universal service support system for wireless communications needs reform. The agency has been calling for modernizing this system since 2011. In the intervening years, mobile connections have only grown more essential, not less. Continuing to rely on a system that was cobbled together for an earlier wireless era and pays for networks in areas where there is already unsubsidized 5G service no longer makes sense.

We are doing this now because the approach we adopt is thoughtful. Thanks to the input of my colleagues, the 5G Fund for Rural America will be structured in a way that offers support to homes, businesses, and roads that lack unsubsidized 5G service and prioritizes deployment of 5G mobile broadband service in areas that lack even 4G LTE service. This makes sure we are reaching both rural areas without service and those that have been shortchanged because they have only the last generation of wireless technology. We also modernize our system to improve cybersecurity and reduce supply chain risk. In addition, to facilitate the development of new secure equipment markets, we incentivize the use of Open Radio Access Networks.

We are doing this now because we have built into this framework the flexibility to take into account enforceable commitments made in other broadband programs. This is important because in the aftermath of the pandemic, Congress created many new ways to support broadband infrastructure, including the Broadband, Equity, Access, and Deployment Program at the Department of Commerce. These funds, which are distributed by states and territories, are designed to support fixed broadband deployment rather than mobile broadband. But our framework allows us to remove areas from the 5G Fund for Rural America if we are presented with evidence of enforceable BEAD commitments to deploy 5G mobile broadband. This prevents duplication and ensures our limited resources stretch further.

There is more work to do in the weeks and months ahead to make dead zones a thing of the past. We will continue to refine our maps so they reflect up-to-date data and challenges to the accuracy of reported coverage from stakeholders, governments, and the public through our new mobile speed test app. We will use decades of auction expertise to develop a state-of-the-art bidding system that will streamline the process for participants. At every step, we will ensure the 5G Fund for Rural America carefully considers the impact of other broadband funding programs so that we can maximize the reach of this effort. But by putting this framework in place now we have a roadmap. It is time to get going and use it so we can build a digital future that works for everyone.

DISSENTING STATEMENT OF
COMMISSIONER BRENDAN CARR

Re: *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking (August 28, 2024)

In 2020, the Commission adopted an order establishing the 5G Fund for Rural America—a $9 billion effort to extend next-generation wireless service to communities across the country. The plan was to start the 5G Fund auction in 2022 and for builds to be underway today.[1] In adopting this plan, the Commission placed particular emphasis on getting the timeline and sequencing right. Specifically, we ensured that the 5G Fund would move forward only after providers knew the results of the then-current fixed broadband funding initiative, known as the Rural Digital Opportunity Fund or RDOF. After all, coordinating the two efforts would lead to synergies for providers and taxpayers alike.

A lot has changed since 2020. As relevant to today's decision, the federal government has opened the spigots wide open for broadband funding. In 2021, most notably, President Biden tasked Vice President Harris with leading the Administration's signature $42 billion plan—the Broadband Equity, Access, and Deployment or BEAD program—to extend Internet infrastructure to millions of Americans. Today, more than 1,000 days since BEAD was enacted, not one person has been connected to the Internet by that program. Indeed, not even one shovel worth of dirt has been turned. And it gets worse. The Administration now says that BEAD deployment will not start until sometime next year at the earliest.

The fact that the Administration's $42 billion BEAD program has gone off the rails is a problem for many reasons. For one, Americans have been left waiting on the wrong side of the digital divide for no reason. For another, the $42 billion program—for better or worse—now serves as the country's foundational broadband funding initiative. Everything else the government does from a broadband infrastructure funding perspective will, by definition, be built on top of BEAD. But BEAD is a faulty foundation. Indeed, there is not even a clear timeline by which we will know when exactly the $42 billion will flow. Nor is there any strategy in place to coordinate the federal government's various broadband funding efforts that are now spread across 15 different agencies and more than 130 funding programs. It is a recipe for overbuilding and wasteful duplication, as the GAO itself has warned.[2]

And that brings us to today's FCC decision, which restarts the process of conducting the $9 billion 5G Fund. As a threshold matter, I cannot support today's decision because it puts the cart before the horse. Unlike our 2020 decision, which aligned with RDOF funding decisions, the Commission is moving forward today before the results of the Administration's $42 billion BEAD program are known.

There are two main problems with the FCC's decision to barrel ahead today. First, it is never wise to build on top of a faulty foundation. So the government's focus today should be on fixing the fundamental flaws with BEAD and getting that program back on track. I have already identified some low-hanging fruit in this regard: Eliminate the BEAD program's DEI requirements, climate change agenda, unlawful price controls, technology preferences, and the wish list of progressive policy goals that

[1] *See Establishing a 5G Fund for Rural America*, Report & Order, 35 FCC Rcd 12174, at paras. 11-15 (2020); *id.* at Statement of FCC Commissioner Brendan Carr ("For a start, [the 5G Fund] builds off of other successful programs, since providers can use existing support to build fixed networks that support 5G. For example, a provider that receives RDOF funding to build out a network could use their previous investment to submit a lower bid in the 5G Fund auction."); *see also* Keynote Remarks of FCC Commissioner Brendan Carr, The American Enterprise Institute, *Extending America's 5G Leadership* (Mar. 15, 2021) (discussing the plan to commence the 5G Fund auction in 2022), https://docs.fcc.gov/public/attachments/DOC-370781A1.pdf.

[2] U.S. Government Accountability Office, *Broadband: National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide*, GAO-22-104611 (May 31, 2022) (*2022 GAO Report*), https://www.gao.gov/assets/gao-22-104611.pdf.

have nothing to do with quickly connecting Americans. Second, the FCC is proceeding without synchronizing the 5G Fund with BEAD. Assuming we get BEAD back on the rails, lining up the two programs' timelines is the only way to ensure that they work with—rather than against—each other.

Moving ahead now with the 5G Fund, without knowing the results of BEAD, will lead to the same types of problems that have plagued the Biden-Harris Administration's other broadband funding initiatives: more overbuilding, more duplication, and less efficient use of taxpayer dollars.

For starters, the results of BEAD—something not expected until 2025 or 2026 at the earliest—will play a key role in the 5G Fund's success. In particular, BEAD funding decisions will inform rational bidding by would-be participants in a 5G Fund reverse auction. Although BEAD subsidizes fixed broadband, it offers promising synergies and potential overlap with the 5G Fund, much like RDOF before it. Indeed, BEAD funds will support fiber backhaul, fixed wireless, and other infrastructure projects that are part and parcel of a mobile broadband network. Wireless carriers can stretch each 5G Fund dollar further—and rationally commit to offer mobile broadband service for less money—if they know where these BEAD funds are flowing, for what technology, and to what ISP. The potential savings from leveraging BEAD investments to deploy 5G are estimated to range from 59% to 83%.[3]

On the other hand, moving ahead with a 5G Fund auction now, before BEAD results are known, would blindfold carriers to the state of future deployment, increase the risk of stranded investment, and raise per-location costs. The risk of stranded investment, in particular, could increase how much money carriers would be willing take to serve a location. Some carriers might forego bidding altogether in locations unserved by mobile broadband—an outcome that would run headlong against our shared goal of connecting Americans. And exorbitant per-location costs caused by stranded investments would deplete the 5G Fund sooner than expected. This is to say nothing about the risk that prematurely running a 5G Fund auction might lead to duplicative funding by subsidizing wireless infrastructure slated to be built with BEAD money. Carriers will think twice if they believe they will be overbuilt.

You do not have to take my word for it. Large and small providers alike have urged the FCC to exercise restraint before moving ahead with the 5G Fund, for many of the same reasons I outlined above.[4] Think about that. The very companies who stand to benefit financially from the 5G Fund have asked the FCC to proceed more slowly to account for BEAD. Likewise, a bicameral letter from members of Congress recently observed that "it is imperative to fully understand where [BEAD] investments will be directed before carriers can meaningfully participate in any 5G Fund auction."[5]

Now, to be sure, today's Order acknowledges these concerns and assures us that the FCC will engage in robust federal coordination before moving ahead with a 5G Fund auction. I appreciate that. But the Order stops far short of ensuring that the 5G Fund will align with key BEAD milestones. In fact, the Order expressly rejects the concerns of wireless carriers and members of Congress that moving ahead with the 5G Fund now would be premature. Plus, there is only so much the FCC can do on this front when the Biden-Harris Administration has refused to adopt a national coordinating strategy for broadband

[3] *See* Letter from Angela Simpson, Competitive Carriers Association, to Marlene Dortch, Secretary, FCC, GN Docket No. 20-32 (Mar. 21, 2024).

[4] *See, e.g.*, Letter from Sean Lev, Counsel to Competitive Carriers Association, to Marlene Dortch, Secretary, FCC, GN Docket No. 20-32, at 18 (Aug. 2, 2024); Letter from Amy Bender, CTIA, to Marlene Dortch, Secretary, FCC, GN Docket No. 20-32 (Apr. 25, 2024); Letter from Brian Hurley, ACA Connects, to Marlene Dortch, Secretary, FCC, GN Docket No. 20-32, at 1 (Apr. 8, 2024).

[5] Letter from the Hon. Robert E. Latta, et *al*., to Jessica Rosenworcel, Chairwoman, FCC, at 1 (Apr. 24, 2024), https://docs.fcc.gov/public/attachments/DOC-403860A1.pdf.

funding programs, even though the GAO recommended that it do so years ago.[6] So, while I appreciate the FCC's assurances that it intends to proceed cautiously, the evidence to date shows that the Administration has more interest in grabbing headlines than doing the actual work necessary to bridge the digital divide. I am concerned that this trend will only continue. I hope I am wrong.

For now, I respectfully dissent.

[6] *See 2022 GAO Report.*

STATEMENT OF
COMMISSIONER GEOFFREY STARKS

Re: *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking (August 28, 2024)

It's clear why this order is so important: when we're talking about wireless connectivity, far too many Americans remain in areas where there are no Gs at all. For communities still lacking services, the consequences can be measured in population declines, lost jobs, and missed opportunities. By making 5G more accessible, this order brings us one step closer toward our shared goal of closing the digital divide, and setting us on a course where all can share in the benefits of connectivity, no matter your zip code.

In particular, I want to thank Chairwoman Rosenworcel for working with me on an issue that's been a pillar of my work at the Commission; Tribal engagement. Thinking critically on how we engage with Tribes is foundational. Having the best process possible will add more certainty and predictability for everyone involved in the 5G Fund. Honoring Tribal sovereignty is an essential part of the deployment process, and leveraging the unique knowledge and experience of Tribal governments will stretch funds further and connect more Tribal lands.

I appreciate the hard work of the staff involved in this item and look forward to continued engagement on this vital effort.

STATEMENT OF
COMMISSIONER ANNA M. GOMEZ

Re: *Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Second Report and Order, Order on Reconsideration and Second Further Notice of Proposed Rulemaking (August 28, 2024)

We all know how important broadband is. The bipartisan efforts across government to support the deployment and adoption of broadband speak to that. Critical among these efforts is the Broadband Data Collection. This effort was spearheaded by the FCC's Broadband Data Task Force, which worked innovatively, collaboratively, and tirelessly with industry and communities to create a broadband map that is both the best we have ever had and perpetually iterative. As a result of that work, we now have a critical tool to identify where the provision of 5G services is lacking.

This order is the next step in a long-term bipartisan undertaking to update and target how limited Universal Service High Cost support resources are used to deliver 5G mobile broadband to rural America. Notably, it is both necessary to move forward and it is not the final step. We make critical decisions in this order that are informed by active engagement with a range of stakeholders that includes consumer advocates, nationwide wireless providers, and many smaller wireless providers that are serving rural America today. This order recognizes both the importance to potential bidders of knowing where the Broadband Equity, Access, and Deployment (BEAD) Program will support fiber deployment and the reality that we cannot wait until every dollar is awarded to start moving this parallel effort forward. The cost of delay to rural consumers has to be part of the equation.

I look forward to continued engagement with stakeholders as we move forward on this important and complex proceeding.

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

In the Matter of	)	
	)	
Spectrum Rules and Policies for the Operation of Unmanned Aircraft Systems	)	WT Docket No. 22-323
	)	

REPORT AND ORDER

Adopted: August 21, 2024 **Released: August 29, 2024**

By the Commission: Chairwoman Rosenworcel and Commissioner Starks issuing separate statements; Commissioner Gomez not participating.

TABLE OF CONTENTS

Heading Paragraph #

I. INTRODUCTION 1
II. BACKGROUND 5
III. DISCUSSION 10
A. Non-Networked Access (NNA) Service Rules 10
1. Designation of Sub-band for NNA Operations 10
2. Scope of Permissible Uses 25
3. Licensing Stations by Rule 38
4. Eligibility 43
5. Creation of a New Part 88 46
6. Technical Requirements 52
7. Equipment Authorization 69
B. Dynamic Frequency Management System 72
1. DFMS Requirements 82
2. DFMS Administrator Requirements 113
3. DFMS and DFMS Administrator Approval Process 120
4. Obtaining an Assignment from a DFMS 125
5. Multi-stakeholder Group 127
6. Interim Access Mechanism 133
C. Compatibility with Other Services 138
1. Microwave Landing Systems 138
2. Radionavigation-satellite Service 143
3. AeroMACS 146
4. Aeronautical Mobile Telemetry 149
5. Mobile Satellite Service Feeder Links 152
6. Radio Astronomy 154
7. Canadian and Mexican Coordination 171
D. Digital Equity and Inclusion 174
IV. PROCEDURAL MATTERS 175
V. ORDERING CLAUSES 182
APPENDIX A — Final Rules
APPENDIX B — Final Regulatory Flexibility Analysis

APPENDIX C — List of Commenters

I. INTRODUCTION

1. Unmanned aircraft system(s) (UAS) are an increasingly prevalent and important technology in the United States. In 2021, there were 2 million UAS in the United States, and, by 2030, that number is anticipated to triple to 6.5 million.[1] This technology has a diverse range of beneficial public and private uses, including aiding in search and rescue missions, assisting law enforcement, helping farmers grow better crops in a more sustainable and cost-effective manner, inspecting infrastructure, gathering news and enhancing the public's access to information, and delivering medicine to rural locations. UASs are becoming more integrated into everyday life, as evidenced by their use in the delivery of consumer packages.[2] Further, the UAS market is projected to grow at a rate of 14.6 percent, and by 2027 is expected to be valued between $29 billion and $54.2 billion.[3]

2. Achieving the extraordinary potential of UAS technology will require integrating UAS operations into the National Airspace System (NAS), including in the controlled airspace in which commercial passenger flights operate and in circumstances with heightened risk, such as flights involving large aircraft or carrying passengers or flights beyond line of sight of the remote pilot. To ensure that these flights are sufficiently safe for routine operation, highly reliable wireless two-way communications for flight control and telemetry are required.

3. In this Report and Order, we enable UAS operators to access dedicated spectrum for control-related communications with the required reliability. Specifically, we adopt new UAS service rules under new rule part 88 that provide operators the ability to obtain direct frequency assignments in a portion of the 5030-5091 MHz band. Under these rules, one or more dynamic frequency management systems (DFMSs) will manage and coordinate access to the spectrum and enable its safe and efficient use, by providing requesting operators with temporary frequency assignments to support UAS control link communications with a level of reliability suitable for operations in controlled airspace and other safety-critical circumstances. To provide this level of safety and reliability, we are adopting technical requirements drawn from minimum operational performance standards that were developed by an aviation industry standards body specifically to support UAS control links in the 5030-5091 MHz band and were approved by the Federal Aviation Administration (FAA) for this purpose. To address concerns regarding the impact of these aeronautical operations on adjacent services, we locate these operations, for now, in the central part of the band, with substantial separation from the bands adjacent to the 5030-5091 MHz band. We find wide support for enabling early, direct access to a portion of the band for protected assignments under DFMS coordination, and anticipate that such access will facilitate the safe integration of UAS operations into the NAS so that the United States can realize the enormous potential benefits that UAS operations can provide.

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[1] International Civil Aviation Organization, *Increased Use of Unmanned Aircraft Systems (UAS), Annual Report 2021*, https://www.icao.int/annual-report-2021/Pages/emerging-and-cross-cutting-aviation-issues-increased-use-of-unmanned-aircraft-systems-uas.aspx (last visited Aug. 19, 2024).

[2] Amazon, *11 Photos of Amazon's New Prime Air Drone That Can Fly in Light Rain and Deliver Packages Up to 5 Pounds in Under an Hour* (Oct. 18, 2023), https://www.aboutamazon.com/news/transportation/amazon-prime-air-drone-delivery-mk30-photos; Walmart, *Walmart and Wing Team Up to Provide the Convenience of Drone Delivery* (Aug. 24, 2023), https://corporate.walmart.com/news/2023/08/24/walmart-and-wing-team-up-to-provide-the-convenience-of-drone-delivery.

[3] International Civil Aviation Organization, *Increased Use of Unmanned Aircraft Systems (UAS), Annual Report 2021*, https://www.icao.int/annual-report-2021/Pages/emerging-and-cross-cutting-aviation-issues-increased-use-of-unmanned-aircraft-systems-uas.aspx (last visited Aug. 19, 2024); IndustryARC, *Unmanned Aircraft Systems Market Overview*, https://www.industryarc.com/Report/15014/unmanned-aircraft-systems-market.html (last visited Aug. 19, 2024); *see also* International Trade Administration, *Unmanned Aircraft Systems*, https://www.trade.gov/unmanned-aircraft-systems (last visited Aug. 19, 2024).

4. As the Federal Communications Commission (Commission or FCC) anticipated in the underlying Notice of Proposed Rulemaking (*UAS NPRM*), we are addressing service rules for UAS operations in the 5030-5091 MHz band in phases.[4] In this initial step, we open a portion of the band for non-networked operations to enable early, low-cost access to the benefits of dedicated spectrum for UAS control communications. We anticipate that subsequent phases will address broader and more intensive use of the band, potentially with the assistance of a Federal Advisory Committee or other efforts to further assess and engage stakeholders on the potential uses of the band and the appropriate regulatory measures to enable such uses, including but not limited to studies pursuant to the implementation of the National Spectrum Strategy.[5] In subsequent phases, we intend to resolve issues including (1) the final band plan for the 5030-5091 MHz band, which may include changing the amount of spectrum designated for non-networked operations or the location in the band of these operations; (2) measures to ensure compatibility between UAS stations operating at and near the edges of the 5030-5091 MHz band and services in adjacent spectrum; and (3) service rules for exclusive-use licenses enabling network-supported services in the band, including the scope of such services.[6] We further intend to continue close coordination with our federal partners, including the FAA and the National Telecommunications and Information Administration (NTIA), to ensure that UAS operations supported by this band remain compatible with aviation safety concerns, and to develop an appropriate long-term framework for the accommodation of federal agencies seeking access to the federal allocation in the band for their own UAS operations.

II. BACKGROUND

5. At the 2012 World Radiocommunication Conference (WRC-12), the United States proposed that the 5030-5091 MHz band be allocated to the aeronautical mobile (route) service (AM(R)S) on a primary basis in order to support terrestrial control links for UAS.[7] Consistent with the United States

[4] *See Spectrum Rules and Policies for the Operation of Unmanned Aircraft Systems*, WT Docket No. 22-323, Notice of Proposed Rulemaking, 38 FCC Rcd 474, 475, para. 2 (2023) (*UAS NPRM*) ("[W]e anticipate that service rules sufficient to facilitate UAS operations will likely require development in phases"); *see also id.* at 485, para. 23.

[5] *See* Federal Advisory Committee Act, Pub. L. No. 92-463, 86 Stat. 770 (1972) (codified at 5 U.S.C. § 1001 *et seq.*); NTIA, National Spectrum Strategy at 6 (2023), https://www.ntia.gov/sites/default/files/publications/national_spectrum_strategy_final.pdf. The National Spectrum Strategy stated that, following near-term Commission action to facilitate limited deployment of UAS in the 5030-5091 MHz band, "this 61 megahertz of spectrum will be studied so that the FCC can optimize UAS spectrum access across the band while avoiding harmful interference to other protected in-band and adjacent-band operations." *Id.*

[6] We will also address at a later time those issues raised in the *UAS NPRM* regarding the use of flexible-use spectrum and existing networks as platforms for UAS operations. Given the evolving use of flexible-use spectrum for UAS operations reflected in the record, we believe that continuing review is advisable. *See* AERPAW Comments at 4-5 (stating that more detailed studies are necessary to understand interference patterns for different bands, altitudes, and scenarios). We anticipate that further experience with such operations as well as developing standards work to integrate UAS operations will help to illuminate whether any additional measures are warranted to promote compatibility between UAS operations and other uses, and conversely whether the aeronautical restrictions that currently prevent UAS operations in certain bands should be relaxed. In addition, we defer action on whether to authorize ground station licenses for UAS operators in the aeronautical VHF band (117.975 MHz -137 MHz) that would enable such operators to communicate directly with Air Traffic Control (ATC). We find that further consideration, including coordination with the FAA, is warranted before taking action on this issue given the critical nature of the aeronautical VHF band, the potential impacts of permitting a ground-based license on that band, and the potential for the nascent option of ATC relay to make a ground station VHF license unnecessary. For the present, UAS operators that require authorization for ground-based VHF radios to meet an FAA flight condition or for other valid reasons may continue to request it through the waiver process as before.

[7] *See Amendment of Parts 1, 2, 15, 25, 27, 74, 78, 80, 87, 90, 97, and 101 of the Commission's Rules Regarding Implementation of the Final Acts of the World Radiocommunication Conference (Geneva, 2007) (WRC-07), Other Allocation Issues, and Related Rule Updates et al.*, ET Docket No. 12-338 et al., Report and Order, Order, and Notice of Proposed Rulemaking, 30 FCC Rcd 4183, 4263, para. 225 (2015) (*WRC-12 NPRM*).

proposal, WRC-12 allocated the 5030-5091 MHz band internationally to the AM(R)S on a primary basis in all Regions.[8]

6. In 2017, the Commission mirrored the WRC-12 allocation in its rules, allocating the 5030-5091 MHz band to the aeronautical mobile route service (AM(R)S) on a primary basis for both federal and non-federal use.[9] The Commission found that adopting the new AM(R)S allocation would "support the anticipated growth of UAS and promote their safe operation."[10] The Commission stated that "[t]echnical and operational rules relating to altitude, weight, or other requirements will be addressed in the service rules for this band, which will be promulgated in a separate proceeding."[11]

7. On February 8, 2018, the Aerospace Industries Association (AIA) filed a petition for rulemaking recommending licensing and service rules for control-and-non-payload communications (CNPC) links in the 5030-5091 MHz band to support UAS operations in the United States (AIA Petition).[12] The Commission put the AIA Petition out for comment on April 26, 2018.[13] The Wireless Telecommunications Bureau (WTB) sought further comment in a *Refresh Public Notice* on August 20, 2021.[14]

8. On January 4, 2023, the Commission released a Notice of Proposed Rulemaking (*UAS NPRM*) that, *inter alia*, sought comment on service rules for the 5030-5091 MHz band that would provide UAS operators spectrum access with the reliability necessary to support safety-critical UAS communications links.[15] The Commission proposed definitions for key terms including UA, UAS, and CNPC, and sought comment on an appropriate band plan for communications to support the growth and safety of UAS operations.[16] In particular, the Commission proposed to partition the band between two different use cases, Non-Networked Access (NNA), in which spectrum would be available and governed by rules appropriate to support direct, non-networked communications links, and Network Supported

[8] *See WRC-12 NPRM*, 30 FCC Rcd at 4263, para. 226.

[9] *See Amendment of Parts 2, 15, 80, 90, 97, and 101 of the Commission's Rules Regarding Implementation of the Final Acts of the World Radiocommunication Conference (Geneva, 2012)(WRC-12), Other Allocation Issues, and Related Rule Updates*, ET Docket No. 15-99, Report and Order, 32 FCC Rcd 2703, 2717, paras. 41, 42 (2017) (*WRC-12 R&O*). Under the Commission rules, "AM(R)S" is defined as "[a]n aeronautical mobile service reserved for communications relating to safety and regularity of flight, primarily along national or international civil air routes." 47 CFR § 2.1(c). The Commission defines the term "aeronautical mobile service," in relevant part, as "[a] mobile service between aeronautical stations and aircraft stations, or between aircraft stations[.]" *Id.* An aeronautical station is defined as "[a] land station in the aeronautical mobile service." *Id.* An aircraft station is defined as "[a] mobile station in the aeronautical mobile service, other than a survival craft station, located on board an aircraft." *Id*.

[10] *See WRC-12 R&O*, 32 FCC Rcd at 2717, para. 42; *see also id.* at 2704, para. 1 (stating that "AM(R)S use of the 5030-5091 MHz band will support unmanned aircraft systems").

[11] *See WRC-12 R&O*, 32 FCC Rcd at 2717, para. 42.

[12] *See* Petition of AIA for Rulemaking to Adopt Service Rules for Unmanned Aircraft Systems ("UAS") Command and Control in the 5030-5091 MHz Band, RM-11798 (filed Feb. 8, 2018) (AIA Petition).

[13] *See Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemakings Filed*, Public Notice, Report No. 3089 (CGB Apr. 26, 2018), https://docs.fcc.gov/public/attachments/DOC-350441A1.pdf; *see also* Docket No. RM-11798.

[14] *See Wireless Telecommunications Bureau Seeks to Refresh the Record on Unmanned Aircraft Systems Use of the 5 GHz Band*, RM-11798, Public Notice, 36 FCC Rcd 12706 (WTB 2021) (*Refresh Public Notice*). We refer to comments filed in response to the *Refresh Public Notice* as *Refresh Public Notice* Comments and a filed reply as *Refresh Public Notice* Reply.

[15] *See, generally*, *UAS NPRM*.

[16] *See id.* at 481-86, paras. 13-25.

Service (NSS), in which the spectrum would be available under rules appropriate for the provision of commercial network services supporting UAS control links.[17]

9. With regard to NNA, the Commission proposed or sought comment on rules governing scope of permissible services, eligibility, and technical rules, and also proposed to implement a license-by-rule authorization for both aircraft and ground stations.[18] It further sought comment on whether to locate these rules in a new rule part or in an existing part such as part 87, and on the potential application of existing rules governing Wireless Radio Services or Aviation Services.[19] The Commission proposed that spectrum access by NNA operators be managed by one or more dynamic frequency management systems (DFMSs).[20] Under this proposal, a UAS operator seeking NNA spectrum for a particular UAS operation would submit a frequency assignment request to a DFMS, which would then assign to the requesting operator, through an automated process, protected use of certain frequencies for a particular geographic area and time period tailored to the operator's submitted flight plan.[21] In response to the *UAS NPRM*, the Commission received 51 comments and 16 reply comments.[22]

III. DISCUSSION

A. Non-Networked Access (NNA) Service Rules

1. Designation of Sub-band for NNA Operations

10. In the *UAS NPRM*, the Commission proposed to adopt certain band and service rule definitions, including definitions for unmanned aircraft systems and unmanned aircraft, as well as other terms, including non-networked access operations, and control and non-payload communications.[23] Noting consistency with FAA definitions, the Commission proposed to define an unmanned aircraft system as "an unmanned aircraft (UA) and its associated elements (including communication links and the components that control the UA) that are required for the safe and efficient operation of the UA in the airspace of the United States," and an unmanned aircraft as "an aircraft operated without the possibility of direct human intervention from within or on the aircraft."[24]

11. We conclude that it is appropriate to adopt these definitions. As noted, these definitions are consistent with those used by the FAA,[25] and are also consistent with statutory definitions of these terms.[26] Further, there was no opposition to these definitions in the record. Accordingly, we will adopt our proposed definitions. We acknowledge, however, as noted by AIA and other commenters, that the UAS umbrella, and the definitions we adopt today, can encompass a variety of operations, including

[17] *See id.* at 481-82, paras. 13-16.

[18] *See id.* at 495-505, paras. 47-69.

[19] *See id.* at 505-07, paras. 70-73.

[20] *See id.* at 486-87, para. 26.

[21] *See id.* at 486, para. 26.

[22] Parties that filed comments and replies in the proceeding are listed in Appendix C.

[23] *See UAS NPRM*, 38 FCC Rcd at 481, para. 13.

[24] *Id.*

[25] *See* 14 CFR § 1.1 (defining "unmanned aircraft" as "an aircraft operated without the possibility of direct human intervention from within or on the aircraft" and "unmanned aircraft system" as "an unmanned aircraft and its associated elements (including communication links and the components that control the unmanned aircraft) that are required for the safe and efficient operation of the unmanned aircraft in the airspace of the United States").

[26] 49 U.S.C. § 44801(11), (12) (defining "unmanned aircraft" and "unmanned aircraft system"); *see* FAA Modernization and Reform Act of 2012, Pub. L. 112-95, § 331(8).

Urban Air Mobility and Advanced Air Mobility.[27] We find that we do not need to distinguish among such operations in the rules at this time.[28] Additionally, AIA advocates for expanding the definition of unmanned aircraft to include "Optionally Piloted Aircraft" when operated without a pilot on board, but does not provide an explanation for doing so.[29] Because it is not clear how and in what circumstances this term applies, and because such operations would seem to fall within the scope of the definitions adopted herein, we decline to add this term to the definition of unmanned aircraft.

12. However, while we adopt these definitions as proposed, we find it in the public interest to revise the terminology. Certain commenters advocate changing "unmanned" to "uncrewed." For example, in its comments, AIA proposes that we use the phrase "uncrewed aircraft systems" and "uncrewed aircraft" as opposed to "unmanned aircraft systems" or "unmanned aircraft."[30] AIA argues that the "uncrewed" terminology is more inclusive and better describes use cases for carrying passengers on board remotely piloted aircraft.[31] Similarly, uAvionix supports the use of "uncrewed."[32] While others in the record do not expressly request the adoption of the term, several of the commenters use "uncrewed" in place of "unmanned" in their comments.[33] Further, there appears to be increasing use of "uncrewed" by others in industry as well as by governmental entities. For example, certain standards bodies such as RTCA, Inc. (RTCA) and 3rd Generation Partnership Project (3GPP) are increasingly using "uncrewed" rather than "unmanned,"[34] and certain federal agencies such as the National Oceanic & Atmospheric Administration have adopted the term.[35] We agree that the term "uncrewed" is more inclusive and could better reflect future use cases for the spectrum, such as uncrewed passenger flights, and thus find that it is

[27] AIA Comments at 9 ("Other terms used by the UAS community, such as Urban Air Mobility ('UAM') and AAM refer to specific roles and operating environments that fall under the UAS umbrella. Similarly, Small UAS ('SUAS') are differentiated by the size of the aircraft (usually defined as under 55 lbs. operating weight), and in many cases are subject to different operating and authorization rules.").

[28] *See* AIA Comments at 9 (stating that "[t]hese subdivisions of UAS need not be considered separately in this proceeding").

[29] AIA Comments at 9.

[30] AIA Comments at 8-9.

[31] AIA Comments at 8-9.

[32] *See* uAvionix Comments at 10, n.15 (supporting the substance of the Commission's proposed definitions of "unmanned aircraft" and "unmanned aircraft system," but preferring the use of gender-neutral terms "uncrewed aircraft" and "uncrewed aircraft system.").

[33] *See generally* AIA Comments; AURA Comments; AUSVI Comments; CDA Comments; Inmarsat Comments; Lockheed Martin Comments; NUAIR Comments; MAAP Comments; Pyka Comments; Zipline Comments; AURA Reply; CTIA Reply; uAvionix Reply.

[34] For example, RTCA's Special Committee 228 has changed its committee name to "SC-228, Minimum Performance Standards for Uncrewed Aircraft Systems" and has begun using the term "uncrewed" in committee documents. *See* SC-228, Minimum Performance Standards for Uncrewed Aircraft Systems, https://www.rtca.org/sc-228/ (last visited Aug. 19, 2024); *see also* 3rd Generation Partnership Project; Technical Specification Group Services and System Aspects; Support of Uncrewed Aerial Systems (UAS) connectivity, identification and tracking, Stage 2 (Release 18); 3GPP TS 23.256 V18.2.0 (2023-12). The 3rd Generation Partnership Project (3GPP) is an umbrella organization consisting of standards organizations that develop protocols for mobile telecommunications, including the Long-Term Evolution standard (LTE). *See* 3GPP, *Introducing 3GPP*, https://www.3gpp.org/about-3gpp/about-3gpp (last visited Aug. 19, 2024).

[35] *See, e.g.*, National Oceanic and Atmospheric Administration, *Uncrewed Aircraft Systems*, https://www.omao.noaa.gov/uxs/uncrewed-aircraft-systems (last visited Aug. 19, 2024); U.S. Department of Interior, *DOI Uncrewed Aircraft Systems*, https://www.doi.gov/aviation/uas (last visited Aug. 19, 2024); National Institute of Standards and Technology, *Uncrewed Aircraft Systems*, https://www.nist.gov/ctl/pscr/research-portfolios/uncrewed-aircraft-systems (last visited Aug. 19, 2024).

appropriate to substitute "uncrewed" in place of "unmanned." We therefore adopt the use of "uncrewed aircraft system" and "uncrewed aircraft" in place of "unmanned aircraft system" and "unmanned aircraft," respectively.[36]

13. In the *UAS NPRM*, the Commission identified two broad use cases for determining the appropriate band plan and service rules: non-networked operations, or those communications occurring within radio line of sight, and network-supported services, which rely on network infrastructure to go beyond radio line of sight of the operator.[37] The Commission proposed establishing the term Non-Networked Access (NNA) to "indicate spectrum or licenses (e.g., NNA blocks) that would be governed by service rules appropriate to support non-networked communications."[38] The *UAS NPRM* further proposed the use of "Network-Supported Services" (NSS) to indicate that the relevant spectrum or licenses would be governed by service rules appropriate to support the provision of networked-based services.[39] The Commission also proposed "to use NNA and NSS in the rules to designate the spectrum allocated for non-networked and network-supported use cases, respectively."[40]

14. AURA and others argue against the Commission's proposal to divide the spectrum into NNA and NSS blocks, instead suggesting that the Commission should divide the band by license type along exclusive use and shared use lines and allow both non-networked and network-based services in all portions of the band.[41] Both AURA and Federated Wireless argue that "a rigid limitation on the type of network deployed and service offered is unnecessary" and that "instead, the Commission should maximize flexibility to provide a variety of services within the confines of the exclusive use or shared spectrum rules."[42] Other commenters also stress permitting operators flexibility to choose the type of operations they wish within a shared use band. Boeing/Wisk, for example, argue that making spectrum blocks available based on license exclusivity will help realize the full potential of the 5030-5091 MHz for the UAS industry.[43] They assert that the flexibility afforded throughout the band will allow industry demand to dictate whether operations will occur over networked sites or direct links, leading to a more efficient use of spectrum.[44] At this time, we decline to adopt this suggestion to re-frame the spectrum blocks for this band. Our goal for this band is to allocate the 5030-5091 MHz band in a way that fosters the establishment of networks to support complex UAS deployment, yet does not leave behind relatively simpler, short term-use interests. The purpose in setting out an NNA-specific block is to ensure that non-networked, direct link operations have ready access to dedicated, safety-of-flight spectrum. As noted,

[36] While we change the terminology, the substance of the definitions remains consistent with FAA and statutory definitions for "unmanned aircraft" and "unmanned aircraft systems" as discussed above.

[37] *UAS NPRM*, 38 FCC Rcd at 481, para. 13. References to "line of sight" in this context correspond to radio line of sight. This is in contrast to FAA regulations, which consider whether UAS operations are within visual line of sight rather than radio line of sight. *See* 14 CFR § 107.31. As noted in the *UAS NPRM*, the concept of radio line of sight is relevant in this context because the suitability of the different licensing approaches we consider here (direct link connections as opposed to network-based connections) appears to depend to a greater extent on whether an operation is within radio line of sight of the operator than on whether or not an operation is in visual sight of the operator. A UA that is beyond-visual line of sight but within radio line of sight can still be controlled by a direct wireless link between the controller's radio and the UA. *See UAS NPRM*, 38 FCC Rcd at 481 n.39.

[38] *UAS NPRM*, 38 FCC Rcd at 482, para. 14.

[39] *Id.*

[40] *Id.*

[41] *See* AURA Comments at 11; *see also* AIA Comments at 9-10; Boeing/Wisk Comments at 3; Federated Wireless Comments at 15.

[42] AURA Comments at 11; Federated Wireless Comments at 15.

[43] Boeing/Wisk Comments at 15.

[44] Boeing/Wisk Comments at 15-16.

there is a limited amount of such channels; organizing spectrum in a way that would permit any type of use may complicate the process by which NNA operations access the 5030-5091 MHz band. Without prioritizing non-networked uses within a portion of the band, the ability of a non-networked operator to easily access protected spectrum may be hindered. We therefore find it in the public interest for Non-Networked Access to indicate spectrum or licenses that would be governed by service rules that both support and prioritize direct link operations as well as to designate an initial block of spectrum for non-networked use cases. We note, however, that the measures taken in this Report and Order are initial steps; as we gain additional experience through initial operations and develop final rules for this band, we may determine that it is in the public interest to provide greater flexibility with regard to NNA spectrum. Further, although the rules we adopt in this Report and Order relate to NNA operations, we find that it is appropriate for Network-Supported Services to indicate spectrum or licenses that would be governed by service rules appropriate to support the provision of network-based services.

15. Additionally, the *UAS NPRM* sought comment on a suggestion made by AIA that we adopt the RTCA terminology for these uses.[45] Specifically, RTCA uses the term "point-to-point" for non-networked communications, and "Command-and-Control Communications Service Providers" to describe network-supported services.[46] The NPRM tentatively concluded that the NPRM's proposed terminology is more descriptive of the use cases that the Commission seeks to support.[47] After further review, we decline to use the RTCA terminology. As the Commission observed, the "non-networked access" and "network supported services" terms more accurately reflect the intended services.[48] Further, as noted by the *UAS NPRM*, the term "point-to-point" has long been used in Commission rules and orders to reference systems providing a data communication link between two fixed stations, and the use of the term may cause confusion if applied to UAS. We find it problematic to apply the same term to two different and somewhat opposing uses (i.e. the historical, strictly fixed use versus operations where one end point is highly mobile). Accordingly, we adopt the Non-Networked Access and Network-Supported Service terms as discussed above.

16. *NNA Block Configuration.* The *UAS NPRM* sought broad comment on the appropriate configuration for the 5030-5091 MHz band.[49] The Commission suggested, as an example, a band plan which would dedicate 10 megahertz of spectrum for NNA operations, with five megahertz blocks at the bottom (5030-5035 MHz) and top (5086-5091 MHz) of the band.[50] This band plan would set aside 40 megahertz of spectrum for NSS operations, divided into four licensed blocks of 10 megahertz each, with NNA opportunistic access being permissible.[51] The remaining 11 megahertz would be available for temporary, opportunistic use by either NNA users or NSS licensees.[52] The *UAS NPRM* also sought comment on two industry-submitted proposals:

- AIA's proposal that the Commission allocate and license the 51 megahertz between 5035 MHz and 5086 MHz on a geographic area basis in a phased, incremental manner over a period of years,[53] and

[45] *UAS NPRM*, 38 FCC Rcd at 482, para. 15.

[46] *Id.* (citing AIA *Refresh Public Notice* Comments at 5).

[47] *Id.*

[48] *Id.*

[49] *UAS NPRM*, 38 FCC Rcd at 481-86, paras. 13-25.

[50] *UAS NPRM*, 38 FCC Rcd at 484, para. 22.

[51] *Id.*

[52] *Id.*

[53] *UAS NPRM*, 38 FCC Rcd at 485, para. 23 (citing Letter from Karina Perez, Director, Unmanned and Emerging Aviation Technologies, Aerospace Industries Association, to Marlene Dortch, Secretary, FCC, RM-11798, at 1 (continued….)

- Qualcomm's recommendation that 20 megahertz of spectrum be allocated for direct UA-to-UA communications (including Detect-and-Avoid (DAA) and Broadcast Remote ID uses), with the remaining 41 megahertz of spectrum in the band to be licensed to network providers for NSS CNPC services.[54]

Additionally, the *UAS NPRM* sought comment on whether the Commission should establish internal guard bands between blocks, or whether appropriate technical rules may be relied upon to ensure that UAS operations in one block do not cause harmful interference to adjacent blocks.[55] The Commission also sought comment on whether guard bands at the ends of the 5030-5091 MHz band are necessary to protect operations in adjacent spectrum.[56]

17. Review of the industry comments submitted in response to the Commission's example band plan reveals a lack of agreement on many aspects of the band plan, with commenters divided on issues such as the distribution between NNA and NSS operations in the band, placement of services within the band, as well as size of spectrum blocks. As the record reflects, industry opinion is continuing to evolve regarding the appropriate uses and technologies for the band. Although we have determined that it is premature to establish a permanent band plan in light of continuing developments and evolution of the industry, there is sufficient record support and basis to enable us to establish rules to allow early access for non-networked, direct link operations without compromising any future action the Commission may take with respect to UAS operations in the 5030-5091 MHz band.[57] We thus establish a temporary placement for NNA operation—with a permanent band plan, including final locations for NNA and NSS as well as potential provisions for opportunistic use by NNA users or NSS licensees, to be resolved in the future. As one example, as we gain more insight into industry utilization of and congestion in the block we dedicate for NNA, our permanent band plan may revisit the possibility of more flexible use (*e.g.*, NSS operations) in that block.

(Continued from previous page)
(filed Sept. 14, 2021) (AIA Sept. 14, 2021 *Ex Parte*); Letter from Karina Perez Molina, Director, Unmanned and Emerging Aviation Technologies, Aerospace Industries Association, to Marlene Dortch, Secretary, FCC, RM-11798 (filed Feb. 1, 2022) (AIA Feb. 1, 2022 *Ex Parte*), Attach. at 6-7 (arguing that "[a] phased implementation preserves large sections of the band for future licensing or use," with the opportunity to open the band to new uses and updated technologies and standards)).

[54] *UAS NPRM*, 38 FCC Rcd at 485-486, para. 24 (referencing Qualcomm *Refresh Public Notice* Comments at 1). DAA involves a range of still-developing technologies to enable UAS or their operators to detect other aircraft or structures and avoid collisions. *See, e.g.*, S. Ramasamy & R. Sabatini, A Novel Approach to Cooperative and Non-Cooperative RPAS Detect-and-Avoid, SAE Technical Paper 2015-01-2470, at 1 (Sept. 15, 2015), available at https://www.sae.org/publications/technical-papers/content/2015-01-2470/ (last visited Aug. 19, 2024). DAA can rely on transmissions in a variety of ground-based or aircraft-based implementations, for example non-cooperative detection methods such as on-board sensors or cooperative methods that involve the communication between UAS to facilitate cooperative collision avoidance. *See id.* Remote ID, as required by FAA rules is the ability of a UA in flight to broadcast identification and location information that can be received by other parties. *See* FAA, *Remote Identification of Drones*, https://www.faa.gov/uas/getting_started/remote_id/ (last visited Aug. 19, 2024). FAA rules currently require Remote ID to be broadcast using devices authorized under the Commission's part 15 rules. *See* 14 CFR § 89.320(g).

[55] *UAS NPRM*, 38 FCC Rcd at 486, para. 25.

[56] *Id.*

[57] As discussed above, the 5030-5091 MHz band is allocated to AM(R)S for both federal and non-federal use. We defer addressing a comprehensive framework for federal and non-federal sharing of the band, given that we are designating only a portion of the band for NNA, and that even in this portion, federal agencies may continue use of the spectrum for federal UAS operations subject to the coordination process discussed elsewhere. *See infra* Section III.B.6.

18. In response to the *UAS NPRM*'s proposal to dedicate 10 megahertz for NNA operations, commenters submitted comments supporting a wide range of spectrum block sizes. For example, while Lockheed Martin, UTC, and Verizon support a 10 megahertz NNA block,[58] AURA and Federated Wireless advocate for 5 megahertz in the context of "shared use" spectrum along with the ability to aggregate spectrum blocks.[59] Similarly, Boeing/Wisk state that they would support segments as small as 5 megahertz (with aggregation of blocks permitted),[60] while ENTELEC/API seek a 20 megahertz NNA segment divided into four 5-megahertz blocks.[61] Further, uAvionix supports NNA block sizes of 2.5 megahertz,[62] arguing that narrowing the block size "increase[s] the options available for channel availability and accessibility across the entire band, meaning that more UAS operators could take advantage of the availability of safety-critical spectrum."[63] Moreover, both AURA and Federated Wireless support the idea of using one or more Dynamic Frequency Management Systems (DFMSs) and argue that the DFMS should be allowed to authorize the appropriate amount of bandwidth requested for each operation.[64]

19. We find that these comments align with the proposal to dedicate 10 megahertz of spectrum for NNA operations. In allotting 10 megahertz for near-term NNA access, we are not mandating that 10 megahertz of spectrum be assigned for each NNA operation. As both AURA and Federated Wireless suggest, we would expect a DFMS to be able to determine the applicable amount of spectrum sufficient for a given operation.[65] We anticipate that a DFMS will be able to accommodate varying spectrum bandwidths for an operation—including those identified by commenters—depending on the availability of frequencies at the time and location of the specific operation. Accordingly, we find that making available 10 megahertz within the 5030-5091 MHz band will adequately meet spectrum demands by NNA operators. We reiterate, however, that the permanent configuration of this band remains to be determined and it is possible that the Commission may adopt a different NNA segment size as part of the final band plan.

20. We also find that it is appropriate to dedicate the 10 megahertz of NNA spectrum as a single, contiguous block. In the *UAS NPRM*, the Commission sought comment on whether we should place all dedicated NNA spectrum together in one contiguous block instead of designating separate upper and lower NNA blocks.[66] The Commission asked whether providing the spectrum in a single contiguous block would better support certain channelizations of the band or important use cases that may require channel bandwidths of more than 5 megahertz.[67]

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[58] Lockheed Comments at 5 (stating that "[it supports] the identification of a 10 MHz segment of the spectrum for the initial NNA deployments."); Verizon Comments at 3-4 (proposing that the separate 5 megahertz NNA blocks discussed in the *UAS NPRM* be combined into one contiguous block); UTC Reply at 9 (agreeing with the *UAS NPRM*'s proposal to allocate 10 megahertz for shared access).

[59] AURA Comments at 11-12; Federated Wireless Comments at 15-16; AURA Reply at 10.

[60] Boeing/Wisk Comments at 16 (supporting up to 5 megahertz for a "shared use" block).

[61] ENTELEC/API Comments at 2 (arguing that a band plan consisting of a greater number of lower bandwidth channels has the advantage of offering a better ability to avoid interference as compared to a band plan consisting of fewer higher bandwidth channels).

[62] uAvionix Reply at 3-4.

[63] uAvionix Reply at 4.

[64] AURA Comments at 11-12.

[65] We discuss the DFMS and its requirements in detail below. *See infra* Section III.B.

[66] *UAS NPRM*, 38 FCC Rcd at 483, para. 19.

[67] *Id.*.

21. Those commenting on this issue generally agree that the NNA spectrum should be made available in one contiguous block. For example, RTCA states that there is no technical advantage gained from separating NNA spectrum into two or more blocks,[68] while Verizon similarly argues against splitting the 10 megahertz into separate blocks, stating that "the narrowband splits do not add any value…."[69] We conclude that making NNA spectrum available as a single block would provide for more efficient use of the spectrum. A single contiguous block provides greater flexibility with respect to the amount of spectrum that may be requested for an NNA operation, and also may provide a DFMS with more flexibility in managing access to the band. Further, while we are not adopting rules regarding NSS spectrum at this time, commenters observe that use of contiguous spectrum would aid in avoiding harmful interference that could occur between incompatible NSS and NNA uses. The FAA, in comments submitted by NTIA, states that, in the context of NNA and NSS block adjacency, contiguous spectrum "would allow the use of radio frequency filters to reduce the emissions from one type of service to the other" thereby "reduc[ing] radio interference to a level that allows UAS that employ NNA services to operate in the same airspace as a UAS that employ NSS services."[70] A single block of spectrum would also reduce the need for internal guard bands that might otherwise be necessary between interleaved blocks that have potentially incompatible uses, thereby retaining spectrum available for NNA operations.

22. Accordingly, we find that we should designate the NNA spectrum as a single block and also conclude that we should place the NNA block away from the edges of the 5030-5091 MHz band. In the *UAS NPRM*, the Commission requested comment on the placement of the NNA spectrum, asking whether, instead of placing NNA operations on the band edges, the NNA spectrum should be placed elsewhere internal in the band.[71] The Commission observed that an RTCA analysis indicated that filters that sufficiently protect services in the adjacent bands "would necessitate guard bands unusable by terrestrial CNPC at both ends of the 5030-5091 MHz bands, reducing the 61 MHz of usable passband width to 42-52 MHz depending on the case."[72] Accordingly, the Commission sought comment on whether guard bands on one or both ends of the band are necessary to protect adjacent band operations.[73] In response, commenters including AIA, NTIA/FAA, and Lockheed Martin assert that guard bands are likely necessary to protect adjacent band operations and note the need for continuing analysis regarding interference mitigation measures.[74]

23. Given the concerns raised by commenters regarding the interference potential posed by UAS to adjacent band operations, we conclude that we should place NNA spectrum away from band edges at this time. Until we make a determination regarding a permanent band plan, we find that it is appropriate to locate the 10 megahertz NNA block at 5040-5050 MHz while further review and analysis continues regarding the potential impact of UAS on other services, as well as the appropriate permanent

[68] RTCA Comments at 4.

[69] Verizon Comments at 3 (stating that splitting spectrum into non-contiguous blocks precludes later evolution to newer digital systems with wider bandwidths, and the narrowband splits do not add any value for the currently proposed narrowband interim solutions"); Verizon Reply at 4.

[70] NTIA Comments, Attach. (hereinafter NTIA/FAA Comments) at 2.

[71] *UAS NPRM*, 38 FCC Rcd at 483, para. 18.

[72] *Id.* (citing RTCA DO-362A, Appx. T at T.5, T.6).

[73] *Id.*

[74] *See, e.g.*, ENTELEC/API Comments at 3 (identifying a 0.5 megahertz guard band at both ends of the band); NTIA/FAA Comments at 1 (observing that RTCA DO-362A proposes a 4.5 megahertz guard band at each end of the band, and stating that unwanted emissions will likely require guard bands as well as filtering.); Lockheed Martin Comments at 5 (generally supporting the RTCA analysis); AIA Reply at 9 (stating that the edges of the 5030-5091 MHz band may require significant protections for adjacent services, including guard bands); uAvionix Reply at 4 (stating that guard bands are necessary); *see also* Boeing/Wisk Comments at 20 (arguing that not all services such as AeroMACS require protective guard bands).

location of both non-networked and network-based operations in the band. As discussed in more detail *infra*, we find that this interim placement is sufficiently removed from the band edges and adjacent band operations to permit NNA use at this time.[75] Additionally, placing the initial NNA block here is consistent with FAA practice as the FAA has previously permitted temporary operations in the 5040-5050 MHz block consistent with technical specifications set forth in the FAA's initial Technical Standards Order TSO-C213.[76]

24. Further, as discussed below, we are adopting an interim access mechanism (IAM) to enable NNA entities to begin operations in the band during the interim period before the DFMS is operational.[77] Because we anticipate that it will be challenging to effectively manage and coordinate operator use of the NNA spectrum during this period, we find it in the public interest to allow access to additional spectrum beyond the 10 megahertz to facilitate the management and deconfliction of NNA operations. Accordingly, we will allow NNA entities access to 20 megahertz of the band, at 5040-5060 MHz, during the IAM period.[78] Once a DFMS becomes operational, the NNA operations will be limited to the 10 megahertz at 5040-5050 MHz.[79]

2. Scope of Permissible Uses

25. As discussed below, we limit the scope of NNA communications in the 5030-5091 MHz band to CNPC consistent with the Commission's *UAS NPRM* proposal.[80] This approach is in the public interest and is well-supported by the record. As noted, we are taking an incremental approach to this band, and are seeking further review and consideration of issues regarding permanent service rules for this band. Pending the determination of a final band plan and rules, we are limiting NNA communications to flight safety purposes only. However, by taking this step, we do not foreclose the possibility that future actions may allow more flexibility by permitting non-CNPC uses.

26. As noted, the Commission added an AM(R)S allocation in the 5030-5091 MHz band to support UAS communications.[81] Under the Commission's rules, AM(R)S is reserved exclusively for communications relating to the safety and regularity of flight, primarily along national or international civil air routes.[82] Consistent with this allocation, the *UAS NPRM* proposed to permit only CNPC in the

[75] *See infra* Section III.C.

[76] TSO-C213 established minimum performance standards for UAS radios using the 5040-5050 MHz spectrum. *See* Federal Aviation Administration, Aircraft Certification Service, Technical Standard Order C213, Unmanned Aircraft Systems Control and Non-Payload Communications Terrestrial Link System Radios (2018) (TSO-C213). TSO-C213 was updated to TSO-312a in December 2022. *See* Federal Aviation Administration, Aircraft Certification Service, Technical Standard Order C213a, Unmanned Aircraft Systems Control and Non-Payload Communications Terrestrial Link System (2022) (TSO-C213a).

[77] *See infra* Section III.B.6.

[78] As in the case of operations to be managed by the DFMS, we anticipate that NNA operators will be assigned spectrum in the amount and in the area necessary for their operation. Because the additional 10 megahertz is being made available solely for the purpose of aiding in deconfliction of operations in the period before a DFMS is operational, NNA users should not assume that during the IAM period they may be assigned frequencies greater than what would be available once the DFMS is in use (i.e. 10 megahertz or less depending on availability).

[79] As discussed in more detail in Section III.B.6, WTB will announce the dates operators may begin to access the NNA block using the IAM process, as well as the date on which a DFMS becomes operational and the IAM period ends. *See infra* Section III.B.6.

[80] *See UAS NPRM*, 38 FCC Rcd at 495, para. 47.

[81] *WRC-12 NPRM*, 30 FCC Rcd at 4183, para. 225.

[82] *See* 47 CFR §§ 2.1, 2.106.

band and to define CNPC as "any UAS transmission that is sent to or from the UA component of the UAS and that supports the safety or regularity of the UA's flight."[83]

27. We find it appropriate to limit NNA operations to CNPC functions as proposed and to adopt a definition for CNPC that largely mirrors the language proposed in the *UAS NPRM*. As the *UAS NPRM* noted, limiting NNA operations to CNPC is consistent with the safety-of-flight nature of the AM(R)S allocation.[84] UAS operators have a critical need for spectrum that offers greater reliability for control and other safety-related functions, particularly in the case of higher risk operations such as those carrying passengers or heavy cargo, or that travel into controlled airspace.[85] Narrowing the scope of permissible operations in this band will help to ensure access to safety-critical, interference-protected spectrum necessary for UAS operations, including those requiring the highest level of safety and regularity.

28. Numerous commenters agree with the proposal to limit the band to CNPC functions to ensure flight safety.[86] For example, the federal agency with primary responsibility for aviation safety—the FAA—argues that the band should be used for CNPC purposes.[87] Similarly, ALPA, which describes itself as "the largest non-governmental aviation safety organization in the world," with 67,000 members flying for 39 airlines worldwide, supports the Commission's proposal to limit the band to CPNC, and states that "enabling UAS to use protected aeronautical spectrum for safety critical CNPC services" will help achieve safety in aviation.[88] Additionally, FPL, a critical infrastructure entity, argues that "[b]ecause unreliable links between a UA and a remote pilot could jeopardize other aircraft and the general public, it is imperative that CNPC have a safe spectral home" and that "[p]ermitting only CNPC is the best way to provide one."[89]

29. Certain commenters, however, argue that the 5030-5091 MHz band should also be available for non-CNPC uses. For example, rather than establishing channel blocks for NNA use,

[83] *UAS NPRM*, 38 FCC Rcd at 495, para. 47.

[84] *Id.*

[85] "Controlled airspace" is defined by the FAA as "an airspace of defined dimensions within which air traffic control service is provided to [instrument flight rules] flights and to [visual flight rule] flights in accordance with the airspace classification. NOTE: Controlled airspace is a generic term that covers Class A, Class B, Class C, Class D, and Class E airspace." 14 CFR § 1.1 (General Definitions). More simply, controlled airspace is found around some airports and at certain altitudes where air traffic controllers are actively communicating with, directing, and separating all air traffic. *See* FAA, *Airspace 101 - Rules of the Sky*, https://www.faa.gov/uas/getting_started/where_can_i_fly/airspace_101 (last visited Aug. 19, 2024).

[86] *See, e.g.*, ALPA Comments at 3; ASRI Comments at 9-12 ("[l]imit[ing] this band to [CNPC] . . . will ensure that [it] is maintained for the critical functions of unmanned flight."); AURA Comments at 7-8; Boeing/Wisk Comments at 4 (stating that the 5030-5091 MHz band should be limited to providing safety and regularity of flight); NTIA/FAA Comments at 3 (recommending that the current scope of the 5030-5091 MHz band allocation be kept); FPL Comments at 3-4; Lockheed Martin Comments at 4 ("[L]icensing the 5030-5091 MHz band specifically for UA CNPC will have important public interest benefits"); uAvionix Comments at 8 (arguing that [t]he FCC should restrict permissible services in the 5030-5091 MHz band to only [CNPC]"); AURA Reply at 7-8 (supporting the idea of CNPC only); Boeing/Wisk Reply at 10; FPL Reply at 2; UTC Reply at 5 ("limiting the 5 GHz band for CNPC would remove incentives for other incompatible operations that could compromise mission critical communications"); Xcel Reply at 6 (stating that "any interruption of or harmful interference to [CNPC] links could jeopardize the safety of either the UA, the pilot, any other aircraft, utilities facilities infrastructure, or even the public" and the interest of preventing such harm is sufficient basis to limit use to CNPC).

[87] *See* NTIA/FAA Comments at 3.

[88] *See* ALPA Comments at 1, 3-4, 12.

[89] FPL Comments at 3; *see also* FPL Reply at 2; Letter from William P. Cox, Senior Counsel, Florida Power & Light Co., to Marlene H. Dortch, Secretary, FCC, at 3 (filed Mar. 29, 2024) (FPL Mar. 29, 2024 *Ex Parte*).

Qualcomm and a number of other commenters encourage us to allocate spectrum for direct UA-to-UA communications, which will support DAA and collision avoidance functionality and Broadcast Remote ID capability.[90] Specifically, Qualcomm states that the Commission should allocate 20 megahertz of spectrum for 3GPP standards-based UA-to-UA communications, which UAs will use to communicate directly with one another for priority DAA purposes, CNPC for local ground-to-air communications, and Remote ID functions.[91] Additionally, other commenters believe that the band should be used for ancillary payload communications such as video.[92] In response, commenters argue that UA-to-UA operations and payload communications are not compatible with CNPC and that permitting other uses would reduce the availability of spectrum for CNPC communications. Both RTCA and NTIA/FAA note that the RTCA DO-362A standard does not consider UA-to-UA transmissions or Broadcast Remote ID and that such use is not compatible with the standard.[93] NTIA/FAA argue that setting aside 20 megahertz of spectrum for these functions would prevent the UAS community from realizing the planned usage of this band to support CNPC and would require additional measures such as filtering to prevent interference between services,[94] while RTCA asserts that allocating 20 megahertz for UA-to-UA communications and Broadcast Remote ID would reduce the capacity for CNPC by approximately 50 percent due to the need for guard bands.[95] Additionally, Boeing/Wisk observe that AM(R)S use of the 5030-5091 MHz band is limited to internationally standardized aeronautical systems, and assert that there are no such systems designed for UA-to-UA or DAA communications.[96] Other commenters, such as UTC, agree that permitting these uses would increase the risk of interference and constrain availability of spectrum for CNPC,[97] and that allowing non-CNPC functions in the band will incentivize UAS operators to use the band for other communications, making less spectrum available for CNPC. [98]

30. While the actual demand and usage of the band for non-networked and networked control operations are uncertain at this time, we agree with commenters that allowing non-CNPC uses reduces the available amount of spectrum that was specifically allocated to provide flight safety-specific channels for UAS. Further, as NTIA/FAA and RTCA note, uses such as UA-to-UA communications are not compatible with the RTCA DO-362A-based technical rules that we are adopting in this Report and Order.[99] Allowing such non-compatible uses increases the risk of harmful interference, potentially

[90] ATIS Comments at 5; AUSVI Comments at 2; Dimetor Comments at 1-2; ModalAI Comments at 2; NUAIR Comments at 2; Qualcomm Comments at 4-7; Zipline Comments at 2-3; Small UAV Coalition Reply at 2.

[91] Qualcomm Comments at 4-7. Additionally, Qualcomm, ATIS and ModalAI urge the Commission to allocate the remaining spectrum for networked communications through which UAs will communicate using 3GPP standards-based wireless networks for CNPC. *See* ATIS Comments at 6; ModalAI Comments at 2-3; Qualcomm Comments at 14-15. AUSVI and Skydio also suggest that the Commission set aside spectrum for UA-to-UA operations, but appear to advocate an RTCA-standards based (AUSVI) or 802.11 technology-based (Skydio) approach. AUSVI Comments at 3-4: Skydio Comments at 6.

[92] *See, e.g.*, ENTELEC/API Comments at 4-5 (advocating use of NNA for limited video feeds for flight guidance and safety of flight but also additional bandwidth for video or data reporting).

[93] NTIA/FAA Comments at 2; RTCA Comments at 9-10.

[94] NTIA/FAA Comments at 2.

[95] RTCA Comments at 9.

[96] Boeing/Wisk Reply at 6. NTIA/FAA and Boeing/Wisk also note that the Footnotes 5.444 and US444 of the Table of Frequency Allocations limit aeronautical radionavigation systems in the 5030-5091 MHz band to microwave landing systems. NTIA/FAA Comments at 2; Boeing/Wisk Reply at 6.

[97] UTC Reply at 6.

[98] FPL Comments at 3; UTC Reply at 6.

[99] NTIA/FAA Comments at 2; RTCA Comments at 9-10. RTCA DO-362A is the second version of the RTCA minimum operational performance standards (MOPS) for the 5030-5091 MHz band. *See* RTCA, Command and

(continued….)

requiring the use of mitigation measures such as guard bands, which further reduces the amount of spectrum available for CNPC communications. As noted, our purpose in establishing an NNA block is to ensure that non-networked operations have access to protected, safety-of-flight spectrum. Permitting the use of non-CNPC communications as requested would result in reducing or eliminating protected NNA-specific channels. Further, the 5030-5091 MHz band's AM(R)S allocation may not currently contemplate all such UA-to-UA communications and, at this time, UAS operations in the band are bound by the current scope of allocations. While we believe that UA-to-UA communications may serve a useful purpose, we agree with commenters such as AURA and ALPA who argue that additional technical and cost-benefit analyses need to be conducted before considering use of this band for such communications and that it is premature to incorporate UA-to-UA operations into the 5030-5091 MHz band.[100] To the extent it becomes possible to introduce non-CNPC uses without detrimentally affecting spectrum access and use for CNPC, we will consider relaxing this CNPC-only restriction as we develop final rules for this band. At this juncture, however, we believe that ensuring access to protected flight safety spectrum for CNPC use is a benefit that outweighs the costs of not permitting non-safety of flight communications.

31. As we have indicated, the rules we are adopting in this Report and Order are specific to the NNA segment that we are making available for use pending the adoption of a permanent band plan and further development of service rules for the 5030-5091 MHz band.[101] It is possible that technical solutions and changes in standards will make it feasible to expand the permitted uses for the band. For example, RTCA notes that it has completed a study of UA-to-UA transmissions which recommends that UA-to-UA communications standards be developed.[102] RTCA states that future solutions could allow compatible UA-to-UA transmissions that would not require setting aside dedicated spectrum for UA-to-UA transmissions or UA broadcast messages.[103] Accordingly, it is feasible that in the future, we could permit communications such as UA-to-UA operations in this band.[104]

32. Until such time, however, we restrict operations to CNPC functions, and largely adopt the definition of CNPC proposed in the *UAS NPRM*. As discussed, the Commission proposed to define CNPC as "any UAS transmission that is sent to or from the UA component of the UAS and that supports the safety or regularity of the UA's flight."[105] In seeking comment on the appropriate definition, the Commission asked whether permissible communications should be restricted to communications between the control station and the UA, thereby excluding transmissions such as UA-to-UA communications.[106] While several commenters support the proposed CNPC definition,[107] ASRI observes that the proposed definition may be read as also including UA-to-UA communications, DAA communications, radionavigation, and possibly radiocommunications of other types.[108] We agree that the wording of the

(Continued from previous page)
Control (C2) Data Link Minimum Operational Performance Standards (MOPS) (Terrestrial), RTCA-DO-362A (2020) (RTCA DO-362A). *See also supra* Section III.A.6.

[100] *See* AURA Reply at 4; ALPA Comments at 6.

[101] We note that NTIA/FAA and AIA suggest that we take action to allow airborne DAA systems to operate in the 15.4-15.7 GHz band. *See* NTIA/FAA Comments at 6; AIA Reply at 3. This issue is beyond the scope of the instant proceeding.

[102] RTCA Comments at 10.

[103] RTCA Comments at 10.

[104] We note that other matters beyond technical issues, such as band allocation issues, would also need to be resolved before non-safety of flight communications would be permissible.

[105] *UAS NPRM*, 38 FCC Rcd at 495, para. 47.

[106] *UAS NPRM*, 38 FCC Rcd at 496, para. 49.

[107] NTIA/FAA Comments at 3; UTC Reply at 5.

[108] ASRI Reply at 6-7.

proposed definition is overly broad given our decision to not permit UA-to-UA and payload communications at this time. Accordingly, we define a CNPC communication as any transmission that is sent between the UA component and the UAS ground station of the UAS and that supports the safety or regularity of the UA's flight. We find that this revised definition is narrow enough to advance the flight safety focus of the band's allocation yet is sufficiently broad to permit the evolution of permissible communications as UAS and supporting technologies continue to develop. We find this definition is more appropriate than alternative definitions discussed in the *UAS NPRM*. There, the Commission asked whether it should apply an alternate definition of CNPC as "any communications to or from a UA other than payload communications, and to define payload as information sent to achieve mission objectives,"[109] or, alternatively, whether it should specify certain categories of communications that would be covered.[110] We agree with uAvionix's assessment that defining CNPC merely as something "other than payload communications," runs the risk of failing to be appropriately narrow,[111] while defining permissible uses "by reference to 'certain categories of communications that are covered' also runs the risk of imprecision or oversight"[112] and thus decline to follow either approach. We do, however, find merit in adopting a definition of payload suggested in the *UAS NPRM*, i.e. information sent to achieve mission objectives. Certain of the comments, in distinguishing CNPC from payload functions, likewise describe payload communications as those that are used to accomplish mission objectives,[113] and the RTCA DO-362A standard similarly describes payload as "[a]ll elements of the aircraft which are not necessary for flight but are carried for the purpose for fulfilling specific mission objectives."[114] We therefore define payload as information sent to or from a UA component to achieve mission objectives.

33. We note that the *UAS NPRM* observed that the same data from a UA may be both for the purpose of achieving flight mission objectives and for flight safety-related purposes.[115] The *UAS NPRM* stated that, as an example, video transmissions could be used for both flight guidance as well as for purposes such as the transmission of surveillance data, while UA telemetry could be used to provide non-flight safety-related information such as local weather conditions.[116] The Commission sought comment on whether a dual-purpose use should be permissible so long as one of the purposes falls within the permissible scope, or whether only communications that are exclusively for the purposes of flight safety or regularity should be permitted.[117] Commenters support permitting additional communications such as video transmissions where such communications support flight guidance and safety of flight.[118] ALPA argues that whether uses such as video or telemetry should be permitted should be dependent on whether such communications is necessary for actual command and control of the UA or is instead associated with

[109] *UAS NPRM*, 38 FCC Rcd at 495, para. 47.

[110] *UAS NPRM*, 38 FCC Rcd at 496, para. 49.

[111] uAvionix Comments at 10 (asserting that "defin[ing] CNPC in an exclusionary manner . . . runs serious risk of failing to be appropriately narrow, either through an inadequate or imprecise definition of 'payload communications' or through an inability to predict the ever-evolving list of new communication possibilities that would need to be excluded").

[112] uAvionix Comments at 10.

[113] *See, e.g.*, ALPA Comments at 5 (generally describing payload as communications associated with the commercial objective or mission); Lockheed Martin Comments at 9 (stating that "'payload' data is understood to be that which the UA may capture and transmit to fulfill its primary mission or service objective").

[114] *See* RTCA DO-362A, Appx. A at A.10.

[115] *UAS NPRM*, 38 FCC Rcd at 495, para. 48.

[116] *Id.*

[117] *Id.*

[118] *See* NTIA/FAA Comments at 3; Lockheed Martin Comments at 9; ALPA Comments at 5.

the payload or the commercial purpose of the data.[119] ALPA states that "if the UAS design requires the use of video for controlling of the UA, regardless of payload or mission, that would qualify as CNPC communications."[120] We agree that communications used for CNPC should be permitted even if the communications could be used for other purposes.

34. While our definition of CNPC aligns with the definition for the AM(R)S allocation, which specifies that the band is reserved for communications relating to safety and regularity of flight, we do not adopt the provision specifying that flights are "primarily along national or international civil air routes."[121] In the *UAS NPRM*, the Commission proposed not to restrict the scope of permissible CNPC services to such communications given that the allocation does not require that communications be exclusively for flights along such air routes.[122] We note that many UAS operations, particularly non-networked flights, will occur in rural areas or areas not along civil air routes. EEI, for instance, asserts that the electric industry use case for UAS operations is not limited to flights along such air routes because electric company UAS operations will often follow grid infrastructure and notes that electric company operations often occur in rural areas or areas without sufficient access to other communications options.[123] ALPA similarly notes that UAS activity is likely to be in localized areas, for example for aerial agricultural uses, or defined by routes not specific to aviation, such as those used for railroad inspection.[124] Given that UAS operations will not occur only along civil air routes, we will not define CNPC as primarily occurring along national or international civil air routes.

35. Further, a number of commenters seek reassurance that, in limiting the scope of operations to CNPC here, we do not plan to restrict all UAS CNPC capability to the 5030-5091 MHz band.[125] Regardless of the final scope of permitted operations that the Commission eventually sets for the 5030-5091 MHz band, we do not intend for CNPC operations to be limited to this band. As the Commission noted in the *UAS NPRM*, other licensed bands are being explored as platforms for UAS operations, including for CNPC, and it is not the Commission's intention to apply the same rules and requirements for UAS operations in this band to UAS operations in other bands.[126] As the *UAS NPRM* stated and as we have emphasized here, the 5030-5091 MHz band is a limited resource, and the demand for interference-protected CNPC may exceed capacity.[127] Given the expected growth of UAS, we believe that it would be beneficial for other bands to be available as platforms for CNPC communications.

36. *Mobile and fixed NNA operations.* In the *UAS NPRM*, the Commission proposed to permit the stations used by the operator on the ground to send and receive signals to the UA to be either fixed stations or mobile stations (such as hand-held controllers).[128] The Commission however asked whether to instead require all NNA ground stations in the band to be fixed stations, and on the costs and benefits of permitting the use of mobile ground stations.[129] To the extent that mobile ground stations are not permitted, the Commission inquired whether to differentiate "portable" stations, i.e., stations that can

[119] ALPA Comments at 5.

[120] *Id*.

[121] *See* 14 CFR § 2.1(c).

[122] *UAS NPRM*, 38 FCC Rcd at 496, para. 50.

[123] EEI Comments at 11.

[124] ALPA Comments at 10.

[125] *See, e.g.*, AUSVI Comments at 2-3; Verizon Comments at 2-3; Small UAV Coalition Reply at 2.

[126] *UAS NPRM*, 38 FCC Rcd at 480, para. 12.

[127] *Id.*

[128] *UAS NPRM*, 38 FCC Rcd at 499, para. 58.

[129] *UAS NPRM*, 38 FCC Rcd at 499, para. 58.

be moved but are not intended to be used while in motion.[130] Comments regarding this issue, while limited, support allowing both fixed and mobile stations for NNA operations as long as the stations are not in motion during operation. AIA opposes allowing stations to move while in operation, arguing that "[m]obility in this context will significantly complicate the DFMS analysis necessary to authorize new operations and protect existing operations."[131] Similarly, AURA states that all ground stations in the 5030-5091 MHz band should be fixed when operating to simplify frequency coordination efforts.[132] AURA expresses concerns about permitting the use of mobile stations, at least in the context of how mobile stations are defined in the proceeding.[133] AURA argues that "[p]redicting, measuring, and mitigating interference from a station in motion will be very difficult for any DFMS, and will change the interference environment for other already authorized flights."[134] However, both AIA and AURA support the Commission allowing the use of stations that are portable as described in the *UAS NPRM* (i.e. moveable from one location to another) when not in operation.[135] AURA suggests that such stations may include handheld devices so long as they are essentially fixed.[136] We agree that stations in motion would make it difficult for a DFMS to accurately and effectively coordinate and deconflict requests for frequency assignments if the DFMS cannot be certain of the operating parameters of a given operation. However, we believe that limiting operations only to fixed stations is unnecessarily prescriptive. Instead, we agree with AIA and AURA that the use of both fixed and mobile ground stations[137] for NNA operations is permissible so long as they are not in motion during operation and operations are limited to the location associated with the specific frequency assignment.

37. With respect to the use of fixed stations, while an NNA operator may deploy fixed ground stations, we reiterate that the intention of designating a specific NNA block is to ensure that non-networked, direct link operations have sufficient access to flight safety-related spectrum in the 5030-5091 MHz band. The NNA spectrum is not intended to promote the deployment of widescale networks for consumer or customer-oriented commercial wireless services. This notwithstanding, we will not set specific limits as to the use of multiple fixed stations to achieve a single NNA operation.[138] To be clear, multi-station operations, whether involving multiple connected or non-connected stations, are permitted by the NNA rules.[139] Thus, as the *UAS NPRM* contemplated, UAS operators might choose to access NNA spectrum "using limited infrastructure deployment, such as a string of ground stations deployed over a

[130] *Id.*

[131] AIA Comments at 14.

[132] AURA Comments at 16-17.

[133] AURA Comments at 16. As in the *UAS NPRM*, we identify "mobile station" as a station "intended to be used while in motion or during halts at unspecified points." *See UAS NPRM*, 38 FCC Rcd at 499 n.112 (citing similar definitions for "mobile station" in 47 CFR § 87.5 (mobile service) and 47 CFR § 2.1, as well as 47 U.S.C. § 153(34) ("The term 'mobile station' means a radio-communication station capable of being moved and which ordinarily does move.")).

[134] AURA Comments at 18.

[135] AIA Comments at 14; AURA Comments at 17.

[136] AURA Comments at 17.

[137] We concur with AIA that it is not necessary to formally designate such stations as "portable." *See* AIA Comments at 14.

[138] *See* UAS NPRM, 38 FCC Rcd at 505 n.147 (stating that "[w]hile we do not anticipate that wide-area networks will be deployed in reliance on NNA assignments because of the highly transient nature of the relevant spectrum rights, we do not propose to prohibit operators from using their temporary assignments with fixed network infrastructure.").

[139] *See* Katy Milner, Counsel for CDA, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-323, at 1 (filed May 20, 2024) (urging the Commission to ensure that UAS spectrum rules are "as flexible as possible").

particular and frequently used flight path."[140] For example, utilities may use multiple stations, such as from fixed sites that may already be in their use, in a single operation to enable a flight beyond the operator's visual or radio line-of-sight in order to inspect utility infrastructure over a long range.[141] We note, however, that single ground station operations will have priority for assignments by a DFMS at times and in areas of extended congestion as discussed in Section III.B.

3. Licensing Stations by Rule

38. In the *UAS NPRM*, the Commission proposed to adopt a licensing approach that would not require individual licensing, in order to reduce the administrative burdens on UAS operators and the Commission.[142] Specifically, the Commission proposed to implement a license-by-rule authorization for aircraft and ground stations in the NNA spectrum pursuant to its authority under section 307(e) of the Act, as amended.[143] Under the license-by-rule framework, parties using rule-compliant stations and operating in compliance with the rules would only need to obtain the requisite temporary frequency assignment from the DFMS in order to have Commission authorization to transmit in the band in the assigned location, frequency, and timeframe.

39. Section 307(e)(1) limits the Commission's authority to adopt a license-by-rule approach to certain specific categories of service, including the "citizens band radio service."[144] Section 307(e)(3) in turn provides that "citizens band radio service" shall have the meaning given to it by the Commission by rule.[145] As defined in the Commission's rules, the "citizens band radio service" encompasses "any radio service or other specific classification of radio stations used primarily for wireless telecommunications for which the FCC has determined that it serves the public interest, convenience, and necessity to authorize by rule the operation of radio stations in that service or class, without individual licenses, pursuant to 47 U.S.C. 307(e)(1)."[146] In the *UAS NPRM*, the Commission tentatively found that licensing by rule of NNA stations would serve the public interest, convenience, and necessity, and accordingly proposed to implement licensing by rule by including NNA stations within the scope of the citizens band radio service.[147]

40. Numerous commenters support licensing NNA stations by rule.[148] Commenters assert that by reducing barriers to short-term spectrum access, licensing by rule will foster a variety of UAS operations.[149] While most of these commenters do not address how to classify stations for purposes of licensing by rule under section 307(e), uAvionix supports the classification of NNA stations under the citizens band radio service category.[150]

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[140] *UAS* NPRM, 38 FCC Rcd at 505 n.147.

[141] *See* Letter from Ari Q. Fitzgerald, Counsel to Florida Power & Light Company, to Marlene H. Dortch, Secretary, FCC, at 1-2 (filed May 9, 2024) (Utilities May 9, 2024 *Ex Parte*).

[142] *See UAS NPRM*, 38 FCC Rcd at 499, para. 58.

[143] *See id.*

[144] *See* 47 U.S.C. § 307(e)(1).

[145] *See* 47 U.S.C. § 307(e)(3).

[146] *See* 47 CFR § 95.303.

[147] *See UAS NPRM*, 38 FCC Rcd at 500, para. 59.

[148] *See* AASHTO et al. Comments at 3; AURA Comments at 16, 19; Boeing/Wisk Comments at 4, 17; CNO Comments at 3; EEI Comments at 17; Qualcomm Comments at 13; uAvionix Comments at 17-18; AIA Reply at 9, 10.

[149] *See* AURA Reply at 7; uAvionix Reply at 9 (licensing by rule accommodates operations that need temporary access without imposing the additional requirements of an individual licensing process).

[150] uAvionix Comments at 17-18 n.33.

41. We now adopt licensing-by-rule for both NNA ground and aircraft stations, pursuant to section 307(e). Under the license-by-rule framework we adopt, to obtain Commission authorization to use the NNA spectrum, NNA users must use certified, Commission-approved NNA stations, and comply with the applicable NNA rules, but need not obtain individual spectrum licenses from the Commission.

42. We find that licensing NNA stations by rule will serve the public interest, convenience, and necessity. A license-by-rule approach will minimize administrative burdens on users and the Commission and facilitate use of NNA for short-term (but exclusive) assignments focused on specific needs and operations rather than longer term authorizations used only intermittently. This approach will therefore promote the efficient and robust use of the NNA spectrum. In addition, the uniform support in the record for this approach bolsters our confidence that this approach is in the public interest. Because a license-by-rule approach will serve the public interest, convenience, and necessity, we find that NNA stations are appropriately classified as part of the citizens band radio services, and that we therefore have authority under section 307(e)(1) to adopt licensing by rule for both NNA ground and aircraft stations. We emphasize that this classification reflects only our determination that the NNA service should be licensed by rule as the Commission has used that construct pursuant to its section 307(e)(1) authority, and not a determination that it should be more generally be regulated in similar fashion to other services that are classified under the citizens band radio services category, such as those in part 95 or part 96 of the Commission's rules.[151] NNA remains a service based on an AM(R)S allocation, and will be governed by appropriate rules in part 88 designed for such services.

4. Eligibility

43. In the *UAS NPRM*, the Commission sought comment on whether to provide that any entity is eligible to operate NNA stations using assignments from a DFMS other than those precluded by section 310 of the Act from holding station licenses.[152] Section 310(a) and (b) of the Act provide for Commission review of foreign investment in radio station licenses and impose specific restrictions on who may hold certain types of radio station licenses, including aeronautical en route and aeronautical fixed radio station licenses.[153] The Commission further sought comment on whether the Commission

[151] *See* 47 U.S.C. § 95.303 (definition of CBRS). To be clear, neither part 95 subpart D, the rules governing the "CB Radio Service," nor part 96, governing the Citizens Broadband Radio Service, apply in any way to part 88 services. *See* 47 CFR pt. 95, subpart D; 47 CFR pt. 96.

[152] *See UAS NPRM*, 38 FCC Rcd at 498, para. 54.

[153] 47 U.S.C. § 310(a)-(b). Section 310(a) prohibits foreign governments or their representatives from holding a radio station license. 47 U.S.C. § 310(a). Sections 310(b)(1) and (b)(2) prohibit foreign individuals or their representatives, and corporations organized under the laws of a foreign government from holding a broadcast, common carrier, or aeronautical en route or aeronautical fixed (hereinafter "aeronautical") radio station license. 47 U.S.C. § 310(b)(1)-(2). The prohibitions in section 310(a), (b)(1), and (b)(2) are absolute, and the Commission has no discretion to waive them. *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, IB Docket No. 11-133, Second Report and Order, 28 FCC Rcd 5741, 5748, 5749 nn.26, 29 (2013) (*2013 Foreign Ownership Second Report and Order*). Section 310(b)(3) of the Act prohibits foreign individuals, governments, and corporations from owning or voting more than 20 percent of the capital stock of a broadcast, common carrier, or aeronautical radio station licensee. 47 U.S.C. § 310(b)(3). Section 310(b)(4) establishes 25 percent benchmarks for investment by foreign individuals, governments, and corporations in a U.S.-organized entity that directly or indirectly controls a U.S. broadcast, common carrier, or aeronautical radio station licensee. 47 U.S.C. § 310(b)(4). Foreign individuals, governments, or entities may own, directly or indirectly, more than 25 percent (and up to 100 percent) of the stock of a U.S.-organized entity that holds a controlling interest in a broadcast, common carrier, or aeronautical radio station licensee, unless the Commission finds that the public interest will be served by refusing to permit such foreign ownership. *See 2013 Foreign Ownership Second Report and Order*, 28 FCC Rcd at 9837, para. 10; *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act, as Amended*, GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272, 11276, para. 5 (2016).

should subject the operators or parties receiving assignments from a DFMS to eligibility restrictions comparable to those imposed by section 310 on station licensees, in the event that section 310 restrictions on the ownership or control of stations licenses do not directly apply to such assignments.[154]

44. Few commenters address this issue. EEI supports a rule ensuring that any entity is eligible to operate NNA stations, subject to eligibility restrictions comparable to section 310 restrictions on station licensees.[155] NMC urges the Commission to ensure that any regulation does not require an entity that has already complied with Commission foreign ownership rules, such as by obtaining a ruling permitting it to exceed foreign ownership limits on another of its licenses, to comply with further foreign ownership rules in this context.[156]

45. Given the limited discussion of the issues raised by foreign ownership of stations in a license-by-rule service, we are guided by the approach that the Commission took in the 3.5 GHz Citizens Broadband Radio Service (CBRS) rules to eligibility for users of CBRS General Authorized Access (GAA) stations, which, like NNA stations, are licensed by rule.[157] In relevant part, section 96.5 of the Commission's rules establishes that any entity, other than those precluded by section 310, that otherwise meets the technical, financial, character, and citizenship qualifications that the Commission may require in accordance with such Act, is eligible to be a General Authorized Access (GAA) user. We find that it would serve the public interest to adopt a similar eligibility rule for NNA users. We anticipate that the adopted eligibility rule will be sufficient to address any concerns that may be associated with foreign ownership in the band. If, on future consideration of a more robust record, we determine that application of this rule needs to be adjusted to address issues arising from foreign ownership of NNA stations, we will revisit the terms of eligibility for NNA operations.[158]

5. Creation of a New Part 88

46. In the *UAS NPRM*, the Commission sought comment on the appropriate location of the new NNA services within the organization of the Commission's rules.[159] Noting that section 87.1(b) of the Commission's rules provides that part 87 "states the conditions under which radio stations may be licensed and used in the aviation services,"[160] the Commission inquired whether the new service should be located in part 87, and also observed that it may be appropriate to locate service rules for NNA and NSS services in the same rule part.[161] However, the *UAS NPRM* also noted that, while section 87.5 defines aviation services as "[r]adio-communication services for the operation of aircraft,"[162] existing part 87 rules were not adopted with UAS in mind and that many rules in part 87, even those generally applicable

[154] *See UAS NPRM*, 38 FCC Rcd at 498, para. 54. The Commission also sought comment on NTIA's proposal that, to be eligible for a license for 5030-5091 MHz UAS operations, an applicant be required to certify that it has the requisite FAA remote pilot certification or, in the case of an organization, to certify that it will only utilize individuals with this qualification for its UAS operations in the band. *See id.* at 498, para. 55. We address certifications regarding FAA remote pilot authorization in the discussion of the DFMS, Section III.B.1.

[155] *See* EEI Comments at 11-12.

[156] *See* NMC Comments at 6 n.9.

[157] *See* 47 CFR §§ 95.303, 96.5.

[158] We note that, if the Commission determines that the eligibility rule on NNA service must be amended, the eligibility restrictions as revised will apply almost immediately to all NNA assignments in the band, given that NNA assignments may be granted only for single flights and made no more than seven days in advance and can therefore only be obtained on a short-term basis.

[159] *UAS NPRM*, 38 FCC Rcd at 505, para. 70.

[160] 47 CFR § 87.1(b).

[161] *UAS NPRM*, 38 FCC Rcd at 505, para. 70.

[162] 47 CFR § 87.5.

to part 87 services, may be unnecessary or inappropriate to apply to UAS communications or to the 5030-5091 MHz band generally.[163] Accordingly, the Commission inquired whether rules specific to UAS should be located in a new rule part, stating that "[l]ocating the rules in a new rule part may therefore provide greater clarity and ease of reference in determining the rules applicable to the band."[164]

47. Upon review of the record, we conclude that it is in the public interest to create a new part 88 specifically for UAS services that would be applicable to both networked and non-networked services. Those commenting on this issue largely support locating UAS-specific regulations in a new rule part.[165] While Lockheed supports placing UAS-related rules in part 87,[166] many commenters note that UAS is a new type of aeronautical service that contemplates aspects of different spectrum management and policy approaches, and agree with the *UAS NPRM*'s observation that UAS does not fit neatly into part 87.[167] Commenters, such as AURA and FPL, caution that, if UAS rules are placed in part 87, any revision of part 87 would also require an analysis of the impact of such changes to UAS.[168]

48. AURA and Federated Wireless point out that adopting a new rule part to house UAS-specific rules is consistent with past Commission practice.[169] The Commission, in adopting rules for 3.5 GHz CBRS to permit different levels and types of operations, both individually licensed and licensed by rule, found it appropriate to create a new part 96 to house all rules of the new service in a single rule part to facilitate administrative efficiency.[170] The Commission similarly adopted a new part 30 for the Upper Microwave Flexible Use Service (UMFUS), indicating that a single, unified set of rules for various types of permitted operations would provide "more clarity to licensees and more accurately reflect the nature of these licenses."[171]

49. We conclude that it is similarly appropriate in this case to include UAS-related rules for the 5030-5091 MHz band in a single rule part and to place such rules in a new part 88, rather than placing the new rules in part 87 given that, as noted, the new services permitted for use in the 5030-5091 MHz band may not fit entirely within the traditional scope of "aviation services." In addition to NNA rules established in this Report and Order, we will over time adopt additional rules to enable full deployment of services in this band including NSS services, and we anticipate that the services deployed in the band, particularly network-based operations, will differ from and raise issues that are distinct from traditional aviation services. As noted in the *UAS NPRM*, we anticipate that NSS licenses will be used for the

[163] *UAS NPRM*, 38 FCC Rcd at 505, para. 70.

[164] *UAS NPRM*, 38 FCC Rcd at 506, para. 70.

[165] *See, e.g.*, AURA Comments at 6-7; CDA Comments at 4; ; uAvionix Comments at 19, n.39; Federated Wireless Reply at 9-10; FPL Reply at 9-10; uAvionix Reply at 6 n.15.

[166] Lockheed Comments at 12 (stating that because operations in the 5030-5091 MHz band "will be conducted consistent with aeronautical norms and safety-of-life processes, the rules that define and authorize these operations appropriately reside in Part 87").

[167] *See, e.g.*, AURA Comments at 6; Boeing/Wisk Comments at 18-19; CTIA Comments at 10. Additionally, both AIA and Boeing/Wisk agree that UAS technology presents unique spectrum use cases and state that a new rule part or a new section within Part 87 should be created to reflect the reality that this is a new type of service. AIA Comments at 6; Boeing/Wisk Comments at 18-19.

[168] *See, e.g.*, AURA Comments at 7; Federated Wireless Reply at 8; FPL Reply at 8.

[169] *See also* AURA Comments at 6-7; Federated Wireless Reply at 8-9.

[170] *Amendment of the Commission's Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, Notice of Proposed Rulemaking and Order, 27 FCC Rcd 15594, 15615-16, paras. 62-63 (2012); *see also* AURA Comments at 6-7; Federated Wireless Reply at 8-9.

[171] *See Use of Spectrum Bands Above 24 GHz et al.*, GN Docket No. 14-177, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, 8073-74, paras. 159-161 (2016); *see also* AURA Comments at 7; Federated Wireless Reply at 8-9.

provision of commercial services, raising issues more akin to those involved in the regulation of commercial network services than the regulation of traditional aviation services, including rules relating to the promotion of service competition, network build-out, as well as the establishment of an individual licensing mechanism.[172] Accordingly, we establish a new part 88 in order to promote "clarity and ease of reference" regarding the rules applicable to UAS operations in the 5030-5091 MHz band. As Federated Wireless notes, this approach "will recognize the unique requirements of UAS and improve administrative efficiency and flexibility by allowing the Commission to tailor the new rule parts to the particular needs of UAS operations rather than seeking to fit the service into a rule part that does not contemplate uncrewed operations."[173] It should be noted that creating a new part 88 for the purposes of administering UAS operations in the 5030-5091 MHz band would in no way affect the AM(R)S allocation of the band. Regardless of where the rules for the band are located, the 5030-5091 MHz band will remain protected aviation spectrum allocated for AM(R)S uses with rules designed to achieve the safety and reliability appropriate for communications "relating to the safety and regularity of flight."[174]

50. We also conclude that it is appropriate to make the new part 88 subject to rules under part 1, subpart F of the Commission's rules governing "Wireless Radio Service" applications and proceedings. The *UAS NPRM* explained that subpart F includes public and private part 87 aviation services, as well as license-by-rule services such as those under parts 95 and 96, under the definition "Wireless Radio Services," but noted that not all of these subpart F provisions apply to license-by-rule services, such as those requirements governing license applications.[175] The *UAS NPRM* therefore sought comment on whether NNA services, even if licensed by rule, should be included in and subject to the subpart F rules for Wireless Radio Services to the same extent as other license-by-rule services.[176]

51. There was limited comment on this issue. uAvionix states that part 1 provisions should not apply to these services and uses[177] but provides no rationale for its opposition. Part 1, subpart F was intended to broadly cover application procedures for radio services licensed and administered by WTB.[178] Subpart F broadly defines "Wireless Radio Service" as [a]ll radio services authorized in parts 13, 20, 22, 24, 26, 27, 30, 74, 80, 87, 90, 95, 96, 97 and 101 of this chapter, whether commercial or private in nature,"[179] including, as noted, part 87 aviation services and certain license-by-rule services found in parts 95 and 96. Given the inclusion of rule parts that administer both individually licensed and license-by-rule

[172] *UAS NPRM*, 38 FCC Rcd at 505, para. 70. We note that there may have been some confusion over the *UAS NPRM*'s use of "commercial wireless network services" ("[W]e expect that NSS licenses will be used for the provision of commercial wireless network services . . ."). The term was intended to describe potential commercial or consumer-oriented UAS services using networked architecture and was not a reference to conventional commercial wireless radio services. *Id.*

[173] Federated Wireless Reply at 8.

[174] *See* 47 CFR § 2.1 (definition of AM(R)S); *UAS NPRM*, 38 FCC Rcd at 505-06, para. 70 ("[L]ocating the rules for the 5030-5091 MHz band in a new rule part would not be inconsistent with its allocation for AM(R)S. Whether or not the rules are in part 87, the band will remain protected aviation spectrum allocated for AM(R)S and rules under this allocation can be adopted to achieve the safety and reliability appropriate for communications 'relating to the safety and regularity of flight,' regardless of where the rules are located."). Thus, we do not agree with Lockheed Martin that it is necessary for UAS operations that "will be conducted consistent with aeronautical norms and safety-of-life processes" to be governed by rules located in part 87. Lockheed Martin Comments at 12.

[175] *UAS NPRM*, 38 FCC Rcd at 507, para. 73.

[176] *Id.*

[177] uAvionix Comments at 19.

[178] *See generally 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*, WT Docket No. 98-20, Report and Order, 13 FCC Rcd 21027 (1998).

[179] 47 CFR §1.907 (definition of Wireless Radio Services).

services as well as the broad applicability of subpart F (i.e. services licensed by WTB), we will include part 88 in and subject to part 1, subpart F rules.

6. Technical Requirements

52. *The RTCA DO-362A Standard.* In the *UAS NPRM*, the Commission inquired as to the appropriate technical requirements for governing 5030-5091 MHz NNA equipment and operations.[180] The Commission noted that, under the current record, NTIA, AIA, and many other parties support adoption of the technical requirements in the RTCA DO-362A for that purpose.[181] The Commission stated that RTCA DO-362A contains Minimum Operational Performance Standards (MOPS) for terrestrial-based (i.e., non-satellite) CNPC point-to-point or point-to-multipoint links in the 5030-5091 MHz band, including power limits, emission limits, and frequency accuracy requirements, and that the FAA recently issued a Technical Standard Order (TSO) establishing minimum performance standards in the 5030-5091 MHz band based on requirements in RTCA DO-362A.[182]

53. Based upon these considerations, the Commission proposed to adopt the RTCA DO-362A standard, or technical requirements based on that standard, to govern NNA equipment and operations and sought comment on that proposal.[183] The Commission sought specific comment on whether to do so through adoption of a general requirement that, to be certified for use under or operated under the NNA rules, all radio equipment must comply with the requirements of RTCA DO-362A, rather than to separately incorporate the various technical requirements of RTCA DO-362A (e.g., power, frequency stability, Time Division Duplex (TDD), and emission limitations) into the service rules.[184] The Commission nonetheless proposed to separately codify requirements for power and emission bandwidth based on the RTCA DO-362A standard, to provide clarity and ease of reference in the rules, even if it were to adopt a general requirement that equipment needs to comply with RTCA DO-362A.[185] In addition, the Commission sought comment on which additional provisions or requirements from RTCA DO-362A should be adopted if general compliance with the entire standard was not mandated, including whether the Commission's technical framework requires compliance more broadly with section 2 of the standard, which addresses the Equipment Performance Requirements and Test Procedures applicable to the link system radios, or both sections 2 and 3, the latter of which includes performance standards for the link system when installed in a UA and ground location.[186] Further, the *UAS NPRM* sought comment on whether, alternatively, it would be sufficient, for purposes of establishing the baseline technical framework, to require compliance with the specific frequency capture range (which includes a frequency accuracy standard), power limits, and emission limits stipulated by the standard.[187] The Commission also

[180] *See UAS NPRM*, 38 FCC Rcd at 500, para. 61.

[181] *Id.*; *see also* NTIA *Refresh Public Notice* Comments at 2; AIA *Refresh Public Notice* Comments at 10-11; ASRI *Refresh Public Notice* Comments at 5-6; Boeing *Refresh Public Notice* Comments at 2, 6; NUAIR *Refresh Public Notice* Comments at 1; Wisk *Refresh Public Notice* Comments at 2. Note that RTCA DO362-A is the update to the RTCA's Special Committee 228 (SC-228) Command-and-Control Data Link MOPS for the 5030-5091 MHz band. The first version of these standards was published in September 2016 with the release of DO-362, Command and Control (C2) Data Link Minimum Operational Performance Standards (MOPS) (Terrestrial) (RTCA DO-362).

[182] *UAS NPRM*, 38 FCC Rcd at 500, para. 61.

[183] *Id.*

[184] *UAS NPRM*, 38 FCC Rcd at 502, para. 65.

[185] *Id.*

[186] *UAS NPRM*, 38 FCC Rcd at 502-03, para. 65.

[187] *UAS NPRM*, 38 FCC Rcd at 503, para. 65.

sought comment on the adequacy of the RTCA DO-362A standard's equipment and operational performance requirements, including both transmitter power and receiver input power.[188]

54. After review of the record, we find it in the public interest to incorporate by reference the RTCA DO-362A standard and adopt certain technical requirements in our new UAS rules based on this standard. As discussed below, RTCA DO-362A provides the standards for CNPC Link Systems, which as stated are limited to communications between a UA and a control station. The Commission today adopts rules to authorize NNA equipment and operations in a segment of the 5030-5091 MHz band, solely for CNPC consistent with the AM(R)S allocation. As this approach authorizes UAS communications related solely to safety and regularity of flight, we believe it is vital to adopt technical requirements that will ensure air safety consistent with the FAA's TSO-C213a.[189]

55. Commenters largely support adoption of the RTCA DO-362A standard for UAS operations in the 5030-5091 MHz band or, at a minimum, the adoption of particular technical requirements taken directly from the standard.[190] Further, many commenters reference the standard and recommend specific parameters to be included in the Commission's rules.[191] For example, RTCA asserts that the "mandatory compatibility requirements specified in RTCA DO-362A, which should be included in the FCC rules, are the TDD requirement specified in Section 2.2.1.3, the transmitter output power and emission mask specified in Section 2.2.1.6 and the out-of-band emission specified in 2.2.1.8.2."[192] RTCA

[188] *UAS NPRM*, 38 FCC Rcd at 500-01, para. 61.

[189] *See* Federal Aviation Administration, Aircraft Certification Service, Technical Standard Order C213, Unmanned Aircraft Systems Control and Non-Payload Communications Terrestrial Link System Radios (2018) (TSO-C213). TSO-C213 adopted the RTCA DO-362 standard as a minimum performance standard for new models of UAS CNPC Link System radios operating in the 5040-5050 MHz portion of the 5030-5091 MHz band. *See* TSO-C213 at 1. On December 20, 2022, the FAA issued a revision of TSO-C213, designated TSO-C213a. *See* Federal Aviation Administration, Aircraft Certification Service, Technical Standard Order C213a, Unmanned Aircraft Systems Control and Non-Payload Communications Terrestrial Link System (2022) (TSO-C213a), available at FAA, *Technical Standard Orders*, https://drs.faa.gov/browse/TSO/doctypeDetails (last visited Aug. 19, 2024). TSO-C213a replaces TSO-C213 going forward, adopting aspects of RTCA DO-362A as minimum performance standards for CNPC Link Systems designed for operations within any spectrum in the 5030-5091 MHz band. *See* TSO-C213a at 2; RTCA DO-362A.

[190] *See, e.g.*, AIA Comments at 14 ("AIA supports the Commission establishing rules based on RTCA DO-362 and subsequent version when finalized."); ASRI Comments at 11-12 (arguing that the Commission "must adhere to the standards being developed by RTCA and certified by the FAA, such as the Minimum Operational Performance Standards ('MOPS') for UAS contained in DO-362A and its subsequent updates"); Lockheed Martin Comments at 10 ("Lockheed Martin continues to support the adoption of the technical recommendations of the RTCA DO-362A (and successor) standard for the development and implementation of NNA service rules."); AUVSI Comments at 3 (stating that "[t]he Commission should endorse RTCA DO-362A and not wait for further revisions or further work on compatibility with satellite communications systems"); uAvionix Comments at ii, 6 (explaining that uAvionix currently adheres to RTCA's DO-362A standard and that RTCA DO-362A can "ensure compatible [Command-and-Control] use across the entire 5030-5091 MHz band and greatly minimize the chance of a lost link at critical phases during UAS operations"). In its Reply, uAvionix now agrees with NTIA/FAA's comments to the *UAS NPRM* that the Commission need not fully incorporate the standard into its rules. uAvionix Reply at 7 n.15. Instead, uAvionix states that "the new rules should refer to 'relevant FAA TSOs, as updated.'" *Id.*

[191] *See* RTCA Comments at 12-13; AIA Comments at 14; AURA Comments at 20.

[192] RTCA Comments at 12-13. RTCA also indicates that the mandatory CNPC link performance requirements that all NNA radio systems must comply with to get FAA airworthiness approval, regardless of the RF signal-in-space modulation/error correction employed, are the frequency tuning range specified in Section 2.2.1.2, the frequency capture range specified in Section 2.2.1.4, the channelization specified in Section 2.2.1.5, the radio receiver adjacent and non-adjacent channel interference rejection specified in Section 2.2.1.7, the out of-band interference rejection specified in Section 2.2.1.8.3, the radio receiver performance under fading channel conditions specified in Section 2.2.1.12, radio receiver recovery from long fades specified in Section 2.2.1.9, airborne radio system antenna requirements specified in Section 2.2.1.10 and ground radio system specified in Section 2.2.1.11. *Id.* at 13.

also recommends that the Commission include frequency capture range as a minimum requirement for compatible use of the 5030-5091 MHz spectrum.[193] AIA supports the Commission adopting rules based on RTCA DO-362 and subsequent versions when finalized, and states that such rules should "specifically reference TDD, channel sizes, power limits, [out-of-band emissions (OOBE) limits], frequency accuracy, and emission designations . . . ."[194] AURA similarly recommends that the Commission reference specific sections of the RTCA DO-362A standard that govern areas commonly adopted in its rules, such as TDD, channel sizes, power limits, OOBE limits, frequency accuracy, and emission designators.[195]

56. In the *UAS NPRM*, the Commission sought comment on a range of issues related to the RTCA DO-362A standard.[196] The FAA, supported by NTIA, recommends referencing relevant FAA TSOs instead of incorporating the entire standard through a single Commission rule as proposed in the *UAS NPRM* Appendix A, expressing concern about continued updates to the standards and noting that the FAA incorporates the RTCA standards through its TSOs.[197] Other commenters raise concerns with the RTCA DO-362A standard and express support for the Commission to adopt modern cellular technology standards, specifically 3GPP standards, to provide UAS operational flexibility, in lieu of RTCA DO-362A.[198] In particular, Qualcomm states that RTCA DO-362A is "not appropriate as a universal standard for all UAS that will be operating in the 5030 MHz band. . . ."[199] Qualcomm argues, *inter alia*, that "the RTCA standard targets high-altitude drones and is ill-suited for highly scaled low-altitude drones (e.g., below 500 feet), which represents the most compelling use for the 5030 MHz band," that the standard "is

[193] RTCA Comments at 21.

[194] AIA Comments at 14.

[195] AURA Comments at 20.

[196] *UAS NPRM*, 38 FCC Rcd at 500-01, paras. 61-62. The Commission sought specific comment on the standard in the following areas: (i) the adequacy of the RTCA DO-362A specified equipment and operational performance requirements with respect to both transmitter power and receiver input power, and required minimum coupling loss (separation distance) between ground and airborne CNPC radios and emissions from other licensed radio services; (ii) an appropriate measure of CNPC link reliability to assess RTCA DO-362A and other standards, the specific anticipated level of CNPC link reliability through radios compliant with the RTCA DO-362A standard, and any available data that confirms that reliability; and (iii) information on current or past operation of equipment compliant with RTCA DO-362 or RTCA DO-362A, the results of any such operations, and on the extent to which they support or raise issues or concerns about incorporation of the standard as the governing technical framework for the 5030-5091 MHz band. *Id.* In requesting comment on any results of UAS deployments, the Commission noted that some parties have already constructed 5030-5091 MHz UAS radios compliant with RTCA DO-362 and some have also obtained experimental license authorization from the Commission for their operation in the 5030-5091 MHz band. *Id*. at 501, para. 62.

[197] NTIA/FAA Comments at 6. We note that FAA TSO-C213a specifies that "[n]ew models of UAS CNPC Link Systems identified and manufactured on or after the effective date of this TSO must meet the applicable requirements in Section 2 of RTCA Document RTCA/DO-362A, Command and Control (C2) Data Link Minimum Operational Performance Standards (MOPS) (Terrestrial), dated December 17, 2020 with the additional requirements listed in appendix A of this TSO." TSO-C213a at 2. We note that concerns about Commission responsiveness to standards updates are addressed below. *See infra* para. 68.

[198] *See* ATIS Comments at 1, 3 (arguing that the RTCA DO-362A standard focuses on high-altitude, large drones and is inappropriate for the NNA band, and therefore recommends use of the specifications under development by 3GPP for NNA operations); CTIA Comments at 7, 15 (supporting an expansive and flexible approach to the 5030-5091 MHz band, but not requiring rigid use of the RTCA standards, and placing a high priority on interoperability with commercial wireless technical standards, while also noting that 3GPP has developed standards and specifications to ensure commercial wireless technologies are reliable and secure for UAS operations); Dimetor Comments at 2 (recommending the adoption of the 3GPP standard instead of the RTCA DO-362A standard for NNA operations and equipment); ModalAI Comments at 2 (recommending the adoption of the 3GPP standard for NNA equipment instead of the RTCA DO-362A standard).

[199] *See* Qualcomm Comments at 9.

not scalable to support the expected increased demand for UAS communications," and that it "is not comparable to modern cellular technology standards [3GPP] geared for efficiency, guaranteed [quality of service], interference management, and much more."[200] WInnForum commented in this proceeding, generally indicating that it "looks forward to working with all stakeholders to develop technical standards that support spectrum rules and policies for the operation of Unmanned Aircraft Systems in the 5030-5091 MHz band."[201] WInnForum expressed difficulty, however, in responding to many of the *UAS NPRM's* questions, as they "refer to documents that are accessible only behind a paywall that limits access to our collective membership."[202]

57. In adopting certain technical requirements from the RTCA DO-362A standard through incorporation by reference, we recognize that, as RTCA acknowledges, the standard is not specifically intended for aircraft operated under the FAA's Part 107 rules for small UAS operations, but is envisioned to apply to uncrewed aircraft operated under the FAA's Part 91 rules applicable to "General Operating and Flight Rules."[203] Based on the overall record, however, we find that taking this approach is appropriate at this time, particularly given today's incremental steps toward facilitating UAS operations, which provides a path in the 5030-5091 MHz band for authorization of NNA equipment and operations through shared use, while deferring for further consideration and study potential approaches to exclusive licensing for NSS operations.

58. We find the technical requirements of the RTCA DO-362A standard to be the superior option for the types of safety-of-flight UAS operations in the 5030 MHz band we authorize today, as these requirements are consistent with the AM(R)S allocation for the band, the limitations associated with CNPC only operations, and current FAA standards. Moreover, relying on the RTCA DO-362A standard at this time does not act as an in perpetuity rejection of other standards (e.g., 3GPP) commenters argue may be more appropriate for the vast range of potential UAS operations that may be authorized for operation in the 5030-5091 MHz band in future stages of our proceeding. Rather, much like the evolution over the past several decades of technical standards governing wireless communications generally, we anticipate that future revisions of the technical standards for UAS could expand to cover and facilitate additional types of UAS operations and use cases that go beyond the current standard's AM(R)S allocation for the band and the CNPC limitation as applied in today's Report and Order (e.g., UA-to-UA for Detect and Avoid (DAA), Broadcast Remote ID, aircraft-to-everything (A2X)). The Commission will continue to monitor technology and standards development in these areas, and anticipates that subsequent phases of this proceeding will address broader use of the band and opportunity for input from a variety of interested stakeholders. Further, with respect to WInnForum's participation in this proceeding, we do not believe it has adequately demonstrated specific difficulties in accessing the standards upon which the Commission sought comment, or what options were explored to obtain such access, including for its members.[204] We note that the Commission previously has adopted a number of rules that incorporate by reference standards developed by standards groups that charge a fee to access the materials.[205]

[200] *Id*. at 9-10.

[201] WInnForum Comments at 2.

[202] *Id*.

[203] *See* RTCA DO-362A Executive Summary.

[204] *See, e.g., American Society for Testing and Materials v. Public.Resource.Org, Inc*., 84 F.4th 1262 (D.C. Cir. 2023) (affirming the finding that a public interest group's placement on its website of certain standards incorporated by reference into agency's rules was fair use and not a violation of copyright law).

[205] *See, e.g.,* 47 CFR § 80.1101 (requiring a wide range of maritime equipment to conform to the specifications of a number of organizations' standards for which a fee is charged, including, for example, those of the International Electrotechnical Commission (IEC)); 47 CFR § 87.199 (requiring Emergency Locator Transmitters in part 87 aviation services to comply with RTCA/DO-204's Minimum Operational Performance Standards for which a fee is charged for access).

59. After review of the overall record, we do not find it necessary to incorporate by reference the entire RTCA DO-362A standard into our rules governing NNA equipment and operation in the 5030-5091 MHz band. Rather, we find it in the public interest to incorporate by reference into our technical rules the specific sections of the RTCA DO-362A standard applicable to transmitter output power, emissions bandwidth, out-of-band emission limits, emission mask and, as discussed immediately below, time division duplexing.[206]

60. *Time Division Duplexing*. As recommended by RTCA, we also adopt the requirement of the RTCA DO-362A standard relating to TDD for NNA equipment and operations in the band. RTCA states that DO-362A is a "compatibility standard for efficient use of the band without needing guards between different types of service such as terrestrial NNA, terrestrial NSS and satellite based service."[207] In response to the *UAS NPRM*'s question on which provisions or requirements from RTCA DO-362A should be imposed,[208] RTCA suggests, on the specific issue of requiring TDD, that emission limit requirements should also require compliance with the 50 ms Time Division Duplex (TDD) requirements specified under section 2.2.1.3 of the standard.[209] RTCA asserts that use of non-TDD systems or TDD systems with different time length frames operating in the 5030-5091 MHz band within the same radio horizon as RTCA DO-362A compliant equipment will cause unacceptable levels of interference.[210] Commenters supporting reliance on the RTCA DO-362A standard recognize that a part of the current standard includes the 50 ms TDD requirement pursuant to section 2.2.1.3.[211] To minimize the risk of interference and to achieve consistency with the FAA TSO based on the RTCA DO-362A standard, we find it appropriate at this time to incorporate into our rules the 50 ms TDD frame structure requirement for NNA equipment and operations for CNPC purposes in the 5030-5091 MHz band.

61. Some commenters argue that, absent the establishment of guard bands, adopting the RTCA DO-362A TDD standard for part of the band would ultimately necessitate adopting that approach throughout the remainder of the band to avoid harmful interference.[212] We recognize that requiring compliance with the RTCA DO-362A standard's 50 ms TDD frame rate for the segment of the band dedicated to NNA equipment and operations implicates issues relevant to any future determination as to the appropriate use of the remainder of the 5030-5091 MHz band, particularly NSS use. Such issues include, for example, how to ensure efficient UAS use in the band overall and whether a future guard band or other measures (e.g., filter designs) are necessary to avoid harmful interference between NNA operations and any future NSS use of the band.

62. As stated, today's action is intended to facilitate near-term NNA use in a limited part of the band. The record reflects that significant study is underway on a revised standard (RTCA DO-362B)

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[206] *See* Appx. A (Final Rules). After review of the record, we find it unnecessary to adopt a specific transmitter requirement regarding frequency capture range. We note that the RTCA DO-362A standard requires the frequency capture range of every CNPC Link System radio receiver to meet a receiver sensitivity specification. *See* RTCA DO-362A § 2.2.1.4. Today's Report and Order adopts an emission mask requirement that applies to transmitters operating in the 5030-5091 MHz band and therefore collaterally addresses frequency stability issues (e.g., transmitter oscillation).

[207] RTCA Comments at 12.

[208] *UAS NPRM*, 38 FCC Rcd at 502, para. 65.

[209] RTCA Comments at 23; *see also* RTCA *Refresh Public Notice* Comments at 6.

[210] RTCA Comments at 23.

[211] *See supra* para. 56; *see also* AIA *Refresh Public Notice* Comments at 11 (supporting a requirement that transmitters comply with the 50 ms TDD requirements of RTCA DO-362A § 2.2.1.3).

[212] *See* RTCA Comments at 8 ("To enable shared use of the band by satellite-based NSS services and terrestrial NNA and NSS systems without guard bands, the TDD Frame Duration would need to be compatible with Geostationary Global Satcom-based NSS services.").

that could result in a revised TDD frame rate.[213] We note that a potential revision to the RTCA standard is particularly relevant to international issues raised in the record. Specifically, the Commission sought comment in the *UAS NPRM* on certain concerns raised in the record by Canada regarding potential technical incompatibilities that have been identified between RTCA DO-362A and a proposed standard by the European Organization for Civil Aviation Equipment (EUROCAE) for satellite-based CNPC in the same band, designated draft ED-265.[214] Canada asserts that adoption of the RTCA DO-362A standard without addressing the incompatibilities may create difficulties in managing the operation of CNPC links in support of international UAS operations.[215] The *UAS NPRM* sought comment on whether any coordination or other requirements are necessary to ensure adequate protection of foreign satellite-based CNPC services in the band, particularly insofar as they may operate near United States jurisdictional boundaries.[216]

63. As discussed, the RTCA DO-362A TDD frame rate is 50 ms. According to RTCA, ". . . EUROCAE has determined that the optimum periodic TDD frame rate duration for geostationary satellite service . . . is 260 ms."[217] To address the potential interference issue, RTCA indicates that RTCA SC-228 and EUROCAE WG-105 have "agreed to develop revised standards that utilize a compromise common TDD frame duration for both terrestrial and geostationary satellite C2 Link systems,"[218] and that the proposed revision to a Common TDD Frame Rate Duration . . . is being discussed for inclusion in RTCA DO-362B."[219] After review of the record, we find it unnecessary to delay implementation of rules that will facilitate near-term NNA equipment and operations in the band. We also find that, because of our measured approach to UAS implementation that defers a number of issues for potential future consideration by the Commission, as well as the anticipated near-term resolution of currently different technical standards for TDD, we need not impose at this time additional coordination requirements to ensure adequate protection of foreign satellite-based CNPC services in the band.

64. *Application of Part 87 Subpart D Technical Requirements and Emission Designators*. In the *UAS NPRM*, in addition to seeking comment on any costs or disadvantages in imposing the RTCA DO-362A standard, the Commission sought comment on whether any of the general technical requirements of part 87 subpart D should apply to NNA equipment, for example the emission limits set forth in rule section 87.139(c), and whether the Commission should specify authorized emission

[213] *See* RTCA Comments at 17.

[214] *UAS NPRM*, 38 FCC Rcd at 501-02, para. 64.

[215] *UAS NPRM*, 38 FCC Rcd at 501-02, para. 64 (citing Canada *Refresh Public Notice* Comments at 1).

[216] *UAS NPRM*, 38 FCC Rcd at 502, para. 64. The Commission noted in the *UAS NPRM* that footnote 5.443C of the Table of Frequency Allocations limits the use of the 5030-5091 MHz band to "internationally standardized aeronautical systems," and sought comment on whether this provision requires adoption of a standard that is compatible with the EUROCAE standard, and whether RTCA DO-362A would meet our obligations under footnote 5.443C. *Id*. In its Comments, RTCA stated that, to address this issue, RTCA SC-228 is proposing modifications to DO-362A MOPS to make terrestrial and satellite based C2 compatible by adopting a Common TDD Frame Duration with timing synchronized to UTC. RTCA Comments at 16-17.

[217] RTCA Comments at 15.

[218] RTCA Comments at 16.

[219] RTCA Comments at 17. In the *UAS NPRM*, the Commission also sought comment on whether, if revisions to RTCA DO-362A are necessary or appropriate to address these issues, the next version of the standard is anticipated to be backwardly compatible with RTCA DO-362A, and if not, whether adoption of final rules should be deferred until these issues are resolved in a new version of the standard. *UAS NPRM*, 38 FCC Rcd at 502, para. 64. In response, RTCA states that if a common TDD Frame Rate is adopted, "RTCA DO-362B will not be backwards compatible with RTCA DO-362A," but notes that "CNPC radios currently deployed or deployed in the near future based on DO-362A could be modified by software/firmware to become compatible with RTCA DO-362B standards . . . ." RTCA Comments at 17.

designators and classes for this service.[220] RTCA argues that the current requirements of rule section 87.139(c) are less stringent than those in RTCA DO-362A, and that the Commission should only require compliance with the latter.[221] RTCA also argues that "none of the current emission classes and designators defined in section 87.139(c) of the rules agree with the range of authorized bandwidths and occupied bandwidths permitted by RTCA DO-362A or planned updates in the DO-362B MOPS."[222] L3H asserts that it is not clear whether rule section 87.139 is applicable, as it applies only to communications using certain specific Emissions Designators and the RTCA DO-362A mandatory modulation makes no reference to these designators.[223] The Commission also sought comment on the appropriate classes and designators, and whether to use one of the types of assignable emissions already defined in, for example, section 87.137 of the Commission's rules.[224] The Commission then proposed certain emission designators for data and video and sought comment on their appropriateness for operations subject to RTCA DO-362A.[225]

65. After review of the record, we find that applying the current rule section 87.139(c)[226] emission limits to NNA equipment and operations in the 5030-5091 MHz band is not warranted. We agree with RTCA that the requirements of rule section 87.139(c) are less stringent than those set forth in the RTCA standard under section 2.2.1.8.2 incorporated by reference into our technical rules governing NNA equipment and operations. We note, however, that the RTCA DO-362A section 2.2.1.8.2 Table 2-5 Out-of-Band Emission Limits does not specify emission limits into frequency bands above 5150 MHz for which protection is required. We received no comment regarding this potential disadvantage to adopting the RTCA-DO 362A standard's emission limits with respect to limiting possible spurious emissions. To provide certainty to manufacturers and facilitate equipment authorization testing, we find it appropriate to adopt our standard limit of -13 dBm/MHz above 5150 MHz. Further, as stated, the FAA's TSO-C213a requires compliance with minimum performance standards for UAS terrestrial CNPC Link System designed for operation in the 5030-5091 MHz band. The FAA specifically requires new models of UAS CNPC Link Systems identified and manufactured on or after the December 22, 2022 TSO effective date to meet the applicable requirements in section 2 of the RTCA DO-362A standard in order to be approved and to be identified with the applicable TSO marking.[227] As stated, we seek to provide clarity to equipment manufacturers and licensees, and also to maintain a harmonized approach with the FAA to avoid imposing potentially inconsistent OOBE requirements. We therefore decline to apply the section 87.139(c) requirement to NNA equipment and operations in the 5030-5091 MHz band. Further, we received limited comment on the issue of specifying emission designators in new part 88 of the Commission's rules.[228] To provide stakeholders increased flexibility, and in lieu of mandating use of

[220] *UAS NPRM*, 38 FCC Rcd at 501, 503-04, paras. 63, 67; *see also* 47 CFR § 87.131 (specifying emission designators in aviation services).

[221] *See* RTCA *Refresh Public Notice* Comments at 6.

[222] RTCA Comments at 25.

[223] *See* L3H *Refresh Public Notice* Comments at 9.

[224] *UAS NPRM*, 38 FCC Rcd at 504, para. 67; *see also* 47 CFR § 87.137 (providing the assignable emissions for part 87 services and corresponding emission designators and authorized bandwidths).

[225] *See* 47 CFR § 2.201; *see also* Appx. A (adding 47 CFR § 88.105).

[226] 47 CFR § 87.137(c).

[227] TSO C213a at 2-3.

[228] *See UAS NPRM*, 38 FCC Rcd Appx. A (Proposed Rules). Lockheed Martin supports the Commission adding proposed emission designators G8D for data and G8F for video. Lockheed Martin Comments at 12. RTCA indicates that "the current emission classes and designators defined in section 87.137 of the rules are not compatible with the authorized and occupied bandwidths allowed by RTCA DO-362A and future updates in DO-362B MOPS." RTCA Comments at 25.

specific emission designators, we will permit an applicant seeking equipment certification to specify the emission designator appropriate to its equipment design and proposed operation, provided it meets the technical requirements we adopt governing NNA equipment and operations.

66. *RTCA DO-377A*. In the *UAS NPRM*, the Commission noted that RTCA has also adopted another standard applicable to CNPC in the 5030-5091 MHz band, designated RTCA DO-377A, Minimum Aviation System Performance Standards for C2 Link Systems Supporting Operations of Unmanned Aircraft Systems in U.S. Airspace (RTCA DO-377A).[229] As stated, RTCA DO-377A can be applied to systems relying on a direct connection or systems relying on network functionality for the connection, and focuses on system requirements, including system performance, safety, and security requirements. The *UAS NPRM* sought comment on whether the Commission should adopt rules requiring compliance with the standard, to the extent that RTCA DO-377A applies to NNA operations.[230] Alternatively, the Commission sought comment on whether, as AIA recommends, requirements should be limited to technical requirements based on RTCA DO-362A, and system performance, safety, and security requirements, such as those in RTCA DO-377A, should be left to be considered by a multistakeholder group or addressed by the FAA.[231] Commenters addressing the requirements of DO-377A continue to describe that standard in the context of network-based CNPC and exclusive use licensing,[232] and some argue that the Commission should limit its requirements to the technical requirements in RTCA DO-362A and leave system performance, safety, and security requirements to a multi-stakeholder group or the FAA.[233] As discussed above,[234] we find that our incorporation of technical requirements through reference to RTCA DO-362A strikes the appropriate balance at this time in facilitating near-term NNA equipment development and operations in the 5030-5091 MHz band and reducing the potential for harmful interference. We agree with commenters and find it appropriate to defer consideration of issues relating to system performance, safety, and security requirements for NSS operation in the 5030-5091 MHz band and associated compliance with the RTCA DO-377A standard or updates to that standard.[235]

[229] *UAS NPRM*, 38 FCC Rcd at 504, para. 69. The Commission noted that RTCA DO-362A describes "minimum performance standards for the ground and airborne radios used for a direct link, focusing on certain design characteristics of these radios such as power and emissions limits." *Id*. In contrast, RTCA DO-377A describes the "minimum performance of an overall 'C2 Link System,' defined as a system used to send information exchanges between a control station and an unmanned aircraft and to manage the connection between them, and which can be comprised of one or many Air/Ground links and Ground/Ground links." *Id*.

[230] *UAS NPRM*, 38 FCC Rcd at 504-05, para. 69.

[231] *Id*. at 505, para. 69.

[232] *See* RTCA Comments at 29 (noting that RTCA DO-377A provides standards for coverage availability, latency and security to support FCC/FAA approval of NSS licensees); AURA Comments at 17-18 (recommending that "exclusive use licensees should use frequency management techniques in their licensed areas for safe UAS flight, as compliance with RTCA DO-377A requires the use of such techniques."); *see also* AIA *Refresh Public Notice* Comments at 6 (asserting that network providers of CNPC must "meet[] aviation performance levels and the safety requirements (in DO-377A) that govern a proposed network of [ground stations] and services"); id. at 8 (stating that RTCA DO-377A "guides the implementation of ground networks"); uAvionix *Refresh Public Notice* Comments at 1; Wisk *Refresh Public Notice* Comments at 2 n.5 ("DO-377A provides a basis for the safety, performance, and security standards that a CNPC network should meet . . . .").

[233] Lockheed Martin Comments at 12.

[234] *See supra* paras. 53-64.

[235] We note that, in December of 2023, RTCA issued an update to RTCA DO-377A. *See* RTCA, Minimum Aviation System Performance Standards (MASPS) for C2 Link Systems Supporting Operations of Uncrewed Aircraft Systems in U.S. Airspace, RTCA-DO-377B (2023).

67. *Delegation of Authority for Streamlined Procedures to Update Incorporated Standards*. In the *UAS NPRM*, the Commission anticipated that any technical standard developed by a standards organization that ultimately is incorporated by reference into the Commission's rules would be subject to ongoing revisions as parties gain more experience and as the UAS industry continues to rapidly evolve.[236] The Commission noted that RTCA DO-362A is a 2020 revision of the RTCA DO-362 standard issued by RTCA in 2016, and that RTCA Special Committee 228 (SC-228) is currently working on a second revision, which we reference herein as RTCA DO-362B.[237] The Commission anticipated that the rules would need to be "revisited in the future to reflect important and beneficial standard updates,"[238] and therefore invited comment on whether to adopt a delegation of rulemaking authority to one or more Bureaus in this proceeding, comparable to actions the Commission has previously taken in similar circumstances.[239] The Commission sought comment specifically on whether to delegate joint rulemaking authority to WTB and Office of Engineering and Technology (OET) to incorporate into the Commission's rules, after consultation with the FAA and NTIA, and notice and an opportunity for public comment, any updated version of a previously incorporated technical standard applicable to UAS operations in the 5030-5091 MHz band.[240] Lastly, the Commission sought comment on whether to limit any delegated authority to the incorporation of standards updates that do not raise major compliance issues, similar to limitations the Commission has placed in some earlier delegations of rulemaking authority to update standards.[241]

68. We received no comments directly responding to the issue of delegation of authority to incorporate standards updates. Boeing/Wisk, however, support incorporation of FAA standards in lieu of adopting the RTCA standard, but recommend that the FCC ensure "any existing FAA regulations incorporated directly into its regulatory regime for the 5030-5091 MHz Band allow for future iterations of those FAA rules."[242] They argue that the Commission should not produce rules or requirements that are tied to a specific version of an FAA regulation but incorporate "the latest amendment or TSO revision level."[243] Further, Boeing/Wisk states that "[i]f the Commission disagrees and incorporates RTCA standards directly into its regulations, they should follow the same approach when incorporating standards."[244] To facilitate expedited updates to our technical rules based on evolving technical standards, we find it in the public interest to delegate joint rulemaking authority to WTB and OET to incorporate into the Commission's rules, after notice and an opportunity for public comment if necessary or appropriate, any updated version of a previously incorporated technical standard applicable to UAS

[236] *UAS NPRM*, 38 FCC Rcd at 507, para. 74.

[237] *Id.*

[238] *Id.*

[239] *Id*. (citing *Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones*, WT Docket 01-309, Report and Order, 18 FCC Rcd 16753, 16779, para. 63 (2003); *Amendment of the Commission's Rules Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 07-250, First Report and Order, 23 FCC Rcd 3406, 3441, para. 87 (2008); *Access to Telecommunication Equipment and Services by Persons with Disabilities; Amendment of the Commission's Rules Governing Hearing Aid-Compatible Handsets*, CG Docket No. 13-46, WT Docket Nos. 07-250, 10-254, Report and Order and Order on Reconsideration, 32 FCC Rcd 9063, 9092, Appx. B (2017) (expanding rulemaking delegation codified at section 20.19(k)); *see also Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, GC Docket Nos. 10-51, 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8643, para. 49 (2013)).

[240] *Id*. at 507-08, para. 74.

[241] *Id*. at 508, para. 74.

[242] Boeing Comments at 13.

[243] *Id*.

[244] *Id*.

operations in the 5030-5091 MHz band. We seek to expedite necessary future changes to accommodate updates in standards relevant to previously adopted technical requirements. We find that this delegation will help ensure that key technical updates relevant to requirements for authorization of UAS equipment and operations can be incorporated without unnecessary administrative delay.

7. Equipment Authorization

69. In the *UAS NPRM*, the Commission proposed to impose equipment authorization requirements similar to those under sections 87.145 and 87.147 of the Commission's rules to all equipment intended for use in the 5030-5091 MHz band and sought comment on that proposed approach.[245] The Commission's stated goal is to ensure that such equipment "has the level of reliability and safety required of aviation equipment."[246] Section 87.145 requires that each transmitter must be certificated for use in the relevant service, and section 87.147 establishes a specific equipment authorization process for part 87 equipment, which, for the frequencies in the 5030-5091 MHz band among others, requires coordination with the FAA.[247] The Commission noted that 5030-5091 MHz UAS radio equipment must independently satisfy any applicable FAA requirements,[248] and anticipated that this coordination process would ensure that the 5030-5091 MHz equipment authorizations by the Commission and the FAA are consistent and that all equipment approved for use in the band will meet both agencies' requirements.

70. Commenters addressing the equipment authorization issue support the Commission's proposal.[249] Boeing/Wisk support the proposed equipment authorization requirements "for UAS operations in the 5030-5091 MHz band that would require each transmitter type be certified for use in the relevant service."[250] Boeing/Wisk agree with the *UAS NPRM* that this approach "would ensure that equipment in the new band has the same level of safety and reliability as aviation equipment."[251] They also support the participation of the FAA in the equipment authorization process to ensure interagency coordination.[252] uAvionix supports the Commission's proposal to require that the FAA be notified by applicants when they file for FCC equipment authorization for devices that will operate in the 5030-5091 MHz band.[253] uAvionix also supports the Commission's proposal requiring the FCC equipment

[245] *UAS NPRM*, 38 FCC Rcd at 518, para. 99.

[246] *Id*.

[247] *See* 47 CFR §§ 87.145(a), 87.147(d). Among other things, the applicant for certification of equipment intended for transmission "must notify the FAA of the filing of the equipment certification, and must describe the equipment, give the manufacturer's identification, antenna characteristics, rated output power, emission type and characteristics, the frequency or frequencies of operation, and essential receive characteristics if protection is required." 47 CFR § 87.147(d).

[248] *See, e.g.*, TSO-C213a.

[249] *See, e.g.*, Boeing/Wisk Comments at 3 ("The Commission should also adopt appropriate licensing, technical, and service rules for each category of operations, appropriate protections for adjacent operators, and equipment authorization requirements."); uAvionix Comments at 26-27 ("uAvionix supports this new rule because it gives the FAA the opportunity to review equipment designed to operate in the 5030-5091 MHz band before the FCC authorizes it.").

[250] Boeing/Wisk Comments at 21.

[251] *Id*. (citing *UAS NPRM*, 38 FCC Rcd at 518, para. 99).

[252] Boeing/Wisk Comments at 21.

[253] uAvionix Comments at 26.

authorization application to include a copy of the FAA submission and specifying that the authorization can only be granted once the FAA has made a determination.[254]

71. Based on the record, to promote reliability and safety, we find it in the public interest to adopt our proposal and will require transmitters to be certified for use in this new part 88 service through compliance with OET procedures for equipment authorization under part 2, subpart J of the Commission's rules. In addition to the technical requirements, those part 2 rules now also prohibit authorization of particular equipment produced by entities identified on the Commission's Covered List.[255] We also require that the applicant, when filing the requisite application for equipment certification, notify the FAA of the identity of the equipment manufacturer. We agree with commenters that this approach will ensure that necessary coordination occurs with the FAA, given its responsibility for ensuring aviation safety in the NAS, and will prevent harmful interference through NNA equipment compliance with the relevant technical requirements.

B. Dynamic Frequency Management System

72. In the *UAS NPRM*, the Commission proposed that NNA operations be managed by one or more DFMSs.[256] It described a DFMS as a frequency coordination system that, in response to requests from a UAS operator for a frequency assignment in NNA spectrum, would determine and assign to the requesting operator, through an automated (non-manual) process, temporary use of certain frequencies for a particular geographic area and time period tailored to the operator's submitted UAS flight plan.[257] It further contemplated that for the duration of the assignment, the operator would have exclusive and protected use of the assigned frequencies within the assigned area and timeframe, after which the frequencies would be available in that area for assignment to another operator.[258] The Commission proposed that a DFMS would be administered by a private third party, referred to as a DFMS administrator, and that more than one DFMS would be permitted to operate in the band, with each system capable of frequency coordination-related activities on a nationwide basis and across the entire 5030-5091 MHz band.[259] The Commission further proposed certain high level requirements for the DFMS and DFMS administrator and related requirements for users of a DFMS.[260]

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[254] *Id*. uAvionix finds this approach important to "ensure that devices operating in spectrum used for aviation do not cause harmful interference" and because it confirms that all equipment approved for use in the band will meet both FCC and FAA requirements. *Id*.

[255] We note that, since February 2023, the Commission's part 2 rules for equipment authorization prohibit authorization of equipment identified on the Commission's Covered List, which has been determined to pose "an unacceptable risk to the national security of the United States or the security and safety of United States persons." *See 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 Equipment Authorization Program*, ET Docket No. 21-232 and EA Docket 21-233, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 13493, 13494-95, para. 1 (2022) (prohibiting authorization, going forward, of equipment identified on the Covered List produced by particular entities); 47 CFR §§ 2.903 (prohibiting authorization of equipment identified on the Covered List issued pursuant to 47 CFR § 1.50002), 2.911(d)(5) (requiring that applicants for equipment certification provide a written and signed certification that the subject equipment is not equipment on the Covered List as of the date of the filing of the application). We further note that because we are creating new service rules under part 88, only UAS equipment authorized under these new rules is permitted in the 5030-5091 MHz band and no previously authorized UAS equipment would satisfy this requirement.

[256] *See UAS NPRM*, 38 FCC Rcd at 486, para. 26.

[257] *See id.*

[258] *See id.*

[259] *See id.* at 486, 487, paras. 26, 28.

[260] *See id.* at 487-91, paras. 29-37; *id*. at Appx. A (proposing 47 CFR §§ 88.31, 88.135, 88.137, 88.139).

73. After review of the record, we adopt the DFMS approach, as detailed below, to coordinate NNA operations in the 5030-5091 MHz band. We define a DFMS as "a frequency coordination system operating in the 5030-5091 MHz band that (1) is highly automated and capable of providing rapid responses to frequency assignment requests from registered NNA operators, and (2) in response to such requests, is capable of assigning to the requesting operator temporary protected use of certain frequencies for a particular geographic area and time period tailored to the operator's submitted operation, to the extent such frequencies are available." As proposed, we will require parties seeking to use or using the NNA spectrum to be registered with a DFMS and to transmit in the 5030-5091 MHz band only pursuant to and consistent with the terms of a frequency assignment from a Commission-approved DFMS.[261]

74. We find that the record overwhelmingly supports this approach to managing shared spectrum in the band and gives us confidence that the DFMS will achieve substantial benefits for UAS operators and the public.[262] In particular, we find that this approach will be an effective way to coordinate short-term dynamic access to interference-protected, highly-reliable CNPC in a timely, efficient, and cost-effective manner, and will facilitate the efficient and intensive use of a shared spectrum resource.[263] In addition, the management of the NNA operations by the DFMSs will help to ensure the protection of other authorized services inside the band and in adjacent spectrum.[264] In reaching these conclusions, we rely in part on our past experience with automated frequency management systems. As the *UAS NPRM* noted, the Commission authorized Spectrum Access Systems (SASs) to coordinate shared spectrum access to the 3.55-3.7 GHz band (3.5 GHz band) on an automated basis, which allowed incumbent radar systems, licensed services, and license-by-rule services, including stations in the Citizens Broadband Radio Service (CBRS), to successfully coexist in the band.[265] The record confirms that a DFMS approach can be feasibly implemented drawing on these tested technologies and methods.[266]

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[261] *See id.* at Appx. A (proposing § 88.27(c), (d)).

[262] *See* AIA Comments at 10 ("[F]or shared segments, the Commission should require the use of a DFMS to coordinate access to channels."); ALPA Comments at 9; AURA Comments at 9; Boeing/Wisk Comments at 3; CDA Comments at 5; DSA Comments at 2-3 (finding the DFMS approach "will ensure efficient utilization of spectrum and foster innovation"); EEI Comments at 12-14; Federated Wireless Comments at 2 ("[T]he use of a DFMS is likely the only feasible means to ensure coexistence between and among the various uses and users of spectrum in the rapidly evolving advanced aviation space, and certainly for such coexistence to be feasible at scale."); Lockheed Martin Comments at 6; NAB Comments at 3; NAM/MRFAC Comments at 3; NMC Comments at 4; uAvionix Comments at 14, 17 ("[A] DFMS framework is essential to maximize safe, efficient, and productive use of the 5030-5091 MHz band."); WInnForum Comments at 3; Xcel Reply at 5, 7.

[263] *See UAS NPRM*, 38 FCC Rcd at 486, para. 26; AIA Comments at 10; DSA Comments at 2; Federated Wireless Comments at 2-3; WInnForum Comments at 3 (arguing spectrum access databases "enable increased sharing and thereby increase the dynamic nature of spectrum management"); Boeing/Wisk Reply at 8-9 ("[T]he DFMS model has a proven ability to assign spectrum efficiently across large numbers of operators and protect such operators from harmful interference . . . .").

[264] *See UAS NPRM*, 38 FCC Rcd at 487, para. 26; *see also, e.g.*, DSA Comments at 2; Federated Wireless Comments at 11 ("The demonstrated success of dynamic spectrum management . . . can be built upon to not only protect users in the 5030-5091 MHz band, but also users in adjacent bands.").

[265] *See UAS NPRM*, 38 FCC Rcd at 487, para. 27; 47 CFR pt. 96, subpt. F; *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 (2015) (*3.5 GHz R&O*). Since adopting the rules governing SASs, the Commission has authorized multiple SASs for commercial operations in the band. *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Four Spectrum Access System Administrators for Full Scale Commercial Deployment in the 3.5 GHz Band and Emphasize Licensee Compliance Obligations in the 3650-3700 MHz Band Under Part 96*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 117, 117, para. 1 (WTB/OET 2020) (certifying CommScope, Federated Wireless, Inc., Google, and Sony, Inc. as SAS Administrators); *Wireless Telecommunications Bureau and Office of Engineering and Technology*

(continued….)

75. Some commenters argue for alternatives to a DFMS, but we are not persuaded that there are better alternatives at this time for providing access to shared NNA spectrum for protected, highly-reliable CNPC. For example, Qualcomm asserts that 3GPP standards can already enable reliable use of 5030-5091 MHz spectrum without the coordination of a DFMS or a network, but does not provide any specifics regarding its proposal or discuss any examples of a previous use of 3GPP standards to implement such an approach for protected access.[267] NTIA argues that we should explore the use of a cognitive radio solution, which it states "hold[s] the promise of securing non-networked spectrum without the need of a centralized [DFMS]."[268] NTIA argues that cognitive radio technologies could increase spectrum efficiency permitting more UAS operations in comparison with a DFMS.[269] Other commenters raise concerns, however, that cognitive radio solutions may not provide the necessary reliability for safety-critical CNPC.[270] Commenters also argue that cognitive radio solutions require significantly more study and development before they can be used for this purpose.[271] In light of the current record, while

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Approve Spectrum Access System Administrator Amdocs for Full Scale Commercial Deployment in the 3.5 GHz Band, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 3687, 3687, para. 1 (2020 WTB/OET); *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access System Administrator Key Bridge Wireless for Full Scale Commercial Deployment in the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 36 FCC Rcd 4880, 4880, para. 1 (WTB/OET 2021); *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access System Administrator Red Technologies For Full Scale Commercial Deployment in the 3.5 GHz Band, to Support Spectrum Manager Leasing, and to Use Key Bridge Wireless LLC's Environmental Sensing Capability*, GN Docket No. 15-319, DA 23-893 (WTB/OET rel. Sept. 22, 2023). Under SAS coordination, there has been steady growth in the number of CBRS devices deployed. *See* NTIA, An Analysis of Aggregate CBRS SAS Data from April 2021 to January 2023, NTIA Report 23-567, at 10, 53 (2023), https://its.ntia.gov/umbraco/surface/download/publication?reportNumber=TR-23-567.pdf (2023 CBRS Usage Report).

[266] *See* DSA Comments at 2-3 (agreeing that a DFMS approach is "feasible and practical"); AIA Reply at 11 (arguing that database technologies like the DFMS "are a tested solution to dynamically assigning shared spectrum, and there are several solutions that already exist in the marketplace."); AURA Reply at 16 ("[T]he UAS industry is already developing the standards and processes that DFMS could use to coordinate shared use spectrum access effectively and dynamically for the safe flight of UA."); Xcel Reply at 7 (agreeing that CBRS is a "useful starting point" for the development of a DFMS).

[267] *See* Qualcomm Comments at 13 (asserting that "3GPP standards would streamline the process for operationalizing the NNA band for UASs, requiring no DFMS(s) or less complex systems"). As we discuss elsewhere, we are adopting technical requirements for NNA stations consistent with the RTCA DO-362A standard. *See supra* paras. 53-64. We note that even Qualcomm concedes that, if RTCA DO-362A (rather than 3GPP standards) is the basis of the technical requirements, "[t]he need of a DFMS is especially apparent[.]" Qualcomm Comments at 13 n.32.

[268] NTIA Comments at 2. It describes cognitive radio as "a form of wireless communication in which a transceiver can intelligently detect which communication channels are in use and which are not, and instantly move into vacant channels while avoiding occupied ones," which "optimizes the use of available spectrum while minimizing interference to other users." *Id.* at 2 n.4.

[269] *Id.* at 2.

[270] *See, e.g.*, Lockheed Martin Comments at 9 (asserting that cognitive radio "would not provide the assurances required to conduct the complex missions that Lockheed Martin undertakes with high-value UA"); AIA Reply at 11 (arguing for DFMS approach rather than cognitive radio "given the safety of life aspects of operating in this band and the reality that spectrum management systems are effectively required to comply with the relevant minimum performance standards"); AURA Reply at 18-19 ("[C]ognitive radios are not closed loop nor are they deterministic, both of which are important (and may be required) to support safety-of-life UAS CNPC operations."); Federated Wireless Reply at 7.

[271] *See, e.g.*, AERPAW Comments at 3 ("Use of cognitive radio based approaches can help improve the spectrum utilization in this band. However, cognitive radio remains at this time an academic concept, and there is a need for development and testing before it can be used in real-world scenarios."); AURA Reply at 18-19 (use of cognitive
(continued….)

we acknowledge that cognitive radio is an interesting tool that could play a role in the band in the future, we find that it would be premature to mandate that NNA be deployed with a cognitive radio solution at this time, and that such an approach could delay use of the band for an indefinite number of years to accomplish the necessary standards work, technology development, and multi-agency testing and review. In contrast, deployment of one or more DFMSs provides a shorter and more certain path to making shared NNA spectrum available, as it can rely on established technologies applying technical standards already approved for UAS CNPC in the band by the FAA. The DFMS approach should therefore yield more immediate benefits than a cognitive radio approach.[272]

76. Moreover, adopting and implementing the DFMS approach at this time will not delay or prevent later use of cognitive radio in the band if that solution is ultimately desired and developed. The deployment of DFMSs to manage NNA operations does not preclude the future deployment of a cognitive radio solution in NNA spectrum in the event that appropriate technologies are standardized, developed, and tested. For example, such technologies could be deployed in the NNA spectrum as an overlay solution providing access when NNA spectrum is not otherwise in use. The deployment of DFMSs may even facilitate investment in cognitive radio technologies for CNPC in the 5030-5091 MHz band, as it will give public and private stakeholders experience regarding the extent and distribution of demand for the NNA spectrum and methods of avoiding or mitigating interference that might inform development of the necessary contention-based protocols. For all of these reasons, we conclude that assigning management of the NNA spectrum to one or more DFMSs in the near term will better serve the public interest than deferring access until the development of a cognitive radio solution.

77. Skydio asserts that using a DFMS to allocate frequencies would be slow and that having to connect to a DFMS may preclude operation in areas without a network connection.[273] Skydio proposes that we instead "utilize self-coordination methods[.]"[274] As Skydio does not elaborate on its proposal, it is unclear what methods it is referencing. To the extent Skydio is supporting a cognitive radio solution, we decline to adopt this approach for the reasons discussed above. Further, contrary to Skydio's assertions, we anticipate that turnaround on requests will be rapid given that the DFMS will implement automated rather than manual processing, and we have specifically required above that a DFMS be capable of rapid response to frequency requests. We do anticipate that communications with a DFMS will require access to an Internet connection. These communications, however, can occur over any available form of coverage.[275] We also note that under the 3.5 GHz CBRS rules, which require more extensive communications with the SAS than we require with a DFMS, deployments have been robust nationwide.[276] Accordingly, we expect that instances in which lack of coverage would preclude use of the

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radio would "require extensive analysis and testing . . . . [I]ndustry stakeholders would need to create and validate a standard, and the FAA would need to accept that standard and regularize its use.").

[272] *See, e.g.*, uAvionix Comments at 16 ("Given the rapid development of new UAS capabilities, it is important that DFMS be in place as soon as possible.").

[273] Skydio Comments at 7.

[274] *Id.*

[275] We recently adopted a Report and Order establishing a regulatory framework to enable collaborations between satellite operators and terrestrial wireless service providers to offer customers supplemental coverage from space (SCS), which will enable consumers in areas not covered by terrestrial networks to be connected using their existing devices via satellite-based communications. *See Single Network Future: Supplemental Coverage from Space*, GN Docket No. 23-65, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-28 (rel. Mar. 15, 2024). We expect SCS will help with connectivity, especially in rural and remote areas. *See id.* at 8, para. 16.

[276] *See, e.g.*, 2023 CBRS Usage Report, at xi, 6, 29 (finding that the number of active CBRS devices (CBSDs) more than doubled between April 1, 2021 to January 1, 2023, to 287,033, with one or more CBSD in 78.1% of counties and more than 70% of all active CBSDs deployed in rural census blocks); *see also* 47 CFR §§ 96.39, 96.41.

system will be rare, and this small potential impact does not alter our conclusion that the DFMS approach will better serve the public interest than other alternatives raised in the record.

78. We are also unpersuaded by FPVFC's proposal that the DFMS should be implemented as an extension to existing Low Altitude Authorization and Notification Capability (LAANC) systems rather than as an independent system.[277] Under the LAANC program established by the FAA, UAS operators can apply to LAANC service providers to receive a near real-time FAA airspace authorization for operations under 400 feet in controlled airspace around airports.[278] We find that requiring integration of the DFMS into LAANC would present numerous problems. First, LAANC only provides authorization for those UAS flights at low altitude in controlled airspace and accordingly would not be applicable for the full scope of operations we permit in the 5030-5091 MHz band. Further, the scope of LAANC is determined by the FAA rather than the Commission, and the FAA has not chosen to integrate spectrum assignment functions into LAANC functions.[279] Accordingly, any action to add the DFMS function to LAANC would first require an FAA determination to amend and expand their program. In addition, LAANC systems have already been deployed by third-party service providers, and as these systems do not include spectrum assignment functions, any such integration would involve significant changes in their deployed technology and responsibilities, which could be disruptive to the highly successful LAANC program. Requiring such integration would also complicate the implementation of the DFMS itself, potentially adding significant delays and cost. Accordingly, we will not require the implementation of the DFMS function as an extension of LAANC.

79. As proposed in the *UAS NPRM*, we will approve any DFMS that can meet our requirements, including approving multiple DFMSs if each of them meets the requirements. Each approved DFMS will be required to provide access to frequencies nationwide, and to communicate and coordinate with the other approved DFMSs as necessary to ensure that their assignments are consistent. As in the 3.5 GHz band, where the Commission permitted multiple SASs to operate, we anticipate that this approach will foster a diverse, competitive marketplace of DFMS providers, promote technological innovation, and encourage the development of market-based solutions to the challenges involved with effective spectrum management in the band.[280] Multiple providers will also make the provision of DFMS service more robust overall, ensuring redundancy in the event a DFMS is temporarily disabled or ceases operations. We further find substantial support in the record for permitting multiple DFMSs subject to appropriate requirements to coordinate their assignments.[281]

80. ENTELEC/API argue that the Commission should instead choose a single provider to maximize simplicity and minimize the risk of inconsistent assignments.[282] We find, however, that the benefits of multiple DFMSs greatly outweigh the challenges that would need to be addressed in implementing that framework. We acknowledge that permitting multiple DFMSs will introduce

[277] *See* FPVFC Comments at 2.

[278] *See* FAA, *UAS Data Exchange (LAANC)*, https://www.faa.gov/uas/programs_partnerships/data_exchange/ (last visited Aug. 19, 2024).

[279] *See id.*

[280] *See 3.5 GHz R&O*, 30 FCC Rcd at 4063, para. 354.

[281] *See* AIA Comments at 10 (supporting multiple DFMS operators "so long as there is a robust data exchange between them"); AURA Comments at 18 ("The Commission should authorize as many DFMS operators as meet its requirements, but it should impose an interoperability requirement that would ensure that each DFMS is sufficiently able to authorize only those channels that are available in a given area[.]"); DSA Comments at 3 (permitting more than one DFMS will "spur competition, promote innovation, and encourage differentiated services in response to changing market demands"); EEI Comments at 14; Federated Wireless Comments at 6 ("There is tremendous value in authorizing more than one coordination database administrator to operate in any spectrum band, and this is already occurring in the CBRS and the 6 GHz bands."); NAM/MRFAC Comments at 3-4; uAvionix Reply at 10.

[282] *See* ENTELEC/API Comments at 8.

additional complications to the implementation of these systems.[283] It will be important for DFMS administrators to agree on and implement appropriate DFMS-to-DFMS lines of communication, as well as protocols for coordination and common interference models, that ensure that inconsistencies or conflicts in assignments are avoided, which may require coordination of requests in real time.[284] We agree with Federated Wireless, however, that these challenges should be surmountable with appropriate stakeholder coordination to develop effective inter-DFMS protocols, and restricting selection to a single DFMS would chill the innovation and other benefits that competition can bring and increase the risk to the continuity of NNA operations from the possibility that a DFMS is temporarily disabled or ceases operations.[285]

81. Below, we establish requirements to govern the DFMS and DFMS administrator and the process by which DFMSs and DFMS administrators will be approved, as well as certain rules governing the request and assignment process. We emphasize that the requirements we establish are high-level rules that describe minimum requirements. We expect that stakeholders will work collaboratively to develop specific policies, standards, procedures, and technologies necessary to show compliance with, implement, and enforce the rules during the DFMS approval process and thereafter. While EEI raises concerns that this approach may prove unsuccessful if parties are unable to agree, such collaborative efforts enabled stakeholders in the 3.5 GHz band to address numerous issues of SAS deployment in a flexible and innovative manner.[286] Accordingly, we believe it can be successful in this context. We further anticipate that a flexible approach will better enable the DFMSs to address the rapidly evolving UAS industry needs and technologies.[287] However, if solutions are not reached on issues through industry consensus, the Commission may further address these issues in the future.

1. DFMS Requirements

82. In the *UAS NPRM*, the Commission sought comment on the appropriate requirements and responsibilities of the DFMS.[288] The Commission sought comment generally on whether the Commission could draw on the rules governing the SAS and SAS administrators in the 3.5 GHz band and the general policy reflected in those rules of establishing only the minimum high-level requirements necessary to ensure the effective development and operation of the DFMSs.[289] The Commission also proposed certain high level requirements to be codified in proposed section 88.135 of the Commission's rules.[290] Among these requirements, the Commission proposed that:

- A DFMS must provide a process for NNA users to register with the system for the purpose of submitting frequency assignment requests and obtaining frequency assignments.
- A DFMS must be capable of responding to frequency assignment requests nationwide and across the entire 5030-5091 MHz band. However, a DFMS may only make assignments for spectrum within those frequencies in which NNA operations are permitted.

[283] *See* ENTELEC/API Comments at 7.

[284] *See* Federated Wireless Comments at 14 ("[T]he dynamic nature of aviation requires that the synchronization process for DFMS must happen in near-real-time on an ongoing basis" and noting that "[a] possible scenario that must be accounted for is multiple UAS operators simultaneously contacting their respective DFMSs to request in-flight revisions of their spectrum assignments, possibly in reaction to the same event").

[285] *See* Federated Wireless Comments at 14; Federated Wireless Reply at 5.

[286] *See* EEI Comments at 14-15.

[287] *See, e.g.*, uAvionix Comments at 15 (finding that "high level of oversight for DFMS . . . best provides the flexibility needed for the nascent UAS industry").

[288] *See UAS NPRM*, 38 FCC Rcd at 487-88, para. 29.

[289] *See id.* at 488, para. 29.

[290] *See id.*; *id.* at Appx. A (proposing 47 CFR § 88.135).

- In response to frequency assignment requests from a registered NNA user, a DFMS shall determine and provide, through an automated (non-manual) process, a frequency assignment for a particular geographic area and time period tailored to the NNA user's submitted flight plan, to the extent that frequencies are available to meet the request and the assignment is otherwise consistent with this part. Assignments must provide protected access to frequencies over a duration and geographic area sufficient to cover the entire submitted flight plan.
- Assignments must account for the need to protect other authorized operations.

83. Commenters generally support the adoption of high-level requirements.[291] On the proposed section 88.135, however, commenters provide little comment. Some commenters object to one aspect of the rules in the proposed section 88.135 – the requirement that NNA users submit a specific flight plan and receive assignments tailored to such a flight plan. Boeing asserts that the Commission should not require submission of flight plans because these plans are regulated by the FAA and include information that may be irrelevant to a DFMS assignment.[292] Boeing proposes that, instead, the Commission should require submission of appropriate flight-related information to assist the DFMS in coordinating authorizations.[293] The HAPS Alliance asserts that operators of high altitude platform stations may seek separate NNA assignments to control the ascent and descent of such stations, rather than seeking an assignment covering an entire flight plan.[294] AIA also suggests that requests should not necessarily be limited to a single flight, but that a DFMS should have flexibility to make a frequency assignment for a longer time period initially "and evolve over time as spectrum demands grow."[295]

84. In response, we modify the proposed requirements to clarify that we do not mandate that NNA users submit a "flight plan" in connection with their requests. "Flight plan" is a term of art in the aviation industry, with specified format and content.[296] While a DFMS will require sufficient information regarding the time, relevant geographic area and, potentially, altitude of a UAS operation to model potential interference impacts, we do not intend to specify the particular content or format of that information, but to give stakeholders flexibility to develop standards to implement this requirement. In addition, requiring specification of precise flight plans may raise security concerns, and may not accommodate numerous UAS operations that do not involve a flight plan. We still require, however, that requests be for spectrum to support a single UAS flight, which should help to ensure that parties reserve spectrum only for those times that they actually need the assignment, and to maximize the usage of the NNA spectrum and the resulting benefits. To reflect these determinations, we modify the proposed requirements to use the term "UAS flight" instead of "flight plan" (e.g., requiring that a DFMS provide a frequency assignment for a particular geographic area and time period tailored to the NNA user's submitted UAS flight).

85. We find no other objections to the requirements in the proposed section 88.135. We therefore adopt these requirements essentially as proposed, with the specified modification. After review of the record, we also adopt certain additional requirements, as discussed below.

86. *Interference modeling.* We add a high level requirement regarding the process of interference calculations. In the *UAS NPRM*, the Commission observed that ensuring that UAS operators operating with assigned spectrum are protected from harmful interference and do not cause such

[291] *See, e.g.*, AIA Comments at 9; NTIA/FAA Comments at 4; uAvionix Comments at 15; AURA Reply at 16.

[292] *See* Boeing/Wisk Comments at 10.

[293] *See id.*

[294] *See* HAPS Alliance Comments at 4-5.

[295] *See* AIA Comments at 12.

[296] *See, e.g.*, FAA, *Form FAA 7233-1 – Flight Plan*, (Aug. 1, 1982), https://www.faa.gov/forms/index.cfm/go/document.information/documentID/186159.

interference to other protected operations would be one the DFMS's most important responsibilities, and sought comment on appropriate high-level requirements in connection with this function.[297] AIA asserts that, among the minimum requirements, a DFMS should have to accurately model the RF environment in each geography, including potential interference, and assign channels only after determining, based on a set standard, that the channels can operate free of interference and without causing interference.[298] Federated Wireless asserts that analysis and modeling should be effective with respect to planned UAS operations, and that it will further be essential for each DFMS to abide by detailed technical standards to ensure consistency in the numerical results of any calculations.[299] It recommends, however, that any detailed standards for coverage and interference modeling should be produced by a multi-stakeholder group rather than the Commission.[300] Consistent with these recommendations, we do not adopt any detailed requirements regarding the methodology or modeling for interference calculations. We further agree that models and methodologies for interference determinations should be both effective in avoiding harmful interference and consistent between different DFMSs. Accordingly, we adopt these high level requirements. As with other high level requirements, we envision that stakeholders will establish detailed standards for specific models and methods that meet the Commission's requirements. We emphasize, however, that whatever standards stakeholders develop to implement the DFMS requirements must be in compliance with the rules, and the Commission will remain ultimately responsible for ensuring that any such standards satisfy the requirements of the rules and are otherwise consistent with them.

87. *FAA authorizations.* We include a requirement to help ensure that parties requesting frequency assignments have the necessary FAA pilot and flight authorizations. In the *UAS NPRM*, the Commission found that compliance by 5030-5091 MHz operators with applicable FAA remote pilot regulations will be critical to the safe operation of UAS in the 5030-5091 MHz band, and sought comment on the best approach to achieve this goal.[301] The Commission also noted that in addition to spectrum access from the Commission, UAS operators need authorization from the FAA to conduct flights in the airspace of the United States, and sought comment on whether and how frequency assignments should be coordinated with airspace authorizations.[302] It further sought comment on whether to rely on the DFMS to ensure that parties had the necessary FAA approvals for piloting and flight authorization.[303] In its comments, the FAA indicates support for this requirement.[304] In addition, Boeing/Wisk agree that FAA flight authority should be a prerequisite before the DFMS makes a frequency assignment, but argue that a DFMS should merely ascertain that a party requesting a frequency assignment has the requisite qualifications or authority, without interfering with these existing FAA

[297] *See UAS NPRM*, 38 FCC Rcd at 488, para. 30.

[298] *See* AIA Comments at 9.

[299] *See* Federated Wireless Comments at 11; Federated Wireless Reply at 9. *See also* Federated Wireless Comments at 12-13 ("A detailed standard for coverage and interference modeling, including acceptable thresholds, should be produced by the multi-stakeholder group. The standard must additionally account for the complications of the physical modeling of radio signals in aviation scenarios.").

[300] *See* Federated Wireless Reply at 9. *See also* AURA Comments at 18 (supporting authorization of as many DFMS operators as meet the Commission's requirements, contingent on an interoperability requirement that ensures each DFMS is able to authorize only channels available in an area "based upon the coordination contours that the Commission (or a third-party industry group) establishes.").

[301] *See UAS NPRM*, 38 FCC Rcd at 498, para. 55.

[302] *See UAS NPRM*, 38 FCC Rcd at 492, paras. 40-41.

[303] *See UAS NPRM*, 38 FCC Rcd at 492, 499, paras. 41, 57.

[304] *See* NTIA/FAA Comments at 5.

regimes.[305] Other commenters oppose requirements that make FAA remote pilot authorization a pre-requisite for a frequency assignment.[306]

88. After consideration of these comments, we will require a DFMS to confirm through certifications in the frequency assignment request process that the requesting party has flight authorization from the FAA to cover the flight associated with the assignment request, and that the flight will only be piloted by parties that have the necessary FAA remote pilot authorization.[307] NMC argues that requiring a DFMS to confirm an operator's compliance with FAA regulations would be time-consuming and redundant without any added benefit to the use of the band, but we disagree.[308] While a DFMS may implement additional measures to obtain confirmation, we only require it to implement certifications, and therefore do not expect the requirement to be time-consuming. Further, it will provide additional assurance that the NNA spectrum is used for authorized purposes.[309] EEI warns that FAA requirements may change over time, but our requirement will accommodate such changes.[310] We conclude that the benefit outweighs the limited cost of the requirement.[311]

89. While the Commission will have primary responsibility for the enforcement of this Commission requirement, we anticipate that the Commission will coordinate with the FAA as necessary to ensure that oversight and enforcement is effective. In particular, we find that compliance questions regarding the underlying FAA requirements should generally be determined with FAA input.[312] Therefore, we will require anyone challenging a DFMS action with regard to this requirement or otherwise seeking a Commission determination regarding a party's FAA authorization in this context to submit, with its filing to the Commission, a determination from the FAA regarding whether the party in question has the relevant authorization under FAA rules and requirements.

90. We decline to require that DFMSs "tie into" LAANC systems to confirm air authorizations, as proposed by ENTELEC/API.[313] Such a requirement could impose significant additional

[305] *See* Boeing/Wisk Comments at 10; *see also* AIA Comments at 11 (supporting that operators must be required to submit FAA authorization to operate); Lockheed Martin Comments at 10 (agreeing that it is necessary to require an operator to possess an FAA remote pilot license); uAvionix Reply at 8-9 ("[The Commission] should[] require any spectrum licensee or assignee to comply with all of the FAA eligibility requirements.").

[306] *See* CTIA Comments at 11 (arguing that operator licensing or permitting requirements "are unnecessary and inappropriate in light of FAA regulation of UAS remote pilot qualifications"); EEI Comments at 12 (acknowledging that compliance with FAA remote pilot regulations will be critical, but arguing that it is "not germane to the Commission's mission related to the allocation of spectrum"); NMC Comments at 7.

[307] We note that this requirement does not preclude NNA users from receiving assignments for the support of autonomous flights that may not involve an active remote pilot. For example, flights may involve remote parties that intervene only in the event of problems. We merely require a DFMS to confirm that all remote operators that will be involved in the operation, including those that may potentially take over otherwise autonomous flights, have any necessary FAA remote pilot authorization.

[308] *See* NMC Comments at 7.

[309] During the period governed by the Interim Access Mechanism (before a DFMS is operational), as discussed elsewhere in this Report and Order, there will be a general certification that an operator has received authorization from the FAA to ensure deconfliction, but that obligation will go away once a DFMS is operational.

[310] *See* EEI Comments at 12.

[311] We note that a license certification to address this issue, as proposed by NTIA, is impractical given that NNA will be a license-by-rule service and operators will not be required to have individual licenses.

[312] *See* AURA Comments at 7-8 (arguing the Commission should rely on the FAA to ensure compliance with FAA requirements).

[313] *See* ENTELEC/API Comments at 7; *see also* AURA Comments at 18 (recommending that the DFMS should be able to interact with "the FAA-provided or authorized airspace awareness services").

costs and complexity, and might require modification of the relevant LAANC systems. In addition, the benefits are unclear, as LAANC authorization only applies to a limited subset of UAS operations, that may not include many or even most of the operations occurring in the 5030-5091 MHz band. Further, it is not clear on the record that, even for operations approved under LAANC, a direct-interaction requirement is necessary to provide reasonable assurances that NNA operators have the necessary FAA authorizations. We also do not adopt ENTELEC/API's proposal that all operations must be conducted by a remote pilot with an FAA part 107 remote pilot certification.[314] Our adopted requirement will address the importance of pilot authorizations in a flexible manner that applies regardless of the specific pilot authorization requirements applicable to the operation.[315] We further do not adopt ENTELEC/API's proposal that Remote ID transmission be a requirement for any UAS to access NNA spectrum.[316] While we anticipate that most NNA operations will rely on UAS that have Remote ID capability, the Remote ID obligations for UAS operations are determined by the FAA's Remote ID rules, and accordingly, the extent of their application to NNA operations will be determined by those rules.[317]

91. *In-flight revisions.* We further add a requirement that a DFMS be capable of responding to in-flight revision requests. In the *UAS NPRM*, the Commission observed that operators may need to revise the assignments after a flight has commenced and sought comment on rules to enable or facilitate the filing and timely processing of such requests.[318] The limited record on this issue generally confirms that a DFMS should be capable of supporting such revisions.[319] The capacity to revise an assignment during a flight will help to address circumstances in which the planned area or duration of operations must be altered during the flight, including NPSTC's concern that, responding to an emergency, public safety operators will have difficulty predicting up front the duration of their need for the assignment.[320]

92. *Communications between DFMS and NNA stations.* We also add certain requirements for communications between a DFMS and NNA stations to better ensure compliance with DFMS assignments. In the *UAS NPRM*, the Commission noted that, in the 3.5 GHz band, SASs may reassign fixed stations to new frequencies, reduce the permitted transmitting power level, or cease operations, as necessary, to avoid or eliminate harmful interference and implement spectrum access priorities.[321] It sought comment on whether to adopt requirements to enable or implement similar active management processes by the DFMS.[322] Further, in addition to any machine-to-machine communications, the

[314] *See* ENTELEC/API Comments at 6-7.

[315] We note that the benefits of a flexible requirement apply to flight authorizations as well. As Boeing/Wisk note, the specific authorizations required under FAA rules will depend on the operation and may evolve as operations are further integrated into the NAS. *See* Boeing/Wisk Comments at 10 ("In the UAS context, [flight authorization] currently may involve blanket authorization in Class G airspace pursuant to Part 107 for appropriately certificated pilots, special authorization through a COA, or authorization to fly in non-Class-G airspace through the FAA's Low-Altitude Authorization Notification Capability ('LAANC'). As the UAS industry continues to advance, flight authorization procedures likely could more closely resemble those used for traditional aircraft.").

[316] *See* ENTELEC/API Comments at 8.

[317] *See* 14 CFR part 89.

[318] *See UAS NPRM*, 38 FCC Rcd at 490, para. 36.

[319] *See, e.g.*, Federated Wireless Comments at 14 ("The DFMS also must support the need to revise assignments after a flight has commenced, where it is possible and practicable to do so.").

[320] *See* NPSTC Comments at 7.

[321] *See UAS NPRM*, 38 FCC Rcd at 490, para. 37 (citing 47 CFR § 96.39(c)(2)).

[322] *See id.* at 490-91, para. 37. *See also id.* at 504, para. 68 (seeking comment on requirements on NNA equipment to facilitate a DFMS's ability to communicate with or otherwise control such equipment in the execution of the DFMS's responsibilities, including whether equipment should be required to enable the DFMS to make direct (machine-to-machine) frequency assignments to the UAS equipment in order to ensure that assignments are accurately programmed).

Commission proposed that an NNA user operating under a DFMS assignment must provide indication to the DFMS, within 5 minutes of the event, when a flight has commenced and when it has terminated.[323]

93. Commenters responding to this issue argue against active controls of the UAS by the DFMS. The FAA argues that airworthiness safety, and operational safety are compelling reasons why a DFMS should not have any direct control on an aircraft system.[324] Lockheed Martin argues in particular against any mechanism that would involve immediate cessation of a CNPC link during a flight.[325] Federated Wireless asserts that the DFMS should not control – or be understood to control – the behavior of UAS ground control stations or aircraft.[326] It does propose that ground stations should "exchange a sequence of messages with a DFMS administrator in order to move a frequency assignment through a series of states," and that the DFMS administrator be responsible for "recording the status of each flight and frequency assignment throughout the lifecycle of the flight, including during planning, pre-flight, inflight, and post-flight phases."[327]

94. We agree with commenters that a DFMS should not be in control of the operation of a UAS, and that an assignment should not be terminated while a flight is ongoing or modified during this time unless pursuant to a revision request. We are concerned, however, that an approach in which a DFMS merely reviews requests and transmits approved assignments to operators, without any further mechanism or requirement to promote user compliance, will lead to a higher probability of communications occurring outside of authorized parameters, either by intention or accident, and will not achieve the high level of safety and reliability that we intend for this band. Accordingly, we require that a DFMS be able to communicate directly with a ground station operating in the NNA spectrum, or proxy software acting on its behalf, to achieve the following: (1) ensure that all NNA stations used in the operation, including any ground or airborne stations, are programmed to limit communications in the 5030-5091 MHz band, during the period of the frequency assignment, to the specific frequencies assigned by the DFMS and in accordance with the other terms of the assignment; and (2) receive updates on flight status when a UA has launched and when it has landed. We will similarly require NNA ground stations to be capable of communicating with a DFMS as necessary to achieve these functions.

95. We find that these requirements will help to prevent operation over unauthorized frequencies and will bolster the ability of the DFMS to accurately identify available frequencies and, in emergency cases (such as cases of use outside the authorized time), to notify and potentially reassign affected authorized operators and to communicate with the operator of the unauthorized flight as necessary to bring the operation to an end. Further, we find the requirements are practical, as they are analogous to communications that have been implemented between the SASs and the devices that they coordinate.[328] While these requirements will impose some cost on the development of NNA stations, the

[323] *See id.*, Appx. A, § 88.31(d).

[324] *See* NTIA/FAA Comments at 6 ("Airworthiness safety, and operational safety are more compelling reasons not to have an external system (DFMS in this case) have any direct control on aircraft system.").

[325] Lockheed Martin Comments at 8 (arguing that "immediate cessation of a CNPC link during a flight would make use of this band for these operations untenable" and "[a]t most, operations could be required to end a mission as soon as is safely possible"); *see also* EEI Comments at 16 ("[A]ssignments should not be revoked during flights."); *UAS NPRM*, 38 FCC Rcd at 490 n.77 (noting prior record opposition to mechanisms that would automatically revoke an assignment after the duration of the assignment has expired, on grounds that termination of an assignment during an ongoing flight would create safety concerns).

[326] *See* Federated Wireless Comments at 10.

[327] *See id.* at 9-10.

[328] *See* 47 CFR § 96.53(b); Federated Wireless Comments at 9 (proposing that, "[s]imilar to [Citizens Broadband Radio Service Device] communication with the SAS, the UAS ground control station, or proxy software acting on its behalf, will exchange a sequence of messages with a DFMS administrator in order to move a frequency assignment through a series of states").

use of proxy software provides one option to reduce this cost, and we find that the benefits discussed above justify the imposition.[329] Further, because we require direct flight status updates from the NNA ground stations or proxy software, we will not also adopt a separate requirement proposed in the *UAS NPRM* that UAS operators must provide this information to the DFMS manually.[330]

96. *Limits on requests.* We add certain requirements to address concerns that a party may hoard or monopolize the limited spectrum available for NNA operations. In the *UAS NPRM*, the Commission sought comment on whether a DFMS should make a frequency assignment for the duration and other parameters requested if spectrum is available, or alternatively if limits or restrictions should be placed on what assignments can be made, such as a limit on maximum duration to prevent monopolization of the spectrum by one or a few parties with flights of long or indefinite duration.[331] Some parties suggest that the DFMS should generally approve the requested terms of an assignment if the spectrum is available.[332] uAvionix recommends that, given "rapidly advancing UAS technology," the Commission should not set "rigid up-front limits" but should allow the DFMS "to limit UAS operators seeking spectrum access to whatever spectrum use the administrator determines is a reasonable amount of time and coverage area."[333] Other commenters support limits on the permissible duration of an assignment, however. NAB, for example, recommends that the Commission consider time limits for authorization of frequency use, as long term use "could effectively foreclose access to the band for other users."[334] EEI proposes that, while a DFMS should generally make a frequency assignment for the duration requested if spectrum is available, the Commission should provide guidance regarding limits or restrictions on what can be assigned to prevent monopolization of the spectrum by parties with flights of long or infinite duration.[335] NMC similarly proposes that the rules "should guard against the ability of any particular operator(s) to monopolize the licensed spectrum by requesting long-term use of a frequency."[336]

97. The Commission further sought comment on whether an operator should be required to submit requests no more than a certain specified time period in advance of a flight.[337] Commenters on the *UAS NPRM* do not address this issue. In its original petition for rulemaking, however, AIA contemplated

[329] FPVFC, representing recreational users, raises concerns that requirements that require "frequency hopping" to avoid interference are not viable for UAS flying today. *See* FPVFC Comments at 1. We do not require such capability, and in any case, we disagree that the minimal requirements we adopt will render impacted UAS generally unviable. To the extent that FPVFC objects to the Commission imposing any new requirements that cannot already be implemented by existing equipment, such a restriction would make use of the NNA spectrum practically impossible, as most if not all currently deployed UAS are unequipped with the radios that will be necessary to operate over the NNA spectrum in the 5030-5091 MHz band.

[330] *See UAS NPRM*, 38 FCC Rcd Appx. A (proposing 47 CFR § 88.31(d)).

[331] *See UAS NPRM*, 38 FCC Rcd at 490, para. 35.

[332] *See, e.g.*, AURA Comments at 17 ("[U]sers in the shared portion of the band should receive authorizations after a DFMS determines that the requested channel is available.").

[333] *See* uAvionix Comments at 16.

[334] *See* NAB Comments at 4.

[335] *See* EEI Comments at 15-16.

[336] NMC Comments at 5 n.7.

[337] *See UAS NPRM*, 38 FCC Rcd at 490, para. 34.

that requests would be required to be filed within 20 minutes of a flight.[338] Other parties suggested that requests should be permitted days in advance or longer.[339]

98. We generally provide flexibility to DFMSs to determine the parameters of the frequency assignment necessary to support the UAS flight, including specific frequencies, bandwidth, maximum transmit power, amount of time, and coverage area. As discussed above, we require DFMS assignments to provide protected access over a duration and geographic area sufficient to cover the entire submitted UAS flight, but we do not mandate that a DFMS frequency assignment have the specific terms requested. We expect that, in a typical case, a DFMS will provide a frequency assignment with the requested terms if sufficient spectrum is available, particularly given that review and decision on such requests will be an automated process rather than a manual assessment. We do not wish, however, to preclude administrators from developing common policies, standards, or approaches regarding the assessment of requests and assignment of frequencies to better meet the industry's collective need for this limited spectrum resource. A DFMS might, for example, need to assign different frequencies where requested frequencies are unavailable or adopt policies that meet the needs of users with more efficient or better tailored assignments.[340]

99. We also find that two specific restrictions on permissible requests are warranted to prevent monopolization and facilitate broader access to NNA spectrum. First, we provide that requests may only be approved for an operation lasting no more than 24 hours. We find this restriction is consistent with our intention that assignments provide support for only a single flight. We are aware that, as UAS technology evolves, manufacturers are developing systems capable of continuous flight for much longer durations than 24 hours.[341] We expect, however, that 24 hours will provide sufficient duration for the overwhelming majority of flights.[342] Further, we agree with NAB and NMC that permitting indefinite use of frequencies could enable parties to effectively monopolize frequencies.[343] Accordingly, we believe that 24 hours strikes an appropriate balance between providing the industry with flexibility in the operations that can use the spectrum and preventing long-term monopolization of a limited spectrum resource.

100. Second, we also provide that requests may not be approved for periods commencing more than seven calendar days after the submission of the request, except to the extent that lack of frequency availability in that time frame justifies a later assignment.[344] We find that seven calendar days strikes an appropriate balance between preventing parties from engaging in long term reservation of the

[338] *See* AIA Petition at 14.

[339] *See* RTCA *Refresh Public Notice* Comments at 4; Wisk *Refresh Public Notice* Comments at 4 (recommending that spectrum be reservable "anytime a flight plan is ready," including "days or weeks in advance").

[340] *See also* AURA Comments at 12 (arguing that the DFMS should be allowed to authorize the appropriate amount of bandwidth requested for each use case); FPL Comments at 13 (a DFMS should "assign no more spectrum than is necessary for the safe operation of a given flight").

[341] *See, e.g.*, Airforce Technology, *The 10 Longest Range Unmanned Aerial Vehicles (UAVs)* (June 19, 2019), https://www.airforce-technology.com/features/featurethe-top-10-longest-range-unmanned-aerial-vehicles-uavs/?cf-view (describing a UA that can fly for months continuously).

[342] *See, e.g.*, BusinessWire, *Skyfront Drone Sets Endurance and Distance Record of 13 hours, 4 minutes* (Mar. 18, 2021), https://www.businesswire.com/news/home/20210318005319/en/Skyfront-Drone-Sets-Endurance-and-Distance-Record-of-13-hours-4-minutes.

[343] *See* NAB Comments at 4; NMC Comments at 5 n.7.

[344] As discussed below, we also provide an exception to this limit for assignments subject to coordination requirements in connection with the National Radio Quiet Zone. *See supra* Section III.C.6.

spectrum and permitting reservations in advance to provide greater certainty to parties planning their operations.[345]

101. NPSTC raises concerns about any requirement that requests be limited by duration, arguing that public safety UAS operations are normally not limited to a pre-defined time period.[346] A system that assigns spectrum indefinitely, however, would likely result in a dramatic reduction in the efficiency of spectrum usage in the band, and make it much more difficult for parties to schedule assignments in advance. Further, we emphasize that assignments are intended to cover single flights, and we find that the duration of a single UAS flight should be amenable to estimation. Indeed, parties currently submit such estimates as part of the process of obtaining air authorization under LAANC.[347] Further, as discussed above, NNA users will be able to submit in-flight revision requests if necessary. We note, however, that the two limitations adopted above are based on our predictive judgments regarding the extent and nature of uses of the spectrum and the Commission may modify the specific values as we develop more experience. A DFMS should be capable of implementing such changes to the rules.

102. *Coordination requirements.* We add a coordination requirement to ensure the proper functioning of the DFMSs. As discussed above, it will be critical, in the event there are multiple DFMSs, that they actively coordinate their assignments to avoid conflicts.[348] Accordingly, we adopt a requirement that a DFMS communicate and coordinate with other DFMSs as necessary to ensure consistent data and assignments, the safe and robust operation of authorized services, and compliance with the rules. Some commenters recommend that we also require a DFMS to coordinate with non-NNA operations in the band.[349] We defer determination of whether to adopt coordination or other rules for DFMSs or DFMS administrators in connection with non-NNA services or spectrum designated for non-NNA services pending a determination of the final band plan and the service rules for non-NNA UAS services in the band.

103. *Information submitted with registration and requests.* The *UAS NPRM* sought comment on the requirements we should impose regarding the format and content of information submitted with registration or with frequency requests.[350] Some commenters propose various requirements regarding submissions. AIA, for example, recommends requiring information about each "link" sufficient to determine the quality and potential for interference.[351] The PRC proposes that request details should contain, at least, the actual transmit power configured by the ground control station during operation, not

[345] We anticipate that, in addition to these restrictions, the authorization we provide the DFMS administrator to charge reasonable fees, including usage-based fees, will help deter parties from hoarding or monopolization.

[346] *See* NPSTC Comments at 7.

[347] *See* Aloft, *Submitting Your First LAANC Request*, https://www.aloft.ai/help/submitting-your-first-laanc-request/ (last visited Aug. 19, 2024).

[348] *See supra* paras. 80-81.

[349] *See, e.g.*, AIA Comments at 9, 11 (recommending that the DFMSs should communicate with systems employed by exclusively licensed operators as well as with each other, and that network operators in exclusively licensed spectrum should be required to make an application programming interference (API) available for DFMS operators and to share a minimum set of information necessary for a DFMS to protect authorized UAS operations in exclusively licensed spectrum and shared spectrum); AURA Reply at 18 (recommending that licensees of non-NNA spectrum "interoperate and share certain information with a DFMS through the use of an API.").

[350] *See UAS NPRM*, 38 FCC Rcd at 489-90, para. 34.

[351] *See* AIA Comments at 9; *see also* AIA Comments at 11 (operators in the band must be required to provide technical and operational information "includ[ing] site locations, channels requested, altitude of the transmitters and aircraft, expected flight path, EIRP, antenna patterns, UA model, information about the occurrence of a takeoff and landing, FAA authorization to operate, [and] certification that the aircraft is certified.").

the nominal maximum transmit power of the ground control station (assuming that the transmit power value of the ground station is configurable within a reasonable interval), arguing that this information will facilitate the DFMS administrator's ability to manage the spectrum efficiently.[352] Federated Wireless, however, recommends that we not adopt such specifications, but preserve flexibility in the rules and defer to the industry to develop the details of the registration and request format and content in appropriate standards.[353]

104. We seek only to adopt the minimum high level requirements for the DFMS, and to otherwise preserve flexibility to enable DFMSs to respond to the rapidly evolving needs of the UAS industry. Accordingly, beyond requiring that registration information include the registrant's legal name and contact information, and that requests must address and be limited to the frequencies, duration, and geographic coverage necessary to support a single submitted UAS flight, we do not define the specific information that a party must submit with a frequency assignment request or with registration.[354] We delegate authority to WTB, however, to impose additional specific requirements, after notice and an opportunity for public comment if it deems necessary or appropriate, regarding information that a DFMS must collect regarding registrants or frequency requests, such as the manufacturer, producer, make, or model of the equipment used, that WTB determines will promote the robust and safe use of the band or otherwise address security concerns regarding the use of the band, and we require the DFMS to have the capability to collect such additional information if required by WTB or the Commission. Further, to facilitate inter-DFMS coordination, we will mandate that each DFMSs require the same registration and request information, and, as with information provided to the SAS, we will require that information submitted to the DFMS be accurate, complete, and made in good faith.[355] In addition, consistent with our determinations above, we modify the language in proposed section 88.31(a) to clarify that we do not mandate that assignment requests necessarily must include specific flight plans. We will further require operators to keep any registration information up to date and keep any request information up to date through the scheduled end of the assignment.[356] Further, consistent with the rules governing the SAS, we will require that a DFMS maintain all records for at least 60 months.[357]

105. *Security.* We adopt a requirement to ensure data security in DFMS communications with NNA operators. In the *UAS NPRM*, the Commission sought comment on what requirements it should adopt to ensure such security, including the security of end-to-end communications between operators and a DFMS and the security of information stored by a DFMS.[358] uAvionix asserts that the FAA is best positioned to determine such requirements.[359] Federated Wireless, however, suggests that SAS

[352] *See* PRC Comments at 3.

[353] *See* Federated Wireless Comments at 9 ("Requirements regarding the specific information to be provided to the DFMS administrator for purposes of registering and requesting spectrum grants for UAS ground control stations and uncrewed aircraft should be developed by the multi-stakeholder group."); Federated Wireless Reply at 9 (arguing that a multi-stakeholder group "should establish minimum flight path and operational information that must be provided to enable the DFMS to perform effective analysis and modeling with respect to planned UAS operations").

[354] We note that parties will be required by our rules to comply with instructions from a DFMS, including instructions on what registration and request information to provide and in what format.

[355] *See* 47 CFR § 96.39(c).

[356] *See* AIA Comments at 11.

[357] *See* 47 CFR § 96.55(b).

[358] *See UAS NPRM*, 38 FCC Rcd at 489, para. 31.

[359] *See* uAvionix Comments at 16.

requirements on security codified at sections 96.53 and 96.61 of the Commission's rules may be helpful as a model.[360]

106. We find that certain security requirements should be adopted at this time as part of the Commission's requirements for a DFMS to ensure the confidentiality, integrity, and availability of data maintained by the DFMS, including communications with NNA users and NNA stations.[361] First, because the data involved in DFMS frequency coordination will involve safety-critical aeronautical operations such as flights in controlled airspace and may also involve proprietary or public-safety sensitive information, data security ensuring that system data is not improperly accessed, taken offline, or modified will be important both to public safety and the success of the DFMS coordination approach. In addition, it will be essential to the reliability of assignments that only devices compliant with the technical requirements are provided frequency access. Given the limited record on specific security requirements, however, and consistent with Federated Wireless's suggestion, we adopt a minimum set of high level requirements to address these concerns, similar to SAS requirements under section 96.61: (1) a DFMS must employ protocols and procedures to ensure that all communications between the DFMS and users or NNA stations in connection with a DFMS's NNA functions are secure and that unauthorized parties cannot access, shut down, or alter the DFMS or its stored information; (2) communications between users and a DFMS, and between different DFMSs, must be secure to prevent corruption or unauthorized interception of data, and a DFMS must be protected from unauthorized data input or alteration of stored data; and (3) a DFMS must verify that the NNA stations to be used in operations are part 88 FCC-certified devices and must not provide assignments to any other device.[362] In addition, similar to a measure we adopted in connection with an Internet-of-Things cybersecurity labeling program, we delegate authority to WTB in coordination with, at a minimum, the Office of the Managing Director (OMD) (specifically the Office of the Chief Information Officer) and, to the extent necessary, the Office of General Counsel (OGC) (specifically the Senior Agency Official for Privacy) to identify and impose on the DFMS any applicable security or privacy requirements arising from Federal law or Federal guidance.[363]

107. *Protection of other services.* We also include additional requirements regarding the protection of non-UAS services. We discuss these requirements further below in section III.C. In addition, we adopt a general requirement, based on a similar rule applicable to SASs, that a DFMS be capable of receiving reports of interference and requests for additional protection from Microwave

[360] *See* Federated Wireless Comments at 10; 47 CFR §§ 96.53, 96.61. Otherwise, the Commission received limited comment on the issue. *See* AIA Comments at 9 (recommending the DFMS should be "secure and highly available"); ALPA Comments at 9 (DFMS should be required to protect data archives of CNPC messages and any user data).

[361] We note that the regulation of data and communications security has been an increasingly important part of the Commission's mission in regulating communications networks and other communications systems. *See, e.g.*, News Release, FCC, Chairwoman Rosenworcel Launches New 'Privacy and Data Protection Task Force' (June 14, 2023), https://docs.fcc.gov/public/attachments/DOC-394384A1.pdf (announcing establishment of task force to coordinate across the agency on the rulemaking, enforcement, and public awareness needs in the privacy and data protection sectors, including data breaches such as those involving telecommunications providers and related to cyber intrusions); *see also* The White House, Presidential Policy Directive 21: Critical Infrastructure Security and Resilience (PPD-21) (Feb. 12, 2013) (tasking the Commission with "identifying communications sector vulnerabilities and working with industry and other stakeholders to address those vulnerabilities . . . [and] to increase the security and resilience of critical infrastructure within the communications sector").

[362] *See* 47 CFR § 96.61.

[363] *See Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Report and Order, FCC 24-26, 62, para. 121 (rel. Mar. 15, 2024).

Landing System (MLS) users in the 5030-5091 MHz band or authorized users in adjacent bands and promptly address interference issues.[364]

108. *Non-discrimination*. As noted previously, in the *UAS NPRM*, the Commission sought comment on whether the rules for the DFMS and DFMS administrator could draw on the requirements and responsibilities governing the SAS and SAS administrators in the 3.5 GHz band.[365] Among other requirements imposed on SAS administrators, the Commission required SAS administrators to discharge their frequency assignment functions in a non-discriminatory manner.[366] The Commission further provided that, in determining whether to approve parties to serve as SAS Administrators, it would require a demonstration of their intent and ability to comply with all of the rules, including the nondiscrimination requirement as well as the requirement that they cooperate with other SAS Administrators in coordinating and exchanging required information.[367] Similar to the SAS model, we adopt a requirement that frequency assignment functions be performed in a non-discriminatory manner.[368] We specifically require that assignment requests generally be granted in a first-come-first-served manner subject only to the priorities specified in the rules.[369]

109. *Prioritization.* In the *UAS NPRM*, the Commission sought comment on whether to establish priorities among different categories of CNPC or leave the rules flexible on this matter, with prioritization potentially to be considered and developed through appropriate standards development.[370] Several commenters argue that CNPC for public safety entities (such as firefighters and law enforcement) and the critical infrastructure industry (CII) should be given priority over other uses, at least in emergencies.[371] Some commenters also propose other categories of prioritization or propose that the rules permit other kinds of prioritization to be developed through appropriate standards by multi-stakeholder groups.[372] Boeing/Wisk recommend that the Commission reject such proposals, however, arguing that the DFMS can meet the needs of specialized operators requiring timely access without priority

[364] *See* 47 CFR § 96.53(o).

[365] *See UAS NPRM*, 38 FCC Rcd at 488, para. 29.

[366] *See* 47 CFR § 96.59(a); *3.5 GHz R&O*, 30 FCC Rcd at 4065-66, paras. 364-66.

[367] *See 3.5 GHz R&O*, 30 FCC Rcd at 4065, para. 365.

[368] *See* EEI Comments at 13 (DFMS should assign spectrum in a fair and equitable manner that does not prioritize any commercial use cases over others); FPL Comments at 13 (same). *See also* Federated Wireless Comments at 10 (asserting that, in determining requirements for the DFMS, the frequency assignment requirements of section 96.59 may be relevant).

[369] *See* Boeing Comments, RM-11798, at 12 (filed May 29, 2018) (supporting authorization of access to CNPC frequencies on a first-come, first-served basis). *See also* AIA Petition at 14.

[370] *See UAS NPRM*, 38 FCC Rcd at 496, para. 49.

[371] *See* EEI Comments at 13 (arguing for priority of public safety and CII "[w]hen a given geographic area is experiencing natural disasters"); NTIA/FAA Comments at 5 (arguing for standards to "ensure that priority operations (EMS, firefighting, law enforcement) are granted access over lower priority operations"); FPL Comments at 13 (arguing that when a given area experiences an imminent threat to safety, the DFMS should prioritize public safety and CII UAS operations for a subset of the NNA spectrum in the affected area); AURA Reply at 17 (supporting priority access for public safety and CII); Xcel Reply at 7 (agreeing that DFMS should prioritize access for public safety and CII "during emergency situations such as storm events or other disasters"). *See also* Letter from Ari Q. Fitzgerald, Counsel to Florida Power & Light Company, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 22-323, at 2 (filed Apr. 24, 2024) (FPL, PG&E, Xcel Energy, and EEI Apr. 24, 2024 *Ex Parte*) (arguing for "the importance of prioritizing utilities' access to shared-use spectrum for UAS").

[372] *See* ALPA Comments at 4 (recommending prioritization of operations in controlled airspace in contact with Air Traffic Control); EEI Comments at 10.

mechanisms.[373] While supporting priority for CII, EEI argues that a DFMS should not otherwise prioritize any commercial uses over others.[374]

110. After considering the record, we adopt two high-level requirements regarding the prioritization of requests. Boeing's argument against such mechanisms appears to imply that congestion will never happen in the NNA spectrum. This is not a realistic assumption, given the limited amount of spectrum available for NNA operations and the extent of potential demand for that resource. While, as discussed above, we will generally require the DFMS to process requests in a non-discriminatory, first-come-first-served manner, we find that two priorities in the event of congestion are in the public interest.

111. First, we provide that, in the event of emergencies, a DFMS should, to the extent feasible and consistent with the interests of aviation safety, prioritize requests from public safety entities. We find ample support in the record for prioritizing these entities in periods of congestion, as discussed above, but no discussion as to any of the details regarding the circumstances for or mechanisms of priority or how to define the entitled recipients. We acknowledge that, depending on how priority is implemented, it could be impractical or unsafe in certain circumstances. Accordingly, given the limited record, we impose this requirement at a high-level, and we expect that, as with other high-level requirements, stakeholders will develop common standards regarding who qualifies as public safety entities, what constitutes a triggering emergency, how priority is implemented, and over what period or area such priority rights apply. We limit the requirement to prioritization that is feasible and consistent with the interests of aviation safety, to address the concern that prioritization might itself increase safety risks, for example, if a particular implementation of prioritization would increase the risk of conflicting uses. In particular, we do not permit prioritization in a way that would terminate or modify an NNA user's assignment while the assignments are in use during a UAS flight. We find that, as between the many other important private sector uses and critical infrastructure, the non-discrimination principle should apply and therefore decline to adopt prioritization for the critical infrastructure industry.

112. Second, we adopt a requirement that, in extended periods of congestion, the DFMS prioritize requests involving flights relying on a single ground station over requests that rely on multiple stations, to the extent feasible and consistent with the interests of aviation safety.[375] While we permit operators the flexibility to use NNA spectrum for multi-station operations, NNA spectrum is primarily intended for non-networked operations, flights "that can rely on direct wireless links between the UAS operator's controller and the UA and therefore do not require any supporting network infrastructure."[376] Accordingly, we adopt this prioritization to ensure access by the intended focus of the spectrum.[377] As with the public safety priority, we establish this requirement at a high level. For both of these requirements, we expect that stakeholders will work collaboratively to develop appropriate standards and practices to implement them. If necessary, we may revisit them with more specificity.

[373] *See* Boeing/Wisk Reply at 8-9.

[374] *See* EEI Comments at 13. *See also* FPL Comments at 13.

[375] To the extent that both priorities come into play, we provide that the public safety priority should take precedence.

[376] *See UAS NPRM*, 38 FCC Rcd at 481, para. 13.

[377] We note support in the record for permitting operations with multiple stations in the NNA spectrum. *See, e.g.*, AIA Comments at 13 ("[F]lexibility in the shared portion of the band by operators that may need to use multiple sites but that may not be able to or want to acquire exclusive use licenses should be allowed assuming such use can be appropriately coordinated by the DFMS(s)."). Our requirements will permit such operations, while ensuring that the spectrum serves its intended purpose.

2. DFMS Administrator Requirements

113. In the *UAS NPRM*, the Commission also proposed requirements for DFMS administrators largely modeled on analogous requirements of the SAS administrators. Specifically, it proposed to require that administrators:

- Operate a DFMS consistent with the rules.
- Establish and follow protocols and procedures to ensure compliance with the rules.
- Provide service for a ten-year term. This term may be renewed at the Commission's discretion.
- Securely transfer all the information in the DFMS to another approved entity in the event it does not continue as the DFMS Administrator at the end of its term. It may charge a reasonable price for such conveyance.
- Develop a standardized process with other DFMS Administrators for coordinating operations with other approved DFMSs, avoiding any conflicting assignments, and maximizing shared use of available frequencies.
- Coordinate with other DFMS Administrators including, to the extent possible, sharing assignment and other information, facilitating non-interference to and from operations relying on assignments from other DFMSs, and other functions necessary to ensure that use of available spectrum is safe and efficient and consistent with this part.
- Ensure that the DFMS shall be available at all times to immediately respond to requests from authorized Commission personnel for any and all information stored or retained by the DFMS.
- Establish and follow protocols to comply with enforcement instructions from the Commission.[378]

114. No commenters objected to the proposed administrator requirements. Given the critical importance of inter-DFMS coordination to the safety and reliability of the system, we modify the coordination requirement to reflect that the specified coordination is mandatory rather than a "best efforts" requirement. Further, in addition to the limits we adopt above on requests to prevent monopolization of the NNA spectrum, we also expressly authorize DFMS administrators to adopt additional reasonable limits as necessary to address similar concerns. Specifically, we provide that the DFMS administrator may implement such reasonable limits on requests as are necessary to prevent the hoarding, warehousing, monopolization, or otherwise excessive reservation of NNA spectrum by a particular party. These limits may include, for example, limits on the amount of spectrum that may be reserved in a particular area and at a particular time by a single party or related parties and on the geographic area that may be reserved at a particular time by a single party or related parties.

115. As an additional mechanism to assist the Commission in its enforcement responsibilities, we will also add a requirement, drawn from SAS administrator requirements, that DFMS administrators establish and follow protocols to comply with enforcement instructions from the Commission. We expect detailed enforcement mechanisms and procedures employed by DFMSs to be developed during the approval process described below, including mechanisms and procedures to address unauthorized use of the spectrum, and we anticipate that most issues will be addressed through these mechanisms and procedures. However, the Commission retains the ultimate responsibility for and authority over NNA operations in the band. In the event that the DFMS is unable to resolve disputes or identify and address

[378] *See UAS NPRM*, 38 FCC Rcd, Appx., § 88.137.

the sources of harmful interference or unauthorized or otherwise unlawful operations in the band, these issues may be addressed by the Commission.

116. Above, we require a DFMS to immediately respond to requests from authorized Commission personnel for any and all information stored or retained by the DFMS. We also anticipate that other federal agencies may have important interests in obtaining DFMS information, particularly related to the coordination and protection of federal UAS operations in the band. Accordingly, we delegate authority to WTB, in consultation with NTIA, to establish a process, as needed, for direct access by federal agencies to information stored or retained by the DFMS, including the scope and terms of such access, through regulation, guidance, or agreement, as appropriate.

117. We note that, in some past instances of frequency coordination, the Commission has required a frequency coordination petitioner to make specific demonstrations of how it would avoid conflicts of interest or otherwise imposed specific restrictions regarding the coordinator's use or holding of the spectrum.[379] We find that various other measures we adopt will provide the equivalent benefits in ensuring neutrality of administration. As discussed above, we require DFMS assignment functions to be performed on a non-discriminatory, first-come-first-served basis. Further, in determining whether to approve parties to serve as DFMS administrators, we will require a demonstration of their intent and ability to comply with all of our rules, including this non-discrimination requirement and the requirement that DFMS administrators cooperate with each other in coordinating and exchanging required information. We find that these measures, together with the short term nature of the assignments and the highly automated nature of the frequency assignment process, should be sufficient to address concerns regarding conflicts of interest. We also expect that establishment of a competitive market for DFMS services will further help ensure against discriminatory conduct based on potential conflicts of interest.[380] We note that, for the SASs, the Commission relied on similar measures, including a non-discrimination requirement, to address conflict-of-interest concerns, and we are aware of no conflict-of-interest problems that have resulted in the administration of the SASs. Further, no commenter in this proceeding proposes restrictions or prohibitions regarding conflicts of interest by DFMS administrators. Accordingly, we find the measures adopted should be adequate to ensure the fair, equitable, and non-discriminatory management of NNA spectrum. We will monitor the behavior of DFMS administrators, however, and will not hesitate to take enforcement action if necessary to ensure that they comply with all applicable rules.

118. *Fees.* In the *UAS NPRM*, the Commission proposed to authorize the administrator of a DFMS to charge reasonable fees for its provision of services, including registration and channel assignment services, and to permit parties to petition the Commission to review fees and require changes if fees are found to be unreasonable.[381] We adopt this proposal and authorize administrators to charge

[379] *Wireless Telecommunications Bureau Opens Filing Window for Requests to be the Frequency Coordinator for Medical Body Area Networks*, Public Notice, 29 FCC Rcd 13750 (WTB 2014) (requiring that party seeking to be frequency coordinator demonstrate "how it will prevent any conflict of interest"); *Wireless Telecommunications Bureau Opens Filing Window for Requests to Be a Frequency Coordinator in the Wireless Medical Telemetry Service*, Public Notice, 15 FCC Rcd 19038 (WTB 2000) (same); *Wireless Telecommunications Bureau Opens Filing Window for Proposals to Develop and Manage Independent Database of Site Registrations by Licensees in the 71-76 GHz, 81-86 GHz and 92-95 GHz Bands*, Public Notice, 19 FCC Rcd 4597 (2004) (providing that database manager applicants must show how they would prevent conflict of interests or alternatively certify that neither they nor any affiliate would be a licensee); *Wireless Telecommunications Bureau Certifies Additional Frequency Coordinator for 800/900 MHz Business/Industrial/Land Transportation Pool, Public Notice*, 29 FCC Rcd 9599 (WTB 2014) (certifying Association of American Railroads as a frequency coordinator but precluding it as a license holder from coordinating submissions on its own behalf).

[380] *See 3.5 GHz R&O*, 30 FCC Rcd at 4066, para. 366; *see also* EEI Comments at 14 (authorizing multiple DFMSs will "help prevent discriminatory conduct based on potential conflicts of interest, and place competitive pressure on fees and quality of service.").

[381] *See UAS NPRM*, 38 FCC Rcd at 491, para. 38.

reasonable fees for registration, assignments, and other services, including reasonable usage-based fees. DFMS fees will not only be necessary to fund the development and operation of a DFMS, but can provide UAS operators with important incentives to use the limited NNA spectrum efficiently and discourage monopolization, warehousing, or hoarding.[382] FPVFC, representing recreational users of UAS, objects that any fee is too high, but we find that the purposes above justify the imposition of reasonable fees, even if it renders access to the shared 5030-5091 MHz spectrum unaffordable by some parties.[383] We also note that we are not requiring use of the 5030-5091 MHz band for all CNPC communications, and that unlicensed spectrum, which has been commonly used for recreational and other low-risk UAS operations, will continue to be freely available for such uses among others.

119. FPVFC raises concerns that DFMS administrators will exploit leverage to charge high fees, but the adopted rule will address that concern, providing that parties may petition the Commission for review of fees alleged to be unreasonable.[384] We decline NMC's request that we elaborate at this time on what would constitute a "reasonable" fee.[385] Given the Commission's successful experience in the 3.5 GHz band, in which the Commission provided SAS administrators with similar fee authority and discretion and has not subsequently had to review the reasonableness of any such fees, and given our decision here to permit more than one DFMS to operate in the band in competition, we anticipate that DFMS administrators will charge reasonable fees without the need for elaborating guidance on what constitutes reasonable fees.[386] We further find that further determinations regarding reasonableness are better made on a specific record.

3. DFMS and DFMS Administrator Approval Process

120. In the *UAS NPRM*, the Commission sought comment on adopting a process for approval of one or more DFMS and DFMS administrators similar to the process that it used to approve the SASs

[382] We also note support for such fees from several commenters. *See* ENTELEC/API Comments at 7 ("[O]perational costs could be funded through a combination of Federal UAS registration fees and/or reasonable access fees."); CDA Comments at 5; Federated Wireless Comments at 10; *see also* Boeing Comments, RM-11798, at 12 (filed May 29, 2018) (asserting that frequency manager would "likely be able to collect fees" for assignment of frequencies and maintenance of the database). ENTELEC/API propose that a DFMS should be engineered with funding provided by auction proceeds. *See* ENTELEC/API Comments at 7. There will be no auction of NNA spectrum, however. In addition, our auctions authority in the past has not provided us authority for that use of auctions revenue, and we do not anticipate that future auctions authority will. *See* 47 U.S.C. § 309(j)(8) (governing treatment of auction revenues). We further note that the Commission currently lacks general spectrum auction authority, as its authority to auction spectrum lapsed on March 9, 2023. *See* Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459 (December 29, 2022) (extending spectrum auction authority through March 9, 2023). Legislation was introduced on March 14, 2024, that would reinstate the Commission's auction authority through September 30, 2027. *See* Spectrum Pipeline Act of 2024, S.3909, 118th Cong. (2024).

[383] *See* FPVFC Comments at 2; *see also* NMC Comments at 8 ("[O]perators[] should not be precluded from operating in licensed airspace merely because the associated fees are 'reasonable' to some entities."). FPVFC also asserts that "[t]his is an example of the Commission facilitating a system to charge the public to use spectrum where there is no fee today." FPVFC Comments at 2. We disagree with this assertion. FPVFC confuses the free access that recreational UAS operators have had (and will continue to have) to unlicensed spectrum with licensed access to the 5030-5091 MHz band, which UAS operators have not had in the past and which we now enable through this Report and Order. Accordingly, it is not accurate to say that the public has previously had free licensed access to the 5030-5091 MHz band, or indeed, any licensed access to the band. Further, because licensed and protected access in the 5030-5091 MHz band will involve coordination by a DFMS, whereas access to unlicensed spectrum does not, the comparison between them is not apt.

[384] *See* FPVFC Comments at 2.

[385] *See* NMC Comments at 7-8.

[386] *See* EEI Comments at 14 (arguing that having multiple DFMSs will "place competitive pressure on fees and quality of service").

and SAS Administrators in the 3.5 GHz band.[387] Under this approach, the Commission delegated authority to WTB and OET to administer the process in close consultation with other stakeholder agencies, and provided that the Bureaus would issue a Public Notice requesting petitions from entities desiring to administer a SAS. Based on these petitions, WTB and OET would determine whether to conditionally approve any of the petitioners, and any petitioners that received conditional approval would then be required to demonstrate that their SASs meet all the requirements in the rules and any other conditions the Bureaus deemed necessary, and at a minimum, to allow their systems to be tested and analyzed by Commission staff.[388] Commenters take various positions on this issue. Several commenters support the SAS approval approach.[389] uAvionix recommends that the FAA should develop eligibility qualifications for DFMS administrators and then select candidates for recommendation to the Commission.[390] ENTELEC/API propose that selection should be accomplished by competitive bidding based on a Request for Proposal co-authored by the Commission and the FAA.

121. After review of the record, we adopt an approach for review and approval of DFMS and DFMS administrators similar to the Commission's process for selection of SASs and SAS administrators in the 3.5 GHz band, and we delegate authority jointly to WTB and OET to administer this process in close consultation at all stages of the process with the FAA and NTIA, as well as other administrative authority over the DFMS comparable to the delegation granted to WTB and OET to administer the SASs.[391] We further delegate authority jointly to WTB and the Office of the Managing Director (OMD) to determine fees, if any, in connection with the filing of a petition to be a DFMS administrator. We also direct WTB to obtain Office of Management and Budget review of all information collections associated with this process as required under the Paperwork Reduction Act.[392]

122. As mentioned earlier, the Commission adopted a similar approach in the 3.5 GHz band that proved highly successful, addressing the requirements of the various stakeholders, including multiple federal agencies, and resulting in the establishment of multiple SASs that have supported robust spectrum usage and innovation in the band. Aviation commenters in the instant proceeding endorse a process of Commission-led review with close FAA and NTIA coordination, and commenters with experience in the SAS model specifically support its applicability here.[393] We conclude that this proven model for successfully reviewing and approving one or more automated frequency managers is the appropriate process for the instant context. We find it is preferable to the RFP option proposed by ENTELEC/API and the review process suggested by uAvionix. Unlike these options, the approach we take is a tested and proven model for the designation of multiple automated frequency managers. We also find the careful review and testing involved in our approach will provide better assurance that the systems will perform as intended than the competitive bidding process contemplated by ENTELEC/API. Further, while uAvionix contemplates a sequential agency review, with an FAA review leading to recommendations to the Commission for a second review and final approval, the adopted approach will facilitate either a single integrated and coordinated review and testing by the stakeholder agencies. We therefore anticipate that

[387] *See UAS NPRM*, 38 FCC Rcd at 491-92, para. 39.

[388] *See id.* at 491, para. 39.

[389] *See* Federated Wireless Comments at 7; WInnForum Comments at 4. AIA and AURA appear to endorse this approach as well. *See* AIA Comments at 12 (recommending that the DFMS should be selected by the Commission in coordination with NTIA and the FAA); AURA Comments at 18 (same). AIA and AURA recommend that, as part of this approach, the Commission and the FAA should establish that a DFMS meets FAA requirements for CNPC in the band. AIA Comments at 12; AURA Comments at 18.

[390] *See* uAvionix Reply at 11.

[391] *See* 47 CFR §§ 0.241(j), 0.331(f).

[392] 44 U.S.C. § 3501 et seq.

[393] *See* AIA Comments at 12; AURA Comments at 18; Federated Wireless Comments at 7.

the adopted approach will enable a more rapid approval overall. We agree with uAvionix, AIA, and AURA that the DFMS will need to meet FAA regulatory requirements as well as the Commission's requirements, and we believe that, through close consultation between the agencies at all stages of the process, the concerns and regulatory requirements of the stakeholder agencies can be addressed without requiring sequential review.

123. WTB and OET will commence the process for DFMS and DFMS administrator review and approval by issuing a Public Notice requesting petitions from entities desiring to administer a DFMS. Petitioners will be required to, at a minimum, demonstrate how they plan to meet the Commission's rules governing DFMS operations, demonstrate their technical and other qualifications to operate a DFMS, and provide any additional information requested by WTB and OET, which could include information to demonstrate how they will meet relevant FAA requirements or standards. Based on these petitions, WTB and OET, in close consultation with the FAA and NTIA, will determine whether to conditionally approve any of the petitioners.

124. Any petitioner that receives conditional approval must then demonstrate, to the satisfaction of WTB and OET, again in close consultation with the FAA and NTIA, that their DFMS meets all the requirements in the rules and any other conditions the Bureaus deem necessary. WTB and OET will provide detailed instructions to petitioners throughout the process. At a minimum, petitioners will be required to allow their systems to be tested and analyzed by Commission staff prior to making their systems available for a period of public testing in order to gain final approval from the Commission. Petitioners may also be required to attend workshops and meetings as directed by the offices. The FAA and NTIA will provide input and guidance as needed. Based on the results of this review, WTB and OET will determine whether to grant final approval for operations, which may be conditioned on appropriate post-approval reporting to confirm that operations are successful and consistent with parties' representations and the rules. WTB and OET will then issue a public notice establishing the date on which parties seeking access to NNA spectrum must request a frequency assignment from the DFMS.

4. Obtaining an Assignment from a DFMS

125. In the *UAS NPRM*, the Commission proposed rules governing the process by which parties would obtain an NNA frequency assignment from a DFMS.[394] Among these, it proposed that NNA users registered with a DFMS may submit a request for temporary frequency assignment for CNPC limited to the duration and geographic coverage necessary to support a single submitted UAS flight plan.[395] It further proposed that requests may be made either prior to an operation or submitted during the relevant operation to modify the assignment, and that modification requests must be made to the same DFMS responsible for the original assignment.[396] In addition, it proposed that, if frequencies meeting the request are available, the DFMS would assign them on an exclusive but temporary basis, with the scope of the assignment tailored in both duration and geographic coverage to ensure interference-free communications for the entire submitted UAS flight plan.[397] It also proposed that, when using the services of a DFMS, an NNA user shall comply with all instructions of the DFMS Administrator, including those regarding registration, requests and other submissions to the DFMS, and operational use of NNA assignments.[398]

[394] *See UAS NPRM*, 38 FCC Rcd Appx. A (proposing 47 CFR § 88.31(a)-(c)).

[395] *See id.* (proposing 47 CFR § 88.31(a)).

[396] *See id.*

[397] *See id.* (proposing 47 CFR § 88.31(b)).

[398] *See id.* (proposing 47 CFR § 88.31(c)).

126. For the reasons discussed above, instead of requiring submission of a "flight plan," we establish a more flexible requirement to submit a "UAS flight." Otherwise, we find no objections to these specific provisions, and adopt them substantially as proposed.

5. Multi-stakeholder Group

127. In the *UAS NPRM*, the Commission sought comment on a possible role for a multi-stakeholder group to help develop the requirements and processes applicable to the DFMS, as well as to study standards and interference issues associated with UAS operations in the band.[399] Specifically, the Commission suggested that it would be beneficial for stakeholders (such as members of the aviation industry, the UAS standards-making community, frequency managers, and network operators) to assist in the development of requirements and processes because their aviation-specific knowledge could uniquely inform how spectrum access should be managed.[400]

128. The Commission has utilized multi-stakeholder groups successfully in other proceedings, such as for the development of the Spectrum Access System (SAS) in the 3.5 GHz band for the Citizens Broadband Radio Service (CBRS),[401] and the implementation of Automated Frequency Coordination (AFC) systems in the 6 GHz band,[402] both of which resulted in rapid deployment in their respective services. The record generally supports reliance on a multi-stakeholder group to further develop technical requirements and processes for the DFMS and to analyze and address standards and interference issues related to UAS operations in the 5030-5091 MHz band.[403]

129. We believe a multi-stakeholder group could provide a wealth of valuable insights and useful information, and be instrumental in addressing implementation issues in the 5030-5091 MHz band, as well as the complex administrative and technical issues regarding the DFMS. We agree with commenters that allowing the multi-stakeholder group to fill in the technical requirements will provide

[399] *See UAS NPRM*, 38 FCC Rcd at 493, para. 45.

[400] *See id*. at 493-94, para. 45.

[401] *See 3.5 GHz R&O*, 30 FCC Rcd at 4081, paras. 416, 417 (finding that a multi-stakeholder group could be instrumental in developing answers to some of the novel technical questions raised by the CBRS rules, declining to formally designate a group or adopt a specific process for reviewing and responding to their recommendations, but encouraging any such group to work to share their findings with the Commission and to incorporate their work, to the extent feasible, into the development of the 3.5 GHz band SAS and citizens band radio service devices). To serve as a multi-stakeholder group for this purpose, the Wireless Innovation Forum created the Spectrum Sharing Committee, which, *inter alia*, collaborated with relevant government agencies to develop 10 standards for the 3.5 GHz band addressing a range of CBRS and SAS technical and operational issues. *See, e.g.*, WInnForum *Refresh Public Notice* Comments at 1-2.

[402] *See 6 GHz R&O*, 35 FCC Rcd at 3918-19, paras. 174-80 (encouraging the formation of a multi-stakeholder group to provide a forum for the industry to study technical and operational issues raised by 6 GHz band unlicensed access and work cooperatively towards solutions); *see also Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343, 2467, para. 333 (2020).

[403] *See* WInnForum Comments at 5 (supporting the use of multi-stakeholder groups to develop standards, recommendations, and guidelines for the development of the DFMS); FPL Comments at 12 (agreeing that the Commission rightfully proposes establishing a multi-stakeholder group to develop DFMS requirements and processes); ALPA Comments at 9 (supporting the establishment of multi-stakeholder groups to develop requirements and processes for "Dynamic Frequency Management Services" and address standards and interference issues related to UAS operations in the 5030-5091 MHz band); CDA Comments at 5 (stating a multi-stakeholder group with significant industry participation will provide valuable insights and help ensure that recommendations account for real-world UAS uses and need); DSA Comments at 3 (suggesting all but minimum requirements to be addressed by multi-stakeholder groups); EEI Comments at 13 (urging the Commission to form and actively participate in a multi-stakeholder group with diverse UAS operators to develop the DFMS requirements and processes).

maximum flexibility as UAS continues to evolve.[404] While we support the participation of a diverse group of stakeholders with all relevant experts, we do not take a position on the exact scope, makeup, or organizational structure of the multi-stakeholder group. Given the successful formation of such groups in other areas, such as CBRS, we find it unnecessary to formally designate or specify a framework for a multi-stakeholder group.[405]

130. We encourage a multi-stakeholder group addressing issues in the band to work collaboratively towards innovative solutions that would encourage the rapid development of the DFMS, while protecting in-band and adjacent band operations through proper mitigation of harmful interference, and benefiting all potential stakeholders in the 5030-5091 MHz band. We hope that any such group would develop technical specifications and standards for DFMS operation in 5030-5091 MHz band, as well as system performance, safety, security requirements, and any other specific system standards necessary to ensure secure and reliable communications.

131. We envision the multi-stakeholder group could establish detailed protocols and specific methods for meeting the DFMS rule requirements, while simultaneously allowing nimble and evolving technical solutions consistent with the set of core obligations today's Report and Order establishes for NNA operations. In addition, recommendations for information requirements, registration processes and spectrum assignment formats within the DFMS would be highly beneficial and aid in successful DFMS deployment and operation. Finally, we believe that the insights provided by any such working group could be informative during the DFMS Administrator approval process.

132. While this informal multi-stakeholder group would be organized outside of the Commission's direct involvement, we encourage the multi-stakeholder group to provide the Commission with frequent updates on its work, such as through an annual report to apprise the Commission of its progress. Timely updates to the Commission will afford the Commission an opportunity to better understand the various technical issues and recommendations and allow the Commission to move more expeditiously on such recommendations when finalized. While we decline to adopt a specific process for reviewing and responding to recommendations made by such a forum at this time, we anticipate cooperative collaboration and communication to advance the goal of rapid deployment in the 5030-5091 MHz band. While some commenters are concerned about the need for clear direction to ensure that the needs of all stakeholders (such as public safety) are fully considered throughout the process,[406] we believe the benefit of an industry-led approach will provide the appropriate flexibility needed for the evolving demands of UAS operations in the 5030-5091 MHz band.

6. Interim Access Mechanism

133. While we adopt rules today for the establishment and operation of a DFMS, we expect there will be a significant period of time before a DFMS is operational, and we therefore establish an interim access mechanism (IAM) to provide access to the 5030-5091 MHz band during this provisional period. The establishment of the IAM will allow for immediate access to dedicated UAS spectrum as adopted in this proceeding, promoting the goal of meeting the current UAS needs. We find the IAM approach preferable to the Commission's existing special temporary authority (STA) process, as STAs do not inherently provide interference protection, a critical issue in the current unlicensed UAS environment that reduces reliability of UAS operations. In addition, the IAM will provide consistency with the

[404] *See* Federated Wireless Comments at 17.

[405] BusinessWire, Multi-Stakeholder Collaboration Highlighted in Report to the FCC by the Wireless Innovation Forum (Sept. 20, 2018), https://www.businesswire.com/news/home/20180920005828/en/Multi-Stakeholder-Collaboration-Highlighted-in-Report-to-the-FCC-by-the-Wireless-Innovation-Forum (specifying participation in the multi-stakeholder process included some 63 organizations and 336 participants).

[406] NPSTC Comments at 8.

license-by-rule approach adopted today for NNA and will ease administrative burdens by reducing the time required to gain access to the 5030-5091 MHz band.

134. Specifically, the IAM will be available to all eligible NNA operators licensed by rule, and will allow limited, short-term access to 20 megahertz of spectrum in the 5040-5060 MHz band of frequencies.[407] The initial access will only be suitable for NNA operations, which are typically single flights or events. The temporary nature of NNA operations corresponds appropriately to the license-by-rule framework, which does not require an individual FCC license,[408] but does require compliance with all applicable operating requirements, procedures, and technical specifications found within the UAS rules adopted herein. In order for NNA operators to gain access and begin transmission in the 5040-5060 MHz block, they must complete a two-step process, including FAA coordination and FCC registration.

135. *FAA Coordination.* NNA operators seeking to transmit in the band under the IAM are first required to submit a request to the FAA for deconfliction and approval.[409] The specific technical details of the requested location, frequency, and timeframe will be conveyed in this request process, pursuant to FAA directives. The FAA process will support the sharing of information that promotes situational awareness and strategic deconfliction, which is one of the key capabilities that NNA operators will use to maintain separation from one another and from obstacles and airspace constraints during this interim period. NNA operators must first receive FAA authorization/concurrence before any operation in the band is commenced, and must ensure that any such operations comply with the scope of approval, terms, conditions, and/or restrictions of the FAA authorization/concurrence. The FAA process will also include any required inter-agency coordination to ensure compatibility and deconfliction between federal and non-federal operations,[410] with the exception of the separate registration and certification process with the Commission detailed herein.

136. *FCC Registration Process*. For IAM access, NNA operators holding an FAA authorization must complete an on-line NNA registration form with the Commission providing various basic information and certifications, including a company or individual name, email address, and the following certification statements: (1) they have complied with the FAA authorization process; (2) they have/will comply with the Commission's NNA rules and technical requirements; (3) all equipment utilized in NNA operations meets the equipment certification requirements; and (4) their authorization to use the IAM assignment terminates immediately in the event a DFMS becomes operational prior to the end of the IAM assignment.[411] We delegate authority to WTB to set up the registration process consistent with the determinations in this Report and Order, and to require any further information and certifications found to be helpful to the administration or successful operation of the IAM. This registration process

[407] *See supra* Section III.A.1. As noted, while we are allotting 10 megahertz of spectrum for use by NNA operations, we are making available 20 megahertz of the 5030-5091 MHz during the IAM period to aid the deconfliction of NNA use.

[408] *See supra* Section III.A.3.

[409] *See* FAA, Spectrum Engineering AJW-19, https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/safety_ops_support/spec_management (last visited Aug. 19, 2024).

[410] *See* FAA, Spectrum Engineering AJW-19, https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/safety_ops_support/spec_management (last visited Aug. 19, 2024) (FAA Spectrum Engineering & Policy Office ensures "radio spectrum compatibility and deconfliction between federal and non-federal radio systems").

[411] We note that, during the IAM period, parties may continue to seek access to the 5030-5091 MHz band through experimental authorization applications under the Commission's part 5 rules for the purposes authorized under those rules such as the testing of equipment in connection with production or regulatory approval of such equipment. *See* 47 CFR § 5.3.

will not require a fee, or any subsequent review process.[412] Once the registration form is completed and submitted, a confirmation number of their registration will be provided and NNA operations can commence immediately. WTB will issue a public notice providing further information regarding the registration process, including the date on which registration may begin. During the IAM, the FCC will work with the FAA to resolve disputes or identify and address the sources of harmful interference or unauthorized operations in the 5030-5091 MHz band.

137. *Transition to DFMS Management of NNA Spectrum.* When a DFMS is first granted final approval, as discussed above, WTB will issue a public notice establishing the date on which the DFMS may begin operations, after which parties seeking access to NNA spectrum must request a frequency assignment from the DFMS. For the DFMS assignment process to reliably determine interference impacts, it is critical that all UAS operations have gone through a DFMS. Accordingly, after the date on which a DFMS first begins operation, parties may not seek or use assignments from the IAM. We note that, after such date, the spectrum available for NNA operations will be restricted to 10 megahertz, as discussed above. If WTB finds it appropriate to help ensure a smooth transition, it may establish and announce by public notice a date prior to final approval of a DFMS after which requests will no longer be processed through IAM, but no earlier than the date of the first DFMS conditional approval. Further, we authorize WTB to take any other necessary steps to ensure a smooth transition to the DFMS management of the NNA spectrum, including setting the date for a DFMS to begin operations a sufficient period after the date of final approval to permit all or most of the outstanding IAM approvals to expire.

C. Compatibility with Other Services

1. Microwave Landing Systems

138. The Microwave Landing System (MLS) is a radio guidance system that was intended to be installed at airports to aid aircraft in landing in circumstances such as when an airport is visually obscured by bad weather, and that provided certain technical improvements over the original Instrument Landing System.[413] Footnote US444 of the Table of Allocations provides that in the band 5030-5150 MHz, the requirements of MLS have priority over other uses of this frequency band.[414]

139. The MLS technology has been rendered obsolete by more recent instrument-landing solutions, and no current licensed non-federal MLS systems are in the 5030-5150 MHz band. Further, the FAA does not anticipate any future use of these systems at airports.[415] NTIA's most recent summary of the federal use of the 5030-5250 MHz band indicates, however, that the Air Force uses the 5030-5091 MHz band for MLS at military bases and "will continue to use MLS into the foreseeable future in order to provide landing guidance to military aircraft."[416] Given the lack of non-federal MLS and the

[412] We find that fees are not warranted here because the registration is a process intended to collect basic identification and certification information during this interim period that may be used, if necessary, in circumstances where interference issues or questions of rule compliance arise. As discussed in Section III.A.3, NNA operators are licensed by rule, are not required to apply for an individual license, and are not obtaining any additional operating rights solely as a result of this registration requirement. Thus, we would not consider it an application subject to section 8 of the Act. See 47 U.S.C. § 158 (requiring the Commission to adopt application fees).

[413] *See* WTB & OET, Report on Section 374 of the FAA Reauthorization Act of 2018, GN Docket No. 19-356, 5 (2020), https://docs.fcc.gov/public/attachments/DOC-366460A1.pdf.

[414] *See* 47 CFR § 2.106(c)(444) (footnote US444); *see also id.* § 87.173(b) (authorizing MLS over the frequencies 5030-5150 MHz). The rules also permit deployment of "radionavigation land test" stations at 5031 MHz but only for the testing of MLS airborne receiving equipment. *See* 47 CFR § 87.475(c)(2).

[415] *See* NTIA, NTIA Spectrum Compendium, 5030-5250 MHz, at 11 (Feb. 2021), https://www.ntia.doc.gov/files/ntia/publications/compendium/5030.00-5250.00-02092021.pdf (NTIA Spectrum Compendium (5030-5025 MHz)).

[416] *Id.* at 1, 11.

obsolescence of the systems, the *UAS NPRM* proposed to amend the rules to provide that no future non-federal MLS licenses (including MLS radionavigation land test licenses at 5031 MHz) would be granted in the 5030-5091 MHz band, but sought comment on the measures the Commission should adopt to protect federal MLS services.[417]

140. The limited comment on non-federal MLS use in response to the *UAS NPRM* provides further support for the conclusion that MLS is an obsolete technology, and that it is highly unlikely that any non-federal party will seek to deploy MLS in the band.[418] No party indicates that there is any interest in or need for the deployment of such systems, and as noted, the FAA does not anticipate any future use of these systems at airports.[419] Given that there are no non-federal MLS stations in the band, and that we do not anticipate licensing any future MLS systems, we adopt no measures to protect such operations. We will coordinate with the FAA the specific actions necessary to remove the availability of the 5030-5091 MHz band for non-federal MLS use as part of our ongoing efforts to establish final rules for this band.

141. Because we anticipate continued use of federal MLS by the Air Force, we adopt measures to ensure the priority of federal MLS over NNA operations. As suggested in the *UAS NPRM*, we will establish exclusion zones to protect such systems.[420] Further, drawing on analogous requirements of the SAS, we will require the DFMS to retain information on, and enforce, the zones sufficient to protect any federal MLS stations in the 5030-5091 MHz band.[421] The Commission will coordinate with NTIA to identify both the current locations of federal MLS and the appropriate exclusion zones, after which the exclusion zones will be identified by Public Notice. To the extent that these locations change, such changes can be addressed through a similar process. We delegate authority to WTB to issue the public notice identifying any initial MLS exclusion zones as well and any subsequent public notices necessary to identify changes.

142. Comments in response to the *UAS NPRM* that address this issue generally support exclusion zones to protect MLS.[422] While AIA, in its rulemaking petition, suggested a coordination mechanism for this purpose,[423] we expect that exclusion zones will be easier to implement than a coordination mechanism that would require either deployment of a sensing mechanism or an ongoing interactive process between the relevant federal agencies and DFMSs. In addition, while coordination could enable greater use of the NNA spectrum, we do not anticipate that the additional benefit would be significant, as the protection of MLS at a few specific Air Force bases should not require extensive zones, and non-federal UAS operations in the vicinity of these bases are likely in any case to be prohibited or

[417] *See UAS NPRM*, 38 FCC Rcd at 518-19, paras. 102-03.

[418] *See* ALPA Comments at 11 (agreeing that MLS "has largely been rendered obsolete by other technologies," that "it is unlikely that new non-Federal MLS systems will ever be deployed," that therefore no protection of non-federal MLS are necessary, and further supporting elimination of future MLS licensing in 5030-5091 MHz).

[419] *See* NTIA, NTIA Spectrum Compendium, 5030-5250 MHz, at 11 (Feb. 2021), https://www.ntia.doc.gov/files/ntia/publications/compendium/5030.00-5250.00-02092021.pdf (NTIA Spectrum Compendium (5030-5250 MHz)). We note that any application for MLS stations would need to be coordinated with the FAA. *See* 47 CFR § 87.475(a). We do not anticipate FAA endorsement of such applications for the reasons discussed.

[420] *See UAS NPRM*, 38 FCC Rcd at 518-19, para. 102; *see also* Appx. A (adding 47 CFR § 88.135(m)).

[421] *See* 47 CFR § 96.53(e).

[422] *See* ENTELEC/API Comments at 8 (supporting exclusion zones); Qualcomm Comments at 13 (same).

[423] *See* AIA Petition at 18; *see also* Lockheed Martin *Refresh Public Notice* Comments at 5; Boeing *Refresh Public Notice* Comments at 11.

severely restricted.[424] We also decline to modify footnote US444 in the Table of Allocations to identify the specific locations to be protected, as has been suggested by some parties.[425] Because the DFMS will know the MLS exclusion zones and enforce them automatically, enforcement does not depend on operators knowing the locations.[426] Further, there are other convenient ways for operators to obtain such information, such as from the relevant Public Notice. In addition, because federal MLS locations may be eliminated or newly established in the future, identification of such locations through a public notice process, rather than codifying the locations in the Commission's rules, will allow the Commission and the DFMS to be more nimble in appropriately protecting federal MLS locations in the future.

2. Radionavigation-satellite Service

143. The 5010-5030 MHz band includes an allocation for the radionavigation-satellite service (RNSS) (space-to-Earth) for potential future use.[427] Footnote 5.443C of the Table of Frequency Allocations addresses requirements in the 5030-5091 MHz band for the protection of RNSS downlinks.[428] Specifically, it provides that "[u]nwanted emissions from the aeronautical mobile (R) service in the frequency band 5030-5091 MHz shall be limited to protect RNSS system downlinks in the adjacent 5010-5030 MHz band" and that "[u]ntil such time that an appropriate value is established in a relevant International Telecommunication Union Radiocommunication Sector (ITU-R) Recommendation, the equivalent isotropic radiated power (EIRP) density limit of -75 dBW/MHz in the frequency band 5010-5030 MHz for any AM(R)S station unwanted emission should be used."[429] Footnote 5.443C further limits AM(R)S use of the 5030-5091 MHz band to "internationally standardized aeronautical systems." As NNA operations services would be part of the AM(R)S allocation, the requirements of footnote 5.443C would apply to such operations in the 5030-5091 MHz band. In the *UAS NPRM*, the Commission sought comment on requiring UAS operations in the 5030-5091 MHz band to comply with footnote 5.443C, and on whether it should adopt any other measures to protect RNSS downlinks.[430]

144. We conclude that the technical requirements applicable to NNA combined with the frequency separation between the NNA spectrum and the 5010-5030 MHz band will be sufficient to provide compatibility between NNA operations and RNSS in the 5010-5030 MHz band. The FAA indicates that the protection of RNSS systems was taken into consideration in the drafting of the RTCA standard, and that RNSS can safely be protected as long as RTCA standards are followed.[431] We also note that the OOBE limits in RTCA DO-362A incorporate the limits established in footnote 5.443C that were specifically adopted to protect RNSS from AM(R)S in the 5030-5091 MHz band.[432] As discussed above, we are adopting NNA technical requirements through incorporation by reference to provisions of RTCA

[424] *See* FAA, *Security Sensitive Airspace Restrictions*, https://www.faa.gov/uas/getting_started/where_can_i_fly/airspace_restrictions/security_sensitive (last updated Aug. 19, 2024) (stating that "[d]rones are prohibited from flying over designated national security sensitive facilities," including "[m]ilitary bases designated as Department of Defense facilities").

[425] *See, e.g.*, Lockheed Martin *Refresh Public Notice* Comments at 4-5.

[426] As discussed above, until a DFMS is operational in the band, NNA access will be governed by a two-step interim access mechanism, including FAA coordination and Commission registration. *See supra* Section III.B.6.

[427] *See* 47 CFR § 2.106. ALPA anticipates that future United States or international Global Navigation Satellite Systems may use this band for network control. ALPA Comments at 12.

[428] *See* 47 CFR § 2.106(b)(443)(iii) (footnote 5.443C).

[429] *See id.*

[430] *See UAS NPRM*, 38 FCC Rcd at 521, para. 108.

[431] *See* NTIA/FAA Comments at 5.

[432] *See* RTCA DO-362A, § 2.2.1.8.2.2. We note that footnote 5.443C will also continue to apply to NNA equipment and services of its own force.

DO-362A, including its power and OOBE limits. We therefore anticipate that these limits will be sufficient to protect RNSS.

145. Some commenters argue that we should adopt 4.5 megahertz guard bands at the edges of the 5030-5091 MHz band to protect RNSS, and that such a guard band is necessary to meet the requirements of footnote 5.443C.[433] There is no need at this time, however, to determine whether such a guard band is necessary, as the interim spectrum we designate for NNA in this Report and Order will provide more than twice that frequency separation between NNA operations and the 5030-5091 MHz band edges.[434]

3. AeroMACS

146. AeroMACS is a wireless broadband aeronautical mobile (route) service system that will enable communications for surface operations at airports between aircraft and other vehicles and between other critical fixed assets.[435] The Commission allocated both the 5000-5030 MHz and 5091-5150 MHz bands for such use but has not yet established service rules in either band.[436] The AeroMACS allocation for 5010-5030 MHz further provides that in making assignments for this band, attempts shall first be made to satisfy requirements in the bands 5000-5010 MHz and 5091-5150 MHz.[437] In the *UAS NPRM*, the Commission sought comment on whether any special measures beyond the generally applicable technical requirements were necessary to ensure compatibility between UAS operations in the 5030-5091 MHz band and AeroMACS.[438]

147. As with RNSS, we similarly conclude that the adopted technical requirements, combined with the frequency separation, will be adequate regulatory measures to provide compatibility between NNA operations and AeroMACS in the upper and lower band.[439] Parties assert that protection of AeroMACS will require a 4.5 megahertz guard band at the 5030-5091 MHz band edges.[440] We reiterate that we need not decide at this time whether to adopt such a guard band, given the location of NNA spectrum, for now, at the core of the band.

148. NTIA/FAA assert that, in addition to compliance with the technical requirements in RTCA DO-362A, protection of AeroMACS will also require "careful planning . . . when installing UAS C2 Link Ground Stations at airports where AeroMACS Base Stations are installed to ensure that the C2

[433] *See* NTIA/FAA Comments at 1; RTCA Comments at 3, 40; AIA Reply at 9; uAvionix Reply at 4; *see also* RTCA DO-362A, Appx. T.2.

[434] We will reconsider the option of guard bands when the final band plan for the 5030-5091 MHz band is determined.

[435] *See Amendment of the Commission's Rules to Promote Aviation Safety et al.*, WT Docket No. 19-140 et al., Notice of Proposed Rulemaking, 34 FCC Rcd 4984, 4997, para. 34 (2019) (*Aviation NPRM*).

[436] *See id.* at 4997, para. 35.

[437] *See* 47 CFR § 2.106(c)(115)(b) (footnote US115(b)).

[438] *See UAS NPRM*, 38 FCC Rcd at 520, para. 107.

[439] *See, e.g.*, NTIA/FAA Comments at 5; RTCA Comments at 39 ("RTCA SC-228 confirms that the out-of-band emissions specification in RTCA DO-362A for UA and terrestrial NNA . . . ground systems protect AeroMACS services in the 5000-5030 MHz and 5091-5150 MHz bands."). RTCA also confirms that RTCA's revised technical standard for AeroMACS will protect UAS services in the 5030-5091 MHz band from harmful interference from AeroMACS systems. *See* RTCA Comments at 40. NTIA/FAA and RTCA also suggest that certain siting requirements will be necessary to protect AeroMACS in addition to compliance with these technical requirements, however. *See* NTIA/FAA Comments at 5; RTCA Comments at 40, 41. We discuss these assertions below.

[440] *See, e.g.*, RTCA Comments at 40.

Link Ground Station antenna main beam is not pointing towards an AeroMACS Base Antenna."[441] This concern is reflected in a provision of RTCA DO-362A, section 2.1.20.5, entitled "[Ground radio station] Antenna Siting in Airport with AeroMACS Service," which provides that the main beam of the ground station "shall point outside the main beam of AeroMACS Base Station antenna and AeroMACS Fixed Station antennas such that at least 12.5 dB of sidelobe rejection is provided."[442] We find, however, that it is unnecessary to regulate siting at an airport to protect the airport's AeroMACS when the airport operators will be fully able to determine and enforce restrictions for siting at their airports. Accordingly, we decline to adopt siting requirements at airports to protect AeroMACS.

4. Aeronautical Mobile Telemetry

149. The 5091-5150 MHz band is also allocated for federal and non-federal aeronautical mobile telemetry (AMT) communications from aircraft stations, subject to the technical parameters in ITU Resolution 418 (WRC-12) intended to ensure compatibility with other services.[443] According to NTIA, federal agencies currently use this allocation in the 5091-5150 MHz band to support flight testing.[444] The band is similarly used for non-federal flight testing operations.[445] As specified in footnote US111 of the Table of Allocations, flight testing in the band 5091-5150 MHz is conducted at seventeen locations, and additional locations may be authorized on a case-by-case basis.[446]

150. In the *UAS NPRM*, the Commission sought comment on whether measures beyond generally applicable out-of-band emissions limits are necessary to ensure that 5030-5091 MHz operations are compatible with AMT communications in the 5091-5150 MHz band.[447] AFTRCC notes that the rules for Wireless Communications Service (WCS) operations in the 2345-2360 MHz band immediately adjacent to AMT spectrum (2360-2395 MHz) provide for protection of AMT receiver stations through coordination consistent with the criteria in ITU Recommendation ITU-R M.1459, as adjusted using generally accepted engineering practices and standards to take into account the local conditions and operating characteristics of the applicable AMT and WCS facilities.[448] AFTRCC argues that, because UAS operations will be opportunistic and dynamic, a similar coordination scheme may not be practical,

[441] *See* NTIA/FAA Comments at 5; *see also* RTCA Comments at 41 (asserting that UAS ground station "antenna beams cannot be pointed towards the AeroMACS Base Station antennas").

[442] *See* RTCA DO-362A, § 2.1.20.5.

[443] 47 CFR § 2.106(c)(444)(ii) (footnote US444B). Resolution 418 limits applications to flight testing transmissions from aircraft stations, and establishes criteria for coordination with MLS, fixed-satellite service, mobile service in the band 5150-5250 MHz, and AM(R)S in the band 5091-5150 MHz. *See* ITU Resolution 418 (rev. WRC-19), "Use of the frequency band 5091-5250 MHz by the aeronautical mobile service for telemetry applications." (Resolution 418).

[444] *See* NTIA Spectrum Compendium (5030-5025 MHz) at 1, 9.

[445] *See* AFTRCC Comments at 10.

[446] *See* 47 CFR 2.106(c)(111) (footnote US111).

[447] *See UAS NPRM*, 38 FCC Rcd at 521, para. 109.

[448] *See* AFTRCC Comments at 10; 47 CFR § 27.73(a) (requiring WCS licensees operating stations in the 2345-2360 MHz band, prior to operation of such stations, to achieve a mutually satisfactory coordination agreement with AMT entities for any AMT receiver facility within 45 kilometers or radio line of sight of the intended WCS station; further requiring that such agreements provide protection to existing AMT receiver stations consistent with ITU-R M.1459, as adjusted using generally accepted engineering practices and standards to take into account the local conditions and operating characteristics of the applicable AMT and WCS facilities); *see also* International Telecommunication Union (ITU) Recommendation ITU–R M.1459, "Protection criteria for telemetry systems in the aeronautical mobile service and mitigation techniques to facilitate sharing with geostationary broadcasting-satellite and mobile-satellite services in the frequency bands 1452–1525 MHz and 2310–2360 MHz," adopted May 2000 (ITU-R M.1459).

and that, to protect AMT, the Commission should simply impose across-the-board power and OOBE limits on UAS operations consistent with the criteria of ITU-R M.1459.[449]

151. We find that the limits we adopt above, incorporated by reference to provisions of RTCA DO-362A, are sufficient to protect AMT because the low emission limits into the 5091-5150 MHz band are comparable to the WCS limits in our part 27 rules. We decline to require NNA operations to also comply with the criteria of ITU-R M.1459. ITU-R M.1459 was adopted to establish AMT protection criteria for sharing with satellite services.[450] The criteria of RTCA DO-362A have been developed specifically for terrestrial CNPC in the 5030-5091 MHz band with low emission limits sufficient to protect adjacent AMT operations. AFTRCC does not assert that the RTCA DO-362A criteria are insufficient to protect AMT or offer any explanation or analysis supporting that conclusion or otherwise demonstrating that ITU-R M.1459 is more appropriate, and we find that reliance on ITU-R M.1459 may be excessively restrictive. In referencing the ITU-R M.1459 criteria for coordination between WCS in the 2360-2395 MHz band and neighboring AMT, the Commission emphasized that ITU-R M.1459 "sets forth extremely conservative baseline protection" and that it would in many cases "provide more protection than required, unnecessarily restricting areas where WCS licensees may provide service."[451] We note that Boeing, which uses the 5091-5150 MHz band for aircraft certification and testing, does not request ITU-R M.1459 criteria be applied.[452] We also note that, while the Commission required WCS licensees in 2345-2360 MHz to coordinate with AMT, it did not require similar coordination, under ITU-R M.1459 or any other standard, from WCS licensees in the 2305-2320 MHz band, who are separated by 40 megahertz from AMT in 2360-2395 MHz.[453] As the NNA spectrum we designate in this Report and Order will be comparably separated by 41 megahertz from AMT, we find that the WCS rules further support our conclusion that compliance with ITU-R M.1459 is unnecessary to adequately protect AMT from NNA operations at this time.[454]

5. Mobile Satellite Service Feeder Links

152. As specified in footnote US444A of the Table of Allocations, the 5091-5250 MHz band is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis for non-Federal use, limited to feeder links of non-geostationary satellite systems in the Mobile Satellite Service (MSS).[455] After January 1, 2016, the 5091-5150 MHz portion of this allocation permitted no new assignments.[456] Globalstar operates gateway earth stations in the 5091-5250 MHz band under this allocation as part of its

[449] *See* AFTRCC Comments at 11-12. We note that, while federal flight testing also occurs in the band, neither NTIA nor any federal agency has similarly requested application of the ITU-R M.1459 criteria.

[450] *See* ITU-R M.1459.

[451] *See Amendment of Part 27 of the Commission's rules to Govern the Operation of Wireless Communications Service in the 2.3 GHz Band*, WT Docket No. 07-293, Order on Reconsideration, 27 FCC Rcd 13651, 13717, para. 169 (2012).

[452] *See* Boeing/Wisk Comments at 19 (supporting "the Commission's proposal to provide generally applicable out-of-band emissions limits to protect 5091-5150 MHz flight testing operations").

[453] *See* 47 CFR § 27.73.

[454] In the *UAS NPRM*, the Commission sought comment on whether guard bands at the edges of the 5030-5091 MHz band were necessary to ensure protection of adjacent band services, including AMT. As we discuss in connection with AeroMACS and RNSS, we defer decision on this issue until the final band plan is determined. Similarly, if spectrum closer to the 5091 MHz band edge is designated for NNA operations at that time, we will consider the impact of that change on the adequacy of our technical requirements for the protection of AMT.

[455] *See Amendment of Parts 2, 25 and 97 of the Commission's Rules with Regard to the Mobile-Satellite Service Above 1 GHz*, ET Docket No. 98-142, Report and Order, 17 FCC Rcd 2658, 2659, para. 1 (2002); 47 CFR § 2.106(c)(444)(i) (footnote US444A).

[456] *See id.* § 2.106(c)(444)(i)(B) (footnote 5.444A(B)).

global mobile satellite service.[457] Globalstar states that it is not aware of any technical concerns related to the development of UAS operations in the 5030-5091 MHz band.[458] It requests that the Commission clarify, however, that UAS operators must accept any interference that UAS systems experience near Globalstar's gateway sites.[459]

153. We do not anticipate that rule-compliant fixed earth stations in the 5091-5250 MHz band will cause harmful interference to NNA operations in the 5030-5091 MHz band. The Commission previously found that operation of these feeder uplinks would not harm MLS operations in the adjacent 5030-5091 MHz band, and we find no reason to anticipate greater risks to NNA operations in the same spectrum.[460] Accordingly, we do not expect any incidents of harmful interference. Nevertheless, to address the unlikely possibility of interference to UAS operations, we find it appropriate to adopt a clarification consistent with Globalstar's request. MSS feeder links have been allocated in the 5091-5250 MHz band for more than twenty years, and in the 5091-5150 MHz band are limited to those sites already authorized and deployed, while UAS operations are being newly introduced and manufacturers have yet to certify equipment for the band. Placing the responsibility to resolve interference between rule-compliant fixed earth stations and UAS on the new UAS services is consistent with the first-in-time principle that typically governs interference issues between two primary stations absent rules to the contrary.[461] It will also be easier for the UAS industry to ensure that, in designing and developing the nascent equipment ecosystem for the band, they implement the requisite receiver immunity, than for an MSS feeder link licensee to retrofit existing stations, and placing the responsibility on UAS operations will also create the proper incentives for NNA equipment manufacturers.[462] Further, no commenters raise any objections to Globalstar's request. We therefore clarify that an MSS feeder link licensee in the 5091-5250 MHz band will only be responsible for curing harmful interference from its earth station to NNA operations in the neighboring 5030-5091 MHz band to the extent such interference is the result of the licensee's non-compliance with applicable license or regulatory requirements.

[457] *See* Globalstar Comments at 1; *see also Aviation NPRM*, 34 FCC Rcd at 5000, para. 43. In MSS architecture, a message transmitted from a subscriber's mobile transceiver is received by an MSS satellite and relayed to a gateway earth station, which may relay the message to another satellite or route it to a destination on the public switched network. *See L/Q Licensee, Inc.*, Order and Authorization, 11 FCC Rcd 16410, 16411, para. 2 (1996). Return messages follow the same path in reverse, being transmitted from the earth station gateway to the satellite. *See id.* The term "feeder link" refers to the transmission of users' messages between satellites and gateway earth stations. *See id.* at 16411, para. 3. Globalstar states that its gateway antennas transmit feeder uplinks up to Globalstar's satellites at 5091-5250 MHz, carrying traffic intended for its satellite service subscribers from either the public switched telephone network, wireless networks, or the Internet. *See* Globalstar Comments at 3.

[458] *See* Globalstar Comments at 3.

[459] *See id.* at 3-4.

[460] *See Amendment of Parts 2, 25 and 97 of the Commission's Rules with Regard to the Mobile-Satellite Service Above 1 GHz*, ET Docket No. 98-142, Report and Order, 17 FCC Rcd 2658, 2688, para. 17 (2002).

[461] *See, e.g., Single Network Future: Supplemental Coverage from Space*, GN Docket No. 23-65, Notice of Proposed Rulemaking, 38 FCC Rcd 2790, 2845, para. 148 (2023); *see also Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the l2.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates*, ET Docket No. 98-206, Memorandum Opinion and Order and Second Report and Order, 17 FCC Rcd 9614, 9659, para. 111 (2002) (finding application of first-in-time rule between two services was equitable and consistent with the co-primary status of the services).

[462] *See Principles for Promoting Efficient Use of Spectrum and Opportunities for New Services Promoting Efficient Use of Spectrum Through Improved Receiver Interference Immunity Performance*, ET Docket Nos. 23-122, 22-137, Policy Statement, 38 FCC Rcd 3682 (2023).

6. Radio Astronomy

154. Footnote US211 of the Table of Frequency Allocations provides that in a number of specified frequency bands, including the 5000-5250 MHz band, "applicants for airborne or space station assignments are urged to take all practicable steps to protect radio astronomy observations in the adjacent bands from harmful interference," subject to footnote US74.[463] Footnote US74, in turn, provides that, in specified bands, including the 4990-5000 MHz band adjacent to the 5000-5250 MHz band, "the radio astronomy service shall be protected from unwanted emissions only to the extent that such radiation exceeds the level which would be present if the offending station were operating in compliance with the technical standards or criteria applicable to the service in which it operates."[464]

155. The Commission has also adopted requirements in section 1.924(a) of the Commission's rules to protect radio astronomy observations in the National Radio Quiet Zone (NRQZ) from emissions more generally. The NRQZ is a specified area designed to minimize interference to radio astronomy observations at the Green Bank Observatory (GO) site located at Green Bank, Pocahontas County, West Virginia, and the Sugar Grove Research Station (SGRS) site at Sugar Grove, Pendleton County, West Virginia.[465] Section 1.924(a) requires that applicants or licensees seeking to establish a new or modified station at a fixed, permanent location in the NRQZ must notify the National Radio Quiet Zone Administrator in writing, either prior to or simultaneously with their application to the Commission.[466] The Commission then allows a period of 20 days for comments and objections, unless the applicant submits written consent from the National Radio Quiet Zone Administrator with its application.[467] If objections from the National Radio Quiet Zone Administrator are filed prior to the end of the 20-day period, the Commission will, after consideration of the record, take whatever action is deemed appropriate.[468] Section 1.924(a) currently applies to applicants and licensees for the wide range of services that fall under the category of the Wireless Radio Service, including, for example, part 27 commercial services, part 87 aviation services, and part 95 license-by-rule services.[469]

156. In the *UAS NPRM*, the Commission sought comment on measures necessary to protect radio astronomy, and proposed, consistent with the recommendations of NTIA, to require coordination of UAS operations within the NRQZ, and to continue to apply the requirements of footnote US211 to operations in the 5030-5091 MHz band.[470] With regard to the NRQZ, the Commission proposed requiring parties to submit a concurrence letter from the NRQZ administrator with any request to a DFMS for a frequency assignment within the NRQZ, but also sought comment on whether to apply the requirements

[463] *See* 47 CFR § 2.106(c)(211) (footnote US211).

[464] *See* 47 CFR § 2.106(c)(74) (footnote US74). We note that 4990-5000 MHz is also subject to footnote US246, which provides in relevant part that no station shall be authorized to transmit in the 4990-5000 MHz band. *See* 47 CFR § 2.106(c)(246) (footnote US246).

[465] *See* 47 CFR § 1.924(a).

[466] *See* 47 CFR § 1.924(a)(1).

[467] *See* 47 CFR § 1.924(a)(2).

[468] *See* 47 CFR § 1.924(a)(3).

[469] *See* 47 CFR §§ 1.901 (providing that the purpose of part 1, subpart F, encompassing, *inter alia*, section 1.924, "is to establish the requirements and conditions under which entities may be licensed in the Wireless Radio Services"), 1.907 (defining "Wireless radio services" as "[a]ll radio services authorized in parts 13, 20, 22, 24, 26, 27, 30, 74, 80, 87, 90, 95, 96, 97 and 101 of this chapter, whether commercial or private in nature").

[470] *See UAS NPRM*, 38 FCC Rcd at 520, para. 105; *see also* NTIA *Refresh Public Notice* Comments at 2 (recommending protection of radio astronomy operations through coordination of UAS usage within the NRQZ); NTIA *Refresh Public Notice* Reply at 1 (requesting that footnote US211 continue to apply to any regulatory measures that might emerge in this proceeding).

of section 1.924(a) of the Commission's rules as the NRQZ coordination process.[471] The Commission also sought comment on NTIA's proposal that requirements for licensees include passing a RAS knowledge test or similar effort to promote awareness of radio astronomy sites.[472]

157. Commenters on these issues take varied positions. CORF asserts that the Commission should adopt an exclusion zone around the NRQZ, and also adopt 80-kilometer radius exclusion zones around fifteen other RAS sites identified in footnote US385 of the Table of Allocations.[473] CORF argues that these exclusion zones are necessary to protect RAS observations occurring in both the adjacent 4990-5000 MHz band and inside the 5030-5091 MHz band.[474] ENTELEC/API also support the use of exclusion zones for the protection of RAS in the NRQZ.[475] FPL, however, argues that exclusion zones are inefficient and unnecessary to protect RAS and advocates a coordination requirement for the NRQZ, and that, for RAS in 4990-5000 MHz, licensees should merely be required to take all practicable steps to protect RAS from harmful interference.[476] Boeing/Wisk also support a coordination requirement for the NRQZ, and otherwise support reaffirming the application of footnote US211 to the band.[477] In a filing made in response to the *Refresh Public Notice*, NTIA requested that the Commission should both ensure protection of radio astronomy through coordination with the NRQZ and continue to apply footnote US211 to any regulatory measures that emerge from the proceeding.[478]

158. *NRQZ.* We adopt our proposal to require coordination within the NRQZ. As described in detail below, we model the coordination requirements after the NRQZ coordination procedures applicable to other services under section 1.924(a) of the Commission's rules. The general policy of protecting RAS observation in the NRQZ through coordination, as codified in section 1.924(a), applies to the broad range of services covered by the category of the Wireless Radio Services (which will now include NNA), and we see no reason this long-standing and generally applicable policy should exclude NNA operations. We further find substantial support in the record for this approach.[479]

159. We find arguments that we should instead adopt an exclusion zone that categorically prohibits NNA service in the NRQZ are unpersuasive. First, we note that no other service is subject to an exclusion zone around the NRQZ under section 1.924(a), and that our approach treats the NNA service the way all other services are treated. Further, we agree with FPL that requiring coordination strikes a better balance between the goal of protecting RAS and the benefits of UAS access to the band.[480] CORF expresses concern that coordination with license-by-rule operations will be difficult logistically, particularly for UAS operations by individual consumers and small enterprises, and it asserts that there is

[471] *See id.*

[472] *See UAS NPRM*, 38 FCC Rcd at 519-20, paras. 104-05.

[473] *See* CORF Comments at 9, 10-11.

[474] *See* CORF Comments at 7, 10-11.

[475] *See* ENTELEC/API Comments at 8.

[476] *See* FPL Reply at 7-8 (arguing, *inter alia*, that exclusion zones to protect RAS in the 4990-5000 MHz band "are too blunt an instrument for making efficient use of spectrum that is effectively separated by a thirty megahertz guard band").

[477] *See* Boeing/Wisk Comments at 19.

[478] *See* NTIA *Refresh Public Notice* Reply at 1.

[479] *See* Boeing/Wisk Comments at 19; FPL Reply at 7-8; *see also* NTIA *Refresh Public Notice* Comments at 2. We also note that, while preferring an exclusion zone to protect the NRQZ, CORF supports coordination as an alternative. *See* CORF Comments at 9.

[480] *See* FPL Reply at 8 (arguing that coordination more appropriately balances the competing interests of respective licensees).

a "strong possibility" of non-compliance.[481] We do not agree. While NNA stations will be licensed by rule and will not need individual licenses, the operators will still be required to obtain individual frequency assignments from a DFMS, which will be in an effective position to enforce the coordination requirement through the process described below. Further, these parties will be required to follow the same process of notifying the NRQZ Administrator as applies to other services under section 1.924(a), so the logistics of identifying and coordinating should not be significantly different. In sum, the Commission has relied successfully on this 1.924(a) process to provide protection for the NRQZ from numerous other services, including part 95 license-by-rule services, and we fully expect that it will be successful here.[482]

160. As stated above, we model the coordination requirements applicable to NNA operations after the procedures applicable to stations in the NRQZ under section 1.924(a), but because these procedures assume that a station license application is being submitted to the Commission, we modify them to work with the instant context in which a frequency assignment request will be submitted instead to a DFMS. Specifically, we provide that parties planning to operate an NNA station at locations within the NRQZ must notify the National Radio Quiet Zone Administrator (NRQZ Administrator) in writing in advance or simultaneously with the filing of the request. Although section 1.924(a) procedures are limited to fixed permanent stations, we agree with CORF that procedures for UAS in the 5030-5091 MHz band should apply more broadly.[483] Given the inherently short-term nature of NNA operations, such operations are likely to often rely on temporary stations. Limiting coordination to permanent stations, particularly with the aeronautical focus of the service, might therefore not provide adequate coordination. We also adopt, however, two measures to reduce the burden of coordinating short term operations. First, we provide that the NRQZ Administrator may provide safe harbors for NNA operations in the NRQZ that do not require notification, but a party submitting a frequency assignment request under this exception must certify that their request meets the criteria for a safe harbor and provide any additional supporting documentation required by the DFMS. We further provide that, if a party's operation or revision of an operation is within the scope of an approval previously granted to the party by the NRQZ Administrator, including any time limits on the approval, altitude limits, or other applicable conditions, the party need not provide notification of the operation or revision to the NRQZ Administrator, but must submit the approval with its assignment request.

161. CORF recommends that the coordination notice should be sent to nrqz@nrao.edu.[484] We adopt the same mailing address specified in section 1.924(a) and applicable to every other service as the initial point of contact, but we will also permit notification to be sent by electronic mail to nrqz@nrao.edu, which should facilitate a more rapid coordination. The coordination process based on this notification will largely follow the procedures under section 1.924(a), with appropriate changes made to reflect the role of the DFMS. Thus, when a request for frequency assignment is filed with the DFMS, the notification may be submitted prior to or simultaneously with the request. After receipt, the DFMS will allow a period of 20 days for objections. If a DFMS determines that a request is subject to one of the two exceptions to notification discussed above, it shall process the request without waiting the 20-day period.

162. If the DFMS receives a NRQZ Administrator approval of operations that includes the operation associated with the request, if the request is within the scope of a safe harbor established by the

[481] *See* CORF Comments at 9.

[482] Prior to the operation of a DFMS, we will rely on the current FAA deconfliction process rather than the DFMS, as discussed above, to provide the requisite protection of radio astronomy in the NRQZ. *See supra* Section III.B.6. Accordingly, we add provisions to the coordination process addressing how the coordination will work during this period.

[483] *See* CORF Comments at 8.

[484] *See* CORF Comments at 9 n.7.

NRQZ Administrator, or if the 20-day period passes without objection, the DFMS shall process the request under normal procedures, except with regard to the restriction established above that requests may not be granted more than seven calendar days in advance. To accommodate the 20-day period for objections, we provide that, when this period is applicable, requests may be approved for periods commencing more than seven calendar days after the submission of the request, but no more than seven calendar days after the date of DFMS decision. If objections are received in the 20-day period, the DFMS administrator will forward the record, including the frequency request, to the Commission. After consideration of the record, the Commission will take whatever action is deemed appropriate, including, potentially, providing direction to the relevant DFMS administrator regarding resolution of the request.

163. *RAS Outside the NRQZ.* With regard to radio astronomy observations in the adjacent 4990-5000 MHz band, we confirm, as recommended by NTIA and other commenters, that NNA operations remain subject to footnote US211 of the Table of Allocations.[485] For clarity, we will incorporate in the rules for NNA operations that NNA users should take all practicable steps to protect radio astronomy observations in the 4990-5000 MHz band, consistent with footnote US211.[486]

164. We decline to adopt CORF's proposal for exclusion zones to protect observations at sites in both the 4990-5000 MHz band and inside the 5030-5091 MHz band. First, we disagree with CORF that RAS observations made inside the 5030-5091 MHz band are entitled to any protection. CORF argues that radio astronomy in the 5030-5091 MHz band is protected under footnote US211, which provides that applicants for airborne assignments in certain listed bands, including the 5000-5250 MHz band, "are urged to take all practicable steps to protect radio astronomy observations in the adjacent bands from harmful interference[.]"[487] CORF argues that, in urging applicants to protect RAS in "the adjacent bands," footnote US211 is referencing the bands adjacent to whatever particular frequencies an applicant has been assigned rather than the bands adjacent to the listed bands in footnote US211.[488] Thus, in CORF's view, a UAS operator with an assignment in 5040-5050 MHz would be required to protect RAS observations in the spectrum "adjacent" to 5040-5050 MHz (e.g., 5030-5040 MHz) rather than just the bands adjacent to the relevant band specified in the footnote, 5000-5250 MHz.

165. We disagree with this interpretation, and find that the term "the adjacent bands" in footnote US211 refers to the bands adjacent to the bands specifically listed in the footnote. Thus, as one of the listed bands is the 5000-5250 MHz band, footnote US211 protects radio astronomy in the bands adjacent to the 5000-5250 MHz band, but does not protect radio astronomy inside the 5000-5250 MHz band. As even CORF concedes, this interpretation best comports with the footnote's language.[489] We further find our interpretation is consistent with Commission precedent. For example, the Commission has stated that footnote US211 requires applicants in the band 31.8-32 GHz "to take all practicable steps

[485] *See* Boeing/Wisk Comments at 19; FPL Reply at 7-8. *See also* NTIA *Refresh Public Notice* Comment at 2 (recommending "reminding UAS users that applicants for airborne assignments take all practicable steps to protect radio astronomy observations in adjacent bands"); NTIA *Refresh Public Notice* Reply at 1 (noting that footnote US211 provides this caution and requesting that footnote US211 continue to apply to any regulatory measures adopted in the proceeding).

[486] We note that a DFMS must be capable of receiving reports of interference and requests for additional protection from authorized users in bands adjacent to the 5030-5091 MHz band and promptly address interference issues. *See supra* Section III.B.1. We do not require a DFMS to implement any specific measures in this regard, or implement greater protection than is required under the rules, but we anticipate that the participation of the DFMSs through this mechanism will promote rule compliance by NNA users and promote compatibility between NNA and other authorized services.

[487] *See* CORF Comments at 10 & n.5; 47 CFR § 2.106(c)(211) (footnote US211).

[488] *See* CORF Comments at 10 & n.5.

[489] *See* CORF Comments at n.5 (stating that "observations at frequencies immediately above and below 5000-5250 MHz" is "the most obvious meaning of 'adjacent to'") (emphasis in original).

to protect radio astronomy observations in the adjacent band 31.3-31.8 GHz."[490] And in addressing the obligations of 42-42.5 GHz licensees under footnote US211, the Commission expressly distinguished in-band service protection from adjacent band protection and found that footnote US211 only applies to the latter, and that footnote US211 urged applicants in the 40.5-42.5 GHz band to "protect radio astronomy observations in the 42.5-43.5 GHz band . . . ."[491]

166. CORF asserts that certain Commission orders support its position.[492] We find that CORF misinterprets the orders, however. In the *SpaceX Order*, for example, the Commission authorized an applicant to operate a satellite system in the 40-42 GHz band, subject to the condition that, "in accordance with footnote US211," the applicant protect observations "in the adjacent bands from harmful interference from its operations in the 40.5-42 GHz band."[493] As relevant to that decision, footnote US211 applies to applicants in the band 40.5-42.5 GHz, i.e., ending at 42.5 GHz rather than SpaceX's 42 GHz.[494] Thus, CORF views the decision as requiring SpaceX to protect RAS in the 42-42.5 GHz spectrum, as well as the band adjacent to 40.5-42.5 GHz. But in specifying that the applicant must protect adjacent bands "in accordance with footnote US211," the Commission was merely requiring SpaceX to protect those RAS operations that are subject to protection under the footnote, i.e. RAS operations in the adjacent 42.5-43.5 GHz spectrum where RAS has a primary allocation. Indeed, the Commission did not note any RAS observations in the 42-42.5 GHz band (which is not allocated for RAS) that would need protection. CORF's other cited cases apply similar conditions requiring protection of RAS in "adjacent bands" in accordance with footnote US211, and we interpret them in comparable fashion.

167. CORF's request for exclusion zones therefore seeks priority for wholly unallocated RAS observations over a primary allocated service. Our general rules, however, provide that when RAS observations are conducted on frequencies or frequency bands not allocated to the radio astronomy service, "protection from interference will not be afforded such operations by stations in other services."[495] Indeed, even in a case where RAS was allocated to operate but on an unprotected basis, the Commission declined to adopt exclusion zones or coordination requirements, finding that these would be "tantamount to upgrading radioastronomy from secondary to primary status."[496] Accordingly, we do not adopt measures to protect the RAS in the 5030-5091 MHz band outside of the NRQZ. We note, however, that consistent with long-standing policy reflected in section 1.924(a), the requirement to coordinate operations inside the NRQZ applies to protect RAS observations without regard to which frequency band the observations are in.[497] Therefore, coordination in the NRQZ will include coordination with RAS observations in the 5030-5091 MHz band.

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[490] *Amendment of Parts 2 and 87 of the Commission's Rules Regarding the Radionavigation Service at 31.8-32.3 GHz*, ET Docket No. 98-197, Report and Order, 15 FCC Rcd 18587, 18588 n.13 (2000).

[491] *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, GN Docket No. 14-177, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, 8153, para. 400 & n.1006 (2016).

[492] *See* CORF Comments at n.5 (citing *O3B Limited*, Order and Declaratory Ruling, 33 FCC Rcd 5508 (2018); *Space Exploration Holdings, LLC*, Memorandum Opinion, Order and Authorization, 33 FCC Rcd 11434 (2018) (*SpaceX Order*); *Theia Holdings A, Inc.*, Memorandum Opinion, Order and Authorization, 34 FCC Rcd 3526 (2019)).

[493] *See SpaceX Order*, 33 FCC Rcd at 11436, para. 6.

[494] 47 CFR § 2.106(c)(211) (footnote US211).

[495] *See* 47 CFR § 2.107(c).

[496] *See Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands*, WT Docket No. 02-8, Report and Order, 17 FCC Rcd 9980, 10038, para. 151 (2002).

[497] *See* 47 CFR § 1.924(a); *see also Amendment of the General Mobile Radio Service (Part 95)*, SS Docket No. 78-352, Report and Order, 85 FCC 2d 738, 738-39, para. 2 (1981) ("The concept of the NRQZ is that of a national

(continued….)

168. We are also not persuaded that we should adopt exclusion zones to protect RAS observations in the 4990-5000 MHz band. While CORF points to footnote US385 as requiring such zones, we find it is mistaken. While footnote US385 does identify the sites at which radio astronomy observations are performed in 4990-5000 MHz,[498] the footnote does not govern the protection that operators in 5030-5091 MHz band should provide these sites. That standard is provided by footnote US211. Far from specifying exclusion zones for protection of radio astronomy,[499] footnote US211, through the incorporation of footnote US74, provides that parties in the 5030-5091 MHz band are only obligated to protect RAS in 4990-5000 MHz from unwanted emissions "to the extent that such radiation exceeds the level which would be present if the offending station were operating in compliance with the technical standards or criteria applicable to the service in which it operates."[500]

169. Creating exclusion zones as suggested by CORF therefore goes far beyond the protection to which the RAS allocation at 4990-5000 MHz is legally entitled. In addition, the cost of such zones to the public interest would be significant. Adopting 80-kilometer exclusion zones, as proposed by CORF, could exclude more than a hundred thousand square miles of the country from any access to what is anticipated to be a unique resource for safety-critical UAS control links. We also note again that our instant action in this Report and Order limits UAS access to the core of the band, separated by 40 megahertz from the 4990-5000 MHz band, which, along with the strict limit on OOBE that will apply to UAS operations in the NNA spectrum, should greatly reduce the risks of harmful interference.[501] Accordingly, we decline, at this time, to alter or expand the protection currently afforded RAS under the Table of Allocations. When broader UAS access in the 5030-5091 MHz band is considered in the future, whether in the context of a Commission-led Federal Advisory Committee, a Further Notice of Proposed Rulemaking, or some other study or effort, the protection of radio astronomy observations in adjacent spectrum can be further explored. To facilitate operation of both UAS systems and radio astronomy systems, however, we will require a DFMS to immediately notify the National Science Foundation, Division of Astronomical Sciences, Electromagnetic Spectrum Management Unit, by email of any assignments that it approves for UAS operations in the vicinity of the radio astronomy facilities identified in footnote US385 of the Table of Allocations, which identifies the sites at which radio astronomy observations are performed in 4990-5000 MHz.[502] Further, for clarity, we will list these facilities in the relevant part 88 rule.

170. Finally, we decline to require NNA operators to pass a radio astronomy knowledge test, as suggested by NTIA, or to require UAS equipment to be labeled with such information, as proposed by CORF.[503] We generally expect parties to be familiar with their obligations under the rules, including RAS protection rules, and no other WRS licensees subject to NRQZ coordination or other RAS coordination requirements have been required to pass such a test or engage in equipment labeling to promote such knowledge. We see no justification for treating UAS operators in the 5030-5091 MHz band differently in

(Continued from previous page)
environmental asset where the level of man-made electromagnetic activity is suppressed and actively maintained at low levels to provide premium radio receiving conditions for . . . national facilities near Green Bank and Sugar Grove.").

[498] *See* 47 CFR § 2.106(c)(74) (footnote US74) (listing the 4990-5000 MHz band among others, and providing that "[r]adio astronomy observations in these bands are performed at the locations listed in US385").

[499] *See* 47 CFR § 2.106(c)(211) (footnote US211).

[500] *See* 47 CFR § 2.106(c)(74) (footnote US74). We note that, in describing the protection provided under footnote US211, CORF ignores the statement in footnote US211 that "US74 applies." *See* CORF Comments at 7.

[501] *See* 47 CFR § 2.106(b)(443)(iii) (footnote 5.443C).

[502] *See* 47 CFR § 2.106(c)(74) (footnote US74) (listing the 4990-5000 MHz band among others, and providing that "[r]adio astronomy observations in these bands are performed at the locations listed in US385").

[503] *See* NTIA *Refresh Public Notice* Reply at 2.

this respect. Further, as discussed above, the DFMSs will be in a position to enforce the NRQZ coordination requirement, and accordingly, we have even less reason to anticipate that a knowledge test or labeling requirement would provide significant benefits in terms of improved compliance. We encourage DFMSs, however, to provide relevant information regarding RAS to UAS operators seeking to use NNA spectrum at an appropriate time, such as at registration.

7. Canadian and Mexican Coordination

171. International agreements with Mexico and Canada do not currently address the use of the 5030-5091 MHz band for UAS communications near the borders with those countries.[504] In the *UAS NPRM*, the Commission sought comment on whether to adopt an interim measure to address UAS communications in the 5030-5091 MHz band that may cause harmful interference to operations in Mexico or Canada during the period prior to any adjustments made to the agreements between the United States, Mexico, and/or Canada regarding use of the band.[505] No commenter proposed any measure or otherwise addressed this issue. Neither Canada nor Mexico filed comments in response to the *UAS NPRM*.[506]

172. We note that the 5030-5091 MHz band is allocated internationally for AM(R)S to support UAS control links, which should promote compatibility of uses across the borders. Further, while we adopt frequencies for NNA operations in this Report and Order, the NNA service may be relocated to different frequencies within the 5030-5091 MHz when a final band plan is adopted for the 5030-5091 MHz band, which may affect what coordination terms or measures are necessary or appropriate. Accordingly, we do not adopt any measure at this time to address operations near the border.

173. Instead, we will follow the approach taken with regard to the SASs in the 3.5 GHz band. The *UAS NPRM* sought comment on what aspects to the SAS approach would be appropriately applied to the DFMS.[507] Among other functions, the Commission required SASs to implement the terms of current and future international agreements as they related to the Citizens Broadband Radio Service in the 3.5 GHz band, finding this approach consistent with usual practice for new services.[508] We adopt a similar requirement for DFMSs. DFMS administrators will be required to demonstrate that their systems can and will enforce agreements between the U.S., Canadian, and Mexican governments regarding commercial operations in the 5030-5091 MHz Band. The specific methods of enforcement will be determined and implemented by DFMS administrators, with appropriate Commission oversight, after such agreements are in place.

D. Digital Equity and Inclusion

174. As part of our continuing effort to advance digital equity for all,[509] 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, we

[504] *See UAS NPRM*, 38 FCC Rcd at 521, para. 110.

[505] *See id.* at 522, para. 110.

[506] Canada filed a comment to the *Refresh Public Notice* that raised issues with the use of RTCA DO-362A as a source of technical criteria, but did not address either the adoption of an international agreement to address UAS operations in the band or interim measures regarding operations near the border. *See* Canada *Refresh Public Notice* Comments.

[507] *See UAS NPRM*, 38 FCC Rcd at 487, para. 27.

[508] *See* 47 CFR § 96.53(n); *3.5 GHz R&O*, 30 FCC Rcd at 4037, para. 299.

[509] 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.

invited comment on any equity-related considerations[510] and benefits (if any) that may be associated with the proposals and issues associated with the *UAS NPRM*.[511] Specifically, the Commission sought comment on how the *UAS NPRM's* proposals to promote access by UAS operators to spectrum with the reliability necessary to support safety-critical communications may promote or inhibit advances in diversity, equity, inclusion, and accessibility. We did not receive comments that specifically responded to the Commission's request for comment on equity-related considerations. However, the Choctaw Nation of Oklahoma (CNO) notes that widespread UAS operations have the potential to directly benefit society, including in rural locales and tribal communities,[512] in important areas such as supporting disaster response and recovery during natural disasters and addressing agricultural needs.[513] The CNO also highlights UAS's potential to deliver life-saving emergency medicine, which it notes "is all the more important in rural and remote areas, where communities often lack speedy access to vital treatments."[514] We agree with the CNO's assessment of the important role UAS plays in areas including disaster and emergency response, scientific research, and agriculture functions, particularly for rural and remote areas and tribal communities, and we believe our actions in this Report and Order take the first steps in helping to bring these benefits to these underserved communities.

IV. PROCEDURAL MATTERS

175. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA),[515] 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."[516] Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning rule and policy changes in the Report and Order. The FRFA is set forth in Appendix B.

176. *Paperwork Reduction Act*. The Report and Order contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.[517] All such new requirements will be submitted to the Office of Management and Budget (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. The Commission will publish a separate document in the Federal Register at a later date seeking these comments. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. § 3506(c)(4), the Commission previously sought specific comment on how it might further reduce the information collection burden for small business concerns with fewer than

[510] 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).

[511] *UAS NPRM*, 38 FCC Rcd at 539, para. 163.

[512] CNO Comments at 4.

[513] CNO Comments at 2.

[514] CNO Comments at 2.

[515] 5 U.S.C. §§ 601–612. The RFA was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[516] 5 U.S.C. § 605(b).

[517] Pub. L. No. 104-13.

25 employees. We have described impacts that might affect small businesses in the FRFA in Appendix B.

177. *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 Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

178. *Accessing Materials*. The Office of Federal Register (OFR) regulations require that agencies must discuss in the preamble to the Federal Register summary of a final rule the ways that the materials incorporated by reference are reasonably available to interested parties and that interested parties can obtain the materials.[518] In addition, OFR regulations require that the preamble to the Federal Register summary of a final rule summarize the material incorporated by reference.[519]

179. Sections 88.101, 88.103, 88.105, 88.107, and 88.109 of the rules adopted herein incorporate by reference certain requirements in standards established by the RTCA Special Committee-228, referred to as RTCA, Inc. Command and Control (C2) Data Link Minimum Operational Performance Standards (MOPS) (Terrestrial), RTCA-DO-362A (December 17, 2020). These standards provide the technical requirements for equipment manufacturers and operators of equipment used for UAS NNA operations in the 5030-5091 MHz band as discussed in this Report and Order. In particular, the standards provide information regarding the following technical parameters: transmitter output power, emissions bandwidth, out-of-band emissions, emission mask, and the applicable time division duplexing frame rate. The text of RTCA DO-362A is available online for a fee at https://my.rtca.org/productdetails?id=a1B1R00000LoYFZUA3.

180. *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).

181. *Additional Information*. For further information about this proceeding, please contact Peter Trachtenberg, Mobility Division, Wireless Telecommunications Bureau, at 202-418-7369, or by email at Peter.Trachtenberg@fcc.gov.

V. ORDERING CLAUSES

182. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4, 301, 303, 307, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 301, 303, 307, and 310, that this Report and Order IS HEREBY ADOPTED.

183. IT IS FURTHER ORDERED that this Report and Order, including the rules as set forth in Appendix A, SHALL BE EFFECTIVE thirty (30) days after publication in the Federal Register, with the exception of sections 88.27, 88.31, 88.33, 88.35, 88.111, 88.113, 88.115, 88.135, 88.137, and 88.141 of the Commission's rules, 47 CFR §§ 88.27, 88.31, 88.33, 88.35, 88.111, 88.113, 88.115, 88.135, 88.137, 88.141, which may contain new or modified information collection requirements that require review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and will take effect after the Wireless Telecommunications Bureau publishes a notice in the Federal Register announcing the completion of such review and the relevant effective date(s).

184. IT IS FURTHER ORDERED that the Office of the Secretary, Reference Information Center, SHALL SEND a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

[518] 1 CFR § 51.5(b)(2).

[519] 1 CFR § 51.5(b)(3).

185. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A
Final Rules

The Federal Communications Commission amends Parts 0, 1, 2, 87, and 95 of Title 47 of the Code of Federal Regulations (CFR) and adds a new Part 88 to Title 47 of the CFR, 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, 409, and 1754, unless otherwise noted.

2. Amend § 0.241 by adding paragraph (a)(1)(iii) and paragraph (l) to read as follows:

§ 0.241 Authority delegated.

(a) * * *

(1) * * *

(iii) The Chief of the Office of Engineering and Technology is delegated authority, along with the Chief of the Wireless Telecommunications Bureau, by notice-and-comment rulemaking if required by statute or in the public interest, to issue an order amending rules in part 88 of this chapter that reference industry standards to specify revised versions of the standards. These delegations are limited to modifying rules to reference revisions to standards that are already in the rules and not to incorporate a new standard into the rules, and are limited to the approval of changes that do not raise major compliance issues.

* * * * *

(l) The Chief of the Office of Engineering and Technology is delegated authority jointly with the Chief of the Wireless Telecommunications Bureau to administer the Dynamic Frequency Management System (DFMS) and DFMS Administrator functions set forth in part 88 of this chapter. The Chief is delegated authority to administer the process of DFMS Administrator approval in close consultation with the FAA and NTIA, including authority to develop specific methods that will be used to designate DFMS Administrators; to designate DFMS Administrators; to develop procedures that these DFMS Administrators will use to ensure compliance with the requirements for DFMS operation; and to make determinations regarding the continued acceptability of individual DFMS Administrators.

3. Amend § 0.331 by revising paragraph (d) and adding paragraph (g) to read as follows:

§ 0.331 Authority delegated.

* * * * *

(d) *Authority concerning rulemaking proceedings*. The Chief, Wireless Telecommunications Bureau, shall not have the authority to act upon notices of proposed rulemaking and inquiry, final orders in rulemaking proceedings and inquiry proceedings, and reports arising from any of the foregoing except such orders involving ministerial conforming amendments to rule parts, or orders conforming any of the applicable rules to formally adopted international conventions or

agreements where novel questions of fact, law, or policy are not involved. Orders conforming any of the applicable rules in part 17 of this chapter to rules formally adopted by the Federal Aviation Administration also need not be referred to the Commission if they do not involve novel questions of fact, law, or policy. In addition, revisions to the airport terminal use list in § 90.35(c)(61) of this chapter and revisions to the Government Radiolocation list in § 90.371(b) of this chapter need not be referred to the Commission. Adoption of certain technical standards applicable to hearing aid compatibility under § 20.19 of this chapter made together with Chief of the Office of Engineering and Technology, as specified in § 20.19(k) of this chapter, also need not be referred to the Commission. Adoption of amendments to rules in part 88 of this chapter by notice-and-comment rulemaking, along with the Chief of the Office of Engineering and Technology as specified in § 0.241(a)(1)(iii), that reference industry standards to specify revised versions of the standards, need not be referred to the Commission, however, these delegations are limited to modifying rules to reference revisions to standards that are already in the rules and not to incorporate a new standard into the rules, and are limited to the approval of changes that do not raise major compliance issues.

Also, the addition of new Marine VHF frequency coordination committee(s) to § 80.514 of this chapter need not be referred to the Commission if they do not involve novel questions of fact, policy or law, as well as requests by the United States Coast Guard to:

(1) Designate radio protection areas for mandatory Vessel Traffic Services (VTS) and establish marine channels as VTS frequencies for these areas; or

(2) Designate regions for shared commercial and non-commercial vessel use of VHF marine frequencies.

(3) Designate by footnote to frequency table in § 80.373(f) of this chapter marine VHF frequencies are available for intership port operations communications in defined port areas.

* * * * *

(g) The Chief of the Wireless Telecommunications Bureau is delegated authority jointly with the Chief of the Office of Engineering and Technology to administer the Dynamic Frequency Management System (DFMS) and DFMS Administrator functions set forth in part 88 of this chapter. The Chief is delegated authority to administer the process of DFMS Administrator approval in close consultation with the FAA and NTIA, including authority to develop specific methods that will be used to designate DFMS Administrators; to designate DFMS Administrators; to develop procedures that these DFMS Administrators will use to ensure compliance with the requirements for DFMS operation; and to make determinations regarding the continued acceptability of individual DFMS Administrators.

PART 1 – PRACTICE AND PROCEDURE

4. 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; 47 U.S.C. 1754, unless otherwise noted.

5. Section 1.901 is revised to read as follows:

§ 1.901 Basis and purpose.

The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. 151 et seq. The purpose of the rules in this subpart is to establish the requirements and conditions under which entities may be licensed in the Wireless Radio Services as described in this part and in parts 13, 20, 22, 24, 27, 30, 74, 80, 87, 88, 90, 95, 96, 97, and 101 of this chapter.

6. Section 1.902 is amended to read as follows:

§ 1.902 Scope.

In case of any conflict between the rules set forth in this subpart and the rules set forth in parts 13, 20, 22, 24, 27, 30, 74, 80, 87, 88, 90, 95, 96, 97, and 101 of title 47, chapter I of the Code of Federal Regulations, the rules in this part shall govern.

7. Section 1.907 is amended to revise the definitions of "Private Wireless Services" and "Wireless Radio Services" to read as follows:

§ 1.907 Definitions.

* * * * *

Private Wireless Services. Wireless Radio Services authorized by parts 80, 87, 88, 90, 95, 96, 97, and 101 of this chapter that are not Wireless Telecommunications Services, as defined in this part.

*** * * * ***

Wireless Radio Services. All radio services authorized in parts 13, 20, 22, 24, 26, 27, 30, 74, 80, 87, 88, 90, 95, 96, 97 and 101 of this chapter, whether commercial or private in nature.

* * * * *

8. Section 1.924 is amended by adding paragraph (a)(4) to read as follows:

§ 1.924 Quiet Zones.

(a)* * *

(4) Parties subject to subpart B of part 88 of this chapter shall follow the requirements of § 88.35 of this chapter instead of the requirements of paragraph (a) of this section.

* * * * *

PART 2 – FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

9. The authority citation for part 2 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

10. Section 2.1055 is amended by revising paragraph (a)(2) to read as follows:

§ 2.1055 Measurements required: Frequency stability.

(a) * * *

(2) From −20° to + 50° centigrade for equipment to be licensed for use in the Maritime Services under part 80 of this chapter, except for Class A, B, and S Emergency Position Indicating Radiobeacons (EPIRBS), and equipment to be licensed for use above 952 MHz at operational fixed stations in all services, stations in the Local Television Transmission Service and Point-to-Point Microwave Radio Service under part 21 of this chapter, equipment licensed for use aboard aircraft in the Aviation Services under part 87 of this chapter, uncrewed aircraft stations (as defined in § 88.5 of this chapter) in the Uncrewed Aircraft System Services under part 88 of this chapter, and equipment authorized for use in the Family Radio Service under part 95 of this chapter.

* * * * *

PART 87 – AVIATION SERVICES

11. The authority citation for part 87 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

12. Section 87.1 is amended by revising paragraph (b) to read as follows:

§ 87.1 Basis and purpose.

* * * * *

(b) ***Purpose.*** Except as provided in part 88 of this chapter, this part states the conditions under which radio stations may be licensed and used in the aviation services. These rules do not govern U.S. Government radio stations.

13. Add part 88 to read as follows:

PART 88 – UNCREWED AIRCRAFT SYSTEM SERVICES

AUTHORITY: 47 U.S.C. 154(i), 303, 307.

Subpart A – GENERAL RULES

§ 88.1 Scope.

§ 88.3 Application of Other Rule Parts.

§ 88.5 Definitions.

Subpart B – NON-NETWORKED ACCESS

§ 88.25 Scope.

§ 88.27 Authorization.

§ 88.29 Frequencies.

§ 88.31 Non-Networked Access Use.

§ 88.33 Information requirements.

§ 88.35 National Radio Quiet Zone coordination.

Subpart C – (reserved)

Subpart D – TECHNICAL REQUIREMENTS

§ 88.101 Transmitter power.

§ 88.103 Emissions bandwidth.

§ 88.105 Emission mask.

§ 88.107 Out-of-band emission limits.

§ 88.109 Time division duplex requirement.

§ 88.111 Certification required.

§ 88.113 Authorization of equipment.

§ 88.115 RF safety.

§ 88.117 Incorporation by reference.

Subpart E – DYNAMIC FREQUENCY MANAGEMENT SYSTEMS

§ 88.135 DFMS Requirements.

§ 88.137 DFMS Administrators.

§ 88.139 DFMS Administrator Fees.

§ 88.141 Interim Access Mechanism.

Subpart A – GENERAL RULES

§ 88.1 Scope.

This part sets forth the regulations governing the use of the 5030-5091 MHz band by Uncrewed Aircraft Systems.

§ 88.3 Application of Other Rule Parts.

(a) Except as expressly provided under this part, part 87 of this chapter shall not apply to uncrewed aircraft systems communications in the 5030-5091 MHz band.

(b) Non-Networked Access (NNA) devices, as defined in this part, are considered part of the Citizens Band Radio Service, as defined in § 95.303 of this chapter. Except for the definitions of Citizens Band Radio Service and Uncrewed Aircraft System Services in § 95.303, the rules of part 95 of this chapter shall not apply to such devices.

§ 88.5 Definitions.

The following terms and definitions apply only to the rules in this part.

Control and Non-payload Communications (*CNPC*). Any transmission that is sent between the UA component and the UAS ground station of the UAS and that supports the safety or regularity of the UA's flight.

Dynamic Frequency Management System (*DFMS*). A frequency coordination system operating in the 5030-5091 MHz band that (1) is highly automated and capable of providing rapid responses to frequency assignment requests from registered NNA operators, and (2) in response to such requests, is capable of assigning to the requesting operator temporary protected use of certain frequencies for a particular geographic area and time period tailored to the operator's submitted operation, to the extent such frequencies are available.

Dynamic Frequency Management System (DFMS) Administrator. An entity authorized by the Commission to operate a DFMS in accordance with the rules and procedures set forth in subpart E of this part.

Interim Access Mechanism (*IAM*). A process by which non-networked access users will be allowed temporary, short-term access to 5040-5060 MHz frequencies in the period before the first DFMS is approved and placed into operation.

Non-Networked Access (*NNA*). Temporary, interference-protected access to the 5030-5091 MHz band consistent with subpart B of this part.

Non-Networked Access (NNA) station. An uncrewed aircraft system ground station or uncrewed aircraft station authorized under this part and designed to communicate using NNA assignments consistent with subparts B and D.

Non-Networked Access (NNA) user. An authorized user of spectrum in the 5030-5091 MHz band operating on an NNA basis, as set forth in subpart B.

Payload. Information that is sent to or from a UA component to achieve mission objectives and is not CNPC.

Uncrewed Aircraft (*UA*). An aircraft operated without the possibility of direct human intervention from within or on the aircraft.

Uncrewed Aircraft Station. A mobile station authorized under this part and located on board a UA.

Uncrewed Aircraft System (*UAS*). A UA and its associated elements (including an uncrewed aircraft station, communication links, and the components not on board the UA that control the UA) that are required for the safe and efficient operation of the UA in the airspace of the United States.

Uncrewed Aircraft System (UAS) ground station. Radio communications equipment on the ground used to maintain control over or otherwise communicate with a UA.

Subpart B – NON-NETWORKED ACCESS

§ 88.25 Limitations on NNA communications.

(a) Transmissions over an NNA assignment are limited to CNPC.

(b) UAS ground stations may be fixed or mobile, but mobile ground stations cannot be used while in motion or at locations other than those approved under the applicable frequency assignment.

§ 88.27 Authorization.

(a) Any entity, other than those precluded by section 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, and that otherwise meets the technical, financial, character, and citizenship qualifications that the Commission may require in accordance with such Act, is eligible to be an NNA user and operate NNA stations under this part.

(b) NNA users are licensed by the rules in this part and do not need an individual license issued by the Commission. Even though an individual license is not required, an NNA user licensed by the rules in this part must comply with all applicable operating requirements, procedures, and technical requirements found in this part.

(c) To transmit in the frequencies of the 5030-5091 MHz band designated for NNA operations, an NNA user must register with a DFMS and comply with its instructions and the rules in this part.

(d) Registered NNA users may transmit in the frequencies of the 5030-5091 MHz band designated for NNA operations only using NNA stations compliant with the rules of this part, and only pursuant to and consistent with the terms of a frequency assignment from a Commission-approved DFMS.

§ 88.29 Frequencies.

(a) The 5040-5050 MHz band is designated to NNA users for CNPC use.

(b) In the period prior to the approval and commencement of operation by the first DFMS administrator, NNA users may access the 5040-5060 MHz band pursuant to the IAM process, as set forth in § 88.141.

§ 88.31 Non-Networked Access.

(a) Parties registered with a DFMS may submit a request to the DFMS for temporary frequency assignments for CNPC limited to the duration and geographic coverage necessary to support a single submitted UAS flight. Requests may also be made either prior to or during the relevant operation to modify an assignment. Such requests must be made to the same DFMS responsible for the original assignment.

(b) If frequencies meeting the request are available, the DFMS shall assign them on an exclusive but temporary basis. The scope of the assignment shall be tailored in both duration and geographic coverage to ensure interference-free communications for the entire submitted UAS flight.

(c) When registering with or using the services of a DFMS, a party shall comply with all DFMS Administrator instructions, including those regarding registration process and procedures, requests and other submissions to the DFMS, and operational use of NNA assignments.

(d) UAS operations using NNA assignments within the National Radio Quiet Zone (NRQZ) are prohibited without the prior coordination with the NRQZ administrator required under § 88.35. Consistent with § 2.106(c)(211) of this chapter, NNA users should take all practicable steps to protect radio astronomy in the 4990-5000 MHz band, subject to § 2.106(c)(74) of this chapter.

(e) Any UAS ground station using an NNA assignment to support a UAS flight, or proxy software acting on the ground station's behalf, must be capable of communicating with the assigning DFMS to achieve the following: (1) confirm that all NNA stations used in the operation, including any UAS ground station or airborne station used in the flight, are programmed to limit communications in the 5030-5091 MHz band, during the period of the frequency assignment, to the specific frequencies assigned by the DFMS and in accordance with the other terms of the assignment; and (2) send updates on flight status when a UA has launched and when it has landed.

§ 88.33 Information requirements.

(a) Information submitted to a DFMS with registration or a frequency assignment request must be accurate, complete, and made in good faith. Registration information must include a party's legal name and contact information, as well as other information required by the DFMS.

(b) Parties must keep registration information up to date, and must keep frequency assignment request information up to date until the scheduled time of the operation.

§ 88.35 National Radio Quiet Zone coordination.

(a) Except as provided in paragraphs (a)(1) and (a)(2) of this section, parties planning to operate an NNA station within the area bounded by N 39°15′0.4″ on the north, W 78°29′59.0″ on the east, N 37°30′0.4″ on the south, and W 80°29′59.2″ on the west must notify the National Radio Quiet Zone Administrator (NRQZ Administrator) in writing at Post Office Box No. 2, Green Bank, West Virginia 24944, or by email to nrqz@nrao.edu, of the technical details of the proposed operation. The notification must include the geographical coordinates of ground station antenna locations, associated ground station antenna height, antenna directivity (if any), the maximum airborne station altitude, the maximum airborne station flight altitude (MSL or AGL), the frequencies, the emission type, and power.

(1) If an operation or revision of an operation is within the scope, including any applicable conditions, of a previously granted approval from the NRQZ Administrator, parties need not provide notification of the operation or revision to the NRQZ Administrator, but must submit the approval with any frequency assignment request relying on this exception.

(2) If the NRQZ Administrator establishes criteria for NNA operations in the NRQZ that do not require notification to the NRQZ Administrator, and an operation or revision of an operation is within the scope of such criteria, a party need not provide notification of the operation or revision to the NRQZ Administrator, but, when submitting their request, must certify that their request meets the criteria for NNA operations in the NRQZ that do not require notification to the NRQZ Administrator and provide any additional supporting documentation required by the DFMS.

(b) When a request for concurrence is submitted to the FAA under the Interim Access Mechanism provided under § 88.141, the request must state the date that notification in accordance with paragraph (a) of this section was made or provide an approval from the NRQZ Administrator for operations within the NRQZ or portions thereof along with the maximum operating altitude allowed.

(c) When a request for frequency assignment involving an NNA station subject to paragraph (a) of this section is submitted to a DFMS, the required notification must be made prior to or simultaneously with the request. The request must state the date that notification in accordance with paragraph (a) of this section was made. After receipt of such a request, the DFMS shall allow a period of 20 days for objections in response to the notifications indicated. If a DFMS determines that a request is subject to an exception to notification under paragraphs (a)(1) or (2) of this section, it shall process the request without waiting the 20-day period. In instances in which notification has been made to the NRQZ Administrator prior to the submission of the request, the requesting party must also provide notice to the NRQZ Administrator upon actual submission of the request with the DFMS, specifying which DFMS has received the request. Such notice will be made simultaneous with the submission of the request and shall comply with the requirements of paragraph (a) of this section.

(d) If an objection from the NRQZ Administrator is received by a DFMS during the 20-day period specified in paragraph (c), the DFMS shall forward the record, including the assignment request, associated NNA station details, and objection, to the FCC. The FCC will, after consideration of the record, take whatever action is deemed appropriate.

Subpart C – (reserved)

Subpart D – TECHNICAL REQUIREMENTS

§ 88.101 Transmitter power.

Transmitters operating in the 5030-5091 MHz band must comply with the transmitter output power specified in technical standard RTCA DO-362A (incorporated by reference, see § 88.117) § 2.2.1.6.1 and associated subsections.

§ 88.103 Emissions bandwidth.

The authorized bandwidth is the maximum occupied bandwidth authorized to be used by a station. Transmitters operating in the 5030-5091 MHz band must comply with the channel width requirements, channel placement requirements, tunability requirements, and non-video channel bandwidth limitations specified in technical standard RTCA DO-362A (incorporated by reference, see § 88.117) §§ 2.2.1.5.2, 2.2.1.5.3, 2.2.1.5.4, and 2.2.1.5.6, respectively.

§ 88.105 Emission mask.

Transmitters operating in the 5030-5091 MHz band must comply with the ARS and GRS radio transmitter power spectral density (PSD) limits specified in technical standard RTCA DO-362A (incorporated by reference, see § 88.117) § 2.2.1.6.2.1.

§ 88.107 Out-of-band emission limits.

Transmitters operating in the 5030-5091 MHz band must comply with the out-of-band-emission limits specified in technical standard RTCA DO-362A (incorporated by reference, see § 88.117) § 2.2.1.8.2 and associated subsections. On any frequency outside the 5030-5091 MHz band that is not addressed by RTCA DO-362A § 2.2.1.8.2 and associated subsections, the power of any emission, as measured over a 1 megahertz resolution bandwidth, shall be attenuated outside the band below the transmitter power (P) by at least 43 + 10log(P) dB.

§ 88.109 Time division duplex requirement.

Transmitters operating in the 5030-5091 MHz band must comply with the time division duplex (TDD) frame structure and timing accuracy requirements specified in technical standard RTCA DO-362A (incorporated by reference, see § 88.117) § 2.2.1.3 and §2.2.1.3.1.

§ 88.111 Certification required.

Each transmitter utilized for operation under this part and each transmitter marketed as set forth in § 2.803 of this chapter must be certified by the Commission for use in part 88 services following the procedures set forth in part 2, subpart J of this chapter.

§ 88.113 Authorization of equipment.

An applicant for certification of equipment intended for transmission in the 5030-5091 MHz band must notify the FAA of the filing of a certification application. The letter of notification must be mailed to: FAA, Spectrum Engineering Service Group, AJW-1900, 800 Independence Ave., SW, Washington, DC 20591 prior to the filing of the application with the Commission.

(a) The notification letter must describe the equipment, and give the manufacturer's identification, antenna characteristics, rated output power, emission type and characteristics, the frequency or frequencies of operation, and essential receiver characteristics if protection is required.

(b) The certification application must include a copy of the notification letter to the FAA. The Commission will not act until it receives the FAA's determination regarding whether it objects to the application for equipment authorization. The FAA should mail its determination to: Office of Engineering and Technology Laboratory Division, Equipment Authorization and Compliance Branch, 7435 Oakland Mills Rd., Columbia, MD 21046. The Commission will consider the FAA determination before taking final action on the application.

§ 88.115 RF safety.

Licensees and manufacturers are subject to the radio frequency radiation exposure requirements specified in §§ 1.1307(b), 1.1310, 2.1091, and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of mobile or portable devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions and technical information showing the basis for this statement must be submitted to the Commission upon request.

§ 88.117 Incorporation by reference.

The standards referenced in this section are incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The approved material is available for inspection at the Federal Communications Commission (FCC), 45 L Street NE, Reference Information Center, Room 1.150, Washington, DC 20554, (202) 418-0270. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov or go to www.archives.gov/federal-register/cfr/ibr-locations.html. Copies of RTCA standards also may be obtained from RTCA, 1150 18th Street NW, Suite 910, Washington, DC 20036, or by email to info@rtca.org or by going to http://RTCA.org.

(a) RTCA document titled "Command and Control (C2) Data Link Minimum Operational Performance Standards (MOPS) (Terrestrial)," Document No. RTCA-DO-362A, dated December 17, 2020 (RTCA-DO-362A).

(b) Reserved.

Subpart E – DYNAMIC FREQUENCY MANAGEMENT SYSTEMS

§ 88.135 DFMS requirements.

(a) A DFMS must provide a process for NNA users to register with the system for the purpose of submitting frequency assignment requests and obtaining frequency assignments.

(b) All DFMSs must require the same registration and frequency assignment request information. Registration shall require, among other information, the registrant's legal name and contact information.

(c) A DFMS must be capable of processing frequency assignment requests nationwide and across the entire 5030-5091 MHz band. However, a DFMS may only grant assignments for spectrum within those frequencies specified under § 88.29(a).

(d) In response to a frequency assignment request from a registered party, a DFMS shall determine and provide, through a process that is highly automated and capable of rapid responses to frequency assignment requests, an assignment of frequencies for a particular geographic area and time period tailored to the submitted UAS flight, to the extent that frequencies are available to meet the request and grant of the assignment is otherwise consistent with this part. Assignments must provide protected access to frequencies over a duration and geographic area sufficient to cover and support the entire UAS flight. Assignments may specify channels and maximum transmit power level.

(e) A DFMS may not terminate an assignment while a flight is ongoing or modify the assignment during this time unless pursuant to a revision request from the assignee.

(f) Assignments must account for the need to protect other authorized operations.

(g) Models and methodologies for interference determinations used by a DFMS should be both effective in avoiding harmful interference and consistent between different DFMSs.

(h) For each frequency assignment request, a DFMS must confirm through certifications in the frequency assignment request process that the requesting party has flight authorization from the FAA to cover the flight associated with the frequency assignment request, and that any remote pilots that will be involved in the flight have all necessary FAA remote pilot authorization, to the extent such authorization is required. Any party challenging a DFMS action with regard to this requirement or otherwise seeking a Commission determination regarding a party's FAA authorization in this context must submit, with its filing to the Commission, a determination from the FAA regarding whether the NNA frequency assignee in question has the relevant authorization under FAA rules and requirements.

(i) A DFMS must be capable of responding to in-flight revision requests.

(j) A DFMS must be capable of communicating directly with a UAS ground station operating in the NNA spectrum, or with proxy software acting on the ground station's behalf, to achieve the following: (1) ensure that all NNA stations used in an operation, including any ground or airborne station used in the flight, are programmed to limit communications in the 5030-5091 MHz band, during the period of the frequency assignment, to the specific frequencies assigned by the DFMS and in accordance with the other terms of the assignment; and (2) receive updates on flight status when a UA has launched and when it has landed.

(k) Frequency assignment requests may not be approved (1) for periods commencing on or after eight calendar days after the date on which the request is submitted, except to the extent that lack of frequency availability in that time frame or the coordination requirement under § 88.35 justify a later assignment, or (2) for an operation lasting more than 24 hours.

(l) A DFMS must communicate and coordinate with other DFMSs as necessary to ensure consistent data and assignments, the safe and robust operation of authorized services, and compliance with the rules.

(m) A DFMS must employ protocols and procedures to ensure that all communications between the DFMS and users or NNA stations in connection with a DFMS's NNA functions are secure and that unauthorized parties cannot access, shut down, or alter the DFMS or its stored information.

(n) Communications between users and a DFMS and between different DFMSs must be secure to prevent corruption or unauthorized interception of data. A DFMS must be protected from unauthorized data input or alteration of stored data.

(o) A DFMS must verify that the NNA stations to be used in operations are FCC-certified devices and must not provide assignments to an uncertified device.

(p) A DFMS must retain information on, and enforce, exclusion zones sufficient to protect Microwave Landing Systems (MLS) in the 5030-5091 MHz band.

(q) A DFMS shall maintain all records for at least 60 months, including but not limited to date, time, and requester identification records for all requests for, approval of, denial of, or termination of approval for all assignments of frequencies or revisions of such assignments, and all certifications submitted in connection with such requests.

(r) A DFMS must be capable of receiving reports of interference and requests for additional protection from MLS users in the 5030-5091 MHz band or authorized users in adjacent bands and promptly address interference issues.

(s) A DFMS must implement § 88.35 in its frequency assignment process.

(t) A DFMS must implement the terms of any international agreements with Canada and Mexico adopted to address coordination and compatibility of near-border UAS operations in the 5030-5091 MHz band.

(u) Except as provided under paragraphs (v) and (w) of this section, a DFMS must process frequency assignment requests on a non-discriminatory first-come-first-served manner.

(v) In the event of emergencies, a DFMS should, to the extent feasible and consistent with the interests of aviation safety, prioritize requests from public safety entities. Prioritization may not terminate or modify an NNA user's assignment while the assignment is in use during a UAS flight.

(w) During extended periods of congestion, the DFMS should prioritize requests involving flights relying on a single ground station over requests that rely on multiple stations, to the extent feasible and consistent with the interests of aviation safety.

(x) A DFMS must immediately notify the National Science Foundation, Division of Astronomical Sciences, Electromagnetic Spectrum Management Unit, by email at esm@nsf.gov when a request for frequency assignment is approved that will support operation of a UAS within 25 miles of a radio astronomy site listed in the table below. Notification must include the operation details.

Allen Telescope Array, Hat Creek, CA	Rectangle between latitudes 40° 00' N and 42° 00' N and between longitudes 120° 15'W and 122° 15' W.	
NASA Goldstone Deep Space Communications Complex, Goldstone, CA	80 kilometers (50 mile) radius centered on 35° 20' N, 116° 53' W.	
National Astronomy and Ionosphere Center, Arecibo, PR	Rectangle between latitudes 17° 30' N and 19° 00' N and between longitudes 65° 10' W and 68° 00' W.	
National Radio Astronomy Observatory, Socorro, NM	Rectangle between latitudes 32° 30' N and 35° 30' N and between longitudes 106° 00' W and 109° 00' W.	
National Radio Astronomy Observatory, Green Bank, WV	Rectangle between latitudes 37° 30' N and 39° 15' N and between longitudes 78° 30'W and 80° 30' W.	
National Radio Astronomy Observatory, Very Long Baseline Array Stations	80 kilometers radius centered on:	
	North Latitude	West Longitude
Brewster, WA	48° 08'	119° 41'
Fort Davis, TX	30° 38'	103° 57'
Hancock, NH	42° 56'	71° 59'
Kitt Peak, AZ	31° 57'	111° 37'
Los Alamos, NM	35° 47'	106° 15'
Mauna Kea, HI	19° 48'	155° 27'
North Liberty, IA	41° 46'	91° 34'
Owens Valley, CA	37° 14'	118° 17'
Pie Town, NM	34° 18'	108° 07'
Saint Croix, VI	17° 45'	64° 35'
Owens Valley Radio Observatory, Big Pine, CA	Two contiguous rectangles, one between latitudes 36° 00' N and 37° 00' N and between longitudes 117° 40'W and 118° 30'W, and the second between latitudes 37° 00' N and 38° 00' N and between longitudes 118° 00'W and 118° 50' W.	

§ 88.137 DFMS administrators.

The Commission will approve one or more DFMS administrators to manage access to the 5030-5091 MHz band on a nationwide basis as specified in § 88.135. Each DFMS administrator is responsible for ensuring that its DFMS is fully functional and meets all the rule requirements in this part and providing services to NNA users in the Uncrewed Aircraft System Services. Each DFMS administrator approved by the Commission:

(a) Must operate a DFMS consistent with the rules of this part.

(b) Must establish and follow protocols and procedures to ensure compliance with the rules set forth in this part.

(c) Must provide service for a ten-year term. This term may be renewed at the Commission's discretion.

(d) Must securely transfer all the information in the DFMS to another approved entity in the event it does not continue as the DFMS administrator at the end of its term. It may charge a reasonable price for such conveyance.

(e) Must cooperate with other approved DFMS administrators to develop a standardized process for coordinating operations, avoiding any conflicting assignments, and maximizing shared use of available frequencies.

(f) Must coordinate with other DFMS administrators including sharing assignment and other information, facilitating non-interference to and from operations relying on assignments from other DFMSs, and other functions necessary to ensure that use of available spectrum is safe and efficient and consistent with this part.

(g) Must ensure that the DFMS shall be available at all times to immediately respond to requests from authorized Commission personnel for any and all information stored or retained by the DFMS, including through either or both provision of the information or provision of direct access to the DFMS database, at the discretion of the Commission.

(h) Must establish and follow protocols to comply with enforcement instructions from the Commission.

(i) May implement such reasonable limits on requests as are necessary to prevent the hoarding, warehousing, monopolization, or otherwise excessive reservation of NNA spectrum by a particular party.

§ 88.139 DFMS administrator fees.

(a) A DFMS administrator may charge users a reasonable fee for services provided, including usage-based fees for frequency assignments.

(b) The Commission, upon request, will review the fees and can require changes in those fees if they are found to be excessive.

§ 88.141 Interim Access Mechanism.

(a) In the period prior to the approval and commencement of operation by the first DFMS administrator, NNA users may access the 5040-5060 MHz band for NNA communications pursuant to the IAM. After the date on which the first DFMS administrator commences operations, NNA communications will be restricted to the 5040-5050 MHz band, as specified in § 88.29(a). After such date, any existing IAM frequency assignments terminates and NNA users may not seek or use frequency assignments pursuant to the IAM. NNA users will be required to request frequency assignments from the DFMS administrator once the DFMS is operational.

(b) *IAM Process*. NNA users seeking to transmit in the band must first obtain concurrence from the FAA for the requested use, and must ensure that any such operations comply with the scope of approval, terms, conditions, and restrictions of the FAA concurrence. Upon receipt of FAA concurrence, NNA users must submit to the FCC an online NNA registration form regarding the requested use, certifying that:
(1) They have complied with the FAA concurrence process;
(2) The operation is in compliance with the Commission's NNA rules and technical requirements;
(3) All equipment utilized in the NNA operation meets equipment certification requirements; and
(4) Their IAM frequency assignment terminates immediately in the event a DFMS becomes operational prior to the end of the IAM frequency assignment.

PART 95 – PERSONAL RADIO SERVICES

14. The authority citation for part 95 continues to read as follows:

AUTHORITY: 47 U.S.C. 154, 303, 307.

15. Section 95.303 is amended by adding the following definition in alphabetical order:

§ 95.303 Definitions.

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Uncrewed Aircraft System Services. The rules for these services, including technical rules, are contained in part 88 of this chapter. Only NNA stations authorized on a Non-Networked Access basis, as those terms are defined in § 88.3 of this chapter, are considered part of the Citizens Band Radio Services.

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APPENDIX B

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Spectrum Rules and Policies for the Operation of Unmanned Aircraft Systems; Petition of AIA for Rulemaking to Adopt Service Rules for Unmanned Aircraft Systems Command and Control in the 5030-5091 MHz Band, Notice of Proposed Rulemaking* (*NPRM*) released in January 2023.[2] The Federal Communications Commission (Commission) sought written public comment on the proposals in the *NPRM*, including comments on the IRFA.[3] No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[4]

A. Need for, and Objectives of, the Report and Order

2. In the *Report and Order*, the Commission takes significant action to adopt initial service rules for uncrewed aircraft systems (UAS) in the 5030-5091 MHz band and enable UAS operators to access dedicated spectrum with the required reliability to support safety-of-flight, control-related communications while also allowing flexibility for the industry to further develop. Specifically, the Commission adopts service rules that provide operators the ability to obtain direct frequency assignments in a portion of the 5030-5091 MHz band. These service rules are necessary to provide a critical first step to promote access by UAS operators to dedicated spectrum while also allowing a consensus to emerge on key issues for this industry. Achieving the extraordinary potential of UAS technology will require integrating UAS operations into the National Airspace System (NAS), including in the controlled airspace in which commercial passenger flights operate and in circumstances with heightened risk, such as flights involving large aircraft or carrying passengers or flights beyond line of sight of the remote pilot. To ensure that these flights are sufficiently safe for routine operation, highly reliable wireless two-way communications for flight control and telemetry are required. Therefore, the Commission adopts initial service rules for the 5030-5091 MHz band.

3. In furtherance of these objectives, the Commission adopts service rules where one or more dynamic frequency management systems (DFMSs) will manage and coordinate access to the spectrum and enable its safe and efficient use, by providing requesting operators with temporary frequency assignments to support UAS control link communications with a level of reliability suitable for operations in controlled airspace and other safety-critical circumstances. To provide this level of reliability, the Commission adopts technical requirements drawn from minimum operational performance standards that were developed by an aviation industry standards body specifically to support UAS control links in the 5030-5091 MHz band and were approved by the Federal Aviation Administration (FAA) for this purpose. To address concerns regarding the impact of these aeronautical operations on adjacent services, the Commission locates these operations, for now, in the central part of the band, with substantial separation from the bands adjacent to the 5030-5091 MHz band. The Commission finds wide support in the record for enabling early, direct access to a portion of the band for protected assignments under DFMS coordination and expects that such access will help to facilitate the safe integration of UAS operations into the NAS so that the United States can realize the enormous potential benefits that UAS operations can provide.

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[1] 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).

[2] *Spectrum Rules and Policies for the Operation of Unmanned Aircraft Systems; Petition of AIA for Rulemaking to Adopt Service Rules for Unmanned Aircraft Systems Command and Control in the 5030-5091 MHz Band*, WT Docket No. 22-323, Notice of Proposed Rulemaking, 38 FCC Rcd 474 (2023) (*UAS NPRM*).

[3] *UAS NPRM*, 38 FCC Rcd at Appx. B, para. 1.

[4] 5 U.S.C. § 604.

4. The Commission is addressing service rules for UAS operations in the 5030-5091 MHz band in phases. In this initial step, the Commission opens a portion of the band for NNA operations to enable early, low-cost access to the benefits of dedicated spectrum for UAS control communications. The Commission anticipates that subsequent phases will address broader use of the band, potentially with the assistance of a Federal Advisory Committee or other efforts to further assess and engage stakeholders on the potential uses of the band and the appropriate regulatory measures to enable such uses, including but not limited to studies pursuant to the implementation of the National Spectrum Strategy. In subsequent phases, the Commission intends to resolve issues including (1) the final band plan for the 5030-5091 MHz band, which may include moving NNA operations to another location in the band; (2) measures to ensure compatibility between UAS stations operating at and near the edges of the 5030-5091 MHz band and services in adjacent spectrum; and (3) service rules for exclusive-use licenses enabling network-supported services in the band, including the scope of such services. The Commission further intends to continue close coordination with our federal partners, including the FAA and the National Telecommunications and Information Administration (NTIA), to ensure that UAS operations supported by this band remain compatible with aviation safety and concerns, and to develop an appropriate long-term framework for the accommodation of federal agencies seeking access to the federal allocation in the band for their own UAS operations.

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

5. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

6. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.[5] The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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.[6] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[7] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[8] 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 SBA.[9]

[5] 5 U.S.C. § 604(a)(3).

[6] *Id.* § 604(a)(4).

[7] *Id.*. § 601(6).

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

[9] 15 U.S.C. § 632.

8. *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, at the outset, three broad groups of small entities that could be directly affected herein.[10] 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.[11] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.[12]

9. 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."[13] 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.[14] Nationwide, for tax year 2022, there were approximately 530,109 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.[15]

10. 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."[16] U.S. Census Bureau data from the 2022 Census of Governments[17] indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[18] Of this number, there were

[10] 5 U.S.C. § 601(3)-(6).

[11] *See* SBA, Office of Advocacy, "What's New With Small Business?" (Mar. 2023), https://advocacy.sba.gov/wp-content/uploads/2023/03/Whats-New-Infographic-March-2023-508c.pdf.

[12] *Id.*

[13] 5 U.S.C. § 601(4).

[14] 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. S*ee* 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 Aug. 19, 2024). 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.

[15] *See* Exempt Organizations Business Master File Extract (EO BMF), "CSV Files by Region," https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf (last visited Aug. 19, 2024). The IRS Exempt Organization Business Master File (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 2022 with revenue less than or equal to $50,000 for Region 1-Northeast Area (71,897), Region 2-Mid-Atlantic and Great Lakes Areas (197,296), and Region 3-Gulf Coast and Pacific Coast Areas (260,447) that includes the continental U.S., Alaska, and Hawaii. This data includes information for Puerto Rico (469).

[16] 5 U.S.C. § 601(5).

[17] 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* U.S. Census Bureau, About the Economic Census, https://www.census.gov/programs-surveys/economic-census/year/2022/about.html (last visited Aug. 19, 2024).

[18] *See* U.S. Census Bureau, 2022 Census of Governments – Organization, tbl. 2 (Local Governments by Type and State: 2022 [CG2200ORG02]), https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html (last visited Aug. 19, 2024). 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).

36,845 general purpose governments (county,[19] municipal, and town or township[20]) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts[21]) with enrollment populations of less than 50,000.[22] Accordingly, based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 entities fall into the category of "small governmental jurisdictions."[23]

11. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[24] 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.[25] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[26] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[27] Of that number, 2,837 firms employed fewer than 250 employees.[28] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services.[29] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer

[19] *See id.* at tbl.5 (County Governments by Population-Size Group and State: 2022 [CG2200ORG05]), https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html (last visited Aug. 19, 2024). There were 2,097 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

[20] *See id.* at tbl.6 (Subcounty General-Purpose Governments by Population-Size Group and State: 2022 [CG2200ORG06]), https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html (last visited Aug. 19, 2024). There were 18,693 municipal and 16,055 town and township governments with populations less than 50,000.

[21] *See id.* at tbl.10 (Elementary and Secondary School Systems by Enrollment-Size Group and State: 2022 [CG2200ORG10]), https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html (last visited Aug. 19, 2024). There were 11,879 independent school districts with enrollment populations less than 50,000. *See also* tbl.4 (Special-Purpose Local Governments by State Census Years 1942 to 2022 [CG2200ORG04], CG2200ORG04 Table Notes_Special Purpose Local Governments by State_Census Years 1942 to 2022).

[22] While the special purpose governments category also includes local special district governments, the 2022 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

[23] 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 (36,845) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (11,879), from the 2022 Census of Governments - Organizations tbls. 5, 6 & 10.

[24] *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 (last visited Aug. 19, 2024).

[25] *Id.*

[26] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[27] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false (last visited Aug. 19, 2024).

[28] *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.

[29] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf (last visited Aug. 19, 2024).

employees.[30] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

12. *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."[31] Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $38.5 million or less in annual receipts as small.[32] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[33] Of this number, 242 firms had revenue of less than $25 million.[34] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services.[35] Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.[36] Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

13. *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.[37] 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.[38] 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.[39] The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small.[40] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[41] Of those firms, 1,039 had revenue of less than $25 million.[42] Based on this

[30] *Id.*

[31] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications*," https://www.census.gov/naics/?input=517410&year=2017&details=517410 (last visited Aug. 19, 2024).

[32] *See* 13 CFR § 121.201, NAICS Code 517410.

[33] *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 517410, https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. (last visited Aug. 19, 2024).

[34] *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 (last visited Aug. 19, 2024).

[35] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf (last visited Aug. 19, 2024).

[36] *Id.*

[37] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919 (last visited Aug. 19, 2024).

[38] *Id.*

[39] *Id*.

[40] *See* 13 CFR § 121.201, NAICS Code 517919 (as of Oct. 1, 2022, NAICS Code 517810).

[41] *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,

(continued….)

data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

14. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.[43] Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.[44] The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small.[45] U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.[46] Of this number, 624 firms had fewer than 250 employees.[47] Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

15. *Uncrewed Aircraft Radio Equipment Manufacturers.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to uncrewed aircraft radio equipment manufacturers. Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing is the closest industry with a SBA small business size standard.[48] The SBA small business size standard for this industry classifies businesses having 1,250 employees or less as small.[49] U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.[50] Of this number, 624 firms had fewer than 250 employees.[51] In addition, the SBA provides a size standard for the Aircraft Manufacturing industry, which includes the manufacture of

(Continued from previous page)
https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false (last visited Aug. 19, 2024).

[42] *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.

[43] *See* U.S. Census Bureau, *2017 NAICS Definition, "334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing*," https://www.census.gov/naics/?input=334220&year=2017&details=334220 (last visited Aug. 19, 2024).

[44] *Id*.

[45] *See* 13 CFR § 121.201, NAICS Code 334220.

[46] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 334220, https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false (last visited Aug. 19, 2024).

[47] *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.

[48] *See* U.S. Census Bureau, *2017 NAICS Definition, "334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing*," https://www.census.gov/naics/?input=334220&year=2017&details=334220 (last visited Aug. 19, 2024).

[49] *See* 13 CFR § 121.201, NAICS Code 334220.

[50] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 334220, https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false (last visited Aug. 19, 2024).

[51] *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.

uncrewed and robotic aircraft.[52] The SBA small business size standard for this industry classifies businesses having 1,500 employees or less as small.[53] U.S. Census Bureau data for 2017 show that there were 254 firms in this industry that operated for the entire year.[54] Of this number, 227 firms had fewer than 250 employees.[55] Based on this data, we conclude that a majority of manufacturers in this industry are small.

16. *Uncrewed Aircraft System Operators.* Neither the Commission nor the SBA have developed a small business size standard specifically applicable to UAS operators. The Commission lacks data on the number of operators in the United States that could be subject to the rules, therefore it is not possible to determine the number of affected small entity operators at this time. We find, however, that the Regulatory Flexibility Analysis of the FAA Remote ID rule is helpful. In this analysis, the FAA assessed the impact of the rule on small entity non-recreational UAS operators based on an analysis that the Association for Uncrewed Vehicle Systems International (AUVSI) performed relating to part 107 waivers.[56] In the analysis, the AUVSI determined that 92 percent of the waivers were issued to entities with fewer than 100 employees. Based on this data, the FAA determined that a majority of entities currently operating uncrewed aircraft for other than recreational purposes are small.[57] Accordingly, based on the FAA's determination we conclude that a majority of uncrewed UAS operators are small entities.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

17. The rules adopted in the *Report and Order* will implement new reporting, recordkeeping, or other compliance requirements on certain small entities. These requirements, which are summarized below, were thoughtfully considered to minimize burdens to small businesses while also ensuring the level of reliability necessary to support safety-critical UAS communications. We do not expect compliance with the rules adopted in the *Report and Order* to cause small entities to incur significant compliance costs. We further note that while the Commission sought comment from concerned parties regarding costs related to compliance requirements, the record did not include concerns raised by small entities about compliance costs.

18. *Dynamic Frequency Management System.* The *Report and Order* permits more than one DFMS administrator to operate a DFMS in the band, and each approved DFMS will be required to communicate and coordinate with other approved DFMSs as necessary to ensure that their assignments are consistent. It will be critical for DFMS administrators to agree on and implement appropriate DFMS-to-DFMS lines of communication, as well as protocols for coordination and common interference models, that ensure any inconsistencies in assignments are avoided or are otherwise very quickly identified and resolved. Furthermore, the Commission establishes requirements that are high-level guidelines that describe minimum requirements for DFMSs and DFMS administrators. A DFMS will require sufficient information regarding the time, relevant geographic area, and, potentially, altitude of a UAS operation to

[52] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*336411 Aircraft Manufacturing*," https://www.census.gov/naics/?input=336411&year=2017&details=336411 (last visited Aug. 19, 2024).

[53] *See* 13 CFR § 121.201, NAICS Code 336411.

[54] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 336411, https://data.census.gov/cedsci/table?y=2017&n=336411&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false (last visited Aug. 19, 2024).

[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] *See* Federal Aviation Administration, Department of Transportation, Remote Identification of Unmanned Aircraft, 86 Fed. Reg. 4390, 4494 (Jan. 15, 2021) (*Remote ID Rule*).

[57] *See id.*

model potential interference impacts; however, the Commission does not intend to specify the particular content or format of that information, but to give stakeholders flexibility to develop standards to implement this requirement. The requests must be for spectrum to support a single UAS flight, which should help to ensure that parties reserve spectrum only for those times and frequencies that they actually need, and to maximize the usage of the NNA spectrum.

19. The *Report and Order* adopts the proposed section 88.135 requirements from the *NPRM*, which include that (1) a DFMS must provide a process for NNA users to register with the system for the purpose of submitting frequency assignment requests and obtaining frequency assignments; (2) a DFMS must be capable of processing frequency assignment requests nationwide and across the entire 5030-5091 MHz band; however, a DFMS may only make assignments for spectrum within those frequencies in which NNA operations are permitted; (3) a DFMS shall determine and provide, through an automated (non-manual) process, an assignment of frequencies for a particular geographic area and time period; and (4) assignments must account for the need to protect other authorized operations.

20. The Commission also incorporates a high-level requirement regarding the process of interference calculations. While the Commission does not adopt any detailed requirements regarding the methodology or modeling for interference calculations, the Commission agrees that the models and methodologies for interference determinations should be both accurate and consistent between different DFMSs. The Commission envisions that stakeholders will establish detailed standards for specific models and methods that meet the Commission's requirements, but emphasizes that any standards established must be in compliance with the rules. Furthermore, the Commission includes a requirement to help ensure that parties requesting frequency assignments have the necessary FAA pilot and flight authorizations, obligating a DFMS to confirm through certifications that the party requesting a frequency assignment has flight authorization from the FAA to cover the flight associated with the assignment request, and that the flight will only be piloted by parties that have the necessary FAA remote pilot authorization. The Commission does not expect this requirement to be time-consuming because, while a DFMS may implement additional measures to obtain confirmation, the Commission only requires it to implement certifications. Further, the Commission finds that it will provide further assurance that the NNA spectrum is used for authorized purposes. Finally, the Commission adopts a requirement that a DFMS be capable of responding to in-flight revision requests.

21. Additionally, the Commission authorizes certain requirements for communications between DFMS and NNA stations to better ensure compliance with DFMS assignments, specifically that a DFMS be able to communicate directly with a ground station operating in the NNA spectrum, or proxy software acting on its behalf, to achieve the following: (1) ensure that all NNA stations used in the operation, including any ground or airborne stations, are programmed to limit communications in the 5030-5091 MHz band, during the period of the frequency assignment, to the specific frequencies assigned by the DFMS and in accordance with the other terms of the assignment; and (2) receive updates on flight status when an uncrewed aircraft has launched and when it has landed. The Commission will similarly require NNA ground stations to be capable of communicating with a DFMS as necessary to achieve these functions. These obligations will better ensure compliance with DFMS assignments.

22. In seeking to address concerns that a party may hoard or monopolize the limited spectrum available for NNA operations, the Commission adopts requirements that a DFMS grant assignments sufficient to provide protected access over a duration and geographic area sufficient to cover the entire submitted UAS flight but does not mandate that a DFMS frequency assignment have the specific terms requested. These are solely high-level obligations, and the Commission does not wish to preclude administrators from developing common policies, standards, or approaches regarding the assessment and granting of requests to better meet the industry's collective need for this limited spectrum resource. To further ensure prevention of monopolization and facilitate broader access to NNA spectrum, the Commission provides that requests may only be approved for an operation lasting no more than 24 hours and provides that requests may not be approved for periods commencing eight or more calendar days after the submission of the request, except to the extent that lack of frequency availability in that time frame justifies a later assignment. The Commission also adopts a requirement that a DFMS communicate and

coordinate with other DFMSs as necessary to ensure consistent data and assignments, the safe and robust operation of authorized services, and compliance with the rules to ensure the proper functioning of the DFMSs.

23. The Commission does not define the specific information that a party must submit with a frequency assignment request or with registration. To facilitate inter-DFMS coordination, the Commission will mandate that each DFMS require the same registration and request information, and that information submitted to a DFMS be true, complete, correct, and made in good faith. The Commission will further require operators to keep any registration information up to date and keep any request information up to date through the scheduled end of the assignment. Further, the Commission will require a DFMS to maintain all records for at least 60 months.

24. Regarding security, the Commission adopts high-level requirements that (1) a DFMS must employ protocols and procedures to ensure that all communications between the DFMS and users or NNA stations in connection with a DFMS's NNA functions are secure and that unauthorized parties cannot access, shut down, or alter the DFMS or its stored information; and (2) communications between users and a DFMS, and between different DFMSs, must be secure to prevent corruption or unauthorized interception of data, and a DFMS must be protected from unauthorized data input or alteration of stored data; and (3) a DFMS must verify that the NNA stations to be used in operations are FCC-certified devices and must not provide assignments to an uncertified device.

25. Furthermore, the Commission adopts two high-level requirements regarding the prioritization of requests. While the Commission will generally require the DFMS to process requests in a non-discriminatory, first-come-first-served manner, the Commission finds that two priorities in the event of congestion are in the public interest. First, the Commission provides that, in the event of emergencies, a DFMS should, to the extent feasible and consistent with the interests of aviation safety, prioritize requests from public safety entities. The Commission expects that, as with other high-level requirements, stakeholders will develop common standards regarding who qualifies as public safety entities and other such questions. Second, the Commission adopts a requirement that, in extended periods of congestion, the DFMS prioritize requests involving flights relying on a single ground station over requests that rely on multiple stations, to the extent feasible and consistent with the interests of aviation safety. For both of these requirements, the Commission anticipates that stakeholders will work collaboratively to develop appropriate standards and practices to implement them.

26. The Commission also adopts several requirements for DFMS administrators. These obligations include: (1) operate a DFMS consistent with the rules; (2) establish and follow protocols and procedures to ensure compliance with the rules; (3) provide service for a ten-year term, which may be renewed at the Commission's discretion; (4) securely transfer all the information in the DFMS to another approved entity in the event it does not continue as the DFMS administrator at the end of its term; (5) develop a standardized process with other DFMS administrators for coordinating operations with other approved DFMSs, avoiding any conflicting assignments, and maximizing shared use of available frequencies; (6) coordinate with other DFMS administrators including sharing assignment and other information, facilitating non-interference to and from operations relying on assignments from other DFMSs, and other functions necessary to ensure that use of available spectrum is safe and efficient and consistent with the rules; (7) ensure that the DFMS shall be available at all times to immediately respond to requests from authorized Commission personnel for any and all information stored or retained by the DFMS; (8) establish and follow protocols to comply with enforcement instructions from the Commission; and (9) implement such reasonable limits on requests as are necessary to prevent the hoarding, warehousing, monopolization, or otherwise excessive reservation of NNA spectrum by a particular party.

27. To assist in its enforcement responsibilities, the Commission adopts a requirement that DFMS administrators establish and follow protocols to comply with enforcement instructions from the Commission. The Commission expects detailed enforcement mechanisms and procedures employed by DFMSs to be developed during the approval process, including mechanisms and procedures to address

unauthorized use of the spectrum, and the Commission anticipates that most issues will be addressed through these mechanisms.

28. *Radionavigation-Satellite Service.* The 5010-5030 MHz band includes an allocation for the radionavigation-satellite service (RNSS) (space-to-Earth) for potential future use. Footnote 5.443C of the Table of Frequency Allocations addresses requirements in the 5030-5091 MHz band for the protection of RNSS downlinks. Specifically, it provides that "[u]nwanted emissions from the aeronautical mobile (R) service in the frequency band 5030-5091 MHz shall be limited to protect RNSS system downlinks in the adjacent 5010-5030 MHz band" and that "[u]ntil such time that an appropriate value is established in a relevant International Telecommunication Union Radiocommunication Sector (ITU-R) Recommendation, the equivalent isotropic radiated power density limit of -75 dBW/MHz in the frequency band 5010-5030 MHz for any AM(R)S station unwanted emission should be used."[58] Footnote 5.443C further limits aeronautical mobile (route) service (AM(R)S) use of the 5030-5091 MHz band to "internationally standardized aeronautical systems."[59] As NNA operations services would be part of the AM(R)S allocation, the requirements of footnote 5.443C would apply to such operations in the 5030-5091 MHz band.

29. *AeroMACS.* AeroMACS is a wireless broadband aeronautical mobile (route) service system that will enable communications for surface operations at airports between aircraft and other vehicles and between other critical fixed assets. The Commission allocated both the 5000-5030 MHz and 5091-5150 MHz bands for such use but has not yet established service rules in either band. The AeroMACS allocation for 5010-5030 MHz further provides that in making assignments for this band, attempts shall first be made to satisfy requirements in the bands 5000-5010 MHz and 5091-5150 MHz. The Commission concludes that the adopted technical requirements, combined with the frequency separation, will be adequate regulatory measures to provide compatibility between NNA operations and AeroMACS in the upper and lower band. These limits are drawn from the technical requirements of RTCA DO-362A, which are detailed below.

30. *Aeronautical Mobile Telemetry.* The 5091-5150 MHz band is also allocated for federal and non-federal aeronautical mobile telemetry (AMT) communications from aircraft stations, subject to the technical parameters in ITU Resolution 418 (WRC-12) intended to ensure compatibility with other services. According to the NTIA, federal agencies currently use this allocation in the 5091-5150 MHz band to support flight testing. The band is similarly used for non-federal flight-testing operations. As specified in footnote US111 of the Table of Allocations, flight testing in the 5091-5150 MHz band is conducted at seventeen locations, and additional locations may be authorized on a case-by-case basis. The Commission finds that the limits adopted today, drawn from RTCA DO-362A, are sufficient to protect AMT.

31. *Mobile Satellite Service Earth Stations.* As specified in the footnote US444A of the Table of Allocations, the 5091-5250 MHz band is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis for non-Federal use, limited to feeder links of non-geostationary satellite systems in the Mobile Satellite Service (MSS). After January 1, 2016, the 5091-5150 MHz portion of this allocation permitted no new assignments. Globalstar operates gateway earth stations in the 5096-5250 MHz band under this allocation as part of its global mobile satellite service. To address the unlikely possibility of interference with UAS operations, the Commission clarifies that the responsibility to resolve interference between rule-compliant MSS earth stations and UAS is on the new UAS services. MSS earth station licensees in the 5091-5250 MHz band will only be responsible for curing harmful interference from its earth station to NNA operations in the neighboring 5030-5091 MHz band to the extent such interference is the result of the licensee's non-compliance with applicable license or regulatory requirements.

[58] 47 CFR § 2.106(b)(443)(iii).

[59] *Id.*

32. *Radio Astronomy.* In the *Report and Order*, the Commission requires coordination within the National Radio Quiet Zone (NRQZ). The coordination requirements are modeled after the NRQZ coordination procedures applicable to other services under section 1.924(a) of the Commission's rules but modified to work with the instant context in which a frequency assignment request will be submitted instead to a DFMS. Specifically, the Commission provides that parties planning to operate an NNA station at locations within the NRQZ must notify the NRQZ Administrator in writing in advance or simultaneously with the filing of the request. To reduce the burden of coordinating short term operations, the Commission adopts two measures: a provision that the NRQZ Administrator may establish a safe harbor for NNA operations in the NRQZ that do not require notification and a measure that a party need not notify the NRQZ Administrator if the party's operation or revision of an operation is within the scope of an approval previously granted to the party by the NRQZ Administrator. Furthermore, the coordination process will largely follow the procedures under section 1.924(a), with appropriate changes made to reflect the role of the DFMS. Thus, when a request for frequency assignment is filed with the DFMS, the notification may be submitted prior to or simultaneously with the request. After receipt, the DFMS will allow a period of 20 days for objections. If a DFMS determines that a request is subject to one of the two exceptions to notification, it shall process the request without waiting the 20-day period. If the DFMS receives a NRQZ Administrator approval of operations that includes the operation associated with the request, if the request is within the scope of a safe harbor established by the NRQZ Administrator, or if the 20-day period passes without objection, the DFMS will process the request under normal procedures, except that requests may be approved for periods commencing more than seven calendar days after the submission of the request, but no more than seven calendar days after the date of decision. If objections are received in the 20-day period, the DFMS will forward the record, including the frequency request, to the Commission. After consideration of the record, the Commission will take whatever action is deemed appropriate, including, potentially, directions to the DFMS administrator regarding resolution of the request. Finally, to facilitate operation of both UAS systems and radio astronomy systems, the Commission requires a DFMS to immediately notify the National Science Foundation, Division of Astronomical Sciences, Electromagnetic Spectrum Management Unit, by email of any assignments that it approves for UAS operations in the vicinity of the radio astronomy facilities identified in footnote US385 of the Table of Allocations, which identifies the sites at which radio astronomy observations are performed in 4990-5000 MHz.

33. *Canadian and Mexican Coordination.* International agreements with Mexico and Canada do not currently address the use of the 5030-5091 MHz band for UAS communications near the borders with those countries. DFMS administrators will be required to demonstrate that their systems can and will enforce agreements between the United States, Canadian, and Mexican governments regarding commercial operations in the 5030-5091 MHz Band. The specific methods of enforcement will be determined and implemented by DFMS administrators, with appropriate Commission oversight, after the agreements are in place.

34. *Interim Access Mechanism Registration.* The Commission adopts an interim access mechanism (IAM) to enable NNA entities to begin operations in the band during the interim period before the DFMS is operational. For IAM access, NNA operators holding an FAA authorization must subsequently complete an on-line NNA registration form with the Commission providing various basic information and certifications, including a company or individual name, email address, and the following certification statements: (1) they have complied with the FAA authorization process; (2) they have/will comply with the Commission's NNA rules and technical requirements; (3) all equipment utilized in NNA operations meets the equipment certification requirements; and (4) their authorization to use the IAM assignment terminates immediately in the event a DFMS becomes operational prior to the end of the IAM assignment. This registration process will not require a fee, or any subsequent review process. Once the registration form is completed and submitted, a confirmation number of their registration will be provided and NNA operations can commence immediately. During the IAM, the Commission will work with the FAA to resolve disputes or identify and address the sources of harmful interference or unauthorized operations in the 5030-5091 MHz band.

35. *Compliance with RTCA DO-362A.* In the *Report and Order*, the Commission adopts rules based on RTCA DO-362A, which contains Minimum Operational Performance Standards for terrestrial-based control-and-non-payload communications (CNPC) point-to-point or point-to-multipoint links in the 5030-5091 MHz band, including power limits, emission limits, and frequency accuracy requirements. UAS entities are likely familiar with RTCA DO-362A as the FAA recently issued a Technical Standard Order (TSO) establishing minimum standards in the 5030-5091 MHz band based on the requirements in the RTCA DO-362A. It is appropriate to adopt technical requirements based on the RTCA DO-362A for governing the types of safety-of-flight UAS operations in the 5030-5091 MHz band as these requirements are consistent with the AM(R)S allocation for the band, the limitations associated with CNPC-only operations, and because they are consistent with FAA standards.

36. First, as recommended by RTCA, the Commission adopts the requirement of RTCA DO-362A standard related to Time Division Duplexing (TDD) for NNA equipment and operations in the band. To minimize the risk of interference and to achieve consistency with the FAA TSO based on the RTCA DO-362A standard, the Commission finds it appropriate at this time to incorporate into its rules the 50 ms TDD frame structure requirement for NAA equipment and operations for CNPC purposes in the 5030-5091 MHz band. Second, the Commission declines to follow the requirements of rule section 87.139(c) to avoid imposing potentially inconsistent out-of-band emissions requirements with the FAA, which mandates compliance with applicable emissions requirements in section 2 of the RTCA DO-362A standard. To provide stakeholders increased flexibility, and in lieu of mandating the use of specific emission designators, the Commission will permit an applicant seeking equipment certification to specify the emission designator appropriate to its equipment design and proposed operation, provided it meets the technical requirements adopted today governing NNA equipment and operations. Finally, the Commission delegates joint rulemaking authority to the Wireless Telecommunications Bureau (WTB) and the Office of Engineering and Technology (OET) to incorporate into the Commission's rules, after notice and an opportunity for public comment, any updated version of a previously incorporated technical standard applicable to UAS operations in the 5030-5091 MHz band. This delegation will facilitate expedited updates to the Commission's technical rules based on evolving technical standards. The Commission seeks to expedite necessary future changes to accommodate updates in standards relevant to previously adopted technical requirements.

37. *Equipment Authorization.* The Commission adopts the *NPRM*'s proposal to mandate equipment authorization requirements similar to those under sections 87.145 and 87.147 of the Commission's rules to all equipment intended for use in the 5030-5091 MHz band. Section 87.145 requires that each transmitter must be certified for use in the relevant service, and section 87.147 establishes a specific equipment authorization for part 87 equipment, which for the frequencies in the 5030-5091 MHz band, among others, requires coordination with the FAA. The *NPRM*'s stated goal was to ensure that such equipment meets the level of reliability and safety necessary of aviation equipment. The Commission noted that 5030-5091 MHz UAS radio equipment must independently satisfy any applicable FAA requirements and anticipated that this coordination process would ensure that the 5030-5091 MHz equipment authorizations by the Commission and the FAA are consistent and that all equipment approved for use in the band will meet both agencies' requirements. The Commission adopts these requirements as well as requirements that transmitters be certified for use in the relevant service through compliance with OET procedures for equipment authorization under part 2, subpart J of the Commission's rules and provide notification to the FAA when filing the requisite application. This approach will ensure that necessary coordination occurs with the FAA, given its responsibility for ensuring aviation safety in the National Airspace System, and prevent harmful interference through NNA equipment compliance with the relevant technical requirements. The entities required to comply with equipment authorization will primarily be equipment manufacturers, some of which include small entities. Likewise, all entities—including small entities—will use this authorized equipment.

F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

38. In the discussion of the issues the *NPRM* sought comment on, the Commission raised alternatives and sought input such as technical studies and cost-benefit analyses from small and other entities. By requesting such information, the Commission gave small entities the opportunity to broaden the scope of the Commission's understanding of impacts, which may be readily apparent, and offer alternatives not already considered that could minimize the economic impact on small entities. The Commission has adopted alternatives that will minimize compliance burdens on small entities, as described below.

39. *Industry-focused, Multi-phase Rulemaking.* In adopting these service rules, the Commission intends for rules and policies to be adopted in phases to ensure flexibility and innovation for this industry. This initial phase adopts high-level rules that describe minimum requirements for operation of the DFMS and encourages a multi-stakeholder group addressing issues in the band to work collaboratively to develop technical specifications and standards for DFMS operation, and to explore other issues related to the evolving demands in the band. This approach will allow small entities, to collaborate and reach a consensus on key issues and present innovative solutions satisfactory to the involved parties.

40. Although it imposes new requirements that could impact small entities, in establishing these rules, the Commission balances the administrative burden to entities with ensuring flight safety and protecting against interference in a manner that minimizes the impact to all UAS operators, including small entities. In this initial step, the Commission opens a portion of the band for NNA operations to enable early, low-cost access to dedicated spectrum for UAS control communications. By providing low-cost access, small entities will be able to utilize this spectrum without a significant financial cost.

41. *Licensing Stations by Rule.* In the *Report and Order*, the Commission adopts a licensing approach that would not require individual licensing, which will reduce the administrative burdens on small entities who are UAS operators and the Commission. The Commission implements a license-by-rule authorization for NNA operations, pursuant to section 307(e) of the Communications Act, as amended. Under this license-by-rule framework, parties using rule-compliant stations and operating in compliance with the rules would only need to obtain the requisite temporary frequency assignment from the DFMS in order to have Commission authorization to transmit in the band in the assigned location, frequency, and timeframe. To obtain Commission authorization to use the NNA spectrum, NNA users must use certified, Commission-approved NNA stations, and comply with the applicable NNA rules, but need not obtain individual spectrum licenses from the Commission. A license-by-rule approach will minimize the administrative burdens on users and the Commission and facilitate use of NNA for exclusive, short-term assignments focused on specific needs and operations.

42. The Commission has found that a license-by-rule approach will also minimize the burden on small businesses and expedite the process for UAS operators. More specifically, the Commission finds that licensing by rule of NNA stations will serve the public interest, convenience, and necessity and promote the efficient and robust use of the NNA spectrum. A license-by-rule approach to use the NNA band will avoid the administrative burdens on users and the Commission that would be involved if NNA operations were licensed individually, facilitating the use of NNA for short-term (but exclusive) assignments focused on specific needs and operations rather than longer term authorizations used only intermittently. In addition, the uniform support in the record for this approach bolsters the Commission's confidence that this approach is in the public interest. Because of this licensing approach, the burden for small entities is minimized and provides them with more accessibility to participate in this industry.

43. *Interim Access Mechanism Registration.* The Commission adopts an IAM to enable NNA entities to begin operations in the band during the interim period before the DFMS is operational. IAM registration is accomplished by completing an on-line NNA registration form with the Commission, which requires basic information and certifications. The information required for registration is

straightforward, which lessens the administrative burden on small entities. To further minimize the burden on registering entities, there will be no financial cost for this registration process. Once the registration form is completed and submitted, a confirmation number of their registration will be provided and NNA operations can commence immediately. Therefore, there is not a significant impact on small entities that seek to register. While there is an added administrative burden to register with the Commission during the IAM period, the cost of this added burden is balanced by the ability of UAS operators, including small entities, to gain immediate access to the 5030-5091 MHz band.

44. *Equipment Authorization.* The Commission adopts equipment authorization requirements similar to those under sections 87.145 and 87.147 of the Commission's rules to all equipment intended for use in the 5030-5091 MHz band. Section 87.145 requires that each transmitter must be certified for use in the relevant service, and section 87.147 establishes a specific equipment authorization for part 87 equipment, which for the frequencies in the 5030-5091 MHz band among others, requires coordination with the FAA. The Commission adopts these requirements that transmitters be certified for use in the relevant service through compliance with OET procedures for equipment authorization under part 2, subpart J of the Commission's rules and that the FAA is notified when filing the requisite application. Applying this approach to UAS equipment will ensure that necessary coordination occurs with the FAA, and that equipment authorizations by the Commission and the FAA are consistent and that all equipment approved for use in the band meet both agencies' requirements. The entities required to comply with equipment authorization will primarily be equipment manufacturers, some of which include small entities. However, the Commission balances the regulatory burden imposed by these equipment authorization requirements with the importance of a process that will aid the FAA's aviation safety responsibilities and help protect against harmful interference and believes that these requirements do not impose a significant burden on small entities. Furthermore, all entities—including small entities—will use and, thus, need to certify that they are using authorized equipment, but most small UAS entities will not be directly affected by these requirements beyond using the equipment.

G. Report to Congress

45. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.[60] In addition, the Commission will send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the Federal Register.[61]

[60] 5 U.S.C. § 801(a)(1)(A).

[61] 5 U.S.C. § 604(b).

APPENDIX C

List of Commenters

Comments

Access 700, LLC (Access 700)
Aerospace and Flight Test Radio Coordinating Council, Inc. (AFTRCC)
Aerospace Industries Association (AIA)
Air Line Pilots Association, International (ALPA)
Aircraft Owners and Pilots Association (AOPA)
Alliance for Telecommunications Industry Solutions (ATIS)
American Association of State Highway and Transportation Officials, APCO International, Enterprise Wireless Alliance, Forest Industries Telecommunications, Forestry Conservation Communications Association, International Association of Fire Chiefs, International Municipal Signal Association, and MRFAC, Inc. (AASHTO et al.)
Anterix, Inc. (Anterix)
Association for Uncrewed Vehicle Systems International (AUVSI)
AT&T Services, Inc. (AT&T)
AURA Network Systems, Inc. (AURA)
Aviation Spectrum Resources, Inc. (ASRI)
Boeing Company and Wisk Aero LLC (Boeing/Wisk)
Choctaw Nation of Oklahoma (CNO)
Commercial Drone Alliance (CDA)
CTIA-The Wireless Association (CTIA)
Dimetor
Dynamic Spectrum Alliance (DSA)
Edison Electric Institute (EEI)
Federated Wireless, Inc. (Federated Wireless)
Florida Power & Light Company (FPL)
FPV Freedom Coalition & Flite Test Community Association (FPVFC)
HAPS Alliance
Inmarsat Inc. (Inmarsat)
Ligado Networks LLC (Ligado)
Lockheed Martin Corporation (Lockheed Martin)
Mark Colborn (Colborn)
ModalAI, Inc. (ModalAI)
National Academy of Sciences' Committee on Radio Frequencies (CORF)
National Association of Broadcasters (NAB)
National Association of Manufacturers and MRFAC, Inc. (NAM/MRFAC)
National Public Safety Telecommunications Council (NPSTC)
National Telecommunications and Information Administration (NTIA)/ Federal Aviation Administration (FAA)
News Media Coalition (NMC)
Northeast UAS Airspace Integration Research Alliance, Inc. (NUAIR)
NSF Aerial Experimentation and Research Platform on Advanced Wireless (AERPAW)
P.R. China (PRC)
Pyka Inc. (Pyka)
Qualcomm Incorporated (Qualcomm)
RDARS Inc. (RDARS)
Regulatory and Technology Committee of the Energy Telecommunications and Electrical Association and the Telecommunications Subcommittee of the American Petroleum Institute (ENTELEC/API)
RTCA, Inc. (RTCA)
Skydio Inc. (Skydio)

Small UAV Coalition
The Wireless Innovation Forum (WInnForum)
T-Mobile USA, Inc. (T-Mobile)
uAvionix, Inc. (uAvionix)
Verizon
Virginia Tech Mid-Atlantic Aviation Partnership (MAAP)
Wing Aviation LLC (Wing) (filed in Docket RM-11798)
Zipline International Inc. (Zipline)

Replies

Aerospace Industries Association (AIA)
AURA Network Systems, Inc. (AURA)
Aviation Spectrum Resources, Inc. (ASRI)
Boeing Company and Wisk Aero LLC (Boeing/Wisk)
CTIA-The Wireless Association (CTIA)
Drone Racing League (DRL)
Federated Wireless, Inc. (Federated Wireless)
Florida Power & Light Company (FPL)
Globalstar, Inc. (Globalstar)
Iridium Communications Inc. (Iridium)
Ligado Networks LLC (Ligado)
Small UAV Coalition
uAvionix, Inc. (uAvionix)
Utilities Technology Council (UTC)
Verizon
Xcel Energy Services Inc. (Xcel)

STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL

Re: *Spectrum Rules and Policies for the Operation of Unmanned Aircraft Systems*, WT Docket No. 22-323, Report and Order (August 29, 2024)

At the Federal Communications Commission, we are committed to making sure that our rules help support technological progress and innovation. That is why we update our policies and organization over time, as we did recently with the creation of the Space Bureau in response to extraordinary advances in space launches and the satellite sector.

Today we update our rules to promote advances in another area where new technology is taking off—drones.

Over the last decade, drones and other unmanned or uncrewed aircraft systems have migrated from novelties in our skies to routine use in modern life. In 2021 there were 2 million drones in operation in the United States. By 2030, we expect that number to more than triple to 6.5 million.

These systems support billions in economic activity and can help power services that improve lives. Drones are a game-changer for inspecting and maintaining critical infrastructure like cell towers or electric transmission lines. They can access hard-to-reach locations faster and more safely than crews on the ground. First responders increasingly rely on these aircraft to help with rescue operations. On top of this, drones have proven invaluable for farmers, providing new ways to monitor field conditions and collect data about crops.

All of this remote-piloted aircraft activity relies on wireless communications. In fact none of these new services work without it. Right now, drone operators largely rely on unlicensed airwaves to communicate with and control these uncrewed aircraft systems. But the use of unlicensed spectrum leaves these aircraft more vulnerable to interference that could disrupt operations. That is why here—for the first time—we are enabling operators of unmanned and uncrewed systems to access dedicated spectrum for control operations in circumstances where safety is essential. To do this, we are adopting service rules that provide operators with the ability to obtain direct frequency assignments in a portion of the 5030-5091 MHz band.

We are taking this action because we started work on this effort to support drone-based wireless activity several years ago. In 2021, the agency expanded its network of "innovation zones" for wireless experimentation with a zone in Raleigh, North Carolina dedicated specifically to studying new communications use cases and drones. The insights gained from this effort have shaped and strengthened our new rules. This includes the innovative approach we take here with the establishment of dynamic frequency management systems that will help this spectrum be used safely and efficiently by a wide array of operators. While work is underway to stand-up this approach, our rules ensure that operators can immediately take advantage of a simple, interim process to access the band and deconflict their flights with the Federal Aviation Administration.

This is a meaningful step forward to help support the innovative potential of drone technologies and help build a digital future that works for everyone. What comes next is exciting—so let's get to it.

STATEMENT OF
COMMISSIONER GEOFFREY STARKS

Re: *Spectrum Rules and Policies for the Operation of Unmanned Aircraft Systems*, WT Docket No. 22-323, Report and Order (August 29, 2024)

The public interest benefits of Uncrewed Aircraft Systems (UAS) are substantial. The demand for UAS is growing, and UAS technology is being used by various industries from inspecting power lines and cell towers to gathering of news, helping with sustainable agriculture to delivering medicine at rural locations, and more. Innovation will enable many more UAS uses that we can't even imagine today. In 2020, I visited the Nevada Institute for Autonomous Systems, an FAA designated UAS test site outside Las Vegas, to see how UAS companies are developing new applications, techniques, and technologies to facilitate integration of UAS into the Nation's airspace. In 2021, through our innovation zones, we took steps to encourage research and innovation to incubate next generation UAS technologies and solutions to various challenges. In 2022, we started this rulemaking. We now put the United States on a path forward, and based on the record in this proceeding, we adopt a regulatory framework to facilitate access to dedicated spectrum in a portion of the 5030-5091 MHz band to enable safe operations of UAS. Although this regulatory framework covers only a certain type of UAS operations (*i.e.*, non-networked UAS operations), it is an important step in our ongoing efforts to encourage spectrum-enabled innovation and technological progress for the benefit of all Americans.

UAS technologies continue to play an important role in disaster relief, restoring public safety and protecting our nation's critical infrastructure. Severe weather, fire, and other emergencies can happen at any moment, and are increasing with climate change. Our actions today should enable UAS to be an effective tool in disaster recovery efforts. Although we establish a regulatory framework for UAS operating in radio line of sight of an operator, we also permit the use of some ground infrastructure deployment, such as a string of ground stations deployed over a particular and frequently used flight path. The record shows that such use of ground stations is needed for efficient and effective inspections and maintenance of our nation's critical infrastructures. Use of ground stations will help, for example, the electric utility companies to safely inspect property for damage after a storm, monitor the health of their systems during normal operations, and rapidly identify and address any service disruptions. I thank the Chairwoman for working with me to clarify that UAS operations using ground stations deployed over a frequently used flight path can use the 5030-5091 MHz band under the UAS spectrum access framework we adopt today.

I am pleased that UAS operators will have access to spectrum for exclusive and protected use through dynamic frequency management systems. Through an automated process, these dynamic frequency management systems will assign a requesting operator the temporary use of certain frequencies for a particular geographic area and time period tailored to the operator's submitted UAS flight plan. For the duration of the assignment, the operator would have exclusive and protected use of the assigned frequencies within the assigned area and timeframe, after which the frequencies would be available in that area for assignment to another operator. By making additional spectrum available through such a framework, we ensure that spectrum is used efficiently and effectively while meeting the needs of UAS operations to be robust, reliable, and safe. That's real progress.

Our job, however, is not finished. We still need to address a number of remaining issues, including spectrum for networked UAS operations in the 5030-5091 MHz band to fully realize the promise and public interest benefits of UAS. Of course, securing a vibrant future for UAS requires close interagency coordination to ensure all UAS operations are fully integrated into the U.S. national airspace, developing interoperable standards that include secure networked communications, and addressing other critical issues related to drone operations.

I look forward to continuing to engage with all stakeholders on the remaining challenges. We must work diligently to enable us to take the next step for further development of the UAS ecosystem while maintaining the United States' leadership. Enabling a flexible licensing framework for UAS

operations with exclusive spectrum access and nationwide network coverage will require an all-hands-on-deck approach from all stakeholders, involving standard developments, spectrum policy, intergovernmental coordination, and full integration of these operations into the Nation's airspace.

Thank you to the Commission staff working on this complicated proceeding. This is a significant step forward and it has my full support.

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

In the Matter of	)	
	)	
Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion	)	GN Docket No. 24-214
	)	
	)	

EIGHTEENTH SECTION 706 REPORT NOTICE OF INQUIRY

Adopted: August 28, 2024 **Released: September 6, 2024**

Comment Date: October 7, 2024
Reply Comment Date: November 6, 2024

By the Commission: Chairwoman Rosenworcel issuing a statement; Commissioner Carr approving in part, concurring in part and issuing separate statement.

TABLE OF CONTENTS

Heading Paragraph #

I. INTRODUCTION 1
II. STATUTORY STANDARD FOR THE SECTION 706 INQUIRY 4
III. EVALUATION OF ADVANCED TELECOMMUNICATIONS CAPABILITY UNIVERSAL SERVICE GOALS 7
A. Physical Deployment 7
1. Fixed Broadband Service 11
2. Mobile Broadband Service 24
3. Number of Providers 29
B. Adoption 32
C. Affordability 38
D. Availability 42
E. Equitable Access 46
F. School and Classroom Access 49
IV. DETERMINING THE NEXT SECTION 706 FINDING 52
V. PROCEDURAL MATTERS 55
VI. ORDERING CLAUSE 60

I. INTRODUCTION

1. Pursuant to section 706 of the Telecommunications Act of 1996 (Telecommunications Act), we initiate the next annual assessment concerning the "availability of advanced telecommunications capability to all Americans."[1] In the post-pandemic era, broadband has become indispensable to every

[1] 47 U.S.C. § 1302(b).

aspect of modern life. Every single day, Americans turn to their broadband connections for work, education, healthcare, commerce, and communication. We therefore begin our latest inquiry under section 706 mindful that access to broadband is not a luxury, but a necessity.

2. The *2024 Section 706 Report* (*2024 Report*) represented a new approach to evaluating the section 706 inquiry. First, the Commission adopted the universal service goals of universal deployment, adoption, affordability, availability, and equitable access to broadband as the focus of the Commission's section 706 inquiry, and evaluated each goal in turn.[2] Second, the Commission for the first time relied upon data from the Commission's Broadband Data Collection (BDC). These data are more precise, granular, and vetted than the data relied upon in prior reports.[3] Third, the Commission adopted three new benchmarks and goals: a new physical deployment benchmark for defining advanced telecommunications capability for fixed broadband (100 megabits per second (Mbps) download paired with 20 Mbps upload speeds), a long-term fixed broadband speed goal of 1 gigabit per second (Gbps) download paired with 500 Mbps upload speeds, and an increased short-term goal for school and classroom broadband access of 1 Gbps per 1,000 students and staff.[4] The Commission adopted these new benchmarks and goals to ensure that our evaluation of broadband is consistent with its essential role in everyday life. In fact, Congress recognized the essential nature of broadband in passing the Infrastructure Investment and Jobs Act (Infrastructure Act), which included a historic federal investment in broadband to effectuate what it described as section 706's "statutorily mandated goals of universal service for advanced telecommunications capability."[5]

3. By this Notice of Inquiry (Notice), we initiate our latest statutorily mandated annual review, soliciting comment and data to inform our section 706 analysis. In the next section 706 report, we propose to maintain the standards and goals adopted by the *2024 Report* and seek comment here on potential additional metrics as well as potential data sources by which to measure them. We seek objective data and other evidence, as well as methodologies and analytical frameworks, to assist us in evaluating the universal service goals for broadband. We encourage the public at large, individual consumers, providers of broadband services, consumer advocates, analysts, policy institutes, governmental and non-governmental organizations, and all other interested parties to help us determine the most effective ways to complete our statutorily mandated task. The information the Commission gathers in this proceeding will assist us in ensuring that our broadband policies are well informed and supported by sound data analysis. Reliable, accurate data will ultimately aid our efforts to close the digital divide, promote the universal service goals for broadband, and encourage the deployment and availability of advanced telecommunications capability to all Americans in a reasonable and timely fashion in the year 2024 and beyond.

II. STATUTORY STANDARD FOR THE SECTION 706 INQUIRY

4. Section 706 requires the Commission to annually conduct an inquiry "concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms)" as part of an effort to "determine whether advanced

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[2] *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270, 2024 Section 706 Report, FCC 24-27, at 3, para. 5 (Mar. 18, 2024) (*2024 Report*).

[3] *Id.* at 29, para. 54.

[4] *Id.* at 2, para. 2.

[5] Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. F, tit. I, § 60104(a)(2), 135 Stat.429, 1205 (2021); *id*. § 60102(b)(2), 135 Stat. at 1184 (authorizing $42.45 billion of appropriations for the BEAD program). On June 26, 2023, the BEAD Program allocations for all 50 states, the District of Columbia, five U.S. Territories were announced. National Telecommunications and Information Administration, U.S. Department of Commerce, *Biden-Harris Administration Announces State Allocations for $42.45 Billion High-Speed Internet Grant Program as Part of Investing in America Agenda* (June 26, 2023), https://broadbandusa.ntia.gov/news/latest-news/biden-harris-administration-announces-state-allocations-4245-billion-high-speed.

telecommunications capability is being deployed to all Americans in a reasonable and timely fashion."[6] If that determination is negative, the Commission "shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market."[7]

5. In the *2024 Section 706 Report*, the Commission adopted the goals of universal deployment, adoption, affordability, availability, and equitable access to broadband throughout the United States, as identified in the *Report on the Future of the Universal Service Fund* (*Future of USF Report*),[8] for conducting our section 706 inquiry.[9] The Commission found that the Infrastructure Act's language referring to section 706 as embodying "the statutorily mandated *goals* of universal service for advanced telecommunications capability,"[10] was best read to mean that the Commission's inquiry must include an examination of multiple universal service goals and not be limited to the narrow question of physical deployment of service.[11] Consistent with this statutory reading, as in the *2024 Report*,[12] we propose to continue to evaluate the universal service goals of universal deployment, adoption, affordability, availability, and equitable access in our determination of whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion pursuant to section 706. We seek comment on our proposal to do so.

6. Consistent with the *2024 Report*, we also continue to believe that the Infrastructure Act supports the view that the Commission must determine whether advanced telecommunications capability is available universally throughout the country, or, in the words of the statute, "to *all* Americans."[13] We therefore propose to continue to determine whether the section 706 threshold is met by evaluating whether advanced telecommunications capability is deployed and available to all Americans, and to evaluate whether deployment is occurring in a "reasonable and timely fashion" by examining whether deployment is occurring in rapid fashion so as to not leave large groups of Americans without access to broadband.[14] We seek comment on this proposal.

III. EVALUATION OF ADVANCED TELECOMMUNICATIONS CAPABILITY UNIVERSAL SERVICE GOALS

A. Physical Deployment

7. In the *2024 Report*, we took a fresh, multifaceted approach to determining what constitutes "advanced telecommunications capability" to evaluate its availability to all Americans, in accordance with the statutory direction under section 706 of the Telecommunications Act.[15] Advanced

[6] 47 U.S.C. § 1302(b).

[7] *Id*.

[8] *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Report, 37 FCC Rcd 10041, 10046, para. 12 (2022). In the *Future of USF Report*, the Commission explained the goal of equitable access with respect to its work to prevent and eliminate digital discrimination, referencing the pertinent provision of the Infrastructure Act. *Id.* at 10049-50, para. 20. We describe this goal in greater detail in Section III.E, *infra*.

[9] *2024 Report* at 3, para. 5.

[10] Infrastructure Act, div. F, tit. I, § 60104(a)(2), 135 Stat. at 1205 (emphasis added).

[11] *2024 Report* at 5, para. 10.

[12] *Id.* at 3-9, paras. 5-15.

[13] 47 U.S.C. § 1302(b) (emphasis added).

[14] *2024 Report* at 3-5, paras. 6-7.

[15] *Id.* at 9-28, 41-44, paras. 16-51, 71-75. In the *2023 Notice*, the Commission proposed to take a fresh look at the standards that we use to determine what constitutes "advanced telecommunications capability." *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, (continued….)

telecommunications capability is defined by section 706 as "high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology."[16] What constitutes "high-speed" and "high-quality" will necessarily be an evolving standard, requiring regular re-examination and re-evaluation by the Commission in its annual inquiry.[17]

8. The Commission has consistently found that both fixed and mobile services can provide "advanced telecommunications capability" under section 706.[18] Advanced telecommunications capability is defined "without regard to any transmission media or technology,"[19] and because both services are "high-speed, switched, broadband telecommunications capability that enable users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology,"[20] they both meet the section 706 definition. As the Commission has noted previously, however, the salient differences between the services lie not in their technological differences but in the distinct capabilities that fixed and mobile services offer to consumers.[21]

9. For example, a fixed service is typically used at a given location to connect all of the devices at that location to the Internet with sufficient bandwidth to enable most or all of those devices' use at the same time.[22] Mobile service, on the other hand, allows consumers to access advanced telecommunications capability on the go.[23] Further, evidence shows that consumers tend to subscribe to both services when they can.[24] As such, the Commission has previously found that fixed and mobile services are more appropriately treated as complementary, rather than as full substitutes, and that consumers have advanced telecommunications capability to the extent they have access to both fixed and mobile broadband service.[25]

10. We seek comment on the above findings and whether they continue to apply to today's broadband market. Should we continue treating fixed and mobile services as complementary? Is the *2024 Report*'s conclusion that deployment of advanced telecommunications capability requires access to both fixed and mobile broadband services still appropriate? We also seek comment on the degree of substitutability between mobile and fixed services, and how that has changed over time. What data exist concerning the cross-elasticity of demand between the services?[26] How do the characteristics of typical

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GN Docket No. 22-270, Seventeenth Section 706 Report Notice of Inquiry, FCC 23-89, at 4, para. 8 (Nov. 1, 2023) (*2023 Notice*).

[16] 47 U.S.C. § 1302(d)(1).

[17] *2024 Report* at 9, para. 17.

[18] *See, e.g., 2024 Report* at 9-10, paras. 18-19; *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* GN Docket No. 20-269, Fourteenth Broadband Deployment Report, 36 FCC Rcd 836, 840, para. 10 (2021) (*2021 Report*); *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 19-285, 2020 Broadband Deployment Report, 35 FCC Rcd 8986, 8990-91, paras. 10-12 (2020) (*2020 Report*).

[19] 47 U.S.C. § 1302(d)(1); *see also 2024 Report* at 9, para. 18.

[20] 47 U.S.C. § 1302(d)(1).

[21] *See 2024 Report* at 9, para. 18; *2021 Report*, 36 FCC Rcd at 840, para. 10; *2020 Report*, 35 FCC Rcd at 8991, para. 12.

[22] *2024 Report* at 10, para. 19.

[23] *Id.* at 11, para. 19; *see also 2023 Notice* at 16, para. 37.

[24] *2024 Report* at 11, para. 20; *2021 Report*, 36 FCC Rcd at 840, para. 10.

[25] *2024 Report* at 10, 12-13, paras. 19, 21.

[26] By cross-elasticity of demand, we mean the extent to which demand for one service is affected by a change in price of another service.

fixed and mobile broadband service plans compare—for example, in terms of price, data allowances, throttling policies, overage fees, etc.?

1. Fixed Broadband Service

11. In the *2024 Report*, the Commission increased the fixed broadband speed benchmark from 25/3 Mbps to 100/20 Mbps based on the current state of broadband needs, usage, and deployment.[27] The *2024 Report* concluded that broadband speeds of 25/3 Mbps—the fixed benchmark established in 2015 and relied on in the prior seven reports—no longer supported "advanced" functions, and that having "advanced telecommunications capability" for fixed broadband service required access to download speeds of at least 100 Mbps and upload speeds of at least 20 Mbps.[28] The *2024 Report* based this conclusion on several considerations, including an examination of trends in providers' speed offerings,[29] the speeds required for consumers to use various common applications,[30] as well as data regarding what speeds consumers were adopting when given the option to purchase various speeds tiers.[31] Congress's judgment that areas receiving broadband speeds of less than 100/20 Mbps are not adequately served with high enough speeds in its creation of the Broadband Equity, Access, and Deployment (BEAD) Program, as well as other federal and state broadband deployment programs using similar or higher standards, were also considerations in raising the fixed speed benchmark.[32]

12. We propose to maintain the 100/20 Mbps benchmark for the next report and to use the same analytical framework used in the *2024 Report*. We seek comment on this proposal and analysis. Have there been any developments since the *2024 Report* in federal and state broadband funding programs that warrant changing our fixed speed benchmark? Have consumer demands for broadband speeds shifted sufficiently in the time since the *2024 Report* was issued to justify revisiting our newly established benchmark?[33] Have there been any significant changes in fixed broadband providers' offerings or consumers' usage that would warrant a change in our fixed speed benchmark at this time? For example, has consumer demand for higher upload speeds relative to download speeds changed sufficiently so as to justify adoption of a symmetrical 100/100 Mbps benchmark?[34] To what extent are small business needs relevant to our analysis and how could they be accommodated? Do commenters believe that we should adopt a different benchmark than 100/20 Mbps for the next report? If so, what benchmark should we adopt? Commenters proposing a different benchmark should explain their reasoning and, to the extent possible, provide relevant data.

13. *Long-Term Speed Goal.* In the *2024 Report*, the Commission adopted a long-term fixed speed goal of 1,000 Mbps, or 1 gigabit per second (Gbps), download speed paired with 500 Mbps upload

[27] *2024 Report* at 13, para. 22.

[28] *Id.*

[29] *Id.* at 13-14, 21-22, paras. 23, 36-37.

[30] *Id.* at 13, 17-21, 22-23, paras. 23, 29-35, 39-40.

[31] *Id.* at 13-14, 17-18, 22, paras. 23, 29, 39.

[32] *Id.* at 14, 15-17, 22, paras. 24, 26-28, 38.

[33] In the *2024 Report*, the Commission stated its belief that broad consumer demand for 100/20 Mbps service was alone sufficiently demonstrative of the practical reality that consumer broadband usage often requires speeds of at least 100/20 Mbps, irrespective of whether a specific "use case" had been delineated. *See Id.* at 21, para. 35.

[34] In the *2024 Report*, the Commission declined to adopt a symmetrical benchmark of 100/100 due, in large part, to the standards that Congress established for determining inadequately served locations for the BEAD Program. *See Id.* at 23, para. 42. The Commission ultimately found "that quadrupling [the] download benchmark while increasing the upload benchmark by nearly seven times its predecessor represents a significant change worthy of evaluation before considering additional increases, particularly in light of the current early stage of the BEAD Program." *2024 Report* at 24, para. 43.

speed.[35] This new long-term goal was based largely on the speed adopted for many locations in recently established Commission USF programs.[36] As explained in the *2024 Report*, this long-term speed goal is aspirational and not intended for use as a measure to determine our finding under section 706.[37] The long-term goal is intended to be a guidepost for evaluating our efforts to encourage deployment and an aspirational goal to encourage deployment of services that are forward-looking and more relevant for the future.[38] We propose to maintain the 1000/500 Mbps long-term goal in the next deployment report and seek comment on this proposal. Is there any reason to change the long-term fixed speed benchmark at this time? Should we consider, for example, raising the long-term benchmark to symmetrical speeds of 1000 Mbps download and upload?[39] Furthermore, we seek comment on whether we should provide a timeframe for achieving our long-term goal and, if so, what the timeframe should be.[40]

14. *Fixed Broadband Deployment Service Data Sources*. The *2024 Report* used the Commission's Broadband Data Collection (BDC) for the first time as the primary data source for analyzing physical deployment data in a section 706 report. The Report analyzed BDC data as of December 2022 and also relied on FCC Form 477 data for December 2018 through December 2021 for historical trend purposes.[41] The Commission established the BDC pursuant to the Broadband DATA Act, and it enables collection of more granular, location-level data on broadband service availability than ever before.[42] Because the BDC collects service availability data below the census block level, it represents a significant increase in granularity over the prior approach.[43] In addition, the BDC data are subject to input from consumers, state, local, and Tribal governmental entities, and other stakeholders who may submit challenges and crowdsource data to further refine the accuracy of service availability data, as well as the Commission's verification and audit efforts, all of which collectively help to improve the accuracy of the provider-reported service availability data.[44]

15. For these reasons, we propose to again use the BDC as the primary data source and to use FCC Form 477 data for analyzing historical trends, and seek comment on our proposal to do so. Should we continue with the Commission's practice over the last several years of presenting year-end snapshots for the five most recent years?[45] In order to ensure that the next section 706 report uses BDC datasets that

[35] *Id.* at 26, para. 47.

[36] *Id.* at 26, para. 48; *see also 2023 Notice* at 11-12, para. 26. *See*, *e.g.*, *Bringing Together Puerto Rico Broadband Speed Requirements*; *USVI Fund Broadband Speed Requirements*; *Rural Digital Opportunity Fund Report and Order*, 35 FCC Rcd at 702-703, para. 3.

[37] *2024 Report* at 26, para. 47.

[38] *See id.*

[39] The Commission declined to adopt a symmetrical long-term benchmark in the *2024 Report* due, in part, to the Commission's 2022 BDC data, showing that 1 Gbps/500 Mbps service, the long-term fixed physical deployment goal, was not yet deployed to half of households and that deployment of 1 Gbps symmetrical was even further off. *See id.* at 26-27, para. 49.

[40] In the *2024 Report*, we concluded that it was best to initially observe market and investment trends before establishing a timeframe for our long-term goal, but that we intended to continually monitor the issue. *See id.* at 27, para. 51.

[41] *See id.* at 27-28, para. 52.

[42] As the Commission has previously explained, the previous approach, which relied entirely on FCC Form 477 data, could overstate the coverage experienced by some consumers, especially in large or irregularly-shaped census blocks. *See, e.g.*, *2021 Report*, 36 FCC Rcd at 848, para. 22; *2020 Report*, 35 FCC Rcd at 8998, para. 26.

[43] *See 2024 Report* at 29, para. 54.

[44] *See id.* at 28, para. 53.

[45] For example, the *2024 Report* presented data as of December 2018, December 2019, December 2020, December 2021, and December 2022. *2024 Report* at 33, para. 61 & Fig. 1. Previous reports presented data similarly over the (continued….)

have been subject to the program's verification and challenge processes, we propose to use BDC data from December 2023 for the next report, and also seek comment on this proposal.[46] Should we instead use more recent BDC data even if those data will have had only brief exposure to the BDC's challenge, verification, and audit processes? If we do not use the June 2024 data in the next report, is there still utility in including BDC data in our analysis for the time periods ending in June 2022 and June 2023?[47]Should we continue to present historical FCC Form 477 data in our analysis for this Report?

16. As part of the BDC, the Commission developed the Broadband Serviceable Location Fabric (Fabric).[48] The Fabric is a dataset of all locations in the United States where fixed broadband Internet access service is or can be installed.[49] Fixed service providers must report whether they make services "available," as the term is used for BDC purposes, specifying the technology and maximum advertised download and upload speeds, at each location identified in the Fabric.[50] The Fabric dataset contains the number of units in each Broadband Serviceable Location (BSL)[51] but does not contain information on the population of each BSL or unit therein. To estimate the population with access to advanced telecommunications capability for December 2022, the *2024 Report* used the Commission's

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last several years. *See*, *e.g.,* 2021 Report, 36 FCC Rcd at 855, para. 33 & Fig. 1; *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, 2018 Broadband Deployment Report, 33 FCC Rcd 1660, 1681, para. 50 & Tbl. 1 (2018). We note that deployment data prior to June 2022 is based on FCC Form 477, and not the BDC. *See 2024 Report* at 29-30, para. 55.

[46] Similarly, the *2024 Report* evaluated December 2022 data because, among other things, the challenge and verification processes for the June 2023 and December 2023 datasets were in their early stages. *See 2024 Report* at 121, para. 222, n.720. Data as of December 2023 were published on the National Broadband Map in May 2024. These data will be subject to challenges until the June 2024 data are published on the Map, which we expect to occur in November 2024. The timeframes established by the Commission for the fixed challenge process allow for up to 250 days for such challenges to be resolved and for the results to be reflected on the Map. *See Establishing the Digital Opportunity Data Collection Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Third Report and Order, 36 FCC Rcd 1126 (2021); *and see Establishing the Digital Opportunity Data Collection Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Fourth Report and Order, Declaratory Ruling, and Fourth Further Notice of Proposed Rulemaking, FCC 24-72 (July 12, 2024).

[47] BDC data represent the state of broadband availability as of June 30 and December 31 of each year. 47 CFR § 1.7002.

[48] *See Broadband Data Task Force Announces the Availability of the Production Version of the Broadband Serviceable Location Fabric*, WC Docket Nos. 19-195, 11-10, Public Notice, 37 FCC Rcd 7537, 7537 (WCB/WTB/OEA 2022) (announcing that the Fabric was now available for broadband service providers and governmental entities to access) and Federal Communications Commission Broadband Data Collection Help Center, *What is the Location Fabric?* (Aug. 2, 2023), https://help.bdc.fcc.gov/hc/en-us/articles/5375384069659-What-is-the-Location-Fabric-; *see also* Federal Communications Commission Broadband Data Collection Help Center, *About the Fabric: What a Broadband Serviceable Location (BSL) Is and Is Not* (April 15, 2024), https://help.bdc.fcc.gov/hc/en-us/articles/16842264428059-About-the-Fabric-What-a-Broadband-Serviceable-Location-BSL-Is-and-Is-Not.

[49] *See* 47 U.S.C. § 642(b)(1)(A).

[50] Terrestrial fixed and satellite providers can do this by either submitting a list of locations (by unique location ID) for which they can make their service "available" or by providing a polygon that can be overlaid onto the Fabric data. *See* 47 CFR § 1.7004(c)(1); Broadband Data Collection, Data Specifications for Biannual Submission of Subscription, Availability, and Supporting Data at 21 (Feb. 7, 2023), https://us-fcc.app.box.com/v/bdc-availability-spec (2023 BDC Data Specifications). Similarly, terrestrial fixed wireless providers may either submit a list of locations or propagation maps and model details that reflect the speeds and latency of its service. *Id*.

[51] *See* FCC, National Broadband Fabric Data Dictionary, https://us-fcc.app.box.com/v/Fabricdatadictionaries/file/1462585450993 at 1 (defining "unit count" for each BSL as "an estimate of the number of residential and non-residential units within the location") (Dec. 2023, v4) (last visited Sept. 3, 2024).

established block-level population estimation methodology as an input to estimate the population of each BSL.[52] The Commission then estimated the population of each unit within a census block by iteratively assigning the estimated population of the block to BSL units based on a fixed probability, where that fixed probability is a decreasing function of the total number of Fabric units in the block.[53] In this way, the population of each census block would equal the sum of population counts across all units in the block, but each unit—and therefore each BSL within a block—will generally not have the same population. The number of households is then estimated by counting the number of units within populated BSLs.[54] We propose to employ the same methodology for the next report and invite comment on our decision to do so. We invite comments on alternative methodologies and seek comment on the advantages and disadvantages to such methodologies.

17. Do commenters believe that we should use other fixed broadband deployment data in lieu of or in addition to BDC data? If so, are those sources reliable and sufficiently comprehensive geographically to evaluate access to advanced telecommunications capability? Do they measure broadband speeds at rates that would be relevant to our analysis? To the extent that commenters suggest using data to supplement rather than replace the BDC data, how should such data be integrated into our analysis? Should we identify the number of unserved locations (and related population) that are presently subject to enforceable commitments across Commission-administered and other federal broadband deployment funding programs? If so, what data sources should we use? To what extent is the timing of such commitments relevant? How should these data affect our section 706 analysis?

18. *Broadband Speeds on Which to Report*. The *2024 Report* reported deployment data for speeds of 25/3 Mbps, 100/20 Mbps, and 940/500 Mbps.[55] We propose to again report deployment data for 100/20 Mbps and 940/500 Mbps[56] and seek comment on this proposal. Additionally, we seek comment on the continued relevance of 25/3 Mbps as such speeds are below our current benchmark. Are there other speeds, perhaps symmetrical speeds, that commenters believe would be useful to report?

19. *Fixed Wireless and Satellite Services*. The *2024 Report* presented two variants of physical deployment data for fixed broadband services: (1) including fixed wireless service, and (2) excluding fixed wireless service.[57] The June 2023 BDC availability[58] and FCC Form 477 subscription data show an adoption rate of 5.5% for fixed wireless services, as compared to 4% in 2022, indicating that consumers continue to adopt this technology.[59] We therefore tentatively conclude that physical

[52] FCC, Staff Block Estimates, https://www.fcc.gov/staff-block-estimates.

[53] *See 2024 Report* at 30, para. 55.

[54] For example, if a block has a population of 20 persons (based on staff estimates or Census counts, depending on the year of the data) and six units distributed across three BSLs (based on the contemporaneous version of the Fabric), each person is essentially assigned to a unit in turn by rolling a six-sided die. In the end, the population of each BSL will be an integer, and the population of the six units will not necessarily be equal. For a comprehensive explanation of our population distribution methodology *see 2024 Report* at 124, Appx. A.

[55] *See*, *e.g.*, *id.* at 33, Fig. 1.

[56] We explained our use of 940 Mbps rather than 1,000 Mbps download in our *2024 Report*, by observing that 940 Mbps is the maximum advertised download speed reported in BDC data by two of the largest providers of fixed terrestrial broadband service. *Id.* at 27, n.196. We also observed that such speed is also what we reported in the 2022 Communications Marketplace Report. *Id. citing 2022 Communications Marketplace Report*, 37 FCC Rcd at 15533, para. 31 & n.64.

[57] *2024 Report* at 25, n.185.

[58] The June 2023 BDC availability data were subject to public challenges between November 2023 and May 2024.

[59] FCC Form 477 Data; FCC BDC data (as of June 30, 2023). Based on the FCC Form 477 subscription data, while subscription to fixed wireless services more than tripled between December 2018 and December 2022, from approximately 1.3 million to 4.5 million connections, the adoption rate for fixed wireless service in 2022 was

(continued….)

deployment data that exclude fixed wireless service is of limited relevance and therefore propose not to report or analyze these data. We seek comment on this tentative conclusion.

20. In the past, including the *2024 Report*, satellite service has been excluded from the evaluation of the physical deployment of advanced telecommunications capability.[60] We seek comment on how the Commission should treat satellite service as part of this inquiry. Should technological advances in the satellite broadband industry, such as increased access to satellite launch services and the rise in fixed satellite service non-geostationary orbit satellites operating in space, cause the Commission to re-evaluate its treatment of satellite service? How should the Commission consider the capacity limitations of various satellite services when evaluating whether and/or how to include satellite in its evaluation of the physical deployment of advanced telecommunications capability?[61]

21. *Urban/Rural Classification*. For years prior to 2021, the designation of a census block as urban was based on the 2010 Urban Areas delineated by the U.S. Census Bureau, while for 2021 and 2022, urban/rural status was derived from the 2020 Urban Areas.[62] We seek comment on whether this is the appropriate classification of urban and rural areas for the purpose of evaluating access to advanced telecommunications capability. Are there other sources of data that we could use that would better delineate urban areas from rural areas?

22. *Tribal Lands*. Today, too many people living on Tribal lands continue to lack access to adequate broadband. The *2024 Report* showed that while approximately 93% of the U.S. population had access to fixed terrestrial services at speeds of 100/20 Mbps, only approximately 76% of the population living in Tribal areas had such access.[63] Further, only 60% of the population living on Tribal lands in rural areas have such access.[64]

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approximately 4%. As used in this NOI, the fixed adoption rate refers to the number of residential connections to a service divided by the number of households where that service is available. The methodology for determining the number of households where service is available in the relevant area for December 2022 was different than that used in December 2018.

[60] *2024 Report* at 31-32, para. 58; *see also*, *e.g.*, *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* GN Docket No. 20-269, Fourteenth Broadband Deployment Report, 36 FCC Rcd 836, 851, para. 27 (2021); *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 18-238, 2019 Broadband Progress Report, 34 FCC Rcd 3857, 3870, para. 28 (2019); *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, 2018 Broadband Deployment Report, 33 FCC Rcd 1660, 1678, para. 45 (2018); *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 15-191, 2016 Broadband Progress Report, 31 FCC Rcd 699, 703, para. 3 (2016) (describing the matter as moot because no satellite services met or exceeded the then-applicable 25/3 Mbps fixed broadband benchmark). The *2024 Report* observed that the 2022 FCC BDC service availability data for satellite broadband indicate that satellite service offering 25/3 Mbps speeds is available to nearly all of the population. *2024 Report* at 31, para. 58.

[61] *See 2024 Report* at 31, para. 58 (noting that "satellite capacity limits the number of subscribers that can be served without service degradation"); *id.* n.223 (stating that, "While satellite coverage may enable operators to offer services to wide swaths of the country, overall satellite capacity may limit the number of consumers that can actually subscribe to satellite service at any one time.") (citing *2022 Communications Marketplace Report*, 37 FCC Rcd at 15704, para. 332 & n.963).

[62] *Id.* at 30-31, para. 56. Census blocks are completely within or outside of an urban area. A block's population, housing/BSLs, and territory are classified as urban if the block is within an Urban Area. Otherwise, a block's population, housing/BSLs, and territory are considered rural. *Id*.

[63] *Id.* at 33, Fig. 1.

[64] *Id.*

23. The Commission uses federally recognized American Indian, Alaska Native, and Native Hawaiian Areas maintained by the U.S. Census Bureau as the source for the Tribal lands classification.[65] For analysis provided prior to 2021, the data vintage is based on the 2010 Census.[66] In the *2024 Report*, for the years 2021 and 2022, data from the 2020 Census were used.[67] We seek comment on Tribal data available for the next report. Are there other definitions of Tribal lands that the Commission should use for the purposes of the next Report? Are there other sources of data that we could use to examine the deployment of advanced telecommunication capability on Tribal lands? If so, how should we incorporate the data from such sources into our analyses of broadband deployment on Tribal lands? Further, we invite parties to comment on our manner of presenting data regarding Tribal lands and whether a different or further disaggregated methodology would be useful and practical.

2. Mobile Broadband Service

24. *Mobile Broadband Service Availability Data Sources*. As with fixed broadband service availability, the *2024 Report* relied upon BDC data for the first time as the primary data source.[68] We propose to use mobile broadband deployment data collected through the BDC as our primary data source for measuring service availability of mobile broadband for the upcoming report. In addition to BDC data, we propose to again use FCC Form 477 mobile broadband deployment data for historical context where appropriate. We seek comment on these proposals. Further, we seek comment on alternative data sources that might provide useful information on the current state of mobile broadband deployment as well as over the past several years. Are there other data sources that would be appropriate for the Commission to use? Could data from NTIA, USDA, the Treasury Department, or other federal, state, or local sources be used in conjunction with BDC data to assess the state of mobile deployment?

25. Additionally, we seek comment on whether we should continue to supplement mobile provider BDC data with Ookla's on-the-ground speed data.[69] What are the advantages and disadvantages of using on-the-ground testing data? Are there other on-the-ground-speed test data sources available that could supplement mobile provider BDC data? We seek comment generally regarding use of on-the-ground testing for the Commission's understanding of mobile broadband speeds.

26. *Speed Benchmark*. In previous reports, the Commission has declined to adopt a mobile advanced telecommunications capability benchmark, primarily due to the inherent variability in the performance characteristics of mobile service, both geographically and temporally.[70] Instead, the Commission has used multiple speed metrics to evaluate the deployment of advanced telecommunications capability for mobile services. In the most recent section 706 report, we focused our main analysis of mobile broadband service availability on a threshold speed of 35/3 Mbps for 5G-NR, the highest speed that the Commission collects for mobile broadband. Specifically, we evaluated mobile BDC coverage data as of December 31, 2022, where service providers indicated they provided 5G-NR mobile broadband service at speeds of at least 35/3 Mbps in an outdoor stationary environment. These data were then supplemented with Ookla speed-test data identifying areas showing median 5G-NR speed tests of at least 35/3 Mbps.[71] In addition, we presented coverage data based on 5G-NR data at speeds of 35/3 Mbps in an in-vehicle environment, 5G-NR data at speeds of 7/1 Mbps in both outdoor stationary and in-vehicle

[65] *See 2024 Report* at 30, para. 57.

[66] *See id*.

[67] *See id.* (internal citations omitted).

[68] *See 2024 Report* at 45, para. 78.

[69] The data collected by the Ookla Speedtest mobile app include test results for download speed, upload speed, and latency, as well as other information, such as the location of the test and operating system of the handset. *See 2023 Notice*, at 13 n.73.

[70] *E.g*., *2024 Report* at 41, para. 71; *2021 Report,* 36 FCC Rcd at 843-44, para. 15.

[71] *2024 Report* at 41-42, para. 71.

environments, and 4G LTE at speeds of 5/1 Mbps in both outdoor stationary and in-vehicle environments.[72] These data were also supplemented with Ookla on-the-ground median mobile broadband speed-test data.[73]

27. We seek comment, for the purposes of the next report, on whether we should continue to use the same multiple speed metrics approach. As part of the BDC, the Commission collects 5G-NR coverage data using 35/3 Mbps and 7/1 Mbps minimum speed at the cell edge, including other standardized parameters.[74] Should we continue to focus our main analysis on 5G-NR outdoor stationary coverage at speeds of 35/3 Mbps? Or should we focus our main analysis on 5G-NR in-vehicle coverage maps? We seek comment on what will give us a better understanding of deployment of this technology today. We also seek comment on whether we should continue to evaluate data for 5G-NR at speeds of 7/1 Mbps in both outdoor stationary and in-vehicle environments. Should we analyze 5G-NR coverage only in determining whether mobile services provide advanced telecommunications capability or should we continue to include an analysis of 4G-LTE and, if so, why? If we determine to continue using on-the-ground speed test data beyond the data gathered as part of the BDC's crowdsourcing, challenge, verification, and audit processes, what on-the-ground speed metrics should we use and why?

28. In the alternative, should we adopt a single speed benchmark to assess whether mobile broadband services are being deployed in a reasonable and timely fashion? If so, what should that benchmark be? Should we consider using a minimum speed of 35/3 Mbps as the benchmark, or are there other speed benchmarks the Commission should consider? Should we also consider the environment (outdoor stationary or in-vehicle) as a factor? If we establish a mobile benchmark, is it necessary for us to examine particular consumer use cases? We seek comment on the use cases for mobile services and on the minimum speeds they require. Should we identify both a minimum upload and a minimum download speed? If so, what speeds should we consider sufficient to qualify as advanced telecommunications capability?

3. Number of Providers

29. We propose to include in our next report an assessment of the number of fixed and mobile broadband provider options to which consumers have access, as we did in our *2024 Report*.[75] We believe that such data may help us understand barriers to deployment because the number of providers may correlate, at least to some degree, with such barriers. Further, where there are more provider options for broadband service, there may also tend to be more competitive pricing and better quality of service.[76] We seek comment on this proposal.

30. In the *2024 Report*, we examined the number of fixed broadband provider options available to consumers in the United States using year-end FCC Form 477 deployment data from 2018 to 2021 and year-end FCC BDC service availability data from 2022.[77] We also presented data showing the

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[72] *Id*. at 42 n.241.

[73] *Id*. at 42 n.243.

[74] 47 CFR § 1.7004(c)(3); *Second BDC Order*, 35 FCC Rcd at 7479-80, para. 45 (2020); *see also Inaugural Filing Window for Broadband Data Collection Has Opened; Filers May Begin Submitting Broadband Availability Data*, WC Docket Nos. 11-10, 19-195, Public Notice, 37 FCC Rcd 7656 (WCB/WTB/OEA 2022) (*Initial BDC Filing Window PN*). The Broadband Data Collection standardizes several of the mobile propagation map parameters that are not standardized in the FCC Form 477 data collection, such as minimum cell edge probabilities and cell loading factors, and maximum modeling resolution. *Second BDC Order*, 35 FCC Rcd at 7476-83, paras. 38-51.

[75] *See 2024 Report* at 34-41, 48-49, paras. 63-70, 81-84.

[76] *See*, *e.g.*, Jonathan Sallet, Benton Institute for Broadband & Society, Broadband for America's Future: A Vision for the 2020s at 49-51 (2019) https://www.benton.org/sites/default/files/BBA_full_F5_10.30.pdf (*Benton Foundation 2019*) (citing multiple studies).

[77] *2024 Report* at 34-41, paras. 63-70.

percentage of households with multiple provider options, including areas with adoption rates of 1% to 5%, as it was argued that the adoption rate is helpful in understanding the state of available broadband options in the market as viewed by customers and also lessens concern that the BDC data overstates the competitive options available to customers.[78] Should we again present such additional information? Is it useful? Is there other information that we should present regarding the number of fixed broadband providers in a particular geographic area?

31. The *2024 Report* examined the number of mobile provider options available to consumers in the United States using year-end FCC BDC coverage data from 2022.[79] The Report presented data showing the percentage of land area, population, and road miles covered by one or more, two or more, and three or more providers.[80] The population data were further broken out by urban and rural populations, as well as tribal and non-tribal populations.[81] Should we again present the data in the same way? Is there other information that we should present regarding the number of mobile providers available in a particular geographic area?

B. Adoption

32. The *2024 Report* evaluated adoption (the rate at which people who have a service available to them actually subscribe to the service) as a universal service goal, and examined adoption barriers.[82] The Commission had previously presented only adoption statistics in the last several reports.[83] The *2024 Report* explained that our goal of universal adoption should be understood as a universal lack of barriers to adoption other than service availability and service affordability, rather than a need for 100% adoption.[84] Adoption barriers include the affordability of devices used to access broadband services (including those used by people with disabilities),[85] the lack of information about programs that make broadband services more affordable, such as the Affordable Connectivity Program (ACP) (then in operation), and digital literacy.[86] The *2024 Report* distinguished the universal service goal of adoption from that of affordability, noting that some households with sufficient income to afford broadband nevertheless may not subscribe to it due to a lack of information, lack of digital literacy, or because they

[78] *Id.* at 35, para. 64; *id*. at 41, Fig. 6.

[79] *2024 Report* at 48-49, paras. 81-84.

[80] *Id.* at 48, para. 82.

[81] *Id.* at 48-49, paras. 83-84.

[82] *Id.* at 63, para. 105.

[83] *See*, *e.g.*, *2021 Report*, 36 FCC Rcd at 865-68, paras. 45-47; *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 17-199, 2018 Broadband Deployment Report, 33 FCC Rcd 1660, 1698-1703, paras. 72-78 (2018); *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 15-191, 2016 Broadband Progress Report, 31 FCC Rcd 699, 743-45, paras. 98-102 (2016). The Commission last discussed barriers to adoption, as described in this Section III.C (that is, other than service availability and service affordability) in the *2015 Report*. *See Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 14-126, 2015 Broadband Progress Report and Notice of Inquiry, 30 FCC Rcd 1375, 1433-35, 1438-39, paras. 96-99, 104-106 (2015) (*2015 Report*).

[84] *2024 Report* at 63, para. 105.

[85] Adoption barriers may also include affordability of service. *See id.* at 54-55, para. 92.

[86] *Id.* at 63, para. 105.

cannot afford to purchase a device to access broadband service.[87] Due to a lack of data regarding barriers to adoption, the *2024 Report* analyzed the Commission's broadband adoption data primarily as an indicator of potential barriers to adoption.[88]

33. We propose to again use this characterization of the universal service adoption goal. Do commenters agree with this formulation? If so, do commenters agree that issues identified by the *2024 Report* serve as barriers to adoption? To what extent do they serve as barriers? Are there any other adoption barriers that commenters believe we should consider?[89] We invite commenters who disagree with our formulation of the adoption universal service goal to suggest alternatives and, where appropriate, alternative data sources. We also seek comment on how the Commission should account for consumers with no interest in adopting broadband service when evaluating the universal service goal of adoption.[90] Is there reliable data available indicating that a consumer without a broadband subscription has affirmatively chosen to decline such service for reasons unrelated to adoption barriers?

34. With respect to satellite services specifically, the *2024 Report* noted that FCC Form 477 data indicate that satellite services have a relatively low adoption rate despite their apparent widespread service availability.[91] Are there specific reasons why satellite services have lower adoption rates than other types of fixed services? To what extent should the lower adoption rates for satellite services affect the manner in which the Commission evaluates satellite services as part of this inquiry?

35. Turning to data sources and analytical methods regarding adoption, we propose to calculate adoption rates for fixed broadband service by dividing the number of broadband connections in service, taken from the FCC Form 477 broadband subscription data, by the estimated number of households where mass-market fixed broadband Internet access service is reported as available in the BDC, based on the methodology described above.[92] Do commenters agree that we should do so? If not, why not? Should we consider information from the Census Bureau's American Community Survey (ACS) on Internet access? Are there additional or alternative sources of subscription data that we should consider? Are such sources sufficiently comprehensive and reliable? We request that commenters proposing additional sources explain how we should integrate them with FCC Form 477 data.

36. To estimate the adoption of mobile broadband, in the *2024 Report* we presented the penetration rate, or number of mobile wireless devices per capita, by state, based on Numbering Resource

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[87] *Id.* at 63, para. 106. For purposes of the adoption inquiry, in the *2024 Report* we considered access to devices used to connect to broadband to be an adoption-related matter. We stated that even if broadband service were affordable that consumers may not find it useful to adopt it if the devices used to connect to it were too expensive for potential subscribers. *Id.* at 63-64, para. 107. For example, 37% of non-broadband users in a Pew Research Center survey stated that the cost of a computer is a reason that they do not subscribe. *Id*. at 64, para. 107; Andrew Perrin, Pew Research Center, *Mobile Technology and Home Broadband 2021* (June 3, 2021), https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/.

[88] *2024 Report* at 64-69, paras. 109-14.

[89] We observed in the *2024 Report* that further work is needed to explore the patterns of non-adoption of fixed broadband, observing, for example, there is a great deal of variation in non-adoption at both the state- and county-level. *Id.* at 68-69, para. 114.

[90] *See, e.g.*, Internetforall.gov, Switched Off: Why are One in Five U.S. Households Not Online? (Oct. 5, 2022), https://www.internetforall.gov/blog/switched-why-are-one-five-us-households-not-online (stating that "while a majority – 58% – of the 24 million offline households express no interest or need to be online, there is also a large proportion who say they can't afford home Internet service (18%)"). *See also* NTIA, NTIA Data Explorer, https://www.ntia.gov/data/explorer#sel=noNeedInterestMainReason&disp=map (last visited Sept. 3, 2024) (in more recent data, indicating a decline – from 58% in 2021, to 56% in 2023 – in households that expressed no interest or need to be online).

[91] *2024 Report* at 68-69, para. 114.

[92] *See* Section III.A.1, *supra*. This is the same methodology used in the previous report. *See 2024 Report* at 65, para. 110.

Utilization/Forecast data, which we reported exceeded 100% in every state, indicating that the average subscriber has more than one connected device.[93] Should we use the same methodology for mobile broadband adoption in the next report? Should we also include mobile broadband subscriptions reported through FCC Form 477? If not, why not? What are the advantages and disadvantages of using data from FCC Form 502 instead of FCC Form 477? Commenters are invited to propose alternatives.

37. What data sources do commenters suggest we use in evaluating the universal adoption component of the universal service goals beyond measuring adoption rates? How should we evaluate such data with respect to the goal of a universal lack of barriers to adoption? For example, how should we measure device affordability for both fixed and mobile broadband service? Should we be examining the relationship between particular demographics, socio-economic strata, or geographic regions, and their level of awareness of broadband affordability programs and digital literacy to identify areas with populations whose rates of adoption are most affected by a lack of awareness of affordability programs and digital literacy?

C. Affordability

38. Far too many households across the country grapple with how to pay for gas, water, and electric bills while also keeping up with their bill for broadband Internet—a service that has become a necessity. As we found in the *2024 Report*, to truly close the connectivity gap and ensure that all Americans have access to advanced telecommunications capability, broadband services must be affordable—that is, our universal service goal of affordability must be met.[94]

39. We continue to firmly believe that if broadband is unaffordable, it is not effectively available to all Americans, even in areas where it has been physically deployed. While income is not the only factor affecting affordability, according to 2023 data collected by the Pew Research Center, adults with annual household incomes of $30,000-$69,999 per year are over four times less likely to subscribe to home broadband service than those with incomes of $100,000 or more.[95] Adults with incomes less than $30,000 per year were over eight times less likely to subscribe to home broadband service.[96] Data from the 2022 ACS are consistent with these numbers. Households with annual incomes of $20,000 to $74,999 were over three times less likely to subscribe to broadband Internet service than households with incomes of $75,000 or more.[97] Households with incomes of less than $20,000 were over seven times less likely to

[93] *See 2024 Report* at 65, para. 111. We used FCC Form 502 NRUF data to estimate state-level penetration rates (the number of mobile wireless connections per 100 people). NRUF data track how many phone numbers have been assigned to mobile wireless devices. Note that NRUF-based penetration rates can exceed 100% because NRUF identifies the number of connected devices that have associated telephone numbers, and a single subscriber may have multiple connected devices. CTIA estimates that, as of 2022, there were approximately 1.6 wireless connections for every person in the U.S. *See also* CTIA, *2023 Annual Survey Highlights* at 5 (2023), https://api.ctia.org/wp-content/uploads/2023/11/2023-Annual-Survey-Highlights.pdf.

[94] *See 2024 Report* at 52, para. 89.

[95] Pew Research Center, *Internet, Broadband Fact Sheet* (Jan. 31, 2024), https://www.pewresearch.org/internet/fact-sheet/internet-broadband/ (reporting that 24% of adults with annual household incomes of $30,000-$69,999 per year do not subscribe to home broadband service compared to only 5% of those with incomes of $100,000 or more).

[96] *Id.* (reporting that 43% of adults with annual household incomes below $30,000 per year do not subscribe to home broadband service compared to only 5% of those with incomes of $100,000 or more).

[97] U.S. Census Bureau, *Types of Computers and Internet Subscriptions*, https://data.census.gov/table/ACSST1Y2022.S2801?q=S28&d=ACS%201-Year%20Estimates%20Subject%20Tables (last visited Sept. 3, 2024). Households without broadband Internet include those "[w]ith dial-up Internet subscription alone" and those "[w]ithout an Internet subscription." 11.2% of households with annual incomes of $20,000 to $74,999 did not have a broadband Internet subscription, compared to 3.3% of households with annual incomes of $75,000 or more.

subscribe to broadband Internet service.[98] The data strongly suggest that the question of whether or not Americans subscribe to broadband Internet is deeply influenced by whether or not it is affordable to them. We seek comment on this belief and analysis.

40. The *2024 Report* discussed various factors that influence the affordability of broadband services, including income, prices, household size, and consumer preferences.[99] The *Report* also discussed the shortcomings of establishing a single threshold for affordability and emphasized the need to evaluate it for different income groups, household sizes, and locations.[100] In addition, the *2024 Report* examined the affordability of fixed access, wireless access, and a combination of both.[101] The lack of granular price information, especially for rural areas, limited the analysis to overall patterns of affordability.[102] We seek comment on any additional data sources and methodologies that have become available that could assist in expanding upon these initial analyses. Are there additional metrics that we should consider in addition to overall price trends, the cost of broadband across income deciles, and the geographic variation of affordability? Should a household be able to afford mobile and fixed broadband service simultaneously? What information is available on consumers' sensitivity of demand to changes in price and income?

41. We also seek comment on how the end of the ACP has affected both subscribers and providers. Has the end of ACP made broadband less affordable? Are data sources and methodologies available that would allow us to measure the impact of ACP ending, including measuring how the end of the ACP has affected the overall number of households that have access to the Internet and what specific geographic areas, demographic groups, or types of consumers (e.g., subscribers to mobile, fixed, pre-paid services) have been affected more by the end of the ACP? How has the end of the ACP affected service providers financially? Has the end of the ACP impacted the products and services that service providers offer generally and to low-income consumers in particular? How will the end of the ACP affect the Commission's universal service goals, including those of availability, affordability, and equitable access?

D. Availability

42. In the *2024 Report*, we found that for purposes of our discussion of the Commission's universal service goal of availability, all aspects of service quality should be evaluated.[103] We concluded that if a "service" does not have the characteristics reasonably expected of that service when a consumer wants to use it, based on measurable statistical standards, then that service cannot be said to be "available."[104] We continue to believe that service quality is critical because it has real and significant effects on consumers' ability to use critical web-based applications, including those that facilitate telehealth, telework, and virtual learning. In our evaluation of service quality, we identified factors, such as latency, that were highly relevant to the quality of broadband service.[105] As a measurement of

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[98] *Id.* 24.9% of households with annual incomes of less than $20,000 did not have a broadband Internet subscription, compared to 3.3% of households with annual incomes of $75,000 or more.

[99] *2024 Report* at 52-63, paras. 89-104.

[100] *Id.* at 53-54, 59-60, paras. 90, 100.

[101] *Id.* at 61-62, paras. 102-103.

[102] *Id.* at 56, para. 96.

[103] *See 2024 Report* at 70, para. 116.

[104] We also noted that actual speed received, consistency of speed, and data allowances were important. *See 2024 Report* at 70, para. 116 & n.346 (noting that certain metrics may be combined and that, for example, we could measure the minimum speed that a consumer actually receives 99.999% of the time).

[105] Latency is the measure of the time it takes a packet of data to travel from one point in the network to another, typically measured by round-trip time in milliseconds (ms), and it is an important and often-measured aspect of service quality. *See 2024 Report* at 70, paras. 117-18 & n.354 (citing *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible*

(continued….)

advanced telecommunications capability, latency is critical because it affects a consumer's ability to use real-time applications, including voice over Internet Protocol (VoIP), video calling, distance learning applications, and online gaming.[106] For this reason, among others, fixed broadband providers are required to include a latency flag in their BDC submissions that indicates whether the offered service is low latency, which is defined as having a round-trip latency of less than or equal to 100 milliseconds.[107] In the *2024 Report*, we acknowledged that these data, while instructive, were not comprehensive, and that we intended to revisit this issue.[108] Is there other relevant information and data that would allow us to measure latency more comprehensively? Are there particular latency metrics that we should incorporate into the latency analysis? If so, what are they?

43. *Consistency of Service.* We also identified consistency of service as a metric of service quality in the *2024 Report*.[109] In this context, the consistency of service metric refers to the percentage of performance test measurements demonstrating that both download and upload speeds are being provided at a particular percentage of the "required" speed, a particular percentage of the time.[110] Measuring Broadband America (MBA) tests broadband service speeds at both 80/80 and 90/90 consistency standards.[111] However, we acknowledged that MBA is not a comprehensive data source and that we were not aware of a more comprehensive data source, and stated our intention to revisit the issue in future inquiries.[112] Are there other, more comprehensive, data sources on which the Commission could rely to

Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 15-191, Eleventh Broadband Progress Notice of Inquiry, 30 FCC Rcd 8823, 8835, para. 32 (2015) (*Eleventh Notice*)).

[106] *Eleventh Notice*, 30 FCC Rcd 8823, 8835, para. 32 n.69. High latencies may affect the perceived quality of some interactive services such as phone calls over the Internet, video chat and video conferencing, or online multiplayer games. FCC, Measuring Broadband America Fixed Broadband Report at 1.C (2023), https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-twelfth-report:~:text=The%20Twelfth%20Measuring%20Broadband%20America,Broadband%20America%20(MBA)%20 (*Twelfth Measuring Broadband America Report*). By consistency of speed, we refer to the extent to which the speed received by a consumer fluctuates over a period of time. *See Twelfth Measuring Broadband America Report* at 2.C.

[107] 2023 BDC Data Specifications at 30. More specifically, for purposes of the BDC, low latency services are defined as having a round-trip latency of less than or equal to 100 milliseconds based on the 95th percentile of measurements. *Id.* In the *2024 Report*, we depicted the overall service availability of fixed terrestrial services, broken out into households with access to low latency services and those without access to such services, as of December 2022, which showed that almost all households with access to fixed terrestrial broadband services had access to low latency services. *See 2024 Report* at 72, para. 120 & Fig. 24.

[108] *See 2024 Report* at 72, para. 121.

[109] *See id.* at 72, para. 122.

[110] *See id*. In the case of the Commission's performance requirements for USF high-cost recipients and NTIA's performance requirements for BEAD recipients, this threshold is 80% of measurements in each direction reflecting at least 80% of the "required" speed, otherwise known as "80/80." *See 2024 Report* at 72, para. 122 & n.370 (citing *First Performance Measures Order*, 33 FCC Rcd at 6529-30, para. 51; National Telecommunications and Information Administration, Broadband Equity, Access, and Deployment Program Notice of Funding Opportunity 16 at 64-65 & n.80 (2022), https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf (NTIA BEAD NOFO).

[111] FCC, Measuring Broadband America Fixed Broadband Report at 2.C (2023), https://www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-twelfth-report (*Twelfth Measuring Broadband America Report*).

[112] *See 2024 Report* at 72-73, para. 122 (citing *Twelfth Measuring Broadband America Report*). The participants for the most recent report were Altice Optimum, CenturyLink, Charter, Cincinnati Bell, Comcast, Cox, Frontier, Mediacom, Verizon (fiber), and Windstream. *Twelfth Measuring Broadband America Report* at 2.A. AT&T no longer participates in the program. *Id.*

measure consistency of broadband service? If so, what are they, and are the data sources sufficiently robust and generalizable to be relevant and broadly applicable to future reports?

44. *Other Aspects of Availability*. We acknowledged in the *2024 Report* that there were additional areas and measurements other than latency and consistency of service that were likely relevant to the universal service goal of availability, including metrics such as service outages and access to inside wiring, but that we did not have comprehensive sources of data to measure such metrics.[113] What other elements of service availability, if any, should we consider? Should this goal be understood to encapsulate the quality of broadband service, including, for example, the frequency of service outages? If so, what criteria should the Commission rely upon to define availability for the purposes of this inquiry? Are there particular quantitative or qualitative data that the Commission can rely upon to analyze service availability for this purpose?

45. *Mobile Service Quality*. We recognize that other factors, besides speed, can affect consumers' ability to use mobile broadband services effectively. In addition to upload and download speeds, are there other characteristics of mobile broadband service quality—such as latency—that we should analyze for the section 706 report going forward? If so, should we consider benchmarks for those criteria that would affect mobile performance? We previously sought comment on whether it would be appropriate to analyze latency metrics and incorporate latency metric data into our evaluation of advanced telecommunications capability,[114] but ultimately decided in the *2024 Report* to revisit the issue in future inquiries if additional data were available.[115] Are there any sources of data on latency for mobile services that would support its reconsideration as a criterion for advanced telecommunications capability? We seek comment generally regarding how to address any additional potential criteria, and what data sources the Commission could rely on for analysis of these additional metrics from year-to-year.

E. Equitable Access

46. The *2024 Report* concluded that in addition to affordability and adoption, the Commission's section 706 inquiry into the availability of broadband to "all Americans" must include an analysis of the universal goal of equitable access, as set out in the *Future of USF Report*.[116] In the *Future of USF Report*, the Commission stated it could "measure progress towards" this universal service goal of equitable access to broadband through its implementation of the Infrastructure Act, which directs the Commission to take action to prevent and identify necessary steps to eliminate digital discrimination of access.[117] The *2024 Report* concluded that, while the Commission has adopted digital discrimination of access regulations as mandated by section 60506 of the Infrastructure Act, the Commission's concurrent efforts to promote broadband access should not bar the Commission from evaluating equitable access in its section 706 inquiry.[118]

47. However, at the time the *2024 Report* was issued, the Commission had only just begun the process of implementing the digital discrimination of access rules and standards, and the report noted that the metrics for determining compliance with those rules would be highly context specific.[119] Therefore the *2024 Report* limited the discussion of equitable access to presenting, for informational

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[113] *See 2024 Report* at 73, para. 123.

[114] *2023 Notice* at 5, para. 35.

[115] *2024 Report* at 72, para. 121.

[116] *Id.* at 8, para. 15 (citing *Future of USF Report*, 37 FCC Rcd at 10046, para. 12. In the *Future of USF Report*, the Commission explained the goal of equitable access with respect to its work to prevent and eliminate digital discrimination, referencing the pertinent provision of the Infrastructure Act. *Id.* at 10049, para. 20.).

[117] *Future of USF Report*, 37 FCC Rcd at 10049-50, para. 20.

[118] *2024 Report* at 8-9, para. 15 (citing Infrastructure Act, div. F, tit. V § 60506, 135 Stat. at 1246); *see also Digital Discrimination Report and Order*.

[119] *See 2024 Report* at 73, para. 124.

purposes, the demographic analysis required by section 706(c).[120] Have circumstances changed sufficiently to present additional information? What data do commenters suggest we present? What analytical methods do commenters believe we should use in evaluating such data?

48. The Commission again invites comment on any equity-related considerations[121] as part of its continuing effort to advance digital equity for all, 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. Are there steps that the next report can and should take to address diversity, equity, inclusion, and accessibility?

F. School and Classroom Access

49. As part of its inquiry under section 706, the Commission is required to assess the deployment and service availability of advanced telecommunications capability to "elementary and secondary schools and classrooms."[122] The COVID-19 pandemic revealed how critical access to reliable, high-speed broadband has become in ensuring that American schoolchildren do not fall behind.[123] But the COVID-19 pandemic only exacerbated and brought to light what had long been a problem in the United States—the "Homework Gap"— that is, students unable to *fully* participate in educational opportunities because they lack broadband connectivity in their homes and suddenly found themselves unable to participate in education *at all*.[124] Even though in-person schooling has resumed, many students still lack reliable connections at home, making it challenging to complete homework.[125] It is imperative that schools have the speed and bandwidth required to adequately educate America's children both in schools and at home. For that to happen, it is crucial that the Commission provide an accurate and timely accounting of the deployment and availability of reliable, high-speed broadband to schools and classrooms in the next report.

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[120] *See id.* (citing 47 U.S.C. § 1302(c)).

[121] The term "equity" is used here consistent with Executive Order 13985, to mean "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, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021).

[122] 47 U.S.C. § 1302(b).

[123] Especially during the first year of the pandemic, many students were forced to stay at home, which further exposed the gaps in connectivity as some students lacking access to fixed broadband service were prevented from keeping pace with students who have access to such service. *See* Monica Chin, *America's Internet Wasn't Prepared For Online School: Distance learning shows how badly rural America needs broadband*, The Verge (Oct. 7, 2020), https://www.theverge.com/21504476/online-school-covid-pandemic-rural-low-income-internet-broadband; *What COVID-19 Underscores About How Broadband Connectivity Affects Educational Attainment: Johannes Bauer of the Quello Center for Media & Information Policy discusses what leaders can do to prepare for long-term remote learning*, The Pew Charitable Trusts (Dec. 7, 2020), https://www.pewtrusts.org/en/research-and-analysis/articles/2020/12/08/what-covid-19-underscores-about-how-broadband-connectivity-affects-educational-attainment.

[124] *See* Common Sense Media, Closing the K-12 Digital Divide in the Age of Distance Learning (2020), https://www.commonsensemedia.org/sites/default/files/featured-content/files/common_sense_media_report_final_7_1_3pm_web.pdf (highlighting that before the pandemic, there were approximately 16 million students nationwide that lived in homes without a broadband connection).

[125] *See*, *e.g.*, FCC, Homework Gap and Connectivity Divide, https://www.fcc.gov/about-fcc/fcc-initiatives/homework-gap-and-connectivity-divide (last visited Sept. 3, 2024).

50. The *2024 Report* concluded that it was time for the Commission to update the benchmarks used to measure deployment to schools previously set in 2015.[126] The Commission adopted the previous long-term goal of 1 Gbps per 1,000 students and staff as the new short-term speed benchmark, finding that use of an already well-understood short-term speed benchmark would be administratively efficient and that the nation was already well on its way to meeting the new short-term goal.[127] The *2024 Report* declined, however, to establish a new long-term goal due to the lack of available data to measure speeds above the now current short-term goal of 1 Gbps per 1,000 students and staff.[128]

51. We seek comment on whether we should establish a new long-term benchmark and, if so, what it should be and why. If we adopt a new long-term speed benchmark at this point, what should the timeframe be for achieving the new benchmark? We also seek comment and information regarding potential sources of data that could be used to determine whether a new long-term goal can be established for our next report. Should we use data from the next iteration of Connected Nation's Connect K-12 Report?[129] Do other data sources exist that would make it feasible to establish a new long-term speed benchmark for elementary and secondary schools and classrooms? If so, what are they and why should we use them? Can the Commission use data already collected through the E-Rate program to measure and track progress toward the short- and long-term goals? Is there additional data that the Commission should consider collecting? Should the goal be the same across the entire nation or should the Commission tailor goals differently for different areas that may face different challenges or needs? Should the Commission continue to state goals that are per number of total students or staff? Or should the Commission consider goals that are based on the current service of an area (for example, x% increase over y timeframe). What is the appropriate timeframe for a long-term benchmark and should there be intermediate goals along the way? Should the goal be focused primarily on download speeds? Or should the Commission consider other dimensions of availability and quality?

IV. DETERMINING THE NEXT SECTION 706 FINDING

52. We seek comment on the best ways to analyze the universal service goals of universal deployment, adoption, affordability, availability, and equitable access to broadband to inform our section 706 inquiry regarding "the availability of advanced telecommunications capability to all Americans" and our determination as to whether "advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion."[130] How should we determine whether a particular universal service goal has been met to warrant a positive section 706 finding? To the extent that the Commission's BDC data shows that progress has been made, how should that affect the Commission's ultimate finding under section 706? If we were to find that progress is relevant to the finding, what timespan should be evaluated (e.g., over each six-month BDC dataset or year-over-year), and what

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[126] *2024 Report* at 79-80, para. 131. Since 2015, the Commission had used the following benchmarks for deployment to schools: (1) a short-term speed benchmark of 100 Mbps per 1,000 students and staff, and (2) a long-term speed benchmark of 1 Gbps per 1,000 students and staff. *See id.*; *2015 Report*, 30 FCC Rcd at 1410, para. 62.

[127] *2024 Report* at 80, para. 132 (citing *2023 Notice* at 21, para. 50). According to the *2023 Connect K-12 Report*, which we cited in the *2024 Report*, 74% of school districts had already met our new short-term goal, which was over a 57% increase since 2020. Further, over 80% of school districts in 15 states met this goal in 2023, compared to only 9 states in 2020. *Connect K-12 Funding Year 2021 Report*; Connected Nation, 2023 Report on School Connectivity at 3 (2023) (*2023 Connect K-12 Report*), https://connectk12.org/static/media/Connect_K12_Connectivity_Report_2023_FINAL.dfc96770.pdf.

[128] *2024 Report* at 80-81, para. 134.

[129] The Connect K-12 Report tracks and provides analyses of public school progress toward the Commission's speed goals for K-12 school connectivity based on application data from the Commission's E-Rate program. It includes data from 12,911 public school districts that serve 54.9 million students across all 50 states. *See*, *e.g.*, *2023 Connect K-12 Report* at 11.

[130] 47 U.S.C. § 1302(b).

progress should be considered sufficient to reach a positive finding with respect to the universal service goal of deployment? As it conducts its evaluation of the data, how should the Commission take into account enforceable broadband commitments made as part of the BEAD program or other federal funding programs? For example, should the Commission's findings in the next Report assume or project further deployment? The *2024 Report* was unable to definitively evaluate several of the goals due to limited or incomplete data.[131] Have new data become available that would enable the Commission to make more definitive findings with respect to the non-deployment universal service goals for the next report?

53. We also seek comment on the continuing effects of the Commission's and other ongoing federal efforts to spur broadband deployment, for example, through the funding made available to the states through the BEAD Program.[132] Have these efforts been effective at narrowing the digital divide? Are there external data sources available regarding these efforts that the Commission can analyze for the next section 706 report?

54. Section 706 states that if the Commission makes a negative finding as to the availability of advanced telecommunications capability we are required to "take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market."[133] In the event the next report were to reach a negative finding, what actions should the Commission take to further its universal service goals for broadband, both in the near- and long-term? What actions should the Commission take to further promote competition? Are there existing regulatory barriers impeding broadband deployment or investment that the Commission should consider eliminating? Are there additional efforts the Commission should undertake to encourage further investment in broadband buildout by the private sector? Finally, we also seek comment on whether additional efforts to promote integrity within the Universal Service Fund and other FCC programs would help advance the goals of this inquiry.

V. PROCEDURAL MATTERS

55. *Ex Parte Presentations.* This proceeding shall be treated as a "permit-but-disclose" proceeding pursuant to the Commission's *ex parte* rules.[134] 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). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

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[131] *See 2024 Report* at 122, para. 225.

[132] As discussed above, the BEAD Program allocations for all 50 states, the District of Columbia, and five U.S. Territories (eligible entities) were announced on June 26, 2023. *See* n.5, *supra*. All of these eligible entities subsequently submitted their initial broadband deployment proposals to NTIA. NTIA, Bead Initial Proposal Progress Dashboard, https://www.internetforall.gov/bead-initial-proposal-progress-dashboard (last visited Sept. 3, 2024). These proposals are currently in various stages of the review process, with proposals from 39 eligible entities currently fully approved by NTIA as of September 3, 2024. *Id*.

[133] 47 U.S.C. § 1302(b).

[134] 47 CFR § 1.1200(a).

56. *Comment Filing Procedures*. 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).

- 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 hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission**.
    - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
    - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, D.C. 20554.

57. *Availability of Documents*. Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, when FCC Headquarters reopens to the public.

58. *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).

59. *Contact Person*. For further information about this proceeding, please contact Raphael Sznajder, FCC Wireline Competition Bureau, Competition Policy Division, 45 L Street, N.E., Washington, D.C. 20554, 202-418-1648, Raphael.Sznajder@fcc.gov.

VI. ORDERING CLAUSE

60. Accordingly, IT IS ORDERED, that pursuant to section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. § 1302, this Notice of Inquiry IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

STATEMENT OF
CHAIRWOMAN JESSICA ROSENWORCEL

Re: *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* Eighteenth Section 706 Report Notice of Inquiry, GN Docket No. 24-214 (September 6, 2024)

We are building a digital future that works for everyone. One of the most essential inputs in that future is broadband. This has long been clear at the Federal Communications Commission but in the aftermath of the pandemic it inspired Congress to support once-in-a-generation broadband investment through the Bipartisan Infrastructure Law. That is why this inquiry under the Telecommunications Act into the state of broadband in the United States is so important. We need to know not just where and how broadband is being deployed across the country but also how accessible, affordable, and available it is nationwide. Moreover, we need to view this through our updated national standard for service of 100 Megabits per second down and 20 Megabits per second up and long-term goal of gigabit speeds. I look forward to the record that develops and thank my colleagues for working with me on this effort.

STATEMENT OF COMMISSIONER BRENDAN CARR
APPROVING IN PART AND CONCURRING IN PART

Re: *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* Eighteenth Section 706 Report Notice of Inquiry, GN Docket No. 24-214 (September 6, 2024)

With this Notice of Inquiry, the FCC kicks off the process for completing next year's Section 706 Report, which seeks to answer whether broadband "is being deployed to all Americans in a reasonable and timely fashion."[1] While it is clear that my FCC colleagues and I would take different approaches to answering that question, I want to thank the Chairwoman for including three new lines of inquiry at my suggestion. As a result, I will be voting to approve in part and concur in part today.

First, the NOI now seeks comment on whether the FCC should report how many unserved locations are subject to enforceable federal commitments to deploy broadband infrastructure. Much of this data is available on a piecemeal basis today. Presenting it in an organized fashion could provide greater transparency to the public, ISPs, and other governmental agencies.

Understanding how many unserved locations are slated for future builds is more than good government, though. The information is badly needed. The Biden-Harris Administration has directed an unprecedented stream of taxpayer dollars to broadband deployment—chief among them the $42 billion BEAD program, which Vice President Harris was tasked to lead under the slogan of "Internet for All." As I have explained elsewhere, that $42 billion BEAD program has gone off the rails.[2] More than 1,000 days since BEAD's enactment, not one home or business has been connected through that program. Nor has a single shovel's worth of dirt turned.

However troubling the Administration's failures may be, they are no longer surprising. The Administration has no strategy to coordinate the federal government's various broadband funding efforts that are now spread across 15 different agencies and more than 130 funding programs—something which the GAO warned in 2022 would be a recipe for and overbuilding wasteful duplication.[3]

Years later, one might have expected this Administration to have a plan to report how many unserved households have been, or will be, connected through funding programs spanning myriad agencies. Without that information, it is challenging to assess our efforts to close the digital divide. Yet, as far as I can tell, no such centralized resource publicly exists. So, by sizing up the interplay of unserved

locations and enforceable commitments, the FCC can perform a valuable service and pick up for

[1] 47 U.S.C. § 1302(b).

[2] *See, e.g.*, Testimony of Brendan Carr, Commissioner, Federal Communications Commission, Before the Subcommittee on Communications Technology of the United States House of Representatives Committee on Energy and Commerce, *The Fiscal Year 2025 Federal Communications Commission Agency Budget* (July 9, 2024), https://d1dth6e84htgma.cloudfront.net/07_09_24_Testimony_Carr_8ee3f64be1.pdf; Testimony of Brendan Carr, Commissioner, Federal Communications Commission, Before the Subcommittee on Communications Technology of the United States House of Representatives Committee on Energy and Commerce, *Connecting America: Oversight of the FCC* (Mar. 31, 2022), https://docs.house.gov/meetings/IF/IF16/20220331/114545/HHRG-117-IF16-Wstate-CarrB-20220331.pdf; Brendan Carr, *Barreling toward a broadband blunder*, The Hill (Apr. 8, 2021), https://thehill.com/blogs/congress-blog/technology/547073-barreling-towards-a-broadband-blunder.

[3] U.S. Government Accountability Office, *Broadband: National Strategy Needed to Guide Federal Efforts to Reduce Digital Divide*, GAO-22-104611 (May 31, 2022) (*2022 GAO Report*), https://www.gao.gov/assets/gao-22-104611.pdf.

the Administration's slack.

Understanding our enforceable commitments can also help contextualize the Section 706 Report's conclusions. There is a temptation in some quarters to kick around the number of "unserved locations" as a political football, whether to justify more government spending or to rationalize new controls on the broadband industry. But the number of unserved locations, without more, does not tell the whole story. From a broadband funding perspective, an unserved location subject to an enforceable commitment is not the same as one without that commitment. Especially when many unserved locations will come online soon. As one example, the December 2024 deadline for 40% service under RDOF is approaching for many providers.

Nor does the mere existence of unserved locations end the FCC's inquiry and automatically result in a negative determination. The Communications Act does not require a simplistic, binary determination of whether advanced telecommunications capability *has been* deployed to all Americans. Rather, Section 706's language—particularly the statute's use of "reasonable and timely" and the present progressive tense "is being deployed"—confirms that Congress intended for the FCC to focus on the clip and cadence of ongoing deployment. Quantifying our enforceable commitments can inform that question.

Second, the NOI now tees up the concept of measuring progress by comparing results from the FCC's Broadband Data Collection. In past years, our Section 706 Reports relied on Form 477 data from trailing years. Following the Broadband DATA Act, the FCC now collects broadband deployment data every six months. And with a challenge process institutionalized, BDC datasets are more accurate than before. With four validated BDC maps under our belt and more to come, the FCC now has enough data to do an apples-to-apples comparison over time and understand how much progress has occurred on a biannual basis since 2022. Presenting these numbers side-by-side, with a particular focus on presenting the most recent BDC data, can shed more light on the rate of progress.

Third, I look forward to a more sophisticated discussion of high-speed satellite broadband services, such as those broadband services offered by constellations in low-Earth orbit. In Section 706 Reports predating the BDC, the FCC declined to treat satellite broadband as a true competitive option. That may have been understandable in years past when the technology was still nascent. But doubling down on that conclusion in 2024, as the last Section 706 Report did, makes little sense when thousands of satellites have since launched, with reported speeds exceeding 100/20 Mbps.

So, we are long overdue for a refresh on the competitive significance of satellite broadband. Indeed, each Section 706 Report should take a fresh look at emerging and extant sources of intermodal competition. That not only satisfies the Gretzky Test,[4] but the statute itself, which requires technological neutrality in the FCC's analysis of broadband deployment.[5] I am therefore glad that the NOI asks about progress in satellite broadband, and I hope we approach that question thoughtfully.

To be sure, I still have overarching concerns with the way the FCC refashioned its Section 706

[4] *See* Address Of FCC Commissioner Brendan Carr at The Federalist Society 2019 National Lawyers Convention, The Future Of Telecommunications Law And Policy, *Meeting The Gretzky Test* (2019), https://docs.fcc.gov/public/attachments/DOC-360839A1.pdf ("And this brings me to The Great One, Wayne Gretzky, a Canadian by birth but an American at heart, who warned us against this status quo bias. The secret to his legendary success on the ice was to "skate to where the puck is going, not where it has been." The Gretzky Test is popular in sports and in business now, and I think competition authorities—and especially those of us in tech and telecom regulation—should hold ourselves to it, too.").

[5] Not just once, but twice, the statute expressly requires technological neutrality. *See* 47 U.S.C. § 1302(d)(1) (defining "advanced telecommunications capability" as, "*without regard to any transmission media or technology*, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications *using any technology*") (emphases added).

analysis in its last report.[6] In the main, the FCC's novel framework is hardwired to reach a preordained determination that broadband is not being timely deployed to all Americans. We saw it when the FCC emphasized 100% availability instead of giving due weight to the rate of progress, as the statute requires. We saw it when the FCC evaluated extraneous factors—including "equitable access"—found nowhere in the statutory requirements for the Section 706 report. And we saw it in the new "long-term goal" of 1,000/500 Mbps that lays the groundwork to depart from the statute's mandate of technological neutrality.

Ultimately, while I still have concerns about the orientation of this Section 706 inquiry, I believe this NOI will help create a robust record. And I thank the Chairwoman once again for considering my feedback. Accordingly, I approve in part and concur in part.

[6] *See* Dissenting Statement of Commissioner Brendan Carr, *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2024 Section 706 Report (2024); Statement of Commissioner Brendan Carr, Approving in Part and Concurring in Part, *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Notice of Inquiry (2023).

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

In the Matter of	)	
	)	
Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024	)	MD Docket No. 24-86
	)	
Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024	)	MD Docket No. 24-85
	)	
	)	

SECOND REPORT AND ORDER

Adopted: September 6, 2024 **Released: September 6, 2024**

By the Commission: Commissioner Carr approving in part, dissenting in part and issuing a statement.

TABLE OF CONTENTS

Heading Paragraph #

I. INTRODUCTION 1
II. BACKGROUND 5
A. Regulatory Fees Calculation Methodology 6
B. Adjustments and Amendments to the Regulatory Fee Schedule 10
III. REPORT AND ORDER 13
A. Methodology for Assessing Regulatory Fees and Reallocating FTEs 14
B. Reallocations, for Regulatory Fee Purposes, of Certain Indirect FTEs as Direct FTEs 17
C. Space Bureau and Office of International Affairs 19
1. Space Stations and Earth Stations 24
a. Small Satellites and RPO, OOS, and OTV Regulatory Fees 26
b. GSO and NGSO Space Stations Allocation 29
c. Allocation between NGSO – Other and NGSO – Less Complex 34
d. Earth Station Regulatory Fees 37
e. Changing the Title of Section 1.1156 39
f. Other Proposals 41
2. Office of International Affairs 43
D. Broadcast Television Stations 46
E. Proposed New Regulatory Fee Categories 47
1. Broadband Internet Access Service Providers 48
2. Manufacturers of Equipment that Operates on Spectrum on an Unlicensed Basis 50
F. Digital Equity and Inclusion 53
G. Temporary Relief Measures Under Sections 1.1910, 1.1166, and 1.1914 of the Commission's Rules 54
H. Non-Operating Broadcast Stations 64
I. Capping or Phasing in Space and Earth Station Regulatory Fees 67
J. Installment Payments 78
IV. PROCEDURAL MATTERS 82

V. ORDERING CLAUSES.....96

APPENDIX A—List of Commenters
APPENDIX B—Calculation of FY 2024 Revenue Requirements and Pro-Rata Fees
APPENDIX C—FY 2024 Schedule of Regulatory Fees
APPENDIX D—Sources of Payment Unit Estimates for FY 2024
APPENDIX E—Factors, Measurements, and Calculations that Determine Signal Contours and Associated Population Coverages
APPENDIX F—Space Station Satellite Charts for FY 2024 Regulatory Fees
APPENDIX G—FY 2024 Full-Service Broadcast Television Stations, by Call Sign
APPENDIX H—FY 2023 Regulatory Fees
APPENDIX I—Final Regulatory Flexibility Analysis
APPENDIX J—Final Rules

I. INTRODUCTION

1. Each year, the Commission must adopt a schedule of regulatory fees to be collected by the end of September. For fiscal year (FY) 2024,[1] the Commission is required to collect $390,192,000 in regulatory fees, pursuant to section 9 of the Communications Act of 1934, as amended (Act or Communications Act)[2] and the Commission's FY 2024 Further Consolidation Appropriations Act.[3] In this Report and Order, we adopt the regulatory fee schedule to assess and collect $390,192,000 in congressionally required regulatory fees for FY 2024. The regulatory fee schedule we adopt for FY 2024

[1] FY 2024 started on October 1, 2023, and ends on September 30, 2024.

[2] 47 U.S.C. § 159. Section 9(a) provides that "[t]he Commission shall assess and collect regulatory fees to recover the costs of carrying out the activities described in section 156(a) of this title only to the extent, and in the total amounts, provided for in Appropriations Acts." 47 U.S.C. § 159(a).

[3] The regulatory fee collection is guided by both the statutory authority in sections 6 and 9 of the Act, 47 U.S.C. §§ 156, 159, and the explicit language of each fiscal year's salaries and expenses (S&E) appropriation directing the amount to be collected as an offsetting collection. *See* Further Consolidation Appropriations Act, 2024, Pub. L. No. 118-47, Division B— Financial Services and General Government Appropriations Act, 2024 (FY 2024 Consolidated Appropriations Act) ("For necessary expenses of the Federal Communications Commission, as authorized by law, . . . $390,192,000, to remain available until expended: Provided, That $390,192,000, of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, shall be retained and used for necessary expenses and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 2024 so as to result in a final fiscal year 2024 appropriation estimated at $0."). The FY 2024 appropriation is the same amount as the FY 2023 appropriation. *Compare* FY 2024 Consolidated Appropriations Act *with* Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, Division E—Financial Services and General Government Appropriations Act, 2023 (FY 2023 Consolidated Appropriations Act).

was proposed in the Commission's annual regulatory fee Notice of Proposed Rulemaking,[4] as modified herein, and as set forth in Appendices B and C.[5]

2. This Second Report and Order revises the allocation of Space Bureau FTE burdens[6] between Geostationary Orbit (GSO) and Non-Geostationary Orbit (NGSO) space station fee categories using the existing methodology for calculating their proportional share of regulatory fees;[7] and keeps in place the existing allocation of Space Bureau FTE burdens between NGSO "less complex" and NGSO "other" space stations.[8] It also adopts the proposals in our *FY 2024 NPRM*, with some modifications. Similar to the reallocation process conducted in FY 2023, we also reallocate approximately 61 indirect FTEs[9] as direct FTEs to one of the Commission's core licensing bureaus.[10] Such reallocations reflect our

[4] *Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, MD Docket No. 24-86, Second Notice of Proposed Rulemaking, FCC 24-68, 2024 WL 3042685 (June 13, 2024) (*FY 2024 NPRM*). The Notice of Proposed Rulemaking in MD Docket No. 24-86 focused on issues pertaining to regulatory fees paid by entities overseen by the Space Bureau, i.e., space and earth station regulatory fees. *Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024*, *Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, MD Docket Nos. 24-85, 24-86; Notice of Proposed Rulemaking, FCC 24-31, 2024 WL 1137996 (Mar. 13, 2024) (*Space and Earth Station Regulatory Fees NPRM*). In June of 2024, we adopted some of the proposals from the *Space and Earth Station Regulatory Fees NPRM*. *Space and Earth Station Regulatory Fees for Fiscal Year 2024, Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, MD Docket Nos. 24-85, 24-86, Report and Order, FCC 24-70, 2024 WL 3042688 (June 13, 2024) (*Space Station Regulatory Fees Order*).

[5] Appendix A contains the list of commenters filing in MD Docket Nos. 24-85 and 24-86. In order to differentiate the two sets of comments and to make it easier for an interested party to find comments in the Commission's electronic comment filing system (ECFS), the cites to comments to the *Space and Earth Station Regulatory Fees NPRM* include the date the comment was filed; cites to comments filed to the *FY 2024 NPRM* do not have the date included in the cite. All comments are listed in Appendix A, with the filing date.

[6] This Report and Order utilizes the small satellite regulatory fee methodology adopted in the *Space Station Regulatory Fees Order*. In the *Space Station Regulatory Fees Order*, the Commission adopted a new methodology for assessing regulatory fees for small satellites and spacecraft licensed under sections 25.122 and 25.123 of the Commission's rules and included space stations that are principally used for Rendezvous and Proximity Operations or On-Orbit Servicing, including Orbit Transfer Vehicles, in the existing fee category for small satellites on an interim basis. *Space Station Regulatory Fees Order* at *3, paras. 9-16. This rule was published in the Federal Register, 89 FR 60572 (July 26, 2024). The new rule will be effective on Sept. 13, 2024 (90 days from date of release and notification to Congress of the *Space Station Regulatory Fees Order*).

[7] This reallocation was proposed in the *Space and Earth Station Regulatory Fees NPRM*. *Space and Earth Station Regulatory Fees NPRM* at *6, paras. 16-22.

[8] Maintaining the existing allocation was proposed in the *Space and Earth Station Regulatory Fees NPRM*. *Id*, at *8, paras. 23-26.

[9] 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 (Aug. 2022), https://www.whitehouse.gov/wp-content/uploads/2018/06/a11_web_toc.pdf. *See* section 85.5(c) for a detailed explanation of how FTEs are calculated. When we state that 1.5 FTEs work on a particular subject matter, that might mean three individuals spend 50% of their time on that area. Moreover, any change in FTE allocation described here is solely for regulatory fee purposes and does not reflect any change of personnel in the various organizational work units.

[10] The phrase "core bureaus" was first used in the *FY 2012 Regulatory Fee Reform NPRM* where the Commission explained that, under (prior) section 9(b)(1)(A) of the Act, the Commission was instructed to calculate the regulatory fees by determining the FTEs performing the activities enumerated in section 9(a)(1) within the Private Radio Bureau, Mass Media Bureau, Common Carrier Bureau, and other offices of the Commission (subsequently renamed

(continued….)

conclusion that we can determine, with reasonable accuracy for this fiscal year, that certain FTE work in the Office of General Counsel, the Office of Economics and Analytics, and the Public Safety and Homeland Security Bureau is sufficiently linked to the oversight and regulation of regulatory fee payors in a core bureau such that the FTE burden of that work should be allocated as direct to that core bureau for regulatory fee purposes. The direct FTE allocations used in calculating regulatory fees in this Report and Order also reflect the fact the Commission reallocated all the authorities and functions of the (former) International Bureau to the new Space Bureau and a new Office of International Affairs (OIA). Consistent with our long-standing regulatory fee methodology, we implement these reallocations, for regulatory fee purposes, for FY 2024.[11]

3. Additionally, in this Report and Order, we adopt our proposal in the *FY 2024 NPRM* for the calculation of television broadcaster regulatory fees, using our traditional methodology of population-based full-service broadcast television regulatory fees; and adopt our proposal to discontinue the presumption that broadcast stations that are dark or were recently dark or bankrupt are experiencing financial hardship sufficient to justify waiver of their regulatory fees. The end of the dark station presumption will apply for FY 2025 regulatory fees. For FY 2024 regulatory fees, section 1.1910 of the Commission's rules will apply in full. In addition, pursuant to section 1.1166 of the Commission's rules, regulatory fee payors filing requests for waiver, reduction, deferral, and/or installment payment of regulatory fees must provide all financial documentation to support the request at the time of filing the request. Finally, to assist with a significant increase from the FY 2023 fees, particularly for earth station and NGSO space station fee payors, we direct the Office of Managing Director to provide the lowest interest rate permitted by statute and forgo its customary down payment requirement when FY 2024 regulatory fee debt is paid under an installment payment plan.

4. We will seek further comment on the remaining proposals made in the *Space and Earth Station Regulatory Fees NPRM* that were not adopted in the recent *Space Stations Regulatory Fees Order* and the suggestions made by commenters in connection with these proposals. Those proposals include assessing regulatory fees on authorized, but not operational, space and earth stations; using an alternative methodology for assessing space station regulatory fees; establishing tiers within existing NGSO space station fee categories based on the number of space stations in the system; and creating new categories of earth station regulatory fees. We expect to take action on these remaining proposals in time for them to be effective for FY 2025.

II. BACKGROUND

5. Pursuant to sections 9 and 9A of the Act and the Commission's FY 2024 appropriations, we are required to collect $390,192,000 in regulatory fees for FY 2024.[12] Regulatory fees recover all of

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the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and a new International Bureau). *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2012,* MD Docket No. 12-20, Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 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, paras. 9-10 (2019) (*FY 2019 Report and Order*). Effective Apr. 10, 2023, the Commission reorganized the International Bureau into the Space Bureau and the Office of International Affairs. *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, 38 FCC Rcd 608 (2023) (*Space Bureau Order*). As a result, the term core bureau now also includes the Office of International Affairs and the Space Bureau.

[11] 47 U.S.C. §§ 156, 159.

[12] 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); 47 U.S.C. § 159A (various provisions (continued….)

the Commission's non-auctions costs,[13] including direct costs, such as salaries and expenses; indirect costs, such as overhead functions; statutorily required tasks that do not directly equate with oversight and regulation of a particular regulatory fee payor but instead benefit the Commission and the industry as a whole; and support costs, such as rent, utilities, and equipment.[14] Regulatory fees must recover the total amount of the annual appropriation; i.e., they must also recover the Commission's costs incurred in oversight and regulation of entities that do not pay regulatory fees, including those that are statutorily exempt from paying regulatory fees (governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations),[15] entities that are exempt from payment of regulatory fees because their total assessed annual regulatory fees fall below the annual de minimis threshold,[16] and entities whose regulatory fees are waived.[17]

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applicable to application and regulatory fees, e.g., notice to Congress and waiver provisions). The Commission has no discretion regarding the total amount to be collected in any given fiscal year.

[13] 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 Act and the Commission's annual appropriation. 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."). 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. *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking, 36 FCC Rcd 12990, 12999-13000, para. 20 (2021) (*FY 2021 Report and Order*).

[14] *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, MD Docket No. 04-73, Report and Order, 19 FCC Rcd 11662, 11666-667, para. 11 (2004) (*FY 2004 Report and Order*).

[15] 47 U.S.C. § 159(e)(1). The Commission has previously observed that it is consistent with the Act to include those costs that are attributable to the fee paying and exempt regulatees in the revenue requirement because all of the regulatees in that fee category, whether they pay regulatory fees or not, benefit from the oversight and regulation of that bureau. *FY 2019 Report and Order*, 34 FCC Rcd at 8196-97, para. 19.

[16] 47 U.S.C. § 159(e)(2). Section 9(e)(2) of the Act provides: "If, in the judgment of the Commission, the cost of collecting a regulatory fee established under this section from a party would exceed the amount collected from such party, the Commission may exempt such party from paying such fee." *Id.* The Commission increased the annual de minimis threshold to $1,000 in 2017. *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, MD Docket No. 17-134, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057, 7073, para. 40 (2017) (*FY 2017 Report and Order*). In the *FY 2022 Report and Order*, the Commission reviewed the de minimis threshold, calculated the average cost of collecting regulatory fees, and determined that the average cost of collection has not increased above the $1,000 de minimis threshold. *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, 37 FCC Rcd 10845, 10876-78, paras. 61-65 (2022) (*FY 2022 Report and Order*).

[17] 47 U.S.C. § 159A(d); 47 CFR § 1.1166. We disagree with Myriota's contention that section 9 does not specifically require the Commission to recoup exempted fees from other parties in order to recover the full amount of the Commission's appropriation. Myriota Comments at 3-4. Myriota contends that the Commission has the discretion to not collect certain fees and not compensate for the resulting shortfall in collection by increasing the fee for other licensees and recovering exempted, waived, or reduced fees from other parties would not be feasible so late in the annual regulatory fees process. Myriota Comments at 3-4. Myriota fails to understand that we take into consideration the relatively small amount of waivers, exemptions, and non-payors in our calculations each year so that we can recover the full amount of our appropriation. As the Commission explained in the *FY 2019 Report and Order*, "we find it is consistent with the Act to include those costs that are attributable to the fee paying and exempt regulatees in the revenue requirement because all of the regulatees in that fee category, whether they pay regulatory fees or not, benefit from the oversight and regulation of that bureau. *FY 2019 Report and Order*, 34 FCC Rcd at 8197, para. 19.

A. Regulatory Fees Calculation Methodology

6. Congress prescribed a method of collecting an amount equal to the full S&E appropriation by keying the regulatory fee assessment to our FTE burden.[18] Specifically, the 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."[19] Given the Act's explicit language that fees must reflect FTEs, we have long concluded that FTE counts are the most administrable starting point for regulatory fee allocations.[20] The Commission hews closely to the statutory command to start with FTE counts and then potentially adjust fees to reflect other factors related to the benefit of Commission regulation and oversight. We also note that regulatory fees are a zero-sum game, because the Commission must collect the full amount of its appropriation each fiscal year. Thus, any decrease to the fees paid by one category of regulatory fee payors necessitates an increase in fees paid by other categories of regulatory fee payors.[21] Therefore, the amount assigned to be recovered from each regulatory fee category relates to the FTE burden associated with oversight and regulation of those fee payors by the relevant core bureaus.[22] The Commission assigns direct FTEs within a bureau to specific fee categories in a manner that reflects the time spent by FTEs on oversight and regulation of a particular set of fee payors, which is the "benefit" to such payors in each fee category.[23] Thus, we apportion regulatory fees across fee categories based on the number of direct FTEs in each core bureau to take into account factors that are reasonably related to the payor's benefits.[24] We allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau; this is subdivided within each core bureau into fee categories among the regulatees served by the core bureau; and then divided by a unit that allocates the regulatory fee payor's proportionate share based on an objective measure.[25] If work performed by a group is directly related to our oversight and

[18] *See* 47 U.S.C. § 159(d). In 2018, as part of the RAY BAUM'S Act, Congress revised section 9 of the Act and added new section 9A. *See* 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). Although the Commission adopted several rule amendments to reflect those changes, it concluded that the methodology for implementing regulatory fee authority essentially remained unchanged by the RAY BAUM'S Act and "because the new section 9 of the Act closely aligns to how the Commission assessed and collected fees under the prior section 9 of the 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.

[19] 47 U.S.C. § 159(d). The reliance on language of section 9(d) as the starting point in our analysis flows from the fact that a starting regulatory fee schedule always exists since the inception of the program. In that Congress imposed an initial schedule in 1993 and thus subsequent changes were keyed to it or in the ensuing decades the prior year's fee schedule. Thus, in each subsequent year, the Commission must always amend the schedule to reflect changes either in gross amount to be collected, unit measures, or a change to FTE burden. This remained true after adoption of the RAY BAUM'S Act as it also provided that the regulatory fees established under section 9 of the Communications Act "shall remain in effect ... until such time as the Commission adjusts or amends such fee under subsection (c) or (d) ....". Pub. L. 115-141, Division P, Title I, § 102(d)(2), 132 Stat. 1086 (2018).

[20] *FY 2019 Report and Order*, 34 FCC Rcd at 8193, para. 8.

[21] *Id*, at 8195, para. 16.

[22] *Id*. at 8192-93, paras. 7-8; *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*).

[23] 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, 15719-720, para. 19 (2007).

[24] *FY 2019 Report and Order*, 34 FCC Rcd at 8193, para. 9.

[25] *Id*.

regulation of a regulatory fee category in one of the core licensing bureaus, then such FTEs are direct FTEs.[26]

7. For the annual regulatory fee calculations, the Commission first determines the number of direct FTEs, i.e., non-auctions FTEs that work in each of the Commission's core bureaus (i.e., the Wireless Telecommunications Bureau, the Media Bureau, the Wireline Competition Bureau, the Office of International Affairs, and the Space Bureau).[27] 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."[28] The Commission receives FTE data from its Human Resources Management office and identifies FTEs at the core bureau level (i.e., direct FTEs) to determine the FTE allocations for the core bureaus.[29] The Commission also consults with the bureaus and offices to ascertain if FTEs previously deemed direct for a bureau or office should continue for the next fiscal year and this FTE data is then apportioned to the various fee categories within each core bureau based on FTE time spent on each fee category and is used to calculate the percentage of the total amount of regulatory fees to be collected for a given fiscal year from each core bureau.[30] 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 (fee category proportional percentage multiplied by the revenue target goal) is divided by a unit that allocates the regulatory fee payor's share based on an objective measure.

8. Regulatory fees must cover the Commission's entire appropriation, and this includes Commission work on issues for which we do not have regulatory fee categories. We therefore continue to find that, consistent with section 9 of the Act, regulatory fees are not based on a precise allocation of specific employees with certain work assignments each year and instead are based on a higher-level

[26] *See, e.g.*, *Id*. at 8194-95, para. 14; *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, 10768-69, para. 2 (2014) (*FY 2014 Report and Order*).

[27] *FY 2019 Report and Order*, 34 FCC Rcd at 8193, paras. 8-9; *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*, MD Docket No. 12-116, 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 projected unit estimates.

[28] *See, e.g.*, *FY 2019 Report and Order*, 34 FCC Rcd 8189, 8195, para. 14; *2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8461, para. 8; *FY 2014 Report and Order*, 29 FCC Rcd at 10768-69, para. 2.

[29] The non-auctions FTEs that are not direct FTEs, i.e., they are considered indirect, are in the Enforcement Bureau (188), Consumer and Governmental Affairs Bureau (107), Public Safety and Homeland Security Bureau (118), Chairwoman's and Commissioners' offices (22), Office of the Managing Director (164), Office of General Counsel (71), Office of the Inspector General (48), Office of Communications Business Opportunities (8), Office of Engineering and Technology (71), Office of Legislative Affairs (8), Office of Workplace Diversity (6), Office of Media Relations (14), Office of Economics and Analytics (90), and Office of Administrative Law Judges (3), along with some indirect FTEs in core bureaus. As we discuss below, we are reassigning 61 indirect FTEs as direct for regulatory fee purposes from the Public Safety and Homeland Security Bureau, Office of General Counsel, and Office of Economics and Analytics. The indirect FTE counts in this footnote are for the number in each bureau and office *prior* to such reassignments. Please note that there is a leave distribution adjustment of the equivalent of -5 FTEs, and an adjustment of -1 FTE because of rounding.

[30] 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 in the Commission. We allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau. As a general matter, the proportional allocation of the S&E appropriation based on direct FTEs attributes all costs among the core bureaus so that the Commission can recover its entire appropriation each year.

approach.[31] Indirect FTE time covers a wide range of issues that may also include services that are not specifically correlated with one core bureau, let alone one specific category of regulatory fee payors.[32] Indirect FTE work also includes matters that are not specific to any regulatory fee category, and many Commission attorneys, engineers, analysts, and other staff work on a variety of issues during a single fiscal year. For example, indirect FTEs that devote time to broadband Internet access services[33] or Universal Service Fund issues may also work on a variety of other issues during the fiscal year.[34] Further, 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 FTEs do on behalf of many entities that do not pay regulatory fees, e.g., those that are statutorily exempt from paying regulatory fees (governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations), entities that are exempt from payment of regulatory fees because their total assessed annual regulatory fees fall below the annual de minimis threshold,[35] and entities whose regulatory fees are waived.[36]

9. There must be a very strong rationale for changing the manner of proportionally allocating indirect FTEs to certain fee categories based on direct FTEs because any such changes will impact the fees of other regulatory fee categories. Any decrease to the fees paid by one category of

[31] *FY 2019 Report and Order*, 34 FCC Rcd at 8196, para. 18.

[32] *Id.*; *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, MD Docket No. 15-121, Report and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, 10275-76, paras. 16-17 (2015) (*FY 2015 Report and Order*).

[33] The State Broadcasters take issue with the fact that FTE time devoted to broadband Internet access service may (to some extent) be considered indirect FTE time. State Broadcasters' Comments at 12. This fails to acknowledge that many entities, including broadcasters, benefit from increased broadband internet access service because, e.g., many radio and television broadcasters offer their services over the internet. Also, NextGen TV provides a combination of online and broadcast television. As NAB explains the service: "Because the new technology combines the best features of broadcast television and broadband, NEXTGEN TV allows local stations to better personalize their broadcasts with information and interactive features so you can get the content and features most relevant to you." NAB, Unleashing the Next Generation of Broadcast Innovation, What is Next Generation TV?, https://www.nab.org/innovation/nextgentv.asp (last visited July 15, 2024).

[34] We disagree with the State Broadcasters' contention that the Commission's methodology results in broadcasters paying a higher portion of the Commission's overhead. State Broadcasters' Comments at 6-9. They contend that they should not be responsible for any regulatory fees associated with FTE work related to universal service fund programs (i.e., FTE oversight of the Universal Service Administrative Company (USAC), the administrator of the universal service fund programs), in that such work directly benefits other categories of fee payors, not broadcasters. State Broadcasters' Comments at 6. NAB agrees with the State Broadcasters that such indirect FTEs should instead be considered direct FTEs. NAB Comments at 5-6. As we have explained previously, indirect FTE work may benefit entities that are not regulatory fee payors, as well as various categories of fee payors. Commission oversight of USAC's administration of non-high cost universal service fund programs is an example of such indirect FTE time because the Commission oversees USAC (not a regulatory fee payor) and the benefits of Commission oversight flow to many entities participating in non-high cost universal service programs, including those that are not regulatory fee payors. CTIA agrees with our position and observes that the State Broadcasters and NAB provide no new information or rationale to support reclassifying these indirect FTEs as direct. CTIA Reply at 5. For a more detailed discussion of this issue, *see FY 2019 Report and Order*, 34 FCC Rcd at 8194-96, paras. 14-18.

[35] We disagree with Myriota that, in lieu of basing fees on direct FTEs, we should use the de minimis provision to exempt more parties. Myriota Comments at 2-3. The de minimis exemption, in section 9(e) of the Act, is based on the Commission's actual cost of collection. In the *FY 2022 Report and Order*, we discussed section 9(e)(2) of the Act and concluded that the Commission's average cost of collection had not increased above the already established $1,000 de minimis threshold. *FY 2022 Report and Order*, 37 FCC Rcd at 10877, para. 64. Without a factual predicate, i.e., a verifiable change in the Commission's actual cost of collection, which we do not have here, we have no basis with which to change the de minimis threshold.

[36] *See, e.g.*, 47 U.S.C. § 159(e).

regulatory fee payors necessitates an increase in fees for others.[37] Thus, we affirm that (other than for the reassignments discussed below) the non-auctions FTE work in certain non-core bureaus and offices within the Commission are properly designated as indirect.[38] Last year we were able to determine with reasonable accuracy for the fiscal year that in some cases the indirect FTE work was directly related to the oversight and regulation of regulatory fee payors in a core bureau such that it should be considered as direct to that core bureau for calculating regulatory fees.[39] After close analysis, the Commission reallocated 63 indirect FTEs from the Office of General Counsel, the Office of Economics and Analytics, and the Public Safety and Homeland Security Bureau as direct FTEs to core bureaus, for FY 2023.[40] In addition, the Commission reallocated two direct FTEs from the Media Bureau as indirect FTEs because the nature of their work was sufficiently linked to work that is similar to work performed in the Enforcement Bureau, a non-core bureau.[41] In analyzing the FTE work, we applied conservative estimates and rounded down to the nearest whole FTE for such reallocations.[42] As we discuss below, we are applying the same analysis this year, with similar reallocations of some indirect FTEs to core bureaus as direct FTEs.[43]

B. Adjustments and Amendments to the Regulatory Fee Schedule

10. Each year, in the annual regulatory fee proceeding, the Commission proposes adjustments to the fee schedule under section 9(c) of the Act 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.[44] Pursuant to section 9A(b)(1) of the Act,

[37] *FY 2019 Report and Order*, 34 FCC Rcd at 8195, para. 16.

[38] As the Commission observed in the *FY 2012 Regulatory Fee Reform NPRM*, with respect to the administrability of trying to allocate indirect FTEs to core bureaus, "if in one year the Public Safety and Homeland Security Bureau handles rulemakings related to broadcasting, but in the following year focuses on wireless services, the resulting shift in FTE allocations could have a substantial impact on the size of regulatory fees, which could then shift significantly again the very next year." *FY 2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8465, para. 15.

[39] *Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, MD Docket No. 23-159, Report and Order, 38 FCC Rcd 8071, 2023 WL 5197492, at *7, para. 21 (2023) (*FY 2023 Report and Order*).

[40] *Id*. at *8, paras. 23-47.

[41] *Id*.at *22, para. 70.

[42] *Id.* at *7, para. 22 (explaining that "we have evaluated whether measurable FTE time for FY 2023 is primarily being spent on the regulation and oversight of regulatory fee payors. Commission staff excluded any FTE time from this analysis if it was not equivalent to the time of at least one FTE, concluding that less than a full-time FTE demonstrates that the work being done is appropriately considered to be indirect and should not be reassigned." In a particular instance, if an FTE equivalent was very close to one, it was deemed one FTE.).

[43] CTIA agrees that we should use the same analysis that we used in FY 2023 to determine whether any indirect FTEs should be considered direct, for regulatory fee purposes. CTIA Reply at 3-5.

[44] 47 U.S.C. § 159(c)(1). 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. We disagree with Intelsat's assertion that section 9(c)(1)(A) of the Act authorizes the Commission to adjust regulatory fees to reflect "unexpected increases or decreases," Intelsat June 11 *ex parte* at 1, n.2. Our analysis corresponds with the original congressional intent in adopting a regulatory fee scheme. Congress provided a mechanism to ensure that "the revenue each of the FCC bureaus receives from the users it regulates with the costs each of that bureau's budget for performing its regulatory functions. As a result, the fees collected will correspond closely to the costs incurred by the FCC in operating the bureau that regulates the entity paying the fee." H.R. Rep. 102–207 (1991). Intelsat also points to increase or decreases in units, but Congress noted that such language when originally adopted "ensures that the fees will continue to be tied to the regulatory activities of the agency, and that an industry or class of users will not pay more than their fair share of costs because of industrial growth or success." H.R. Rep. 102–207 (1991). The full text of section 9(c)(1)(A)

(continued….)

the Commission must notify Congress immediately upon adoption of any adjustment.[45] Annual regulatory fees typically change each fiscal year as a consequence of the changes in the total amount to be collected, the number of Commission direct FTEs, and the unit estimates for each regulatory fee category.[46] In addition, in considering other additions or deletions to the regulatory fee schedule, the Commission's focus is on direct FTE cost burdens related to the regulatory fee category at issue.[47]

11. The Commission will also propose amendments to the fee schedule under section 9(d) of the Act "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.[48] 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.[49] The Commission considers a section 9(d) amendment, such as the adoption of a new regulatory fee category or a change in methodology for an existing regulatory fee category only after developing a sufficient basis for making the change, and works to ensure that all changes ensure that our assessment of regulatory fees is fair, administrable, and sustainable.[50]

12. 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.[51] In 2020, for example, the Commission included

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makes clear that this adjustment applies only to increases or decreases "in the number of units subject to the payment of [regulatory] fees," not to adjustment of whole categories of regulatory fee payors unrelated to the number of units in each fee category. 47 U.S.C. § 159(c)(1)(A) (requiring the Commission to "by rule adjust the schedule of regulatory fees established under this section" to "reflect unexpected increases or decreases in the number of units subject to the payment of such fees. . . .").

[45] 47 U.S.C. § 159(A)(b)(1).

[46] Section 9(c)(1)(B) of the 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). Such changes under section 9(c) of the Act fall under the section 9A(b)(1) Congressional notification requirements. 47 U.S.C. §§ 159A(b)(1), 159(c).

[47] *FY 2021 Report and Order*, 36 FCC Rcd at 12999, para. 17. Changes under section 9(d) of the Act fall under the section 9A(b)(2) 90-day notification to Congress. 47 U.S.C. §§ 159A(b)(2), 159(d).

[48] 47 U.S.C. § 159(d).

[49] 47 U.S.C. § 159(A)(b)(2).

[50] *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, MD Docket No. 13-140, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 28 FCC Rcd 7790, 7798-7807, paras. 17-40 (2013); *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). While IOAA no longer applies to the Commission, we remain cognizant of broader legal issues raised by user fee and/or regulatory fee precedent. *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).

[51] For example, in 2009, after reviewing the issue and industry proposals for several years, the Commission adopted a new methodology for assessing regulatory fees for submarine cable operators 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 (continued….)

non-U.S. licensed space stations with U.S. market access grants in the existing "Space Stations" fee category.[52] 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.[53] More recently, the Commission adopted a new methodology for calculating small satellite regulatory fees in the *Space Station Regulatory Fees Order*,[54] and we are using that methodology for FY 2024.

III. REPORT AND ORDER

13. In this Report and Order, we adopt a schedule of regulatory fees, as set forth in Appendices B and C, to collect $390,192,000 in congressionally required regulatory fees for FY 2024 by the end of September.[55] We are implementing the same methodology we have used historically for allocating FTEs and the new methodology adopted in the *Space Station Regulatory Fees Order* for determining regulatory fees for small satellites.[56] This Report and Order adopts the proposal from the *Space and Earth Station Regulatory Fees NPRM* to revise the allocation of the share of Space Bureau regulatory fees among earth and space stations[57] and the GSO/NGSO regulatory fees allocation, as well as to maintain the current allocation between "less complex" and "other" NGSO space stations fee categories.[58] We also adopt the proposals, as modified herein, in our *FY 2024 NPRM*, and reallocate 61 indirect FTEs as direct to certain Commission core licensing bureaus.[59] Additionally, we adopt our proposal for the calculation of television broadcaster regulatory fees for FY 2024 and, effective for FY 2025, we discontinue the presumption that broadcast stations that are dark or were recently dark or bankrupt are experiencing financial hardship sufficient to justify waiver of their regulatory fees. We also provide notice that for FY 2024 we will offer some but not all of the limited remaining temporary relief

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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, Report and Order, and Order, 30 FCC Rcd 5354, 5358, para. 9 (2015) (*FY 2015 NPRM*); *FY 2013 NPRM*, 28 FCC Rcd at 7810-11, paras. 50-52. In the *FY 2021 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.

[52] *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, MD Docket No. 20-105, Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, 4979-91, paras. 7-34 (2020) (*FY 2020 NPRM*).

[53] *Id*. at 4980-4991, paras. 10-33. 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.

[54] *Space Station Regulatory Fees Order* at *3, paras. 8-15.

[55] 47 U.S.C. §§ 156, 159.

[56] *Space Station Regulatory Fees Order* at *3, paras. 8-15.

[57] *Space and Earth Station Regulatory Fees NPRM* at *27, paras, 71-72

[58] *Id.* at *6, paras. 16-22 and 23-26.

[59] Based on our analysis, 63 indirect FTEs are reassigned as direct FTEs for regulatory fee purposes. In addition, two direct FTEs are identified as working on tasks involving the Enforcement Bureau, and are reassigned as indirect. The indirect FTEs reassigned as direct are from OEA (29), OGC (4), and PSHSB (30).

previously offered in response to the COVID-19 pandemic; that is, the Office of Managing Director will continue assessing the lowest interest rate permitted by statute and forgo the customary down payment for fee payors who are eligible for installment payment relief.

A. Methodology for Assessing Regulatory Fees and Reallocating FTEs

14. The three main factors in determining regulatory fees are the amount of the FY appropriation, direct FTE levels in core bureaus, and relevant unit measures for each regulatory fee category. Section 9 of the 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."[60] With respect to determining the number of direct FTEs, we first take into consideration any adjustments necessitated by changes in these factors from the prior fiscal year. Second, we look to the core bureaus within the Commission in order to identify the number of direct non-auction FTEs in each core bureau for purposes of the regulatory fee calculation.[61] After we calculate the number of direct FTEs for each core bureau, we can determine the percentage of the total amount of regulatory fees to be collected from each regulatory fee category within each core bureau. These proportional calculations allocate all Commission non-auction related costs across all regulatory fee categories.

15. In FY 2023, in addition to looking at the current allocation of direct FTEs within the core bureaus, the Commission analyzed the work of indirect FTEs in non-core bureaus and offices and, where the Commission could determine with reasonable accuracy that such work was spent on the regulation and oversight of a regulatory fee category, the Commission reallocated the burden of that work as direct to a core bureau, for regulatory fee purposes.[62] As a result of such analysis for FY 2023, 63 indirect FTEs from the Office of General Counsel (OGC), the Office of Economics and Analytics (OEA), and the Public Safety and Homeland Security Bureau (PSHSB) were reallocated as direct FTEs to a core bureau, for regulatory fee purposes, based on the Commission's evaluation of the burden of their work.[63] For FY 2024, we are adopting the same analysis of indirect FTEs.

16. In our *FY 2023 Report and Order*, we explained that FY 2024 would be the first year where we incorporate the Space Bureau and the Office of International Affairs into our analysis, even though the organizational changes became effective on April 13, 2013.[64] Below we explain how changes in the FTE allocations impact our analysis. For FY 2024, we analyzed the work of PSHSB, OGC, and OEA FTEs to determine whether any of their indirect FTE work should be allocated as direct FTEs to a core bureau for regulatory fee purposes, as we had done in FY 2023.[65] As described in more detail below,

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[60] 47 U.S.C. § 159(d).

[61] The remaining non-auction FTEs and other Commission costs are considered indirect and are not part of the regulatory fee calculation.

[62] *FY 2023 Report and Order* at *5, paras. 15-47. For FY 2023, the 63 indirect FTEs were from OEA (30), OGC (5), and PSHSB (28). In doing this reallocation we stated that the general methodology for establishing regulatory fees has been, and continues to be, appropriate and consistent with section 9 of the Act. *Id.* at *5, para. 14.

[63] *Id.* at *8, paras. 24-47.

[64] *Id.* at *22, para. 72, n.127 (noting that FY 2023 was the last year in which the Commission would determine FTE allocations for the International Bureau, and that in FY 2024, the Commission would instead determine FTE allocations for the Space Bureau and the Office of International Affairs.). Thus, the increase in direct FTEs in the Space Bureau in FY 2023 was not reflected in FY 2023 regulatory fees for space and earth stations.

[65] In the *FY 2023 NPRM*, the Commission recognized that any 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. *Review of the Commission's Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, MD Docket Nos. 22-301, 23-159, Report and Order and Notice of Proposed Rulemaking, 38 FCC Rcd 4580, 4593, para. 26 (2023) (*FY 2023 NPRM*).

61 indirect FTEs (after two Media Bureau FTEs are assigned to the Enforcement Bureau because of the tasks that are performed by the two Media Bureau staff) are reallocated as direct FTEs to a core bureau for regulatory fee purposes, based on our evaluation of the burden of their work. We find that these proposed reallocations are consistent with section 9 of the Act, which requires us to base our methodology on the number of FTEs in calculating regulatory fees.[66]

B. Reallocations, for Regulatory Fee Purposes, of Certain Indirect FTEs as Direct FTEs

17. For FY 2024, we reallocate 61 indirect FTEs from the Office of Economics and Analytics, the Office of General Counsel, and the Public Safety and Homeland Security Bureau and add those FTEs as direct to the relevant core bureaus, for regulatory fee purposes.[67] Based upon our evaluation of indirect FTE time in the Office of Economics and Analytics, the Office of General Counsel, and the Public Safety and Homeland Security Bureau, we find that 63 indirect FTEs should be reallocated as direct FTEs because they devote their time to the oversight and regulation of regulatory fee payors. We will also continue to reallocate two direct FTEs from the Media Bureau as indirect because the nature of their work is sufficiently linked to work that is similar to that performed in the Enforcement Bureau, which has been categorized as indirect.[68] As we explained in the *FY 2023 NPRM*, when we discuss FTEs, we are not referring to any particular employee at the Commission but rather to an amount of work performed annually by a full time employee or employees.[69] In analyzing the work, we applied conservative estimates so as not to imply a false sense of precision in the proposed reallocation.[70] Specifically, where the amount of work under consideration for reallocation of an indirect FTE was half an FTE or less, we rounded down and we only proposed our reallocations in full FTE increments.[71] As we have discussed our analysis for the Office of Economics and Analytics,[72] the Office of General

[66] 47 U.S.C. § 159(d).

[67] The number of direct FTEs for each core bureau/office, *including* the reallocations we discuss below, are as follows: Office of International Affairs (8), Space Bureau (49), Wireless Telecommunications Bureau (119), Wireline Competition Bureau (151.25), and Media Bureau (138). This includes the reallocation of two Media Bureau FTEs from direct to indirect, for regulatory fee purposes.

[68] *FY 2023 Report and Order* at *22, para. 70. The Commission determined that certain FTEs in the Policy Division of the Media Bureau devote time to enforcement related matters, rather than oversight and regulation, including investigations of political programming and retransmission consent rule compliance such that, in order to be consistent with the manner that we treat other enforcement efforts in the Commission, the burden of this FTE time should be reallocated as indirect for regulatory fee purposes. *Id.* These two FTEs, reassigned from direct as indirect, result in a net reallocation of FTEs of 61 (63-2=61).

[69] *FY 2023 NPRM*, 38 FCC Rcd at 4591, note 58.

[70] *Id*..

[71] *Id*..

[72] *FY 2023 Report and Order* at *8, paras. 24-30; *FY 2023 NPRM*, 38 FCC Rcd at 4594-96, paras. 27-31. For FY 2024, staff analysis of OEA's work has slightly changed from FY 2023. We find that only one FTE should be reallocated to the Space Bureau based on OEA's work on satellite service related issues. Although in FY 2023 we found that the work of two FTEs from OEA addressing undersea cables, international bearer circuits, and satellite services related issues was done directly in furtherance of the oversight and regulation of International Bureau regulatory fee payors, this year, after careful analysis, we reallocate one indirect FTE as direct to the Space Bureau to address oversight of satellite services. This FTE evaluates mergers, transactions, and acquisitions and benefits and costs associated with orbital debris mitigation and changes in spectrum authorization for different Space Bureau regulatees. We therefore reallocate 29 indirect FTEs from OEA as direct to a core bureau for a regulatory fee purposes for FY 2024 as follows: one to the Space Bureau, eight to the Wireless Telecommunications Bureau, 13 to the Wireline Competition Bureau, and seven to the Media Bureau.

Counsel,[73] and the Public Safety and Homeland Security Bureau[74] reallocations in the *FY 2023 Report and Order* and the *FY 2023 NPRM*, we are not repeating the analysis here.

18. Based on these reallocations, and after adjustments are made to these direct FTE counts to implement Commission precedent, we will collect approximately $6.711 million (1.72%) in fees from the Office of International Affairs regulatory fee payors; $41.204 million (10.56%) in fees from the Space Bureau regulatory fee payors; $100.084 million (25.65%) in fees from Wireless Telecommunications Bureau regulatory fee payors; $127.203 million (32.60%) in fees from Wireline Competition Bureau regulatory fee payors; and $114.990 million (29.47%) in fees from Media Bureau regulatory fee payors. The reallocations for regulatory fee purposes will result in increasing the number of direct FTEs in core bureaus and increasing the percentage of FTEs in some of the bureaus. Our underlying methodology for calculating regulatory fees remains unchanged; our regulatory fee calculation continues to be consistent with section 9 of the Act, which requires us to base our methodology on the number of FTEs in calculating regulatory fees.[75]

Core bureau/office	Total FY 2024 direct FTEs *without* reallocations	FY 2024 reallocations	Total FY 2024 direct FTEs *with* reallocations	FY 2024 percent of direct FTEs, after reallocation
Office of International Affairs	8	0	8	1.72%
Space Bureau	48	+1 (1 from OEA)	49	10.56%
Wireless Telecommunications Bureau	95	+24 (8 from OEA, 2 from OGC, and 14 from PSHSB)	119	25.65%
Wireline Competition Bureau	128.25	+23 (13 from OEA, 1 from OGC, and 9 from PSHSB)	151.25	32.60%
Media Bureau	125	+13 (7 from OEA, 1 from	138	29.47%

[73] *FY 2023 Report and Order* at *9, paras. 31-34; *FY 2023 NPRM*, 38 FCC Rcd at 4596-97, paras. 32-35. For FY 2024, we find that the evidence does not support reallocating an OGC FTE to the Space Bureau or the Office of International Affairs because such FTE time devoted to former International Bureau issues is focused on Office of International Affairs matters that are indirect, rather than issues pertaining to regulatory fee payors and, as we did for FY 2023, we are not reallocating as a direct FTE if the indirect FTE time at issue is less than a full FTE. As we did in FY 2023, we are reallocating one FTE as direct to the Wireline Competition Bureau; two FTEs as direct to the Wireless Telecommunications Bureau; and one FTE as direct to the Media Bureau, proportionally among the Media Bureau fee categories.

[74] *FY 2023 Report and Order* at *11, paras. 35-46; *FY 2023 NPRM*, 38 FCC Rcd at 4597-4600, paras. 36-59. For FY 2024, we allocate a total of 30 PSHSB FTEs as direct to a core bureau for regulatory fee purposes for FY 2024 as follows: 14 to the Wireless Telecommunications Bureau, nine to the Wireline Competition Bureau, and seven to the Media Bureau. In the *FY 2024 NPRM*, we proposed reallocating two FTEs to the Space Bureau, but upon further analysis of the record, we conclude that those FTEs are appropriately considered indirect FTEs for regulatory fee purposes.

[75] 47 U.S.C. § 159(d).

		OGC, 7 from PSHSB, and -2 from EB)		
Total	404.25	61	465.25	100%

C. Space Bureau and Office of International Affairs

19. Among its responsibilities regarding satellite and space-based communications and activities, the Space Bureau leads complex policy analysis and rulemakings; authorizes satellite and earth station systems used for space-based services; streamlines regulatory processes; and fosters the efficient use of spectrum and orbital resources. The Space Bureau also serves as the Commission's focal point for coordination with other U.S. government agencies on matters of space policy and governance and collaborates with the Office of International Affairs for consultations with other countries, international and multi-lateral organizations, and foreign government officials that involve satellite and space policy matters.

20. The Space Bureau has three divisions that have the functions previously handled by the International Bureau's Satellite Division:[76] the Satellite Licensing Division,[77] the Satellite Programs and Policy Division,[78] and the Earth Station Licensing Division.[79] Pursuant to the procedure discussed in paragraph six, above, our Human Resources Management office has identified 54 FTEs in the Space Bureau for FY 2024; of these, 48 are categorized as direct FTEs and six are devoted to matters that do not provide oversight and regulation of any category of regulatory fee payors, and thus are indirect FTEs.

21. The indirect Space Bureau FTEs coordinate with the National Aeronautics and Space Administration (NASA),[80] Federal Aviation Administration (FAA),[81] National Oceanic and Atmospheric Administration (NOAA),[82] and the State Department[83] on space sustainability, planetary protections, and on space innovation. They assist the Office of Engineering and Technology in reviewing applications for experimental licenses for space-based activities. The Space Bureau works closely with the Office of International Affairs to help cover certain ITU World Radiocommunications Conference (WRC) agenda

[76] *Space Bureau Order*, 38 FCC Rcd at 609, para. 7.

[77] The Satellite Licensing Division is responsible for the engineering review of satellite systems applications, and for registering FCC-licensed satellite systems with the ITU. *See* FCC, Satellite Licensing Division Page, available at https://www.fcc.gov/satellite-licensing-division-page (last visited June 7, 2024).

[78] The Satellite Programs and Policy Division develops and administers rules, regulations, and policies to support a competitive and innovative space-based global telecommunications marketplace. *See* FCC, Satellite Programs and Policy, available at https://www.fcc.gov/satellite-programs-and-policy-division (last visited June 7, 2024).

[79] The Earth Station Licensing Division is responsible for the technical analysis, review, and licensing of applications and special temporary requests for satellite earth stations. *See* FCC, Earth Station Licensing Division, available at https://www.fcc.gov/earth-station-licensing-division (last visited June 7, 2024).

[80] 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*, available at https://www.nasa.gov/about/index.html (last visited July 22, 2024).

[81] The FAA, part of the U.S. Department of Transportation, regulates civil aviation. *See* Federal Aviation Administration, available at https://www.faa.gov/ (last visited July 22, 2024).

[82] NOAA, part of U.S. Department of Commerce, holds key leadership roles in shaping international ocean, fisheries, climate, space and weather policies. See National Oceanic and Atmospheric Administration, U.S. Department of Commerce, available at https://www.noaa.gov/ (last visited July 22, 2024).

[83] U.S. Department of State, available at https://www.state.gov/ (last visited July 22, 2024).

items.[84] We conclude that six Space Bureau FTEs are appropriately considered indirect as such work does not focus on the oversight and regulation of a specific category of regulatory fee payors, but instead benefits the Commission, the telecommunications industry, or the public as a whole, or in the case of work done on experimental licenses, is in furtherance of licenses that are not currently subject to a regulatory fee.[85]

22. We reject Kinéis' argument that we should consider more of the Space Bureau direct FTEs as indirect for regulatory fee purposes in order to reduce the regulatory fees for space stations.[86] We recognize that previously the International Bureau had only 28 direct FTEs (of which 20 worked on space and earth stations). As explained above, we obtained FTE data from our Human Resources Management office and determined that for FY 2024, there are a total of 54 FTEs within the Space Bureau. After consultation with the Space Bureau and careful analysis, we have determined with reasonable accuracy for this fiscal year that 48 FTEs are direct FTEs and six are indirect FTEs, (and one indirect FTEs is designated as direct), for a total of 49 direct FTEs in the Space Bureau. Of these 49 direct FTEs, nine are devoted to oversight and regulation of earth stations and 40 to space stations. This FTEs work directly relates to the oversight and regulation of regulatory fee payors in a core bureau such that it should be considered as direct. As such, it would not be consistent with our implementation of section 9 to reassign them as indirect in order to reduce the regulatory fees of the space and earth station regulatory fee payors.

23. Thus, for FY 2024, we have a total of 54 FTEs within the Space Bureau, 48 direct FTEs, six indirect FTEs, and one indirect FTE from OEA designated as direct, for a total of 49 direct FTEs, an increase from the 20 FTEs from FY 2023 working on Space and Earth Stations.[87]

1. Space Stations and Earth Stations

24. There are two main categories of Space Bureau regulatory fee payors: earth and space stations. There is a single category of earth station payors – Earth Stations: Transmit/Receive & Transmit only.[88] Space stations consist of those in geostationary satellite orbit (GSO) and those in non-geostationary satellite orbit (NGSO) .[89] There are four categories of space station regulatory fee payors: Space Stations (Geostationary Orbit); Space Stations (Non-Geostationary Orbit)—Less Complex; Space

[84] *See* ITU, Committed to Connecting the World, World Radiocommunication Conferences (WRC), available at https://www.itu.int/en/ITU-R/Conferences/WRC/Pages/default.aspx (last visited July 22, 2024). 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. *See* ITU, the UN Agency for Digital Technologies, Radio Regulations 2020, available at https://www.itu.int/hub/publication/r-reg-rr-2020/ (last visited July 22, 2024).

[85] *FY 2022 Report and Order*, 37 FCC Rcd at 10882-84, paras. 76-80.

[86] Kinéis Comments at 4.

[87] Previously, we adjusted the FTE allocation for the international bearer circuit category to eight FTEs, and the FTEs for the satellite category to 20; the total number of direct FTEs for the International Bureau at that time was 28. *FY 2020 NPRM*, 35 FCC Rcd at 4992, para. 36.

[88] 47 CFR § 1.1156.

[89] A GSO space station is defined as "[a] geosynchronous satellite whose circular and direct orbit lies in the plane of the Earth's equator and which thus remains fixed relative to the Earth; by extension, a geosynchronous satellite which remains approximately fixed relative to the Earth." 47 CFR § 25.103. A NGSO space station is a space station that is not in geostationary orbit.

Stations (Non-Geostationary Orbit)—Other; and Space Station (Small Satellites). "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).[90] "Small Satellites" are space stations licensed pursuant to the streamlined small satellite process contained in section 25.122 of the Commission's rules.[91] Since our fiscal year 2020 proceeding, non-U.S. licensed space stations granted market access to the United States through a Petition for Declaratory Ruling or through earth station licenses are subject to regulatory fees.[92]

25. The units of assessment for GSO and NGSO space station regulatory fee categories differ in that the fee for GSO space stations is assessed per satellite in geostationary orbit, whereas the fee assessed for NGSO systems, either "less complex" or "other," is per system of satellites, with no limit on the number of satellites per system. Fees for small satellites are assessed per license/call sign, which can include up to 10 satellites or spacecraft. The unit of regulatory fees for GSO space stations is a single satellite, whereas the unit of regulatory fees for NGSO space stations can include many satellites. Thus, although the single highest regulatory fee for space stations is for Space Stations (Non-Geostationary Orbit) – Other, this fee reflects the regulatory burden associated with the licensing and oversight of numerous space stations in the system, usually subject to processing rounds, complex spectrum sharing arrangements, and providing global coverage.[93] By contrast, the per unit fee for Space Stations (Geostationary Orbit) is lower, but an operator providing global coverage may be paying regulatory fees on multiple GSO space stations, which could result in annual regulatory fee payments by a single fee payor in aggregate far greater than the regulatory fee for Space Stations (Non-Geostationary Orbit) – Other providing similar services and coverage.[94]

a. Small Satellites and RPO, OOS, and OTV Regulatory Fees

26. In 2019, the Commission adopted a new, optional licensing process for small satellites and spacecraft and a small satellite regulatory fee category for licensed and operational space stations

[90] *Assessment and Collection of Regulatory Fees for Fiscal Year 2021, Assessment and Collection of Regulatory Fees for Fiscal Year 2020,* Report and Order and Notice of Proposed Rulemaking, 36 FCC Rcd 8580, 8583-84, para. 7 (2021) (*FY 2021 NPRM*). 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).

[91] 47 CFR § 25.122.

[92] *Assessment and Collection of Regulatory Fees for Fiscal Year 2020,* MD Docket 20-105, Report and Order and Further Notice of Proposed Rulemaking, 36 FCC Rcd 1731, 1743-1750, paras. 30-47 (2020) (*FY 2020 Report and Order)*.

[93] In the *Space and Earth Station Regulatory Fees NPRM*, the Commission sought comment on adopting tiers for NGSO-Other systems, based on the size of the systems. *Space and Earth Station Regulatory Fees NPRM* at *10, paras. 28-36. Several commenters discussed this proposal. *See, e.g*., Capella Comments at 4-5; BlackSky Comments at 1-4; Eutelsat Group Comments at 3-4; Tomorrow Comments at 2. We are not, however, adopting this new methodology in this Report and Order for FY 2025, but will seek further comment in order to fully develop the record on this issue. If we adopt such a change, we expect it would be effective for FY 2025. Because such a change in methodology requires a 90-day notice to Congress, we would be unable to adopt it here for FY 2024. The Commission also sought comment on assessing regulatory fees on space stations that are licensed but not yet operational. *Space and Earth Station Regulatory Fees NPRM* at paras. 57-65. Several commenters disagree with this proposal. *See, e.g*., Kinéis Comments at 2-3. Other commenters support the proposal. *See, e.g*., Iridium Comments at 5-7. At this time, we are not adopting the proposal to assess regulatory fees on licensed but not operational space stations. Instead, we plan to seek further comment on this issue to further develop the record. We intend to resolve this issue during FY 2025.

[94] For example, one regulatory fee payor in FY 2023 was assessed fees for 48 GSO space stations, for a total of $5,643,840.

authorized under the process adopted in that proceeding.[95] This process enabled qualified applicants to choose a streamlined licensing procedure resulting in an easier application process, a lower application fee, and a shorter timeline for review.[96]

27. In our recent *Space Station Regulatory Fees Order*, the Commission adopted the proposal to set the regulatory fee for small satellites for FY 2024 at the level set for FY 2023, i.e., $12,215, with future annual adjustments to reflect the percentage change in the Commission's annual appropriation, unit count, and FTE allocation percentage from the previous fiscal year.[97] The Commission stated that changes to the methodology for assessing fees for small satellites would be implemented as part of the order adopting FCC-wide regulatory fees for FY 2024.[98] Accordingly, we are assessing the small satellite fee for FY 2024 at $12,215.

28. The *Space Station Regulatory Fees Order* also adopted the proposal to assess regulatory fees, effective for FY 2024, on spacecraft primarily performing Rendezvous and Proximity Operations (RPO) and On-Orbit Servicing (OOS) by including them in the existing regulatory fee category "Space Stations (per license/call sign in non-geostationary orbit) (Small Satellites)," on an interim basis, regardless of the orbit in which they are designed to operate.[99] It also concluded that it is appropriate to assess regulatory fees on Orbital Transfer Vehicles (OTV) on an interim basis in the same manner,[100] and stated that the changes to the methodology for assessing fees for RPO, OOS, and OTV space stations would be implemented as part of the order adopting FCC-wide regulatory fees for FY 2024.[101] Accordingly, we will assess regulatory fees on RPO, OOS, and OTV space stations for FY 2024 using the regulatory fee category for small satellites, if such stations are required to pay regulatory fees for FY 2024.[102]

b. GSO and NGSO Space Stations Allocation

29. Under an allocation adopted in 2020, 80% of space station regulatory fees are allocated to GSO space station fee payors and 20% of the space station regulatory fees to NGSO space station fee

[95] *Streamlining Licensing Procedures for Small Satellites*, IB Docket No. 18-86, Report and Order, 34 FCC Rcd 13077, 13080, 13082, 13118-119, paras. 10, 16, 99 (2019) (*Small Satellite Report and Order*). Small spacecraft are NGSO space stations designed to operate beyond Earth's orbit, and which conform to a set of criteria similar in many respects to those of "small satellites." *See* 47 CFR §§ 25.103, 25.123.

[96] *Small Satellite Report and Order,* 34 FCC Rcd at 13118-19, para. 105.

[97] *Space Station Regulatory Fees Order* at *3, para. 10. For FY 2024, we will continue to multiply the per unit regulatory fee for small satellites by the number of small satellite units for the fiscal year and deduct this amount from the NGSO share of space station regulatory fees. *Id.* at *4, para. 11,

[98] *Id*.

[99] *Id.* at *4, para. 12. RPO and OOS missions can include satellite refueling, inspecting and repairing in-orbit spacecraft, capturing and removing debris, and transforming materials through manufacturing while in space. *Id.*

[100] *Id.* (adopting the tentative conclusion that the existing small satellite regulatory fee category is the most appropriate category to apply until such time as the Commission determines that separate fee categories for RPO, OOS, and OTV space stations are appropriate.)

[101] *Id.* at *5, para. 15.

[102] The *Space Station Regulatory Fees Order* declined to address the proposal that RPO or OOS space stations that are attached to another space station as part of servicing or mission extension operations be assessed regulatory fees separate from, and in addition to, any regulatory fees assessed on the space station that is being serviced or that is having its mission extended. *Id.* at *6, para. 17. Accordingly, adoption of the proposal to assess regulatory fees on RPO, OOS, and OTV space stations using the existing small satellite fee category does not change the Commission's interim determination that RPO and OOS space stations joined to GSO space stations during servicing or mission extension operations should not be assessed separate regulatory fees.

payors respectively.[103] We now adopt the proposal in the *Space and Earth Station Regulatory Fees NPRM* to change the allocation of space station regulatory fees from 80% of space station regulatory fees being allocated to GSO space station fee payors and 20% of the space station regulatory fees being allocated to NGSO space station fee payors to 60% of space station regulatory fees being allocated to GSO space station payors and 40% to NGSO space station payors (that is, changing from an "80/20 GSO/NGSO split" to a "60/40 GSO/NGSO split").[104] The new allocation is supported by many comments, particularly from GSO space station fee payors.[105] We recognize that this will result in increases to fees for NGSO systems; however, we conclude that this is consistent with section 9 of the Act because this change more accurately reflects the apportionment of current FTE work between these two categories of regulatory fee payors since the Commission last assessed the allocation in 2020.

30. As explained the *Space and Earth Station Regulatory Fees NPRM*, this change in the FTE allocation between GSO and NGSO fee categories is not based on a new methodology, but rather application of the existing methodology analyzing data from the previous three fiscal years.[106] Specifically, the proposal focused on three factors that the Commission's previously had found to be reflective of licensing and regulatory oversight of GSO and NGSO operators: the number of applications processed,[107] the number of changes made to the Commission's rules,[108] and FTEs devoted to oversight of

[103] *See FY 2020 Report and Order*, 35 FCC Rcd at 4993, para. 41.

[104] *Space and Earth Station Regulatory Fees NPRM* at *7, paras. 18-22.

[105] Several commenters support the 60/40 GSO/NGSO allocation proposal. *See, e.g.*, Intelsat Comments at 10-11; Eutelsat Group Comments at 2-3 (observing that while a single GSO application may not take as much time as a single NGSO application, the large volume of GSO applications justifies a 60/40 split). Commenters to the *Space and Earth Station Regulatory Fees NPRM* also supported this proposal. *See, e.g.*, Intelsat Comments at 8 (filed Apr. 12, 2024); SES Comments at 5 (filed Apr. 12, 2024); EchoStar/DirecTV Reply at 1, 2 (filed Apr. 29, 2024); Eutelsat Group Reply at 2-3 (filed Apr. 29, 2024); Sirius XM May 22 *ex parte* at 1-4 (the data shows that more of the Commission's substantive proceedings in recent years involved NGSO, rather than GSO, and that NGSO applications were 30% of total submissions). Kinéis suggests that we wait until FY 2025 to adopt any change in the GSO/NGSO allocation. Kinéis Comments at 4. Iridium contends that adopting the 60/40 split for FY 2024 would impose a burden on smaller NGSO systems. Iridium Reply at 3-4. We are not convinced that we should delay this allocation, in that it more accurately represents the FY 2024 FTE burden within the Space Bureau.

[106] *Space and Earth Station Regulatory Fees NPRM* at *7, paras. 18-22.

[107] As discussed in the *Space and Earth Station Regulatory Fees NPRM*, 526 distinct applications for space stations were filed during this three year time period, FY 2021-FY 2023, of which 322 applications were filed for GSO space stations (61%) and 204 applications for NGSO space stations (39%). The number of applications received during this three-year period supports a larger allocation of FTE time to GSO fee payors than to NGSO fee payors. *Id.* at *7, para. 18. Unlike the methodology used in 2020, we do not look at disposition of applications, only applications filed because the evaluation in 2020 did not reveal significant disparity in the number of applications received and disposed of. *FY 2020 NPRM*, 35 FCC Rcd at 4994, para. 42.

[108] We identified 16 docketed proceedings during FY 2021-2023, of which eight substantively involved GSO space stations (50%) and 12 substantively involved NGSO space stations (75%). Accordingly, the data indicated that there were more rulemakings substantively involving NGSO space stations than GSO space stations. We did not count docketed proceedings for transfer of control or assignment applications or other docketed proceedings that did not make changes to the Commission's rules. We included a docketed proceeding to modify the conditions relating to the International Telecommunications Satellite Organization placed on the licenses of a GSO space station operator, (Request By Intelsat License LLC, As Debtor In Possession, For Modification Of License Conditions Relating To The International Telecommunications Satellite Organization, IB Docket No. 20-417), even though it was not a rulemaking proceeding, because it involved changes to the conditions on a large number of space station licenses that required significant FTE resources to process. *Space and Earth Station Regulatory Fees NPRM* at *7, paras. 19-20.

each category of operators.[109] Analyzing this data, the *Space and Earth Station Regulatory Fees NPRM* tentatively concluded that a greater allocation of regulatory fees to NGSO space stations than was adopted by the Commission in 2020 more accurately reflects the benefits of the Commission's oversight and regulatory efforts for GSO and NGSO space stations for FY 2024.[110] After reviewing the proposal and the record in response to the proposal, we find no significant error in the input data or the conclusions drawn from the data. Accordingly, we adopt the proposed updated allocation of 60% of space station regulatory fees being assessed to GSO space stations and 40% to NGSO space stations.[111]

31. We disagree with the NGSO space station operators that dispute the accuracy of the input data or the conclusions drawn from the data.[112] Specifically, SpaceX argues that the increased FTE burdens associated with NGSO space station regulation result from the opposition of GSO space stations to applications for NGSO space stations, and that the methodology does not take into account purportedly smaller amount of FTE resources needed to process amendments to NGSO space station applications or modifications of NGSO space station authorizations that do not increase interference or orbital debris risk.[113] Other commenters argue that the Commission should not base its regulatory fee allocations on historical events, i.e., proceedings during the past three fiscal years, particularly transitory activities that have been completed[114] and that the Commission's methodology focuses too much on licensing and regulation costs but does not sufficiently consider the benefits received as a result of the Commission's activities.[115] We find, however, that these concerns do not undermine an adoption of an updated allocation between GSO and NGSO categories because these commenters fail to consider that the methodology we use here represents our analysis of the FTE time split on these categories and is the same methodology as was used in 2020 to establish the existing 80/20 allocation that they support.[116] Furthermore, as the Commission has repeatedly acknowledged, attributing a value to proceedings is not an exercise in scientific precision, but rather an exercise in reasonable analysis.[117]

32. We are also unconvinced that amendments to NGSO space station applications or modifications of NGSO space station authorizations do not raise interference or orbital debris risks, and

[109] While there are issues of fact, law, engineering, and the physics of electromagnetic propagation that may be unique to GSO or NGSO space stations, many issues that Space Bureau staff work on cannot be apportioned between GSO and NGSO regulatory fee categories. *See Space and Earth Station Regulatory Fees NPRM* at *8, para. 21.

[110] *Id.* at *8, para. 22.

[111] *Id.*

[112] Kinéis Comments at 4-6 (filed Apr. 12, 2024); SpaceX Comments at 11-12 (filed Apr. 12, 2024); Telesat Canada Comments at 8-9 (filed Apr. 12, 2024).

[113] SpaceX Comments at 11-12 (filed Apr. 12, 2024). *See also* Telesat Canada Reply Comments at 6 (filed Apr. 29, 2024) (arguing that much of the work of NGSO proceedings has been generated by disputes between GSO and NGSO interests that should also be attributed to the GSO share of space station regulatory fees).

[114] Telesat Canada Comments at 8-9 (filed Apr. 12, 2024) (asserting that NGSO regulatory activity is declining because of the adoption of service and technical rules for larger NGSO systems and completed proceeding rounds for NGSO systems in most frequency bands); Telesat Canada Reply at 6 (filed Apr. 29, 2024).

[115] Kinéis Comments at 2 (filed Apr. 12, 2024). Kinéis, however, also states that its NGSO system is not yet operational. Kinéis Comments at 2-3.

[116] *Space and Earth Station Regulatory Fees NPRM* at *7, para. 17 ("In proposing this change in allocation, we employ the same methodology that was used by the Commission in 2020 in adopting the '80/20' split between GSO and NGSO space station fee payors.") It is inconsistent to challenge the methodology used to support the proposed 60/40 GSO/NGSO split in FY 2024 in order to preserve the 80/20 GSO/NGSO split that was adopted in 2020 using the same methodology.

[117] *Id.* at *7, para. 20, citing *FY 2020 Report and Order*, 35 FCC Rcd at 4994, para. 43.

therefore require less FTE burdens to authorize. Moreover, we reject the concept that comments or oppositions filed by GSO space station operators in response to NGSO space station filings support attributing those NGSO space station filings to the GSO share of space station regulatory fees. The underlying application is for an NGSO system. Parsing comments filed, or for that matter, issues raised by Commission staff in the Space Bureau or other core bureaus to determine if they might be attributed to other regulatory fee payors is not practicable or advisable in this context. The filing of comments or oppositions is a direct consequence of the filing and review of NGSO space station applications. Thus it is reasonably attributable to the NGSO share of the space station regulatory fees. We conclude, that all of these factors validates that the GSO/NGSO ratio should be adjusted to reflect that GSO space stations derive roughly 60% of the benefit from the Commission's regulatory efforts and NGSO space stations derive roughly 40%. Finally, we observe that the Commission has repeatedly stated that "Section 9 is clear . . . that regulatory fee assessments are based on the burden imposed on the Commission, not benefits realized by regulatees."[118] We affirm that it is appropriate under section 9 of the Act for the methodology used to determine the allocation of space station regulatory fees between GSO and NGSO space station fee categories to focus exclusively on the FTE burdens associated with each category.

33. We therefore adopt this changed allocation of space station regulatory fees between GSO and NGSO space stations to become effective for FY 2024. Because the change in FTE burdens is not the result of new fee categories or a different methodology, it is not an amendment that requires 90-day notice to Congress under section 9A(b)(2) of the Act before becoming effective.[119] Given that the change is a result of our current evaluation of the FTE burdens between the two categories of space stations, we find it is appropriate to adopt the change now rather than to adopt it to be effective in a future fiscal year. Accordingly, this change is effective for FY 2024.

c. Allocation between NGSO – Other and NGSO – Less Complex

34. We adopt the proposal in the *Space and Earth Station Regulatory Fees NPRM* to maintain the existing allocation of the regulatory fee burden between "Space Stations (Non-Geostationary Orbit) – Less Complex" and "Space Stations (Non-Geostationary Orbit) – Other" for FY 2024.[120] That is, we maintain the existing allocation of allocating 20% of NGSO space station regulatory fees to "Space Stations (Non-Geostationary Orbit) – Less Complex" and 80% to "Space Stations (Non-Geostationary Orbit) – Other" fee payors.[121] The record supports our tentative conclusion in the *Space and Earth Station Regulatory Fees NPRM* that there have not been any significant changes to the amount of FTE burdens allocated between these two fee categories since the "20/80" split of regulatory fees between NGSO "less complex" and NGSO "other" subcategories was adopted in 2021.[122]

35. In reaching the tentative conclusion, we utilized the same methodology that was used in

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[118] *Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, MD 07-81, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712, 15719, para. 19 (2007).

[119] 47 U.S.C. § 159A(b)(2).

[120] *Space and Earth Station Regulatory Fees NPRM* at *8, para. 23.

[121] The Commission has defined "less complex" NGSO systems 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). *See FY 2021 NPRM*, 36 FCC Rcd 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)

[122] *Space and Earth Station Regulatory Fees NPRM* at *8, para. 23, citing *FY 2021 Report and Order*, 36 FCC Rcd at 13018-19. para. 58.

2021 to adopt the existing 20/80 split between Less Complex and Other NGSO space station payors.[123] Specifically, we considered the number of applications processed, the number of changes made to the Commission's rules, and the number of FTEs working on oversight for each category of operators.[124] This methodology is the same as used for determining the allocation of regulatory fees among GSO and NGSO space station fee payors. In evaluating the FTE time devoted to the "less complex" and "other" subcategories, we considered the adjudicatory role of the Commission in connection with different types of NGSO systems, which is typically more intensive for those systems authorized as part of processing rounds.[125] We also considered the number of rulemakings over the last three fiscal years, as well as current rulemakings, and which types of NGSO systems are implicated in those rulemaking activities.[126] Applying this methodology, we tentatively concluded that that more FTE time is spent on the NGSO "other" subcategory than on the NGSO "less complex" subcategory, and that the relative regulatory burden of "less complex" space station remains consistent with the existing 20% allocation.[127]

36. The only party to comment on the tentative conclusion to preserve the 20/80 split supports its adoption.[128] We see no errors in our tentative conclusion and affirm the findings that support maintaining the existing allocation of allocating 20% of NGSO space station regulatory fees to "less complex" and 80% to "Other" fee payors and, therefore, adopt the allocation for FY 2024. Maintaining the 20/80 allocation utilizes the same methodology that was used to establish it in 2021 and is not an amendment that requires 90-day notice to Congress under section 9A(b)(2) of the Act before becoming effective. Accordingly, our decision to maintain the existing 20/80 split between less complex and other NGSO space station fee payors is effective for FY 2024.

d. Earth Station Regulatory Fees

37. Earth station regulatory fees are assessed "per license or registration," and each license or registration may include a single earth station, or multiple earth stations. The starting point for calculation of regulatory fees for space and earth stations is the number of direct FTEs in the Space Bureau. For FY 2024, we have a total of 54 FTEs within the Space Bureau, 48 direct FTEs, six indirect FTEs, and one indirect FTEs designated as direct, for a total of 49 direct FTEs. Of these 49 direct FTEs, nine are devoted to oversight and regulation of earth stations and 40 are focused on space stations. As a result, the percentage of FTEs working on earth station tasks is nine out of 49, or 18.37% ($7,569,225). We adopt our tentative conclusion to apportion regulatory fees between earth and space station payors based on the percentage of direct FTEs involved in the licensing and regulation of each category.[129] With a projected unit count of 2,900, the FY 2024 earth station fee is calculated to be $2,610 per earth station license or authorization. Although this is a significant increase from the FY 2023, most comments support the increase as being reflective of the actual allocation of FTE resources between space and earth

[123] *Space and Earth Station Regulatory Fees NPRM* at *9, para. 24.

[124] *Id.*

[125] *Id*.

[126] *Id.*

[127] *Id.* at *9, para. 26.

[128] Iridium Reply at 4 (filed Apr. 29, 2024). To the extent comments address "less complex" and "other" NGSO space stations at all, it is in the context of creating tiers within those subcategories, rather than the allocation of space station regulatory fees between those subcategories. *See, e.g.,* CSSMA Comments at 3-4 (asking Commission to consider amount of NGSO regulatory activities associated with "mega constellations" versus small "other" and "less complex" systems when deciding appropriate tiers among "other" NGSO space stations and the fee split between "other" and "less complex" NGSO space stations); Maxar Reply at 3 (proposing to split the "less complex" subcategory into two tiers for larger and smaller constellations).

[129] *Space and Earth Station Regulatory Fees NPRM* at *27, para. 71.

station categories in the Space Bureau.[130] We decline to adopt the proposal of commenters to allocate an even greater share of FTE resources to earth stations, up to 30%.[131] Our analysis above of the direct FTE resources attributable to licensing and regulation of earth stations supports an allocation of 18.37%.

38. We also decline to adopt additional regulatory fee categories for earth stations at this time. The *Space and Earth Station Regulatory Fees NPRM* asked whether the Commission should revisit the question of whether to create subcategories of earth station regulatory fee payors, in addition to the existing single category of "Transmit/Receive & Transmit Only (per authorization or registration)."[132] Comments in response express doubt that the creation of subcategories of earth stations with differing fee amounts is feasible,[133] and urge that the record be further developed before creating subcategories of earth station regulatory fees.[134] Other commenters argue that transmit/receive earth stations, particularly those used by broadcasters, should be subject to significantly lower regulatory fees than other types of earth stations, such mobile-satellite earth stations.[135] We conclude that the record is not sufficiently developed at this time to adopt additional regulatory fee categories for earth stations. Instead, we will seek additional comment regarding the creation of additional earth station regulatory fee categories, as part of a future further notice of proposed rulemaking.

e. Changing the Title of Section 1.1156

39. We adopt the proposal in the *Space and Earth Station Regulatory Fees NPRM* to change the title of section 1.1156 in part 1, subpart G, of our rules[136] to make it clear that it contains space and earth station regulatory fees in addition to regulatory fees for international services.[137] Currently, space and earth station regulatory fees are contained in section 1.1156, which is titled, "Schedule of regulatory fees for international services." We adopt the proposal to rename this section as "Schedule of regulatory fees for space and international services" to reflect more accurately that the section contains the regulatory fees for space and earth stations, as well as the fees for international bearer circuits and submarine cables regulated by the Office of International Affairs. No party in the proceeding commented on or opposed the proposal.

40. We make this change because, after the reorganization of the International Bureau into the Space Bureau and the Office of International Affairs in 2023, the current title can cause confusion by suggesting that only the fees for regulatory fee payors of the Office of International Affairs are contained

[130] *See, e.g.,* CSSMA Comments at 2 (filed Apr. 12, 2024); Intelsat Comments at 8-9 (filed Apr. 12, 2024); Planet Labs Comments at 5-6 (filed Apr. 12, 2024); EchoStar/DIRECTV Reply at 3 (filed Apr. 29, 2024); Kuiper Reply at 4-5 (filed Apr. 29, 2024). One commenter sought clarification of the methodology currently used to calculate earth station regulatory fees in order to better comment on any potential changes. NAB Comments at 6-8. As we explain above, this regulatory fee is based on the percentage of direct FTEs involved in the licensing and regulation of each fee category.

[131] SES Comments at 11 (filed Apr. 29, 2024); Telesat Canada Comments at 7 (filed Apr. 12, 2024); Eutelsat Group Comments at 5 (filed Apr. 12, 2024).

[132] *Space and Earth Station Regulatory Fees NPRM* at *28, para. 73. As examples, the Commission asked if the former distinct fee categories for Very Small Aperture Terminals (VSAT), Mobile-Satellite Earth Stations, and Fixed Earth Stations should be reinstated. *Id.*

[133] *See* Anuvu Comments at 2-3 (filed Apr. 12, 2024) (stating that resurrecting subcategories for earth station regulatory fees would be exceedingly difficult to administer fairly or efficiently).

[134] EchoStar/DIRECTV Reply at 3 (filed Apr. 29, 2024); Intelsat Comments at 10 (filed Apr. 12, 2024) (encouraging the Commission to undertake an internal review of the work done by the relevant FTEs on earth station matters and to seek further comment on this proposal when the relevant information is available.)

[135] NCTA Comments at 4-5 (filed Apr. 29, 2024); State Broadcasters Comments at 10-11.

[136] 47 CFR § 1.1156.

[137] *Space and Earth Station Regulatory Fees NPRM* at *32, para. 92.

within section 1.1156. We also conclude that it is easier to change the title of section 1.1156 than to create a new section in part 1, subpart G, containing space and earth station regulatory fees.[138]

f. Other Proposals

41. At this time, we take no action on other proposals made in the *Space and Earth Station Regulatory Fees NPRM* that have not already been adopted, either herein or in the *Space Station Regulatory Fees Order*.[139] We conclude that action on these issues may benefit from further consideration. We will seek further comment on these remaining proposals in the near future in a further notice of proposed rulemaking. We expect to act on the remaining proposals in time to be effective for FY 2025.

42. In addition, in the *Space and Earth Station Regulatory Fees NPRM*, we sought comment on how the Commission's open proceeding on advancing opportunities for innovation in the new space age by taking measures to expedite the application processes for space stations and earth stations and Transparency Initiative might inform our consideration of the regulatory fee issues raised therein.[140] In response, SpaceX observes that initial reforms over the last year were an important step in the right direction that ultimately will reduce FTE burden and associated fees for regulatees.[141] It adds that "additional pending reforms—such as more flexible modification rules, overall shot clocks, and database assisted light-licensing to facilitate inter-service sharing—will dramatically reduce the number of applications that staff must process in the first place and promote more efficient review of applications that require staff attention."[142] We will consider these observations in the context of our continued efforts to streamline the application processes for space and earth stations in order to allow greater efficiencies in FTE resources utilized to license and regulate space and earth stations.

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[138] As noted in the *Space and Earth Station Regulatory Fees NPRM*, the regulatory fees for our core bureaus are currently set forth in sequential order starting at section 1.1152 (Schedule of annual regulatory fees for wireless radio services) and ending at section 1.1156. Section 1.1151 is currently in use (Authority to prescribe and collect regulatory fees), and sections 1.1157 through section 1.1167 are also all currently in use and unavailable for the creation of a new section for space and earth station fees. Thus, a new section for space and earth station fees would need to be separate from other regulatory fees, which could cause confusion. In addition, space and earth station regulatory fees have been contained in section 1.1156 since 1995, so moving them to a new fee section would break the continuity and make it harder to trace changes in the regulatory fees over time. *Space and Earth Station Regulatory Fees NPRM* at *34, para. 92 n.188.

[139] These remaining proposals consist of the proposal to create tiers of NGSO – Other space station regulatory fees, to assess regulatory fees on authorized, not just operational, stations, and to assess space station regulatory fees using an alternative methodology. *See Space and Earth Station Regulatory Fees NPRM* at *10, *21, *28, paras. 28-44, 57-67, and 76-92.

[140] *Space and Earth Station Regulatory Fees NPRM* at *35, para. 94, citing *Expediting Initial Processing of Satellite and Earth Station Applications; Space Innovation*, IB Docket Nos. 22-411 & 22-271, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-73 (rel. Sept. 22, 2023) (*Streamlining R&O and FNPRM*). As part of the *Streamlining R&O and FNPRM*, the Commission announced a Transparency Initiative with the goal of providing information and guidance, in a variety of forms, interested parties so they can understand the Commission's procedures and what is needed to obtain authorization for their proposed space station and earth station operations. *Streamlining R&O and FNPRM* at paras. 10-14. The Space Bureau maintains public resources as part of this Transparency Initiative on its website at https://www.fcc.gov/space/transparency-initiative.

[141] SpaceX Comments at 12.

[142] *Id.* at 12-13.

2. Office of International Affairs

43. The Office of International Affairs is responsible for the Commission's engagement of foreign and international regulatory authorities, including multilateral and regional organizations.[143] This office also facilitates the Commission's development of policies regarding international telecommunications facilities and services, including submarine cables, and advises and makes recommendations to the Commission on foreign ownership issues.[144] The Office of International Affairs implements Commission policies to facilitate competition and foreign investment in U.S. international telecommunications markets while ensuring, in consultation with relevant federal partners, that national security, law enforcement, foreign policy, and trade policy concerns are addressed.[145] This office is also responsible for intergovernmental leadership, and negotiation and international and inter-agency representational functions. This office oversees and coordinates the Commission's global participation in international and multilateral conferences, regional organizations, cross-border negotiations and international standard setting efforts, and oversees bilateral meetings with other countries and foreign government officials.[146] The Office of International Affairs is composed of the Global Strategies and Negotiation Division and the Telecommunications and Analysis Division.[147] Among other things, the Global Strategies and Negotiation Division staff represent the Commission in international conferences, meetings, and negotiations, and manage Commission participation in the fellowship telecommunication training program for foreign officials offered through the U.S. Telecommunications Training Institute (USTTI) as well as the Commission's International Visitors Program.[148] Most of the work of the office, including the work of the Global Strategies and Negotiation Division, does not benefit a specific fee payor, but rather the government as whole, and is therefore appropriately categorized as indirect.

44. *Telecommunications and Analysis Division*. The Telecommunications and Analysis Division develops international telecommunications policy, authorizes international telecommunications facilities and services under section 214 of the Act, issues submarine cable landing licenses under the Cable Landing License Act of 1921 and Executive Order No. 10530, and provides expertise on foreign ownership issues pursuant to section 310 of the Act. In performing its functions, the division coordinates international applications and petitions involving foreign ownership with the relevant Executive Branch agencies for any national security, law enforcement, foreign policy, or trade policy concerns. The division also provides guidance to and shares its expertise within the Commission and with other U.S. agencies.

45. *Calculating regulatory fees for IBCs*. IBCs consist of terrestrial and satellite circuits and submarine cable systems.[149] In the *FY 2020 NPRM*, we concluded, based on a review by the International

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[143] Federal Communications Commission, International Affairs, https://www.fcc.gov/international-affairs (last visited July 22, 2024).

[144] *Id.*

[145] *Id.*

[146] *Id.*

[147] *Id.*

[148] *See* United States Telecommunications Training Institute, Global Growth Through Communications Sharing, available at https://ustti.org/ (last visited July 24, 2024). 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 July 24, 2024).

[149] Initially, this fee category was for common carrier IBCs. The Commission added non-common carrier satellite IBCs to this regulatory fee category in 1997. *Assessment and Collection of Regulatory Fees for Fiscal Year 1997,* MD Docket No. 96-186, Report and Order, 12 FCC Rcd 17161, 17189, para. 71 (1997) (*FY 1997 Report and Order*) (explaining that the expansion of services offered by the non-common carrier satellite operators greatly increased the need for Commission oversight of their commercial activities and imposed a greater burden on staff and other

(continued….)

Bureau, that eight FTEs should be allocated to IBCs for regulatory fee purposes, with the remaining 20 direct FTEs in the International Bureau allocated to the satellite category.[150] Currently, in the Office of International Affairs, as stated in the *FY 2024 NPRM*, we find that there are eight FTEs within the Telecommunications and Analysis Division that work on IBC related issues, including the services provided over submarine cables, and their time can be appropriately categorized as direct in furtherance of the oversight and regulation of specific regulatory fee payors.[151] Thus, we have the same number of direct FTEs devoted to IBC issues now as in FY 2023, when the Telecommunications and Analysis Division was in the International Bureau. We conclude, for FY 2024, that of the 47 FTEs within the Office of International Affairs, eight are direct FTEs and 39 are indirect FTEs.[152]

D. Broadcast Television Stations

46. In the *FY 2020 Report and Order*,[153] we completed the transition to a population-based full-service broadcast television regulatory fee.[154] For FY 2024, we will continue to assess fees for full-power broadcast television stations based on the population covered by a full-service broadcast television station's contour and we will use the results of the 2020 U.S. Census. As a result, there will be no need to make any population adjustments to account for reductions in the population since 2010.[155] However, the Commission will continue to base assessments on limiting the population count of full-power television stations that rely on satellite television stations to reach terrain-limited areas in Puerto Rico.[156] We are adopting a factor of $.006598 per population served for FY 2024 full-power broadcast television station fees.[157] The population data for broadcasters' service areas are determined using the TVStudy software[158] and the LMS database, based on a station's projected noise-limited service contour.[159] The population

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resources). More recently, the Commission added non-common carrier terrestrial IBCs to this regulatory fee category in 2017. *FY 2017 Report and Order*, 32 FCC Rcd at 7071-72, paras. 34-35, 43.

[150] *FY 2020 NPRM*, 35 FCC Rcd at 4992, para. 36. Previously, we had determined that 6.9 FTEs were allocated to IBCs.

[151] *FY 2024 NPRM* at *15, para 35.

[152] The Submarine Cable Coalition agrees with our proposed regulatory fees for submarine cable operators, based on OIA direct FTEs. Submarine Cable Coalition Reply at 3-4. They contend that they should not be required to subsidize the regulatory fees for space stations, as requested by Intelsat. Submarine Cable Coalition Reply at 4-6 (citing Intelsat Comments at 9).

[153] *FY 2020 Report and Order,* 36 FCC Rcd at 1738, para. 19.

[154] 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).

[155] *See FY 2020 Report and Order*, 36 FCC Rcd at 1738-39, paras. 20-21 (adjusting the fees for Puerto Rico broadcasters).

[156] As previously implemented, the Commission based assessments on a full-power television station and its satellite facility on a maximum of 3.1 million population. Hence, the maximum fee amount that will be paid by a full-power TV station and its associated satellite facility together is 3.1 million times the fee rate (3.1 million X .006598 = $20,455).

[157] The factor of $.006598 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.

[158] *See* Federal Communications Commission, Engineering and Technology, Electromagnetic Compatibility Division, *TVStudy Interference Analysis Software*, https://www.fcc.gov/oet/tvstudy (last visited July 29, 2024).

[159] 47 CFR § 73.619(c).

data for each licensee and the population-based fee (population multiplied by $.006598) for each full-power broadcast television station[160] is listed in Appendix G.

E. Proposed New Regulatory Fee Categories

47. The State Broadcasters propose that the Commission adopt new regulatory fee categories for broadband Internet access service providers and manufacturers of equipment that uses spectrum on an unlicensed basis.[161] For the reasons set forth below, we are not adopting such new fee categories at this time.

1. Broadband Internet Access Service Providers

48. We are unconvinced by the State Broadcasters' argument that we should create a new regulatory fee category for broadband Internet access service providers at this time.[162] As an initial matter, we note that there is no specific bureau or office in the Commission with oversight of all broadband services, because such activities are spread out among all core bureaus, and broadband issues are a part of many Commission initiatives and proceedings. We are unconvinced that a broadband Internet access service provider regulatory fee category is necessary or that such a category appropriately belongs in any one bureau.[163] As we have discussed earlier, 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.[164] This service is not only offered by different types of providers, but is also delivered to end users in different ways. As we observed in the *FY 2022 Report and Order*, commenters have not shown that a particular group of FTEs within the Commission is providing oversight and regulation for broadband Internet access services and that other parties (besides these broadband Internet access service providers) are responsible for all of the regulatory fees associated with those FTEs. It appears that the contrary is true: broadband Internet access services are involved in many Commission initiatives and proceedings. Such services are in many cases offered by service providers regulated by all the core bureaus and already responsible for regulatory fees.[165] Creating a new regulatory fee category for broadband Internet access services appears to be redundant with existing fee categories in the case of those broadband Internet access service providers that otherwise already were subject to the existing fee categories, and thus a new fee category in this regard is not administrable at this time.

49. The State Broadcasters contend that broadening the base of regulatory fee payors to include broadband Internet access service providers would ensure a more fair and sustainable regulatory fee system.[166] However, they have not established a sufficient basis for the creation of such a category

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[160] 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.

[161] State Broadcasters Comments at 11-13. NAB agrees that the Commission should "expand the base of fee payors." NAB Comments at 5. CTIA disagrees with this proposal and observes that the costs associated with FTEs in the Office of Engineering and Technology are appropriately considered indirect. CTIA Reply at 5-6.

[162] State Broadcasters Comments at 11-13 (citing comments filed in earlier regulatory fee proceedings). TechFreedom, however, contends that we cannot assess regulatory fees on entities over which we do not have regulatory authority. TechFreedom Reply at 1-2.

[163] *FY 2022 Report and Order*, 37 FCC Rcd at 10885-10888, paras. 81-86.

[164] *Id.*

[165] *Id.* at 10886-10887, para. 84. However, a provider of broadband internet access service that does not also offer a service regulated by the Commission, (e.g., a wireline, wireless, or cable television service, or a submarine cable operator) would not pay regulatory fees.

[166] State Broadcasters Comments at 11-13.

and that a broadband Internet access service providers regulatory fee category, if adopted, would be fair, administrable, or sustainable for the reasons elaborated above. We also note that because the amount collected from each core bureau is based on the number of non-auctions FTEs in each bureau, adding a new broadband Internet access fee category or categories would be unlikely to change the number of Media Bureau FTEs devoted to broadcast issues. Moreover, as indicated above, broadband Internet access services are a part of many Commission initiatives and proceedings and such services are offered by service providers regulated by all the core bureaus (and these providers often already otherwise pay regulatory fees on their regulated services). For these reasons, particularly due to the lack of information in the record to support the need for adoption of such a new regulatory fee category, we are not adopting a new fee category for broadband Internet access service providers at this time. We find that section 9 of the Act does not require creation of this category and commenters have not shown, on the basis of the record in this proceeding, that such a category would satisfy the factors that the Commission has relied on when it has found a basis to create a new regulatory fee category.[167]

2. Manufacturers of Equipment that Operates on Spectrum on an Unlicensed Basis

50. We also decline to adopt the State Broadcasters' proposal to adopt a new regulatory fee category for manufacturers of equipment that operates on spectrum on an unlicensed basis. The State Broadcasters have not provided a sufficient basis, consistent with section 9 of the Act, for the adoption of such a new regulatory fee category. The Commission has adopted new fee categories based in part on the benefits to the payor, i.e., FTE work in oversight and regulation, on several occasions. In those instances, the Commission determined that significant FTE resources of a core bureau were being spent on oversight and regulatory activities with respect to a specific service necessitating a new regulatory fee category.[168] Those circumstances, for equipment manufacturers, are not present here.

51. The Office of Engineering and Technology is responsible for oversight and regulation of spectrum used on an unlicensed basis, and the FTEs in that office are classified as indirect FTEs because the work in that office benefits the Commission and the industry as a whole and is not specifically focused on the regulatory fee payors and licensees of a core bureau.[169] Even when we consider only OET FTE time working on oversight and regulation of spectrum used on an unlicensed basis and equipment operating wholly or in part on such spectrum, the treatment of such costs as indirect is appropriate. This is true because many devices, including those operating wholly or in part on an unlicensed basis, are

[167] *See FY 2020 NPRM*, 35 FCC Rcd at 4988, para. 26 (in which the Commission determined that adding a new fee category for and assessing regulatory fees on non-U.S. licensed space stations with U.S. market access grants reflected the benefits received by the new fee payors through the Commission's activities, fulfilling the mandate in section 9 of the Communications Act.).

[168] The most recent addition of a new fee category to the regulatory fee schedule was in 2020, when the Commission added non-U.S. licensed space stations with U.S. market access grants to the regulatory fee schedule. *FY 2020 NPRM*, 35 FCC Rcd at 4979-4991, paras. 7-34. Prior to that, in 2017, the Commission added non-common carrier terrestrial IBCs to the regulatory fee schedule, in order to include both common carrier and non-common carrier terrestrial IBCs in the schedule. *FY 2017 Report and Order*, 32 FCC Rcd at 7071-72, paras 34-35. In 2015, the Commission added a new fee category for DBS as a subcategory of the cable television and IPTV fee category, 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. Subsequently, 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. In 2014, the Commission adopted a new regulatory fee category for toll-free numbers because FTEs, primarily in the Wireline Competition Bureau, are devoted to toll-free number oversight and regulation. *FY 2014 Report and Order*, 29 FCC Rcd at 10778, paras. 26-27. In 2013, the Commission broadened the cable television category to include IPTV providers. *FY 2013 Report and Order*, 28 FCC Rcd at 12362-63, paras. 32-33.

[169] *FY 2022 Report and Order*, 37 FCC Rcd at 10888, para. 87; 47 CFR § 0.31(g) (providing the functions of OET).

exempt from equipment authorization requirements. Moreover, devices that are not exempt are tested by third party labs and, if certification is required, applications are submitted to Telecommunications Certification Bodies.[170] Other devices, generally those considered to have reduced potential to cause RF interference, are authorized pursuant to the Commission's SDoC process which provides for the equipment to be authorized based on the responsible party's self-declaration that the equipment complies with the pertinent Commission requirements.[171] As such, the Office of Engineering and Technology oversight requires only a portion of FTE resources, appropriately part of indirect costs, as opposed to segregable direct costs. In addition, the Commission's current regulatory framework does not include an efficient way to identify equipment, specifically that which is exempt from authorization or authorized pursuant to SDoC procedures, that operate on an unlicensed (as opposed to licensed) basis and commenters have not suggested an efficient methodology to obtain this information.[172]

52. On the basis of the record developed here, we find that the proposal for a new regulatory fee category for manufacturers of equipment that operates on spectrum on an unlicensed basis is not consistent with section 9 of the Communication Act. Equipment that operates on spectrum on an unlicensed basis is diverse in nature, ubiquitous, and used for many purposes including non-communications purposes.[173] Thus it would be challenging to define and administer a regulatory fee category or categories of similarly situated entities.[174] Nor does all or the majority of equipment that operates on spectrum on an unlicensed basis perform a specific service. Thus, focusing on the service provided would not provide a clear and administrable regulatory fee category. Moreover, this is not an area where time will distill down a clear group of users, service providers or manufacturers to form the core of a regulatory fee category. For example, if the Commission were to decide to assess fees on manufacturers of equipment used in the United States, numerous logistical concerns would be presented. The Commission establishes rules for and administers the equipment authorization program to ensure that

[170] These devices either are exempt from equipment authorization requirements because the devices are unlikely to cause interference or authorized via a Supplier's Declaration of Conformity (SDoC), a form of self-certification, subject to market surveillance for compliance. Devices in both unlicensed and licensed services may be exempt from equipment authorization requirements. *See, e.g.,* 47 CFR §§ 15.103, 25.129, 90.203. Even with respect to devices that require certification, such certifications are granted by outside third parties (Telecommunications Certification Bodies (TCBs)), under Commission oversight. *See generally* 47 CFR § 2.901 *et seq.* Direct costs of device testing and applicant certifications necessary to demonstrate compliance with our technical and equipment authorization rules are paid directly by manufacturers to FCC-recognized labs and TCBs. Those costs are not borne by the Commission and are not recovered through regulatory fees. 47 CFR § 2.962(f)(3) states that TCBs may establish and assess fees for processing certification applications and other Commission-required tasks. *See Amendment of Parts 0, 1, 2, and 15 of the Commission's Rules regarding Authorization of Radiofrequency Equipment, Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies*, ET Docket No. 13-44, Report and Order, 29 FCC Rcd 16335 (2014).

[171] *See* 47 CFR § 2.906.

[172] We also question how we could obtain information about such exempt equipment and whether the resources used to track this information would be an efficient use of Commission resources. Moreover, given the ubiquitous nature of such equipment, it at least possible that any regulatory fee assessed on such a category would be below the de minimis threshold.

[173] Equipment that operates on spectrum on an unlicensed basis would include healthcare devices, security systems, thermostats, alarm systems, baby monitors, fitness trackers, home appliances, garage door openers, cordless phones, in-vehicle rear seat passenger detection systems, wireless power transfer, law enforcement radars, microwave ovens, Wi-Fi networks, Bluetooth speakers, Internet of Things (IoT) industrial networks, and other devices.

[174] The variety of equipment that operates on spectrum on an unlicensed basis creates a broad group of potential payors, i.e., all such manufacturers of consumer and industrial equipment that operates on spectrum on an unlicensed basis, including devices such as baby monitors, garage door openers, field disturbance sensors, medical imaging systems, cordless phones, Wi-Fi networks, Bluetooth speakers, IoT industrial networks, and consumer devices.

RF devices used in the United States operate effectively without causing harmful interference and otherwise comply with the Commission's rules. However, under the current Commission equipment authorization regime, the Commission does not collect information from or communicate with all device manufacturers.[175] As we explained above, many devices only require SDoC authorization or are exempt from authorization because they pose a limited potential of causing harmful interference. Similarly, if users of equipment that operates on spectrum on an unlicensed forms the core of the fee category. The Commission has no reasonable means by which to comprehensively identify each and every individual or entity that operates RF devices on an unlicensed basis.[176] Accordingly, we find that a new regulatory fee category for manufacturers of equipment that operates on spectrum on an unlicensed basis, on the basis of the instant record, is not practicable at this time and we decline to adopt such a regulatory fee category at this time.

F. Digital Equity and Inclusion

53. In the *FY 2024 NPRM*, we sought comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.[177] We did not receive any comments on this issue.

G. Temporary Relief Measures Under Sections 1.1910, 1.1166, and 1.1914 of the Commission's Rules

54. In FYs 2020, 2021, and 2022, the Commission implemented temporary relief measures for fee payors experiencing financial hardship caused or exacerbated by the COVID-19 pandemic.[178] In FY 2023, the Commission permanently codified two of the temporary measures in sections 1.1166 and 1.1914 of the Commission's rules, simplifying and streamlining the process for all fee payors to obtain regulatory fee relief.[179] We also continued the remaining temporary relief measures in FY 2023, recognizing that while the National Emergency had ended,[180] continuing the temporary measures in FY 2023 would assist regulatory fee payors, such as broadcasters, who might still be recovering from the economic impact of the pandemic.[181] Specifically, the Commission found good cause to continue to offer a low interest rate and not require the customary down payment for installment payment of regulatory fee debt. Moreover, the Commission directed the Office of Managing Director to continue to exercise its

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[175] A manufacturer with equipment authorized pursuant to SDoC is required to retain certain records, which the Commission can ask for as needed. The FCC currently does not collect information for devices authorized in the United States in accordance with our SDoC process. The FTE time needed to manage a modified SDoC process that would include the collection of information necessary to impose regulatory fees on manufacturers would vastly exceed the minimal FTE time now spent on oversight of this area.

[176] Individual operators of RF devices using spectrum on an unlicensed basis include millions of owners of commonly used devices, such as cordless telephones, garage door openers, baby monitors, microwave ovens, wireless headphones, personal medical devices, smart TVs, and even cellphones and smart phones, among other countless examples of consumer devices.

[177] *FY 2024 NPRM* at *18, para. 41.

[178] *FY 2020 Report and Order* at 1760-61, paras. 80-84; *FY 2021 Report and Order* at 13024-25, paras. 69-71; *FY 2022 Report and Order* at 10896-10897, para. 105.

[179] *FY 2023 NPRM* at 4588-4589, paras. 16-17.

[180] A National Emergency concerning COVID-19 was originally declared on March 13, 2020, by Presidential Proclamation No. 9994. 85 FR 15337 (2020). It was extended on multiple occasions. 88 FR 9385 (2023). A resolution terminating the National Emergency concerning COVID-19 based on the powers granted in the National Emergencies Act was signed by President Biden on April 10, 2023. H.J. Res. 7, 118th Congress (2023-2024) Public Law No: 118-3, (Apr. 10, 2023), available at https://www.congress.gov/bill/118th-congress/house-joint-resolution/7.

[181] *FY 2023 Report and Order* at *39, para. 124.

delegated authority to partially waive section 1.1910[182] of the Commission's rules to allow regulatees on "red light" and experiencing financial hardship to nonetheless request waiver, reduction, deferral, and/or installment payment of their FY 2023 regulatory fees, provided that those regulatees resolve all of the delinquent debt they owe to the Commission in advance of the Commission's decision on their requests for relief. We also partially waived section 1.1166 of our rules[183] to permit fee payors seeking waiver, deferral or reduction of their FY 2023 regulatory fees to submit documentation supporting their requests after their underlying requests were submitted. However, we limited this partial waiver to allow only one post-filing submission by a deadline of January 31, 2023, in anticipation of a return to the normal operation of section 1.1166.[184]

55. In the *FY 2024 NPRM*, we stated that we did not plan to implement any of the foregoing temporary relief measures in FY 2024 because the circumstances for which the temporary measures were implemented had changed, to wit, the National Emergency ended and the economy was continuing to rebound.[185] While again recognizing that some regulatory fee payors might continue to experience financial difficulties related to the pandemic, we concluded that the changes we made to sections 1.1166 and 1.1914 to simplify and streamline the process of obtaining regulatory fee relief offered those fee payors "a straightforward path to regulatory fee relief."[186] We asked commenters that disagree with our proposal to explain why continuing the temporary measures is necessary or justified, and if continuation requires waiving a Commission rule, why good cause exists for and the public interest would be served by waiving the Commission rule.[187]

56. The State Broadcasters and NAB each object to the Commission's proposal to discontinue the remaining three temporary measures. NAB advocates for codifying each of the temporary measures, citing the public's interest in the Commission continuing to enable "payors and the FCC's staff to craft appropriate relief and avoid costly collection processes and regulatory consequences for distressed payors."[188] The State Broadcasters advocate for the Commission to continue indefinitely the Commission's partial waivers of the red light rule and section 1.1166.[189] The State Broadcasters also propose that the Commission continue partial waivers of the red light and section 1.1166 as temporary measures in FY 2024.[190] The State Broadcasters contend that extending the Commission's partial waiver of the red light to permit fee payors on red light to nonetheless file relief requests is important to ensure that broadcasters in financial distress obtain the relief they seek and continue providing service to the public.[191] The State Broadcasters argue that continuing a partial waiver of section 1.1166 to permit fee payors to submit financial documentation after they file their waiver requests is warranted because broadcasters may not understand what documentary proof must be provided to prove financial hardship and permitting supplementation will increase fee payors' likelihood of submitting sufficient documentary proof to prove financial hardship.[192]

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[182] 47 CFR § 1.1910.

[183] 47 CFR § 1.1166.

[184] *FY 2023 Report and Order* at *39, para.125.

[185] *FY 2024 NPRM* at *18, para. 42.

[186] *Id.*

[187] *FY 2024 NPRM* at *19, para. 46.

[188] NAB Comments at 9, *quoting* State Broadcasters Comments at 18.

[189] State Broadcasters Comments at 15-16.

[190] *Id.* at 15.

[191] *Id.* at 14-15.

[192] *Id.* at 16.

57. We disagree that continuing the partial red light waiver in FY 2024 is vital to ensure that broadcasters in financial distress are able to obtain relief and continue operating.[193] Even if we were to continue the partial waiver in FY 2024, a broadcaster on red light would still be required to pay or otherwise resolve its debt to the Commission before the Commission would issue a decision on the broadcaster's waiver requests. Restoring the normal operation of the red light rule does not prevent a broadcaster from seeking fee relief for FY 2024, it only requires the fee payor to pay or otherwise resolve its delinquent debt before, rather than after, filing a request for fee relief.

58. To the extent the State Broadcasters also argue for a continuation of the Commission's partial waiver of section 1.1166 of our rules, we disagree that, as the State Broadcasters contend, the Commission's standard of proof for establishing financial hardship is unclear and that fee payors should therefore be permitted to supplement their submission of financial documents after submitting their requests until they are certain that they have met their burden of proof.[194] The Commission's standard for establishing financial hardship sufficient to justify regulatory fee relief under section 1.1166 of the Commission's rules is clear, and has not changed since 1995, when the Commission first articulated it.[195] Since then, the Commission has regularly reminded fee payors of the standard and also, listed financial document types that fee payors might submit to prove financial hardship.[196]

59. To reiterate here, the standard for waiver, reduction and/or deferral of a regulatory fee in any specific instance under section 9A of the Communications Act and section 1.1166 of the Commission's regulations is for good cause if the waiver, reduction, or deferral (collectively, waiver) would serve the public interest.[197] We interpret this provision narrowly to permit only those waivers "unambiguously articulating 'extraordinary circumstances' outweighing the public interest in recouping

[193] *Id*. at 14-15.

[194] *Id.* at 16.

[195] *Implementation of Section 9 of the Communications Act*, *Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761-12762, paras 12-14 (1995) (*FY 1994 MO&O*). In the *FY 1994 Report and Order*, 9 FCC Rcd at 5344, para. 29, we stated that we would waive the regulatory fees "on a case by case basis in extraordinary and compelling circumstances upon a showing that a waiver ... would override the public interest in reimbursing the Commission for its regulatory costs." The *FY 1994 Report and* Order also pointed out that the statutory waiver provision in section 9 was similar to, if not identical with, the application fee waiver provision. *FY 1994 Report and Order*, 9 FCC Rcd at 5344, para. 29. We have consistently applied the same waiver standard to both statutes. As the Commission explained with respect to section 8 of the Communications Act in 1987, interpreting the statutory waiver standard broadly "would constitute a de facto exemption beyond what Congress has legislated." *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947 at para. 87 (1987). In adopting the RAY BAUM's Act, Congress consolidated the waiver standard for application fees and regulatory fees into section 9A(d) of the Communications Act retaining the language we base our interpretation upon. Specifically, section 9A of the Act permits the Commission to "waive, reduce, or defer payment of a fee under section 158 or 159 of this title or an interest charge or penalty under this section in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. § 159A(d). Thus, our consistent application of the same waiver standard for regulatory fees and applications fees is rooted in the statute and we should not diverge from that longstanding view in this proceeding.

[196] *See, e.g., Procedures for Filing Requests for Waiver, Reduction, Deferral and Installment Payment of Fiscal Year 2023 Regulatory Fees*, Public Notice, 38 FCC Rcd 7797, DA 23-771, 2023 WL 5603993, at *2 (OMD Aug. 28, 2023); *Procedures for Filing Requests for Waiver, Reduction, Deferral and Installment Payment of Fiscal Year 2022 Regulatory Fees Due to the Coronavirus,* 37 FCC Rcd 10266, 10267-68 (OMD 2022); *Procedures for Filing Requests for Waiver, Reduction, Deferral and Installment Payment of FY 2021 Regulatory Fees Due to the Coronavirus Pandemic,* Public Notice, 36 FCC Rcd 13517, 13518-13519 (OMD 2021).

[197] 47 U.S.C. § 159A(d); 47 CFR § 1.1166. One commenter, Myriota, misunderstands the nature of our section 9A authority. *See* Myriota Comments at 2-3. As explained in this section, it is narrowly construed and applied in individual cases. Thus, Myriota's request to waive fees for whole classes of regulatees is unavailing.

the cost of the Commission's regulatory services for a particular regulatee."[198] Within this standard, we recognize that in exceptional circumstances, financial hardship may justify waiving an individual party's regulatory fees, to wit, when the requesting party has shown it "lacks sufficient funds to pay the regulatory fees and to maintain its service to the public."[199] Financial hardship, however, must be conclusively proven in each individual case; mere allegations of financial loss will not support a waiver request. Rather, each party seeking regulatory fee relief must fully document its financial condition to prove financial hardship. We have previously suggested and continue to suggest that documents that may be relevant to prove financial inability include balance sheets and profit and loss statements (audited if available), twelve month cash flow projections (with an explanation of how calculated), a list of officers and highest paid employees other than officers, and each individual's compensation, or similar information. However, the foregoing list of documents is not exhaustive. In other words, a fee payor seeking fee relief is in the best position to determine, and therefore must be the party responsible for determining, what financial documents demonstrate that the fee payor "lacks sufficient funds to pay the regulatory fees and to maintain its service to the public."[200]

60. We therefore decline to continue the temporary measures in FY 2024, except as noted below. The measures were always intended to be temporary, to address the extraordinary circumstances of a world-wide pandemic. The circumstances for which the temporary measures were put in place in FY 2020 and continued in FYs 2021 through 2023 have changed, even more so since FY 2023. It has now been 18 months year since the National Emergency ended. Moreover, the national economy is very different than it was during the National Emergency.[201] Commenters have not demonstrated that good cause exists and that it is in the public interest to continue the partial waivers in FY 2024,[202] nor have commenters made a convincing case that any lingering financial difficulties related to the COVID-19 pandemic that fee payors may be experiencing justify the Commission continuing to direct the Office of Managing Director to offer the lowest statutory interest rate and not require the customary down payment for installment payment of FY 2024 regulatory fee debt.[203] For those reasons, we also decline to adopt

[198] *FY 2019 Report and Order*, 34 FCC Rcd at 8207, para. 50.

[199] *Id.*

[200] *Id.* Below in section J, we explain how parties can seek an installment payment plan under our existing rules.

[201] *See* Center on Budget and Policy Priorities, Economy Strong as 2023 Ended (2024), https://www.cbpp.org/research/economy/economy-strong-as-2023-ended#:~:text=According%20to%20a%20range%20of,January%202020)%20projections%20for%202023 ("According to a range of measures the economy ended 2023 on a high note and has continued to be strong in 2024".)

[202] 47 CFR § 1.3; *Northeast Cellular Co. v. FCC*, 897 FCC Rcd 1164, 1166 (DC Cir. 1990) *citing Wait Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd,* 459 F.2d 1203 (1972), *cert. denied,* 490 U.S. 1027 (1973) (The Commission may find good cause to extend a waiver if "special circumstances warrant a deviation from the rule and such deviation will serve the public interest.")

[203]In this context, the Office of Managing Director charged interest at the Current Value of Fund (CVF) rate established by the United States Department of Treasury, the lowest rate permitted by the Debt Collection Improvement Act of 1996 (DCIA). 31 U.S.C. § 3717(a)(1); *see also* 47 U.S.C. § 9A(c)(2) (requiring the Commission to charge interest on regulatory fee debt pursuant section 3717 of the DCIA). Section 3717 of the DCIA generally requires agencies to charge interest at a rate that is no lower than the CVF rate. 31 U.S.C. § 3717(a)(1), 31 CFR § 901.9(b)(2), 47 CFR § 1.1914(b)(2). An agency, however, may charge a higher rate of interest if it determines that a higher rate of interest is necessary to protect the rights of the United States. 31 CFR § 901.9(b)(2), 47 CFR § 1.1914(b)(2). That means that in the usual course of events absent other direction from the Commission, the Office of Managing Director has authority to, but is not required to, assess a minimum interest rate on regulatory fee installment debt, and has authority to assess a higher rate of interest if it determines that a higher rate of interest is necessary to protect the interests of the United States. *Id*. *See* U.S. Department of Treasury, The Bureau of Fiscal Service, *Managing Federal Receivables*, Ch. 6, p. 6-21 (2015) (In which the BFS states that federal (continued….)

NAB's and the State Broadcaster's proposal to codify or continue indefinitely the temporary measures.

61. Nonetheless, as explained below, we direct the Office of Managing Director to fix the interest rate it assesses on all installment payments of FY 2024 regulatory fee debt at the lowest rate permitted by statute,[204] and to not require the customary down payment.[205] As we discuss in section J of this Second Report and Order, structural changes to the Commission and the creation of the Space Bureau have resulted in significant increases in the FY 2024 regulatory fees earth and space station regulatory fee payors must pay. We recognize that for FY 2024 some Space Bureau fee payors may have difficulty paying the increased fee in a single payment and that assessing the lowest permissible interest rate and not requiring the customary down payment will assist those payors who qualify for installment payment relief in meeting their FY 2024 regulatory fee obligation. These terms apply to all fee payors who qualify for installment payment of their FY 2024 regulatory fees.

62. With respect to operation of the red light under section 1.1910 of our rules, we will not direct the Office of Managing Director to partially waive section 1.1910 to permit regulatory fee payors on red light and experiencing financial hardship to request waiver, reduction, deferral and/or installment payment relief of their FY 2024 regulatory fees. Instead, the Commission will not act on and will dismiss a request for waiver, reduction, deferral and/or installment payment relief filed by a fee payor if the fee payor is on red light, in accordance with the requirements of section 1.1910.[206]

63. Finally, we will not direct the Office of Managing Director to waive section 1.1166 of our rules[207] to permit parties requesting regulatory fee relief on financial hardship grounds to submit financial documents supporting their request after the waiver request is filed. Thus, parties seeking waiver, reduction and/or deferral of their regulatory fees must submit with their requests the financial documents that demonstrate financial hardship. Documents submitted after a request is filed will not be considered and failure to submit any supporting financial documents with a request will result in dismissal and/or denial of the request.

H. Non-Operating Broadcast Stations

64. In the *FY 2024 NPRM* we sought comment on our proposal to end a rarely used and never codified policy of granting regulatory fee waiver requests of stations that are or were recently silent and stations in their first year of operation recently purchased out of bankruptcy or recently silent, on the presumption that their silent or recently bankrupt status signifies financial hardship sufficient to waive their regulatory fees, without requiring submission of financial documents demonstrating actual financial hardship.[208]

65. NAB and the State Broadcasters oppose our proposal to end the policy. The State Broadcasters argue that the facts underlying the policy's implementation have not changed, that no matter why a station goes dark, when it goes dark it experiences financial hardship that may cause it to cease operation altogether.[209] NAB argues that the policy eliminates a financial burden to silent stations attempting to return to operating status and a barrier to potential investment in stations that were recently

agencies collecting debt through installment payment plans should require the debtor to provide a downpayment.), available at https://www.fiscal.treasury.gov/debtmanagement/resources/managing-federal-receivables.html.

[204] *Id*.

[205] *Id*.

[206] 47 CFR § 1.1910.

[207] 47 CFR § 1.1166.

[208] *FY 2024 NPRM* at *20, para. 47.

[209] State Broadcasters Comments at 16-17.

dark or bankrupt.[210] Neither commenter however disputes nor addresses the Commission observation that the presumption underlying the policy is no longer accurate in FY 2024. As we noted in the *FY 2024 NPRM*, in today's marketplace, broadcast licensees often own multiple stations. Because the Commission considers all of a licensee's assets and revenue streams in determining its ability to pay regulatory fees, the silence of one of its stations does not necessarily affect the licensee's ability to pay the regulatory fees it owes, including for the silent station. Similarly, it is not accurate to assume that, across-the-board, newly purchased stations that were previously dark or bankrupt are insufficiently financed to cover the station's first year of operation. The station owner may very well have sufficient funds – other revenue streams or start – up financing to pay the station's regulatory fees in its first year of operation.[211]

66. We conclude that the policy's underlying presumption is no longer broadly valid and that the policy should be eliminated. Accordingly, all broadcast licensees, regardless of station status, will be required to submit with their waiver requests sufficient financial documentation to demonstrate financial hardship in accordance with section 1.1166 of our rules. This change will apply to regulatory fees due in FY 2025 in order to provide the affected broadcasters time to comply with this change in policy.

I. Capping or Phasing in Space and Earth Station Regulatory Fees

67. As we explained above, because the Commission must collect the full amount of the appropriation as an offsetting collection, decreasing the fee on any one category must be offset with an increased collection in another category. Thus, by requesting that the Commission cap or phase in the increases in regulatory fees for space and earth stations, the satellite and earth station industry is effectively requesting that the Commission shift fees from Space Bureau regulatory fee payors to other regulatory fee payors.[212] As we explain below, we decline to do so. We agree with commenters[213] opposing the request that shifting fees to other regulatees, in this instance from Space Bureau regulatees, when such fees are properly based on direct FTEs in the Space Bureau, is not consistent with Congressional direction in section 9 of the Communications Act.[214]

68. Several commenters suggest a cap or phased-in approach to implementing substantial fee increases, alleviating the immediate financial burden on satellite and earth station fee payors,[215] and argue that imposing a cap and phase in of fee increases for FY 2024 and beyond would be consistent with the

[210] NAB Comments at 9.

[211] *FY 2024 NPRM* at paras. 48-49.

[212] A cap limiting to 75 percent of FY 2023 fee rates would shift $4.3 million in regulatory fees to other payors.

[213] Submarine Cable Coalition Reply at 5. CTIA Reply at 2, 6-7,

[214] 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." 47 U.S.C. § 159(d). In originally adopting this requirement, Congress explained that the statute "aligns the revenue each of the FCC bureaus receives from the users it regulates with the costs each of that bureau's budget for performing its regulatory functions. As a result, the fees collected will correspond closely to the costs incurred by the FCC in operating the bureau that regulates the entity paying the fee." H.R. Rep. 102–207 (1991). The Conference Report for the 1993 amendments, (Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 6003, 107 Stat 312, 397 (1993)), which explicitly incorporated by reference, "[t]o the extent applicable, the appropriate provisions of the House Report (H.R. Rep. 102–207)." *See* Conf. Rep. H. Rep. No. 213, 103d Cong., 1st Sess. 499 (1993).

[215] Kepler Comments at 3-4 & Reply at 3; CSSMA Comments at 2-4; Intelsat Comments at 9-10; Kinéis Reply at 3 (proposing that we consider some Space Bureau direct FTE costs as indirect for FY 2024); Myriota Comments at 11; Iridium Reply at 4-5; SIA Reply at 4-6; Intelsat Aug. 1 *ex parte* at 1-2; SIA Aug. 13 *ex parte* at 1 (strongly supporting the additional Space Bureau resources, but recommending a phase-in to mitigate fee increases); Iridium Aug. 9 *ex parte* at 3; Telesat Aug. 14 *ex parte* at 1-2.

statutory requirements of section 9 of the Act.[216] We are not convinced that, based on commenters' argument that the fee increase places a substantial and unforeseen financial burden on satellite operators, we should shift the fee burden to other regulatory fee payors.[217] As Iridium observes, the entire industry will benefit from the additional resources made available to the new Space Bureau and the overall increases reflect the Commission's goal of advancing the space economy.[218] Although we are mindful of the significant increase in regulatory fees for most space and earth station regulatory fee payors for FY 2024, these increases reflect a reasonable assessment of the FTE burdens associated with oversight and regulation of the Space Bureau categories of fee payors after the reorganization of the International Bureau into the Space Bureau and Office of International Affairs and the additional direct FTEs added to the Space Bureau.

69. The Submarine Cable Coalition favorably commented on the direct FTE allocations to OIA and the proposed regulatory fee rates for OIA regulatory fee payors that flow such direct FTE allocations.[219] The Submarine Cable Coalition strongly opposes the request to shift fees as contrary to the statute. The Submarine Cable Coalition stated that it should not be the burden of submarine cable operators, nor any one type of international licensee under OIA, to subsidize holders of other license types.[220]

70. The Commission most recently addressed such a request to shift fees in the *FY 2019 Report and Order*, and declined a request to freeze or phase in the space station regulatory fee increase.[221] The Commission explained there why it hews so closely to the statutory command to start with FTE counts and then potentially adjust fees to reflect other factors related to the payor's benefits.[222] In the *FY 2019 Report and Order*, the Commission noted that because the International Bureau had a relatively small number of direct FTEs, the increase in its percentage of the whole resulted in a non-trivial increase in fees for International Bureau regulates. While the increased fees were unwelcome by the International Bureau regulatees, the Commission found that adoption of the fees without a phase in was consistent with

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[216] Intelsat June 11 *ex parte* at 1 (noting that section 9(c)(1)(A) authorizes the Commission to adjust regulatory fees to reflect "unexpected increases or decreases), citing 47 U.S.C. § 159(c)(1)(A); Telesat Aug. 14 *ex parte* at 1-2.

[217] Kepler Comments at 2; CSSMA Comments at 2; Intelsat Comments at 8-9 (proposing to cap increases for the proportion of indirect FTEs allocated to Space Bureau fee payors at 1% for FY 2024 and 20% for each following year). Commenters to the *Space and Earth Station Regulatory Fees NPRM* also proposed a cap or phase-in. *See, e.g.,* Intelsat Comments at 6-7 (filed Apr. 12, 2024) (proposing to cap the increase of the proportion of direct FTEs assigned to the Space Bureau year-over-year to 5% for FY 2024, and at 7.5% every year thereafter for five years until parity between the capped and current proportion of direct FTEs assigned to the Space Bureau—10.76%—has been reached in FY 2028); Anuvu Comments at 1-3 (filed Apr. 12, 2024) (proposing a multi-year phase in for earth station fees); CSSMA Comments at 2 & 3 (filed Apr. 12, 2024) (supporting a phase-in, for small satellites); Intelsat Reply at 2-5 (filed Apr. 29, 2024); Planet Comments at 2-4 (filed Apr. 12, 2024); SES Comments at 4-5 (urging the phase in of increase in FTE assessments over multiple years); Iridium Reply at 5-7; Kinéis Reply at 3; NAB Reply at 2; NCTA Reply at 1-2 (filed Apr. 29, 2024); SES Reply at 2-3; Intelsat May 16 *ex parte* at 1-2; Intelsat May 28 *ex parte* at 1-4; Intelsat June 3 *ex parte* at 1; Intelsat Aug. 1 *ex parte* at 1-2. We did not seek comment in the *FY 2024 NPRM* or the *Space and Earth Station Regulatory Fees NPRM* on adopting a cap on fee increases. The idea was raised by commenters.

[218] Iridium Comments at 3-4.

[219] Submarine Cable Coalition Reply at 5.

[220] *Id*. The Submarine Cable Coalition also argues that sticker shock experienced by the satellite industry should not justify shifting fees to other entities. *Id*.

[221] *FY 2019 Report and Order*, 34 FCC Rcd at 8195, para. 16. ("[W]e disagree with the Satellite Operators that we should arbitrarily shift these fees onto other regulatees and keep satellite regulatory fees proportional to changes in our appropriations.")

[222] *Id*.

the results when FTE counts have shifted.[223]

71. Looking further back into our regulatory fee proceedings, commenters have observed that the Commission has previously phased in fee increases and capped annual percentage adjustments to avoid fee shock from large and unpredictable fluctuations.[224] The two previous examples of caps or phase-ins are fundamentally different circumstances, i.e., after the Commission updated FTE data or adopted a new methodology, which we explain below. Here the increases for FY 2024 are due to increased direct FTEs working on satellite and earth station matters. Thus, it is attributable solely to circumstances which were for the benefit of the earth station and satellite operators.

72. In 2012, in a report issued by the Government Accountability Office (GAO), GAO explained that the FCC continued to rely on the 1998 division of regulatory fees as the basis of its regulatory fee division through fiscal year 2011.[225] The GAO Report explained that for 13 years, FCC had not validated the extent to which its division of fees among industry sectors and fee categories correlated with its current division of FTEs among industry sectors and fee categories.[226] This failure to update the Commission's FTE analysis occurred when regulatory fees went from an offsetting collection representing 38 percent of the Commission's appropriation in 1994 to 100 percent of the appropriation starting in 2009.[227] In correcting this serious flaw in its methodology noted by the GAO Report, and as part of a larger effort of fee reform, the Commission as an interim measure did not immediately flash cut to the new FTE allocation. Instead, the Commission in 2013 imposed a cap on fee increases from FY 2012 to FY 2013.[228] In the *FY 2013 NPRM*, the Commission proposed to cap increases in regulatory fees in FY 2013 to no more than 7.5%, acknowledging that its existing FTE allocations were outdated and that revising the allocations based on FTEs, without other adjustments, would drastically change the amount of fees paid by various classes of regulatees.[229] The Commission also observed that revision of FTE allocations required a transition period of more than one year, and that the allocations made for FY 2013 could be impacted by regulatory fee reform issues that could be resolved in future years.[230] For this

[223] *Id.* (observing that in the *FY 2013 Report and Order*, 28 FCC Rcd at 12355-56, para. 14, the Commission concluded that most of the FTEs in the International Bureau should be indirect, with the exception of 27 FTEs in the Policy and Satellite Divisions and one FTE from the Office of the Bureau Chief, a total of 28 direct FTEs).

[224] Kepler Comments at 3; Myriota Comments at 11.

[225] GAO, Federal Communications Commission, "Regulatory Fee Process Needs to be Updated," Aug. 2012, GAO-12-686 at page 11 (GAO Report), available at https://www.gao.gov/products/gao-12-686, ("[F]or 13 years, FCC has not validated the extent to which its division of fees among industry sectors and fee categories correlates with its current division of FTEs among industry sectors and fee categories."). *See also FY 2013 Report and Order*, 28 FCC Rcd at 12354, para. 8, citing the GAO Report.

[226] GAO Report at 11.

[227] *Id.*at 5 & n.10. As the GAO observed, "[i]n recent years, Congress has included language in FCC's annual appropriation act setting specific percentages of the appropriation FCC is to offset with collected regulatory fees. This percentage has risen from 38 percent in 1994, when section 9 first went into effect, to over 99 percent starting in 2004, to 100 percent starting in 2009." *Id.*

[228] *FY 2013 Report and Order*, 28 FCC Rcd at 12358-59, paras. 21-25.

[229] *FY 2013 NPRM*, 28 FCC Rcd at 7803-04, paras. 30-31 ("The proposals … will likely reduce the regulatory fee assessment for some regulatory fee categories, such as [Interstate Telecommunications Service Providers] ITSPs and regulatees of the International Bureau, significantly, while increasing the assessment for many other fee categories. In order to provide a reasonable transition to our new allocations and because there are unresolved regulatory fee reform issues that may be adopted in FY 2014 that could further impact these allocations, we propose limiting any rate increases resulting from our reallocations for this fiscal year. Such a limitation of, for example, 7.5 percent, would prevent "unexpected, substantial increases which could severely impact the economic wellbeing of these licensees[regulatees]."). In contrast, we did not make such a proposal here. *See* note 217 above.

[230] *FY 2013 NPRM*, 28 FCC Rcd at 7803-04, paras. 30-31.

reason, the Commission viewed the 7.5% cap as an interim approach as it transitioned to a comprehensive revision of its regulatory fee program.[231]

73. The current circumstances are significantly different from those presented in 2013. The Commission is not currently moving from a FTE allocation that is thirteen years out of date. The increase in direct FTEs associated with space and earth station fee payors for FY 2024 does not result from a fundamental revision of how direct FTEs are calculated FCC-wide. Rather, the increase results from a greater number of FTEs being associated with the regulation and oversight of such fee payors after the reorganization of the International Bureau, using existing methodology for calculating FTEs.[232] Unlike the situation in 2013, there is no multi-year program of reform of FCC-wide regulatory fees that necessitates a cap as an interim approach for transitioning to a future comprehensive revision of the regulatory fee program.[233] Consequentially, the factors that supported the imposition of a cap in 2013 are not present today. We believe that correcting the extraordinary error on the Commission's part in applying a stale FTE count is not analogous to the current situation.[234]

74. In another instance the Commission limited fee increases through a revenue cap in 1997 in order to avoid unexpected, substantial increases in regulatory fees.[235] This was again during the period of time where Congress raised the offsetting collection of regulatory fees from 38 percent in 1994 to over 75 percent of the annual appropriation in 1997.[236] Further, this cap was also premised as being an interim step in a comprehensive FCC-wide revision of the regulatory fee program as the Commission transitioned to the use of employee time sheet entries to calculate direct and indirect FTEs.[237] This premise is absent under the present circumstances.

75. Commenters also rely on a fee adopted for DBS, initially as a subcategory of the cable television/IPTV fee category.[238] Intelsat states that the Commission has modified its standard regulatory

[231] *FY 2013 Report and Order*, 28 FCC Rcd at 12359, para. 23. The Commission observed that "[c]apping fee increases at 7.5 percent is a conservative interim approach to assure that any fee increases resulting from use of the new FTE data will be reasonable as we transition to a revised regulatory fee program in which regulatory fees will more closely reflect the current costs and benefits of Commission regulation." *Id.*

[232] We note, moreover, that Space Bureau regulatory fee payors did not pay for the increased FTE burden in FY 2023 associated with standing up the Space Bureau because the agency did not include such changes in our FY 2023 regulatory fee assessment. While those changes were only for a portion of the year, and the FTE burden was quickly changing, it was at least theoretically possible to include them in our prior year. Thus, in 20/20 hindsight, it would be fair to stay that the Space Bureau regulatory fee payors have already received some measure of relief because we were not in a position last year to take account of the FTE changes associated with standing up the Space Bureau.

[233] The Commission assessed regulatory fees for FY 2023 using the existing FTE counts for the International Bureau even though the reorganization was completed by April 2023.

[234] In the GAO Report, the GAO observed that the "FCC has continued to use FTE data compiled in fiscal year 1998 to determine the proportion of the total regulatory fees assigned to each fee category." GAO Report at 8, note 14. In addition to the different circumstances surrounding the 2013 cap, i.e., the Commission was correcting a significant flaw in methodology that had continued for years due to using outdated FTE data from 1998, rather than updating FTE data due to a recent reorganization.

[235] *FY 1997 Report and Order*, 12 FCC Rcd at 17176, para. 37.

[236] The changing percentage of the offsetting collection is pertinent here because any error in our methodology would be compounded by the swift rise in the offsetting collection.

[237] *FY 2013 Report and Order*, 28 FCC Rcd 12351, 12359, para. 23; *FY 1997 Report and Order*, 12 FCC Rcd at 17175, para. 36 ("capping each service's revenue requirement at no more than a 25 percent increase would enable us to begin the process of realigning fees to account for differences in regulatory costs").

[238] *FY 2015 NPRM*, 30 FCC Rcd at 5371-72, para. 38. This was adopted in the Report and Order attached to the *FY 2015 NPRM*.

fee methodology to ensure that sudden and large increases, such as the one here, are mitigated in order to avoid harm to fee payors, such as phasing in of a new fee for DBS that was based on Media Bureau FTEs.[239] In that instance, the Commission initially adopted the new fee category in 2015 and subsequently sought comment on the appropriate fee versus other members of the subcategory. Thus, each year, the agency sought and received comment on the issue.[240] Furthermore, the only other categories of fee payors negatively affected by the phase in of DBS regulatory fee payments as part of the cable television/IPTV fee category were other cable and IPTV fee payors.[241] No parties (other than DBS operators, because this was a new fee category) sustained a fee increase.[242] The issue was where to set the regulatory fee rate for a new category within the Media Bureau between two sets of fee payors that benefited from the same pool of Media Bureau direct FTEs. Thus, the agency took a measured approach to discerning whether DBS should pay at the same rate as other members of the fee category, asking and seeking comment on the issue each year.[243] This presents a different situation from the present circumstances. Moreover, in our *FY 2024 NPRM*, we did not propose a fee schedule that included a proportionate shifting of fees from the Space Bureau into one or several categories of fee payors. Thus we are concerned that the full monetary impact of this proposal, to cap or phase in satellite regulatory fees, was not factored into our specific proposed fees and affected parties might not be in a position to understand how the proposal would increase their fees. Accordingly, we conclude that assessing fees in a manner that does not fully collect the S&E appropriation for the fiscal year, or that is not keyed to the FTE burden found to be associated with each category of fee payors, would be inconsistent with the plain language of section 9 of the Act.

76. Several commenters urge the Commission to cap or phase-in the increases in regulatory fees assessed for space and earth station fee payors for FY 2024, even if these increases result from a reasonable reassessment of the FY 2024 FTE burdens associated with oversight and regulation of space and earth station payors.[244] Intelsat proposes that the Commission phase in this increase over time by applying a cap to the increase in indirect FTEs proportionally assigned to the Space Bureau at 1% for FY 2024 and 20% every year after until the Space Bureau's allocation has reached parity with the calculation under the Commission's current methodology (which would be approximately five years).[245] According to Intelsat, reducing the share of indirect costs would mitigate harm to the satellite industry from

[239] Intelsat Comments at 7-9.

[240] As the Commission explained in the first year, "the rate for DBS providers is merely proposed in the accompanying NPRM, and DISH and DIRECTV, the two DBS providers, may provide comments on the rate for this year and in subsequent years," *FY 2015 NPRM*, 30 FCC Rcd at 5371-72, para. 38. In the FY 2017 proceeding, the Commission explained the history of the new fee category, its commitment to reviewing the category and how and why it proposed to increase the fee. *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Notice of Proposed Rulemaking, 32 FCC Rcd 4526, 4531-32, para. 16 (2017). The issue of whether the Media FTE burden required parity among members of the same fee category remained highly contested for years. *Assessment and Collection of Regulatory Fees for Fiscal Year 2018,* Report and Order and Order, 33 FCC Rcd 8497, 8500, para 10 (2018).

[241] The new DBS regulatory fee subcategory reduced the fees for cable and IPTV operators in the cable/IPTV regulatory fee category; therefore, phasing in the fee delayed or slowed the reduction of fees for cable/IPTV.

[242] *FY 2015 NPRM*, 30 FCC Rcd at 5372, para. 38 n.140.

[243] In a certain sense this was no different than weighing each year the fee rate between GSO and NGSO system discussed above.

[244] *See, e.g*., Intelsat Comments at 8-9 (proposing a cap of 1% on the increase of indirect FTEs that are proportionally assigned to the Space Bureau regulatory fee payors for FY 2024, thus shifting this amount to all other regulatory fee payors.); Intelsat Aug. 5 *ex parte* at 1-2; Intelsat Aug. 8 *ex parte* at 1-2.

[245] Intelsat Comments at 9-10; Intelsat Aug. 5 *ex parte* at 1-2; Intelsat Aug. 8 *ex parte* at 1-2.

increased regulatory fees.[246] We disagree. A cap or phase in of fees, whether characterized as a reduction in indirect costs or otherwise, would impose additional regulatory fees on all other regulatory fee payors, who have not received the benefit of additional Space Bureau direct FTEs devoted to oversight and regulation of space stations. Intelsat has not explained how such a shift in costs from one group of fee payors to another would be consistent with section 9, other than to assert that we have the discretion to allocate indirect costs.[247] We conclude, however, that such a cap or phase-in would be inconsistent with our statutory obligation to assess and collect regulatory fees for each fiscal year. Section 9 of the Act obligates 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 S&E appropriation.[248] Thus, the Commission has no discretion regarding the total amount to be collected in any given fiscal year. Even assuming this proposal to cap or phase in the fees would help mitigate the large increase assessed to certain Space Bureau regulatory fee payors, it would create a disconnect between other fee payors' fees assessed using calculated FTE burden shares and those assessed using the proposed cap and phase in proposal. This disconnect is exacerbated by the fact that we did not propose to cap or phase in increases for space and earth station fee payors (and thus to increase or limit the decrease in fees assessed to other payors of regulatory fees)[249] in our Notice of Proposed Rulemaking.[250] Further, we find that adopting such a cap or phase in and shifting some of the fee increase to other fee payors would result in the same cross-subsidizing situation that GAO found problematic in 2012.[251] Among other things, GAO observed that one potential effect of cross subsidization is that, if entities in different fee categories are directly competing for the same customers, cross subsidization could result in competitively disadvantaging entities in one fee category over another.[252]

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[246] Intelsat Comments at 9-10. Intelsat has not offered any explanation of why its share of indirect costs should be reduced (apart from reducing regulatory fees); the Enforcement Bureau is one example of an indirect bureau using FTE time specifically on the oversight of Intelsat. *See, e.g*., *Intelsat License LLC, an indirect, wholly owned subsidiary of Intelsat S.A., Luxembourg, Licensee of Station S3143*, EB File No.: EB-SED-23-00035921, Order, DA 24-778 (EB Aug. 12, 2024); *Intelsat License LLC, f/k/a Intelsat North America, LLC*, EB File No.: EB-IHD-15-00018207, Order, 30 FCC Rcd 11523 (EB 2015).

[247] Intelsat Comments at 10.

[248] 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.

[249] Due to the increase in direct FTEs in the Space Bureau, the percentages of direct FTEs in the other bureaus decreased for FY 2024. In some cases, such as submarine cable, this resulted in a fee decrease from $122,815 per unit in FY 2023 to $89,095 per unit in FY 2024. On the other hand, cable television increased from $1.23 per subscriber in FY 2023 to $1.27 in FY 2024, due to a decrease in total units, and Commercial Mobile Radio Service (CMRS) was $.16 per subscriber in FY 2023 and FY 2024.

[250] Neither the *Space and Earth Station Regulatory Fees NPRM* nor the *FY 2024 NPRM* proposed to cap or phase in increases in space and earth station regulatory fees for FY 2024 or, as Intelsat requests, to cap an increase of indirect FTEs proportionally assigned to fee payors. Intelsat Comments at 8-9. The *Space and Earth Station Regulatory Fees NPRM* sought comment on "a "cap" or "ceiling" on the number of authorized space stations for which regulatory fees would be assessed or having a decreasing fee for each additional space station" for the use of number of space stations as an alternative metric for assessing the regulatory fee burden for each NGSO "other" system. *Space and Earth Station Regulatory Fees NPRM* at *13, para. 38.

[251] GAO Report at 17-20. The GAO Report observed that "any cross subsidization that is occurring not because of a decision to promote a policy goal [e.g., an exemption] but because the FTE analysis on which FCC bases its fees is obsolete, is not consistent with general user fee principles." *Id*. at 18.

[252] GAO Report at 18. In some instances entities other than satellite operators compete with the satellite operators for customers. For example, satellite telephones can allow users to make and receive phone calls and text messages and satellite data modems provide users with connectivity, without accessing terrestrial mobile networks. *See* SIA,

(continued….)

77. Section 9 of the Act prescribes a method of collecting an amount equal to the full S&E appropriation by keying the regulatory fee assessment to the Commission's FTE burden.[253] As a result, the fee assigned to each regulatory fee category relates to the FTE burden associated with oversight and regulation of each regulatory fee category by the relevant core bureaus.[254] Section 9 does not provide any other basis for assessing regulatory fees or any basis for capping fees for a particular fiscal year, or phasing in increases in fees over several fiscal years, for a particular category or categories of fee payors.

J. Installment Payments

78. When the Commission adopted regulatory fees for FY 2023, it noted that it would be the last year for doing so for the International Bureau regulatory fee payors, and that the creation of the Space Bureau and Office of International Affairs could result in changes in the assessment of regulatory fees for future fiscal years.[255] In March 2024, in the *Space and Earth Station Regulatory Fees NPRM*, the Commission stated its expectation that space and earth station payors would pay significantly more in regulatory fees in FY 2024 than in FY 2023 due to the reorganization of the International Bureau and the creation of the Space Bureau.[256] The Commission subsequently in June 2024 proposed estimates of the regulatory fee rates for space and earth stations that reflected significant increases in regulatory fees for space and earth stations compared to FY 2023.[257]

79. We recognize that the FY 2024 regulatory fees adopted here for earth and space stations represent a significant increase from the FY 2023 fees, particularly for earth station and NGSO space station fee payors, and may, for some payors, be more difficult to pay in a timely manner. The proposed regulatory fee increases are due to a singular and uncommon event, i.e., the creation and capacity-building of the Space Bureau—for which the Commission received approval from the White House Office of Management and Budget and from U.S. Congressional Committees on Appropriations of the House of Representatives and the Senate—to better support United States leadership in the emerging space economy.[258]

80. We, therefore, address concerns raised by commenters. *First*, we direct the Office of Managing Director to facilitate an extended period for payment, as appropriate, for Space Bureau regulatory fee payors who may have difficulty paying the higher FY 2024 fee. Specifically, consistent with the Commission's policies and rules, the Office of Managing Director will work with any earth or space station fee payor that intends to meet its fee obligation to the greatest extent possible to utilize installment plans for payment of fees that it may find to be exceptionally higher than anticipated, e.g., any amount over 150% of the FY 2023 fee. Space Bureau regulatory fee payors who may have difficulty paying the FY 2024 fee, but not to the extent required to request a waiver, reduction, or deferral, could be eligible to pay their FY 2024 fees in installments if they are able to show that they cannot pay the fee in

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"Types of Satellite Mobile Communication Services," available at https://sia.org/satellites-services/mobile-communications/ (last visited July 31, 2024).

[253] 47 U.S.C. § 159(d); *FY 2024 NPRM* at para. 4.

[254] *FY 2024 NPRM* at para. 4, citing *FY 2019 NPRM*, 34 FCC Rcd at 3275-77, paras. 6-10.

[255] *FY 2023 Report and Order*, 38 FCC Rcd at 8096-97, para. 72.

[256] *Space and Earth Station Regulatory Fees NPRM* at *6, para. 15.

[257] *FY 2024 NPRM* at *7, paras. 17 and Appendices A, B, and E.

[258] We note that the Report of the Senate Committee on Appropriations on the Financial Services and General Government Appropriations Bill, 2024, recognized the Commission for supporting the growing U.S. satellite industry and supported additional resources to ensure the timely review of license applications and related work of U.S. satellite systems. Senate Committee on Appropriations, Report 118-61, Financial Services and General Government Appropriations Bill, 2024, at 64 (July 13, 2023).

lump sum, but can do so with extended payment terms.[259] *Second*, we direct the Office of Managing Director to fix the interest rate assessed on installment payments of FY 2024 regulatory fees at the lowest rate permitted by statute, and to not require the customary down payment. Finally, we remind parties seeking installment payment of FY 2024 regulatory fee debt that they may do so by submitting an email request to the following email address: regfeerelief@fcc.gov.

81. Regulatory fee payors may seek a waiver, reduction, or deferral of payment of a regulatory fee for good cause if the waiver, reduction, or deferral would serve the public interest.[260] But while we cannot relax the standard we employ for fee waiver, reduction, or deferral based on financial hardship grounds, as we have always done, we can facilitate an approach that allows payors the flexibility to address increases due to singular Commission action.

IV. PROCEDURAL MATTERS

82. 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.

83. *Commission's Registration System*. To increase efficiency, the Commission is using an all-electronic payment system for regulatory fees, which is contained within the Commission's Registration System (CORES). Before using CORES for the first time, you must obtain an FCC Username through the FCC User Registration System, and subsequently use it to access CORES and either register an FCC Registration Number (FRN) or associate an existing FRN to your password. If you are unable to register electronically, you may fax your application for a Registration Number (FCC Form 160) to the CORES Helpdesk at (202) 418-7869 for filing procedures.

84. *Credit Card Transaction Levels*. In accordance with *Treasury Financial Manual*, Volume I, Part 5, Chapter 7000, Section 7065.20a—*Credit Card Collections,* the total daily credit card transactions processed from a single payor can be no more than $24,999.99 (hereinafter the "Maximum Daily Limit") and the total monthly transactions processed from a single payor (based on a rolling 30-day period) can be no more than $100,000.00 (hereinafter the "Maximum Monthly Limit").[261] Transactions greater than the Maximum Daily Limit will be rejected. If a payor initiates multiple transactions on the same day with the same credit card, those transactions causing the total charge to exceed the Maximum Daily Limit will also 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. Payors who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as debit cards, Automates Clearing House (ACH)

[259] 47 CFR § 1.1914. In 2019, the Commission explained that the application of our waiver authority remained unchanged since 1994 and is an essential aspect of the Commission's satisfaction of its statutory duty. *FY 2019 Report and Order*, 34 FCC Rcd at 8207, paras. 49-50.

[260] 47 U.S.C. § 159A(d). We have consistently interpreted this provision to permit only those waivers "unambiguously articulating 'extraordinary circumstances' outweighing the public interest in recouping the cost of the Commission's regulatory services for a particular regulatee." *FY 2019 Report and Order*, 34 FCC Rcd at 8207, para. 50. Thus, in exceptional circumstances, financial hardship may justify waiving an individual party's regulatory fees when it has shown it "lacks sufficient funds to pay the regulatory fees and to maintain its service to the public." *FY 2019 Report and Order,* 34 FCC Rcd at 8207, para. 50. Financial hardship must be conclusively proven in each individual case, must be fully documented, and demonstrate that the fee payor "lacks sufficient funds to pay the regulatory fees and to maintain its service to the public." *FY 2019 Report and Order*, 34 FCC Rcd at 8207, para. 50. We will review the supporting documents and base our ruling upon the information submitted and if a petitioner presents a compelling case of financial hardship, no payment of the regulatory fee will be due; however, if the supporting materials do not present sufficient evidence of hardship, we will deny the petition.

[261] *See* Bureau of the Fiscal Service, Treasury Financial Manual, https://tfx.treasury.gov/tfm/volume1 (Treasury Financial Manual) (last visited July 22, 2024).

debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in the Commission's Registration System (CORES). Further details will be provided regarding payment methods and procedures at the time of FY 2024 regulatory fee collection in Fact Sheets, https://www.fcc.gov/regfees.

85. *Payment Methods*. During the fee season for collecting regulatory fees, regulatees can pay their fees by credit card through CORES, 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-databases/fees/wire-transfer.

86. *De Minimis Regulatory Fees, Section 9(e)(2) Exemption*. Under the de minimis rule, and pursuant to our analysis under section 9(e)(2) of the Act, a regulatee is exempt from paying regulatory fees if the sum total of all of its annual regulatory fee liabilities is $1,000 or less for the fiscal year.[262] The de minimis threshold applies only to filers of annual regulatory fees, not regulatory fees paid through multi-year filings, and it is not a permanent exemption. Each regulatee will need to reevaluate the total annual fee liability each fiscal year to determine whether it meets the de minimis exemption.

87. *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:

1) *Media Services*: Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2023 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, 2023. In instances where a permit or license is transferred or assigned after October 1, 2023, responsibility for payment rests with the holder of the permit or license as of the fee due date.

2) *Wireline (Common Carrier) Services*: Regulatory fees must be paid for authorizations that were granted on or before October 1, 2023. In instances where a permit or license is transferred or assigned after October 1, 2023, 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.[263] 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.[264] The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2023.

3) *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, 2023. The number of subscribers,

[262] *FY 2019 Report and Order*, 34 FCC Rcd at 8206-8207, paras. 46-48; 47 U.S.C. § 159(e)(2).

[263] Audio bridging services are toll teleconferencing services.

[264] 47 CFR § 52.103.

units, or telephone numbers on December 31, 2023 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, 2023, responsibility for payment rests with the holder of the permit or license as of the fee due date.

4) *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."[265] 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 2024.

5) 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, 2023.[266] Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2023. In instances where a permit or license is transferred or assigned after October 1, 2023, 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, 2023. In instances where a permit or license is transferred or assigned after October 1, 2023, responsibility for payment rests with the holder of the permit or license as of the fee due date.

6) *Space Services*: Regulatory fees must be paid for earth stations that were licensed (or authorized) on or before October 1, 2023. 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, 2023. Licensees of small satellites that were licensed and operational on or before October 1, 2023 must also pay regulatory fees. In instances where a permit or license is transferred or assigned after October 1, 2023, responsibility for payment rests with the holder of the permit or license as of the fee due date. Rendezvous and Proximity Operations, On-Orbit Servicing, and Orbital Transfer Vehicle space station that were licensed and operational on or before October 1, 2023, must also pay regulatory fees, using the regulatory fee category for small satellites,

7) *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, 2023. Regulatory fees for terrestrial and satellite IBCs are to be paid based on active (used or leased) international bearer circuits as of December 31, 2023, 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, 2023. Whether circuits are used specifically for voice or data is not relevant for

[265] These multiyear licenses are for PLMRS (exclusive), PLMRS (shared), Microwave, Marine (ship), Aviation (aircraft), Marine (coast), and Aviation (ground).

[266] 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 2023, rather than on a count as of December 31, 2023.

purposes of determining that they are active circuits.[267] In instances where a permit or license is transferred or assigned after October 1, 2023, responsibility for payment rests with the holder of the permit or license as of the fee due date.

88. *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").[268] 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 CORES along with the carrier's Operating Company Numbers (OCNs).

89. 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.[269] 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 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,[270] 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.

90. 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, 2023), 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.

91. *Effective Date*. Providing a 30-day period after Federal Register publication before this Report and Order becomes effective as normally required by 5 U.S.C. § 553(d) will not allow sufficient time to collect the FY 2024 fees before FY 2024 ends on September 30, 2024. For this reason, pursuant to 5 U.S.C. § 553(d)(3), we find there is good cause to waive the requirements of section 553(d), and this Report and Order will become effective upon publication in the Federal Register. Because payments of the regulatory fees will not actually be due until late September, persons affected by the Report and Order

[267] 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.

[268] *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).

[269] In the supporting documentation, the provider must 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 to justify a reason for the change.

[270] 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 (OMD July 20, 2022) (establishing August 17, 2022 as the date by which CMRS providers must submit revisions to their telephone number counts).

will still have a reasonable period in which to make their payments and thereby comply with the rules established herein.

92. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA),[271] 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."[272] Accordingly, we have prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Report and Order on small entities. The FRFA is set forth in the Appendix --.

93. *Paperwork Reduction Act of 1995 Analysis.* This document contains a non-substantive change to information requirements that were previously reviewed and approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. The change will be submitted to the Office of Management and Budget for review as a non-substantive change. Because this change is non-substantive, there is no 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.

94. *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 Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

95. *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 (voice).

V. ORDERING CLAUSES

96. 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 IS HEREBY ADOPTED.

97. IT IS FURTHER ORDERED that the FY 2024 section 9 regulatory fees assessment requirements ARE ADOPTED as specified herein.

98. IT IS FURTHER ORDERED that the Commission's Office of the Secretary SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[271] *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. 847 (1996).

[272] *See* 5 U.S.C. § 605(b).

APPENDIX A

Commenter (for initial and reply comments filed in response to the Commission's annual FY 2024 Regulatory Fees NPRM, FCC 24-68 (rel. June 13, 2024))	Abbreviated Name	Date Filed
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,	State Broadcasters	July 15, 2024

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 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, Wyoming Association of Broadcasters		
Astroscale U.S., Inc.	Astroscale	July 15, 2024
BlackSky Global LLC	BlackSky	July 15, 2024
Capella Space Corp.	Capella	July 15, 2024
Commercial Smallsat Spectrum Management Association	CSSMA	July 15, 2024
CTIA—The Wireless Association®	CTIA	July 29, 2024
Intelsat License LLC	Intelsat	July 15, 2024
Iridium Communications, Inc.	Iridium	July 15, 2024, July 29, 2024
Kepler Communications, Inc.	Kepler	July 15, 2024, July 29, 2024
Kinéis	Kinéis	July 15, 2024
Myriota Pty. Ltd.	Myriota	July 15, 2024

National Association of Broadcasters	NAB	July 15, 2024
Orbital Sidekick, Inc.	OSK	July 29, 2024
Satellite Industry Association	SIA	July 29, 2024
Submarine Cable Coalition	Coalition	July 29, 2024
TechFreedom	TechFreedom	July 29, 2024
Tomorrow Companies, Inc.	Tomorrow	July 15, 2024
WorldVu Satellites Limited and Eutelsat S.A.	Eutelsat Group	July 15, 2024

Commenter (for initial and reply comments filed in response to the Space and Earth Station Regulatory Fees NPRM, FCC 24-31 (rel. Mar. 13, 2024))	**Abbreviated Name**	**Date Filed**
Anuvu Licensing Holdings, LLC	Anuvu	April, 12, 2024
AstroDigital U.S., Inc.	AstroDigital	April 12, 2024
Astroscale U.S., Inc.	Astroscale	April 12, 2024
Blue Origin, LLC	Blue Origin	April 12, 2024
Commercial Smallsat Spectrum Management Association	CSSMA	April 12, 2024
The Consortium for Execution of Rendezvous and Servicing Operations	CONFERS	April 29, 2024
EchoStar Corporation and DIRECTV, LLC	EchoStar and DIRECTV	April 29, 2024
Intelsat License LLC	Intelsat	April 12, 2024, April 29, 2024
Iridium Communications, Inc.	Iridium	April 29, 2024
Kepler Communications, Inc.	Kepler	April 12, 2024, April 29, 2024
Kinéis	Kinéis	April 12, 2024, April 29, 2024
Kuiper Systems, LLC	Kuiper	April 29, 2024
Maxar Technologies, Inc.	Maxar	April 29, 2024
Myriota Pty. Ltd.	Myriota	April 12, 2024, April 29, 2024
National Association of Broadcasters	NAB	April 29, 2024

NCTA—The Internet and Television Association	NCTA	April 12, 2024, April 29, 2024
Planet Labs PBC	Planet	April 12, 2024
SES Americom, Inc. and O3b Limited	SES	April 12, 2024, April 29, 2024
Space Explorations Holdings, LLC	SpaceX	April 12, 2024, April 29, 2024
Telesat Canada	Telesat	April 12, 2024, April 29, 2024
Varda Space Industries, Inc.	Varda	April 12, 2024
Vast Space, LLC	Vast	April 29, 2024
Viasat, Inc.	Viasat	April 29, 2024
WorldVu Satellites Limited and Eutelsat S.A.	Eutelsat Group	April 12, 2024, April 29, 2024

***Ex parte* filings for FCC 24-31 and FCC 24-68**	**Date filed**
Letter from Jameson Dempsey, Director, Satellite Policy, Space Exploration Technologies Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission (May 9, 2024) (SpaceX May 9 *ex parte*)	May 9, 2024
Letter from W. Ray Rutngamiug, Associate General Counsel, Intelsat US LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 16, 2024) (Intelsat May 16 *ex parte*)	May 16, 2024
Letter from Jarett S. Taubman, VP and Deputy Chief Governmental Affairs and Regulatory Officer, Viasat, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 16, 2024) (Viasat May 16 *ex parte*)	May 16, 2024
Letter from James S. Blitz, Senior Vice President, Regulatory Counsel, Sirius XM Radio, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (May 22, 2024) (Sirius XM May 22 *ex parte*)	May 22, 2024
Letter from Jameson Dempsey, Director, Satellite Policy, Space Exploration Technologies Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission (May 23, 2024) (SpaceX May 23 *ex parte*)	May 23, 2024
Letter from Will Lewis, counsel to Myriota Pty. Ltd., to Marlene H. Dortch, Secretary, Federal	May 28, 2024

Communications Commission (May 28, 2024) (Myriota May 28 *ex parte*)	
Letter from Cynthia J, Grady, Assistant General Counsel, Intelsat US LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (May 28, 2024) (Intelsat May 28 *ex parte*)	May 28, 2024 (erratum filed May 30, 2024)
Letter from Suzanne Malloy, Vice President, Regulatory Affairs, O3b Limited, to Marlene H. Dortch, Secretary, Federal Communications Commission (June 7, 2024) (SES June 7 *ex parte*)	June 7, 2024
Letter from Cynthia J, Grady, Assistant General Counsel, Intelsat US LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (June 11, 2024) (Intelsat June 11 *ex parte*)	June 11, 2024
Letter from Kara Leibin Azocar, Vice President, Regulatory, Iridium Satellite LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (June 13, 2024) (Iridium June 13 *ex parte*)	June 13, 2024
Letter from David S. Keir, Counsel to Kinéis, to Marlene H. Dortch, Secretary, Federal Communications Commission (June 17, 2024) (Kinéis June 17 *ex parte*)	June 17, 2024
Letter from Kara Leibin Azocar, Vice President, Regulatory, Iridium Satellite LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (June 20, 2024) (Iridium June 20 *ex parte*)	June 20, 2024
Letter from Emily A. Gomes, Associate General Counsel, National Association of Broadcasters, to Marlene H. Dortch, Secretary, Federal Communications Commission (July 16, 2024) (NAB July 16 *ex parte*)	July 16, 2024
Letter from Polly Averns, Senior Regulatory Associate, Kepler Communications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (July 18, 2024) (Kepler July 18 *ex parte*)	July 18, 2024
Letter from Cynthia J. Grady, Assistant General Counsel, Intelsat US LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 1, 2024) (Intelsat Aug. 1 *ex parte*)	Aug. 1, 2024
Letter from Cynthia J. Grady, Assistant General Counsel, Intelsat US LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 5, 2024) (Intelsat Aug. 5 *ex parte*)	Aug. 5, 2024

Letter from Cynthia J. Grady, Assistant General Counsel, Intelsat US LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 8, 2024) (Intelsat Aug. 8 *ex parte*)	Aug. 8, 2024
Letter from J.G. Harrington, Counsel to Iridium Communications Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 9, 2024) (Iridium Aug. 9 *ex parte*)	Aug. 9, 2024
Letter from Tom Stroup, President, Satellite Industry Association, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 13, 2024) (SIA Aug. 13 *ex parte*)	Aug. 13, 2024
Letter from Elisabeth Neasmith, Senior Director ITU and Regulatory, Telesat, to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 14, 2024) (Telesat Aug. 14 *ex parte*)	Aug. 14, 2024
Letter from J.G. Harrington, Counsel to Iridium Communications Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 15, 2024) (Iridium Aug. 15 *ex parte*)	Aug. 15, 2024
Letter from J.G. Harrington, Counsel to Iridium Communications Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Aug. 19, 2024) (Iridium Aug. 19 *ex parte*)	Aug. 19, 2024

APPENDIX B

Calculation of FY 2024 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 2024 Payment Units	Yrs	FY 2023 Revenue Estimate	Pro-Rated FY 2024 Revenue Require-ment	Computed FY 2024 Regulatory Fee	Rounded FY 2024 Reg. Fee	Expected FY 2024 Revenue
PLMRS (Exclusive Use)	1,150	10	300,000	287,500	25.00	25	287,500
PLMRS (Shared use)	23,300	10	1,900,000	2,330,000	10.00	10	2,330,000
Microwave	16,500	10	4,000,000	4,125,000	25.00	25	4,125,000
Marine (Ship)	7,000	10	1,050,000	1,050,000	15.00	15	1,050,000
Aviation (Aircraft)	5,800	10	480,000	580,000	10.00	10	580,000
Marine (Coast)	280	10	96,000	112,000	40.00	40	112,000
Aviation (Ground)	270	10	60,000	54,000	20.00	20	54,000
AM Class A[1]	58	1	286,800	266,815	4,600	4,600	266,800
AM Class B[1]	1,305	1	3,556,605	3,310,685	2,537	2,535	3,308,175
AM Class C[1]	784	1	1,273,910	1,185,436	1,512	1,510	1,183,840
AM Class D[1]	1,325	1	4,208,245	3,916,079	2,956	2,955	3,915,375
FM Classes A, B1 & C3[1]	3,021	1	8,885,560	8,257,752	2,733	2,735	8,262,435
FM Classes B, C, C0, C1 & C2[1]	3,064	1	10,872,945	10,111,573	3,300	3,300	10,111,200
AM Construction Permits [2]	2	1	3,100	1,170	585	585	1,170
FM Construction Permits[2]	14	1	17,360	14,350	1,025	1,025	14,350
Digital Television[5] (including Satellite TV)	3.541 billion population	1	25,463,735	23,365,758	.0065978	.006598	23,363,518
Digital TV Construction Permits[2]	5	1	20,400	26,000	5,200	5,200	26,000
LPTV/Class A/Translators FM Trans/Boosters	6,215	1	1,644,500	1,515,832	243.9	245	1,522,675
CARS Stations	105	1	206,400	191,414	1,823	1,825	191,625
Cable TV Systems, including IPTV & DBS	50,000,000	1	68,880,000	63,587,626	1.2718	1.27	63,500,000
Interstate Telecommunication Service Providers	$22,700,000,000	1	135,540,000	122,977,045	0.005420	0.005420	123,034,000
Toll Free Numbers	35,000,000	1	4,511,000	4,225,547	0.1207	0.12	4,200,000
CMRS Mobile Services (Cellular/Public Mobile)	576,200,000	1	88,480,000	90,358,789	0.1568	0.16	92,192 ,000
CMRS Messaging Services	600,000	1	104,000	48,000	0.0800	0.080	48,000

Fee Category	FY 2024 Payment Units	Yrs	FY 2023 Revenue Estimate	Pro-Rated FY 2024 Revenue Require-ment	Computed FY 2024 Regulatory Fee	Rounded FY 2024 Reg. Fee	Expected FY 2024 Revenue
BRS/[3]	1,200	1	836,500	870,000	725	725	870,000
LMDS	370	1	252,000	268,250	725	725	268,250
Per Gbps circuit Int'l Bearer Circuits	20,000	1	442,000	335,565	16.78	17	340,000
Terrestrial (Common & Non-Common) & Satellite (Common & Non-Common)							
Submarine Cable Providers (See chart at bottom of Appendix B)[4]	71.56	1	8,228,605	6,375,737	89,096	89,095	6,375,638
Earth Stations	2,900	1	1,667,500	7,569,225	2,610	2,610	7,569,000
Space Stations (Geostationary)	140	1	15,990,880	20,181,854	144,156	144,155	20,181,700
Space Stations (Non-Geostationary, Other)	11	1	3,129,795	10,606,205	964,200	964,200	10,606,200
Space Stations (Non-Geostationary, Less Complex)	6	1	782,430	2,651,551	441,925	441,925	2,651,550
Space Stations (Non-Geostationary, Small Satellite)	16	1	85,505	195,440	12,215	12,215	195,440
******** Total Estimated Revenue to be Collected**			**392,991,324**	**389,914,238**			**392,795,910**
******** Total Revenue Requirement**			**390,192,000**	**390,192,000**			**390,192,000**
Difference			**2,799,324**	**(277,762)**			**2,603,910**

Notes on Appendix B

[1] The fee amounts listed in the column entitled "Rounded New FY 2024 Regulatory Fee" constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2024 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 2024 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) Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	725 725
AM Radio Construction Permits	585
FM Radio Construction Permits	1,025
AM and FM Broadcast Radio Station Fees	See Table Below
Digital TV (47 CFR part 73) VHF and UHF Commercial Fee Factor	$.006598 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)	245
CARS (47 CFR part 78)	1,825
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV and Direct Broadcast Satellite (DBS)	1.27
Interstate Telecommunication Service Providers (per revenue dollar)	.005420
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.12
Earth Stations (47 CFR part 25)	2,610
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	144,155
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Other)	964,200
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Less Complex)	441,925
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)	$17
Submarine Cable Landing Licenses Fee (per cable system)	See Table Below

FY 2024 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	$560	$405	$350	$385	$615	$700
10,001 - 25,000	$935	$675	$585	$645	$1,025	$1,170
25,001 – 75,000	$1,405	$1,015	$880	$970	$1,540	$1,755
75,001 – 150,000	$2,105	$1,520	$1,315	$1,450	$2,305	$2,635
150,001 – 500,000	$3,160	$2,280	$1,975	$2,180	$3,465	$3,955
500,001 – 1,200,000	$4,730	$3,415	$2,960	$3,265	$5,185	$5,920
1,200,001 – 3,000,000	$7,105	$5,130	$4,445	$4,900	$7,790	$8,890
3,000,001 – 6,000,000	$10,650	$7,690	$6,665	$7,345	$11,675	$13,325
>6,000,000	$15,980	$11,535	$10,000	$11,025	$17,515	$19,995

FY 2024 International Bearer Circuits - Submarine Cable Systems

Submarine Cable Systems (capacity as of December 31, 2023)	**Fee Ratio**	**FY 2024 Regulatory Fees**
Less than 50 Gbps	.0625 Units	$5,570
50 Gbps or greater, but less than 250 Gbps	.125 Units	$11,140
250 Gbps or greater, but less than 1,500 Gbps	.25 Units	$22,275
1,500 Gbps or greater, but less than 3,500 Gbps	.5 Units	$44,550
3,500 Gbps or greater, but less than 6,500 Gbps	1.0 Unit	$89,095
6,500 Gbps or greater	2.0 Units	$178,190

APPENDIX D

Sources of Payment Unit Estimates for FY 2024

In order to calculate individual service fees for FY 2024, we adjusted FY 2023 payment units for each service to more accurately reflect expected FY 2024 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), 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 2024 estimates with actual FY 2023 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 2024 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 2024 payment units are based on FY 2023 actual payment units, it does not necessarily mean that our FY 2024 projection is exactly the same number as in FY 2023. We have either rounded the FY 2024 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 2023 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 2023 payment data.
AM/FM Radio Stations	Based on downloaded LMS data, adjusted for exemptions, and actual FY 2023 payment units.
Digital TV Stations	Based on LMS data, fee rate adjusted for exemptions, and

(Combined VHF/UHF units)	population figures are calculated based on individual station parameters.
AM/FM/TV Construction Permits	Based on LMS data, adjusted for exemptions, and actual FY 2023 payment units.
LPTV, Translators and Boosters, Class A Television	Based on LMS data, adjusted for exemptions, and actual FY 2023 payment units.
BRS (formerly MDS/MMDS)LMDS	Based on WTB reports and actual FY 2023 payment units. Based on WTB reports and actual FY 2023 payment units.
Cable Television Relay Service (CARS) Stations	Based on cable trend data, data from the Media Bureau's COALS database, and actual FY 2023 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 2023 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499-A worksheets due in April 2024, and any data assistance provided by the Wireline Competition Bureau.
Earth Stations	Based on International Bureau licensing data and actual FY 2023 payment units.
Space Stations (GSOs & NGSOs)	Based on International Bureau data reports and actual FY 2023 payment units.
International Bearer Circuits	Based on assistance provided by the International Bureau, any data submissions by licensees, adjusted as necessary, and actual FY 2023 payment units.
Submarine Cable Licenses	Based on International Bureau license information, and actual FY 2023 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 2020 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 2020 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 2024 Regulatory Fees

Space Stations (Geostationary Orbit): U.S.-Licensed Space Stations

LICENSEE	CALL SIGN	SATELLITE NAME	TYPE
Astranis Projects USA LLC	S3092	ARCTURUS	GSO
Open Plaza Corp.	S2922	SKY-B1	GSO
DIRECTV Enterprises, LLC	S2640	DIRECTV D11	GSO
DIRECTV Enterprises, LLC	S2869	DIRECTV D14	GSO
DIRECTV Enterprises, LLC	S2632	DIRECTV D8	GSO
DIRECTV Enterprises, LLC	S2669	DIRECTV D9S	GSO
DIRECTV Enterprises, LLC	S2641	DIRECTV D10	GSO
DIRECTV Enterprises, LLC	S2797	DIRECTV D12	GSO
DIRECTV Enterprises, LLC	S2930	DIRECTV D15	GSO
DIRECTV Enterprises, LLC	S2673	DIRECTV D5	GSO
Alascom, Inc.	S2133	SPACEWAY 2	GSO
DIRECTV Enterprises, LLC	S3039	DIRECTV D16	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.	S2790	ECHOSTAR 14	GSO
EchoStar Satellite Operating Corporation	S2811	ECHOSTAR 15	GSO
EchoStar Satellite	S2844	ECHOSTAR 16	GSO

Operating Corporation			
EchoStar Satellite Services L.L.C.	S2179	ECHOSTAR 9	GSO
EchoStar BSS Corp	S3093	ECHOSTAR 23	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	INELSAT 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	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	S3083	*GALAXY 34*	GSO
Intelsat License LLC	S3015	*GALAXY 33*	GSO
Intelsat License LLC	S3016	GALAXY 30	GSO
Intelsat License LLC	S3076	GALAXY 31	GSO
Intelsat License LLC	S3078	GALAXY 32	GSO
Intelsat License LLC	S3148	GALAXY 36	GSO
Intelsat License LLC	S3164	GALAXY 37	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	INTELSAT 28	GSO
Intelsat License LLC	S3023	INTELSAT 39	GSO
Intelsat License LLC	S3066	INTELSAT 40e	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.	S2180	AMC-15	GSO
SES Americom, Inc.	S2892	SES-3	GSO
SES Americom, Inc.	S3097/*S3138*	SES-19/*SES-22*	GSO
SES Americom, Inc.	S3099	SES-21	GSO
Silkwave Africa, LLC	S3074	AsiaStar	GSO
Sirius XM Radio Inc.	S2710	FM-5	GSO
Sirius XM Radio Inc.	S3034/*S2617/S2616/S3033*	SXM-8/*XM-3/XM-4/SXM-7*	GSO
Skynet Satellite Corp.	S2933	TELSTAR 12V	GSO
Skynet Satellite Corporation	S2357	TELSTAR 11N	GSO
ViaSat, Inc.	S2747	VIASAT-1	GSO
ViaSat, Inc.	*S3050/S917*	*VIASAT-89US/VIASAT-3*	GSO
XM Radio LLC	S2786	XM-5	GSO

Space Stations (Geostationary Orbit): Non-U.S.-Licensed Space Stations – Market Access Through Petition for Declaratory Ruling

LICENSEE	CALL SIGN	SATELLITE NAME	TYPE
ABS Global Ltd.	S2987	ABS-3A	GSO
Avanti Hylas 2 Ltd.	S3130	HYLAS-4	GSO
DBSD Services Ltd	S2651	DBSD G1	GSO
Embratel TVSAT Telecomunicacoes S.A.	S3142	Star One D2	GSO
Empresa Argentina de Soluciones Satelitales S.A.	S2956	ARSAT-2	GSO
Embratel Tvsat Telecommunicacoes S.A.	S2678	STAR ONE C2	GSO
Embratel Tvsat Telecommunicacoes S.A.	S2845	STAR ONE C3	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
Hispamar Satélites, S.A.	S2793	AMAZONAS-2	GSO
Hispamar Satélites, S.A.	S2886	AMAZONAS-3	GSO
Hispamar Satélites, S.A.	S3086	AMAZONAS NEXUS	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 Satellites (Gibraltar) Ltd.	S2951	SES-15	GSO
SES Americom, Inc.	S3037	NSS-11	GSO
SES Americom, Inc.	S2964	SES-11	GSO
SES-17 S.a.r.l.	S3043	SES-17	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	S2472	ANIK F2	GSO
Telesat International Ltd.	S2955	TELSTAR 19 VANTAGE	GSO
Viasat, Inc.	S2902	VIASAT-2	GSO

Space Stations (Geostationary Orbit): Non-U.S.-Licensed Space Stations – Market Access Through Earth Station Licenses

LICENSEE	CALL SIGN	SATELLITE NAME	TYPE
APSTAR VI	APSTAR 6	M292090	GSO
AUSSAT B 152E	OPTUS D2	M221170	GSO
Ciel Satellite Group	Ciel-2	E050029	GSO
DISH Operating LLC	Quetzsat-1	E090020	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
WILDBLUE-1	WILDBLUE-1	E040213	GSO

Space Stations (per license/call sign in non-geostationary orbit) (Small Satellite)

ITU NAME (if available)	Common Name	Call Sign	TYPE
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
Capella Space Corp.	Acadia-1	S3162	Small Satellite
Launcher, Inc.	Orbiter SN3	S3161	Small Satellite
Loft Orbital Solutions Inc.	YAM-3	S3072	Small Satellite
Loft Orbital Solutions Inc.	YAM-5	S3147	Small Satellite
Turion Space Corp.	DROID.001	S3146	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
ICEYE US, Inc.	ICEYE Second Tranche	S3165	Small Satellite
Space Logistics, LLC	Mission Extension Vehicle-1	S2990	RPO/OOS
Space Logistics, LLC	Mission Extension Vehicle-2	S3059	RPO/OOS
Momentus Space, LLC	Vigoride-5	S3144	OTV
Momentus Space, LLC	Vigoride-6	S3154	OTV
Spaceflight, Inc.	Sherpa-AC1	S3133	OTV

Space Stations (Non-Geostationary Orbit)—Less Complex

ITU NAME (if available)	Common Name	Call Sign	TYPE
Planet Labs	Flock/Skysats	S2912	Less Complex
Maxar License	WorldView 1,2 & 3,	S2129/S2348	Less Complex

	GeoEye-1		
BlackSky Global	Global	S3032	Less Complex
Orbital Sidekick, Inc.	GHOSt	S3139	Less Complex
Hawkeye 360	HE360	S3042	Less Complex
Spire Global	LEMUR & MINAS	S2946/S3045	Less Complex

Space Stations (Non-Geostationary Orbit)—Other

ITU NAME (if available)	Common Name	Call Sign	TYPE
ORBCOMM License Corp	ORBCOMM	S2103	Other
Iridium Constellation LLC	IRIDIUM	S2110	Other
Telesat Canada	TELESAT Ku/Ka-Band	S2976	Other
Kepler Communications, Inc.	KEPLER	S2981	Other
Myriota Pty. Ltd.	MYRIOTA	S3047	Other
O3b Ltd.	O3b	S2935	Other
Globalstar License LLC	GLOBALSTAR	S2115	Other
Space Exploration Holdings, LLC	SPACEX/Ku/KaBand	S2983/S3018	Other
Space Exploration Holdings, LLC	SPACEX/GEN 2	S3069	Other
Swarm Technologies, Inc.	SWARM	S3041	Other
WorldVu Satellites Ltd.	ONEWEB	S2963	Other

APPENDIX G

FY 2024 Full-Service Broadcast Television Stations by Call Sign

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
3246	KAAH-TV	1,018,897	939,246	$	6,197
18285	KAAL	605,222	580,564	$	3,831
11912	KAAS-TV	243,984	243,947	$	1,610
56528	KABB	3,017,860	3,000,477	$	19,797
282	KABC-TV	18,303,336	17,670,502	$	116,590
1236	KACV-TV	383,228	383,071	$	2,528
33261	KADN-TV	889,583	889,583	$	5,869
8263	KAEF-TV	139,510	124,133	$	819
2728	KAET	4,867,739	4,836,434	$	31,911
2767	KAFT	1,294,492	1,218,670	$	8,041
62442	KAID	864,547	857,276	$	5,656
4145	KAII-TV	203,698	179,435	$	1,184
67494	KAIL	2,091,288	2,061,175	$	13,600
13988	KAIT	594,090	583,749	$	3,852
40517	KAJB	393,654	393,355	$	2,595
65522	KAKE	821,488	816,811	$	5,389
804	KAKM	397,237	395,241	$	2,608
148	KAKW-DT	3,350,876	3,242,159	$	21,392
51598	KALB-TV	933,915	932,500	$	6,153
51241	KALO	1,018,088	971,631	$	6,411
40820	KAMC	411,973	411,949	$	2,718
8523	KAMR-TV	377,485	377,410	$	2,490
65301	KAMU-TV	395,784	392,044	$	2,587
2506	KAPP	337,194	298,159	$	1,967
3658	KARD	680,743	678,724	$	4,478
23079	KARE	4,243,145	4,234,439	$	27,939
33440	KARK-TV	1,243,813	1,230,366	$	8,118
37005	KARZ-TV	1,153,588	1,134,221	$	7,484
32311	KASA-TV	1,198,361	1,159,350	$	7,649
41212	KASN	1,200,705	1,185,725	$	7,823
7143	KASW	4,828,272	4,813,078	$	31,757
55049	KASY-TV	1,182,887	1,143,258	$	7,543
33471	KATC	1,376,057	1,376,057	$	9,079
13813	KATN	95,520	95,197	$	628
21649	KATU	3,400,708	3,238,560	$	21,368

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
33543	KATV	1,285,451	1,265,986	$	8,353
50182	KAUT-TV	1,810,654	1,809,428	$	11,939
21488	KAUU	398,876	396,486	$	2,616
6864	KAUZ-TV	366,943	365,162	$	2,409
73101	KAVU-TV	323,202	322,961	$	2,131
49579	KAWB	193,767	193,705	$	1,278
49578	KAWE	139,854	137,788	$	909
58684	KAYU-TV	925,282	861,276	$	5,683
29234	KAZA-TV	15,481,136	14,233,993	$	93,916
17433	KAZD	8,087,952	8,085,339	$	53,347
776273	KAZF	253,785	188,057	$	1,241
1151	KAZQ	1,137,703	1,126,947	$	7,436
35811	KAZT-TV	495,353	409,112	$	2,699
4148	KBAK-TV	1,626,532	1,363,867	$	8,999
16940	KBCA	465,218	465,157	$	3,069
53586	KBCB	1,510,168	1,478,647	$	9,756
22685	KBDI-TV	4,731,715	4,335,180	$	28,604
56384	KBEH	18,512,098	18,476,669	$	121,909
65395	KBFD-DT	1,016,508	887,671	$	5,857
169030	KBGS-TV	176,432	173,977	$	1,148
61068	KBHE-TV	153,390	144,914	$	956
48556	KBIM-TV	226,233	226,194	$	1,492
29108	KBIN-TV	1,014,918	1,013,041	$	6,684
33658	KBJR-TV	278,564	274,572	$	1,812
83306	KBLN-TV	322,286	145,745	$	962
63768	KBLR	2,280,730	2,220,879	$	14,653
53324	KBME-TV	146,149	146,082	$	964
10150	KBMT	799,217	798,262	$	5,267
22121	KBMY	142,682	142,622	$	941
49760	KBOI-TV	869,688	862,287	$	5,689
55370	KBRR	154,408	154,405	$	1,019
66414	KBSD-DT	151,986	151,901	$	1,002
66415	KBSH-DT	97,884	95,916	$	633
19593	KBSI	730,259	728,325	$	4,805
66416	KBSL-DT	47,462	46,328	$	306
4939	KBSV	1,535,281	1,424,913	$	9,402
62469	KBTC-TV	4,319,699	4,228,861	$	27,902
61214	KBTV-TV	771,692	771,692	$	5,092
6669	KBTX-TV	5,354,551	5,351,089	$	35,306

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
35909	KBVO	1,911,833	1,684,206	$	11,112
58618	KBVU	136,908	121,846	$	804
6823	KBYU-TV	2,838,181	2,620,447	$	17,290
33756	KBZK	156,388	139,258	$	919
21422	KCAL-TV	18,258,912	17,586,821	$	116,038
11265	KCAU-TV	769,096	754,352	$	4,977
14867	KCBA	3,334,176	2,557,080	$	16,872
27507	KCBD	433,372	432,694	$	2,855
9628	KCBS-TV	18,628,137	17,359,665	$	114,539
49750	KCBY-TV	92,825	77,624	$	512
33710	KCCI	1,216,146	1,209,219	$	7,978
9640	KCCW-TV	294,831	287,246	$	1,895
63158	KCDO-TV	3,305,368	3,160,730	$	20,854
62424	KCDT	807,726	762,258	$	5,029
83913	KCEB	446,377	445,850	$	2,942
57219	KCEC	4,497,531	4,237,580	$	27,960
10245	KCEN-TV	2,224,490	2,174,193	$	14,345
13058	KCET	17,868,933	16,310,676	$	107,618
18079	KCFW-TV	196,292	157,001	$	1,036
132606	KCGE-DT	129,244	129,244	$	853
60793	KCHF	1,157,628	1,127,207	$	7,437
33722	KCIT	392,243	391,646	$	2,584
62468	KCKA	1,082,723	906,771	$	5,983
41969	KCLO-TV	150,949	145,392	$	959
47903	KCNC-TV	4,460,509	4,175,114	$	27,547
71586	KCNS	9,007,762	8,012,556	$	52,867
33742	KCOP-TV	18,134,022	17,318,605	$	114,268
19117	KCOS	1,092,982	1,092,792	$	7,210
63165	KCOY-TV	700,154	478,768	$	3,159
33894	KCPQ	5,131,164	4,985,829	$	32,896
53843	KCPT	2,690,171	2,688,808	$	17,741
33875	KCRA-TV	11,608,107	7,153,845	$	47,201
9719	KCRG-TV	1,174,546	1,156,435	$	7,630
60728	KCSD-TV	323,237	323,093	$	2,132
59494	KCSG	229,899	220,818	$	1,457
33749	KCTS-TV	4,848,434	4,778,758	$	31,530
41230	KCTV	2,732,197	2,730,443	$	18,015
58605	KCVU	700,745	689,702	$	4,551
10036	KCWC-DT	42,872	38,501	$	254

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
64444	KCWE	2,642,880	2,641,432	$	17,428
51502	KCWI-TV	1,152,163	1,151,070	$	7,595
42008	KCWO-TV	55,411	55,383	$	365
166511	KCWV	210,633	210,626	$	1,390
24316	KCWX	4,947,756	4,941,660	$	32,605
68713	KCWY-DT	85,085	84,715	$	559
22201	KDAF	7,951,276	7,949,040	$	52,448
33764	KDBC-TV	1,101,513	1,097,028	$	7,238
79258	KDCK	43,010	42,993	$	284
166332	KDCU-DT	773,823	773,808	$	5,106
38375	KDEN-TV	3,968,060	3,943,641	$	26,020
17037	KDFI	7,990,955	7,989,287	$	52,713
33770	KDFW	7,962,141	7,959,855	$	52,519
29102	KDIN-TV	1,193,740	1,189,191	$	7,846
25454	KDKA-TV	3,569,162	3,428,192	$	22,619
60740	KDKF	73,619	66,137	$	436
4691	KDLH	267,326	264,686	$	1,746
41975	KDLO-TV	214,024	213,819	$	1,411
55379	KDLT-TV	700,230	689,305	$	4,548
55375	KDLV-TV	98,101	97,673	$	644
25221	KDMD	394,250	391,278	$	2,582
78915	KDMI	1,248,443	1,247,337	$	8,230
56524	KDNL-TV	3,013,924	3,009,244	$	19,855
24518	KDOC-TV	18,264,021	17,379,123	$	114,667
1005	KDOR-TV	1,180,603	1,177,894	$	7,772
60736	KDRV	551,809	469,537	$	3,098
61064	KDSD-TV	65,355	60,171	$	397
53329	KDSE	52,777	51,188	$	338
56527	KDSM-TV	1,202,702	1,201,866	$	7,930
49326	KDTN	7,901,133	7,898,922	$	52,117
83491	KDTP	25,965	23,729	$	157
33778	KDTV-DT	8,697,794	7,750,134	$	51,135
67910	KDTX-TV	7,985,188	7,983,676	$	52,676
126	KDVR	4,301,541	4,144,268	$	27,344
18084	KECI-TV	228,161	210,560	$	1,389
51208	KECY-TV	407,175	403,848	$	2,665
58408	KEDT	527,343	527,343	$	3,479
55435	KEET	181,333	161,389	$	1,065
37103	KEKE	105,022	101,614	$	670

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41983	KELO-TV	767,130	715,437	$	4,720
34440	KEMO-TV	9,007,762	8,012,556	$	52,867
776162	KEMS	55,920	54,847	$	362
2777	KEMV	634,060	576,758	$	3,805
26304	KENS	3,091,086	3,077,749	$	20,307
63845	KENV-DT	52,294	45,932	$	303
18338	KENW	85,762	85,762	$	566
50591	KEPB-TV	631,758	574,973	$	3,794
56029	KEPR-TV	515,354	493,941	$	3,259
49324	KERA-TV	7,984,381	7,981,440	$	52,662
40878	KERO-TV	1,387,245	1,257,683	$	8,298
61067	KESD-TV	172,302	165,214	$	1,090
25577	KESQ-TV	1,487,393	615,803	$	4,063
50205	KETA-TV	1,874,445	1,860,161	$	12,273
62182	KETC	2,945,200	2,942,622	$	19,415
37101	KETD	3,918,776	3,879,692	$	25,598
2768	KETG	421,357	403,179	$	2,660
12895	KETH-TV	7,296,694	7,296,428	$	48,142
55643	KETK-TV	1,072,485	1,071,097	$	7,067
2770	KETS	1,209,518	1,191,713	$	7,863
53903	KETV	1,491,674	1,486,408	$	9,807
92872	KETZ	505,102	502,310	$	3,314
68853	KEYC-TV	553,554	539,853	$	3,562
33691	KEYE-TV	3,533,479	3,444,549	$	22,727
60637	KEYT-TV	1,466,777	1,275,243	$	8,414
83715	KEYU	351,434	351,403	$	2,319
34406	KEZI	1,221,893	1,166,907	$	7,699
34412	KFBB-TV	96,782	95,488	$	630
125	KFCT	967,548	960,099	$	6,335
51466	KFDA-TV	394,744	393,695	$	2,598
22589	KFDM	770,621	770,609	$	5,084
48521	KFDR	672,350	657,307	$	4,337
65370	KFDX-TV	367,320	366,583	$	2,419
49264	KFFV	4,674,758	4,634,964	$	30,581
12729	KFFX-TV	467,787	463,006	$	3,055
83992	KFJX	709,125	679,797	$	4,485
42122	KFMB-TV	4,239,135	3,914,207	$	25,826
53321	KFME	442,176	441,664	$	2,914
74256	KFNB	84,543	83,990	$	554

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21613	KFNE	53,059	52,392	$ 346
21612	KFNR	9,724	9,457	$ 62
66222	KFOR-TV	1,789,693	1,789,342	$ 11,806
33716	KFOX-TV	1,107,424	1,097,251	$ 7,240
41517	KFPH-DT	385,474	313,720	$ 2,070
81509	KFPX-TV	1,072,290	1,072,222	$ 7,075
31597	KFQX	197,918	173,495	$ 1,145
59013	KFRE-TV	1,850,426	1,835,478	$ 12,110
51429	KFSF-DT	7,986,866	7,039,241	$ 46,445
66469	KFSM-TV	1,003,012	978,896	$ 6,459
8620	KFSN-TV	1,973,852	1,957,279	$ 12,914
29560	KFTA-TV	907,937	894,593	$ 5,903
83714	KFTC	64,284	64,250	$ 424
60537	KFTH-DT	7,287,908	7,287,530	$ 48,083
60549	KFTR-DT	18,326,526	16,971,273	$ 111,976
61335	KFTS	77,847	66,866	$ 441
81441	KFTU-DT	109,271	105,476	$ 696
34439	KFTV-DT	1,930,415	1,914,464	$ 12,632
664	KFVE	91,164	81,417	$ 537
592	KFVS-TV	867,835	847,638	$ 5,593
29015	KFWD	7,970,373	7,964,229	$ 52,548
35336	KFXA	914,357	912,893	$ 6,023
17625	KFXB-TV	377,548	370,365	$ 2,444
70917	KFXK-TV	969,012	966,868	$ 6,379
84453	KFXL-TV	977,327	976,428	$ 6,442
56079	KFXV	1,335,643	1,335,643	$ 8,813
41427	KFYR-TV	153,218	150,858	$ 995
25685	KGAN	1,121,266	1,109,006	$ 7,317
34457	KGBT-TV	1,350,104	1,350,004	$ 8,907
7841	KGCW	938,174	935,835	$ 6,175
24485	KGEB	1,257,918	1,224,797	$ 8,081
34459	KGET-TV	982,744	940,071	$ 6,203
53320	KGFE	120,237	120,237	$ 793
7894	KGIN	235,875	233,749	$ 1,542
83945	KGLA-DT	1,754,806	1,754,806	$ 11,578
34445	KGMB	1,016,756	907,381	$ 5,987
58608	KGMC	2,076,523	2,052,808	$ 13,544
36914	KGMD-TV	101,247	100,762	$ 665
36920	KGMV	209,577	175,904	$ 1,161

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10061	KGNS-TV	283,777	274,877	$	1,814
34470	KGO-TV	9,406,080	8,630,291	$	56,943
56034	KGPE	1,829,902	1,812,936	$	11,962
81694	KGPX-TV	792,059	724,592	$	4,781
25511	KGTF	155,729	154,491	$	1,019
40876	KGTV	4,257,568	3,912,037	$	25,812
36918	KGUN-TV	1,479,221	1,292,183	$	8,526
34874	KGW	3,397,112	3,239,730	$	21,376
63177	KGWC-TV	84,597	84,117	$	555
63162	KGWL-TV	37,314	37,199	$	245
63166	KGWN-TV	558,685	528,237	$	3,485
63170	KGWR-TV	49,435	49,242	$	325
4146	KHAW-TV	102,381	101,946	$	673
60353	KHBS	610,455	588,263	$	3,881
27300	KHCE-TV	2,848,289	2,842,696	$	18,756
26431	KHET	1,022,459	1,009,772	$	6,662
21160	KHGI-TV	245,331	244,515	$	1,613
36917	KHII-TV	1,017,217	907,842	$	5,990
29085	KHIN	1,137,059	1,135,866	$	7,494
17688	KHME	196,002	194,233	$	1,282
47670	KHMT	193,159	188,714	$	1,245
47987	KHNE-TV	205,833	204,923	$	1,352
34867	KHNL	1,016,725	907,350	$	5,987
60354	KHOG-TV	862,177	797,810	$	5,264
4144	KHON-TV	1,016,508	944,271	$	6,230
34529	KHOU	7,289,635	7,287,991	$	48,086
4690	KHQA-TV	299,409	298,038	$	1,966
34537	KHQ-TV	938,773	887,184	$	5,854
30601	KHRR	1,298,625	1,241,818	$	8,194
34348	KHSD-TV	203,077	199,032	$	1,313
24508	KHSL-TV	634,956	615,388	$	4,060
69677	KHSV	2,384,812	2,343,597	$	15,463
64544	KHVO	101,138	99,980	$	660
23394	KIAH	7,307,171	7,306,816	$	48,210
34564	KICU-TV	8,992,796	7,837,235	$	51,710
56028	KIDK	351,335	348,794	$	2,301
58560	KIDY	126,096	126,079	$	832
53382	KIEM-TV	177,885	166,501	$	1,099
66258	KIFI-TV	370,169	365,995	$	2,415

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16950	KIFR	2,356,175	2,330,021	$	15,373
10188	KIII	580,363	577,602	$	3,811
29095	KIIN	1,405,103	1,375,871	$	9,078
34527	KIKU	1,017,227	920,837	$	6,076
63865	KILM	18,009,859	16,478,550	$	108,725
56033	KIMA-TV	325,241	275,599	$	1,818
66402	KIMT	671,281	662,859	$	4,374
67089	KINC	2,320,873	2,230,933	$	14,720
34847	KING-TV	4,735,386	4,686,752	$	30,923
51708	KINT-TV	1,093,579	1,093,227	$	7,213
26249	KION-TV	2,602,418	906,539	$	5,981
62427	KIPT	190,856	189,839	$	1,253
66781	KIRO-TV	4,715,994	4,685,383	$	30,914
62430	KISU-TV	358,145	353,319	$	2,331
12896	KITU-TV	749,934	749,934	$	4,948
64548	KITV	1,016,508	890,101	$	5,873
59255	KIVI-TV	864,257	856,996	$	5,654
47285	KIXE-TV	484,629	444,405	$	2,932
13792	KJJC-TV	85,813	84,995	$	561
14000	KJLA	18,725,198	17,464,578	$	115,231
20015	KJNP-TV	96,266	96,001	$	633
53315	KJRE	15,414	15,394	$	102
59439	KJRH-TV	1,475,194	1,458,401	$	9,623
55364	KJRR	45,707	44,148	$	291
7675	KJTL	365,659	365,242	$	2,410
55031	KJTV-TV	426,315	426,302	$	2,813
13814	KJUD	32,087	31,083	$	205
36607	KJZZ-TV	2,837,622	2,620,561	$	17,290
83180	KKAI	1,016,756	995,859	$	6,571
58267	KKAP	1,002,980	967,770	$	6,385
24766	KKCO	218,313	183,190	$	1,209
776228	KKEL	396,796	390,474	$	2,576
35097	KKJB	780,452	775,264	$	5,115
22644	KKPX-TV	8,265,775	7,324,470	$	48,327
35037	KKTV	3,340,505	2,899,502	$	19,131
35042	KLAS-TV	2,421,827	2,256,225	$	14,887
52907	KLAX-TV	350,490	350,144	$	2,310
3660	KLBK-TV	409,551	409,512	$	2,702
65523	KLBY	29,875	29,852	$	197

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38430	KLCS	17,868,933	16,310,676	$	107,618
77719	KLCW-TV	404,384	404,369	$	2,668
51479	KLDO-TV	267,717	267,717	$	1,766
37105	KLEI	149,648	122,977	$	811
56032	KLEW-TV	173,816	158,086	$	1,043
35059	KLFY-TV	1,380,417	1,379,775	$	9,104
54011	KLJB	1,003,676	992,763	$	6,550
11264	KLKN	1,295,353	1,249,913	$	8,247
52593	KLML	285,490	232,725	$	1,536
47975	KLNE-TV	124,206	124,134	$	819
38590	KLPA-TV	395,240	395,079	$	2,607
38588	KLPB-TV	749,224	749,224	$	4,943
749	KLRN	2,865,059	2,843,302	$	18,760
11951	KLRT-TV	1,206,848	1,187,015	$	7,832
8564	KLRU	3,404,331	3,364,831	$	22,201
8322	KLSR-TV	617,791	555,511	$	3,665
31114	KLST	205,611	176,862	$	1,167
24436	KLTJ	7,239,268	7,239,082	$	47,763
38587	KLTL-TV	438,847	438,847	$	2,896
38589	KLTM-TV	670,083	665,283	$	4,390
38591	KLTS-TV	930,704	927,650	$	6,121
68540	KLTV	1,125,646	1,108,403	$	7,313
12913	KLUJ-TV	1,304,523	1,304,523	$	8,607
57220	KLUZ-TV	1,122,002	1,061,683	$	7,005
11683	KLVX	2,368,176	2,246,495	$	14,822
82476	KLWB	1,066,369	1,066,248	$	7,035
40250	KLWY	652,057	648,301	$	4,277
64551	KMAU	230,508	205,410	$	1,355
51499	KMAX-TV	11,771,919	7,828,092	$	51,650
65686	KMBC-TV	2,690,459	2,688,812	$	17,741
35183	KMCB	71,693	69,118	$	456
41237	KMCC	2,384,330	2,325,062	$	15,341
42636	KMCI-TV	2,611,447	2,610,077	$	17,221
38584	KMCT-TV	270,862	270,855	$	1,787
22127	KMCY	80,761	80,722	$	533
162016	KMDE	34,041	34,035	$	225
26428	KMEB	239,702	216,916	$	1,431
39665	KMEG	763,806	758,839	$	5,007
35123	KMEX-DT	18,389,371	16,955,856	$	111,875

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40875	KMGH-TV	4,484,612	4,211,082	$	27,785
35131	KMID	453,896	453,890	$	2,995
16749	KMIR-TV	3,014,399	805,795	$	5,317
63164	KMIZ	552,020	549,962	$	3,629
53541	KMLM-DT	358,819	358,819	$	2,367
52046	KMLU	685,717	681,660	$	4,498
47981	KMNE-TV	44,963	41,160	$	272
24753	KMOH-TV	217,161	202,513	$	1,336
4326	KMOS-TV	823,502	819,698	$	5,408
41425	KMOT	90,764	88,505	$	584
70034	KMOV	3,058,356	3,053,447	$	20,147
51488	KMPH-TV	1,871,826	1,831,011	$	12,081
73701	KMPX	7,985,243	7,981,841	$	52,664
44052	KMSB	1,390,772	1,081,454	$	7,135
68883	KMSP-TV	4,232,627	4,200,278	$	27,713
12525	KMSS-TV	1,047,384	1,044,317	$	6,890
43095	KMTP-TV	6,891,529	5,992,187	$	39,536
35189	KMTR	858,621	737,863	$	4,868
35190	KMTV-TV	1,482,627	1,481,213	$	9,773
77063	KMTW	782,241	782,233	$	5,161
35200	KMVT	203,865	194,642	$	1,284
32958	KMVU-DT	333,344	255,430	$	1,685
86534	KMYA-DT	181,750	181,710	$	1,199
51518	KMYS	2,695,906	2,689,444	$	17,745
54420	KMYT-TV	1,378,264	1,366,926	$	9,019
35822	KMYU	174,066	170,667	$	1,126
993	KNAT-TV	1,194,249	1,164,035	$	7,680
24749	KNAZ-TV	370,644	251,297	$	1,658
47906	KNBC	18,007,954	16,466,286	$	108,645
81464	KNBN	158,327	149,470	$	986
9754	KNCT	2,162,813	2,134,345	$	14,082
82611	KNDB	140,899	140,846	$	929
82615	KNDM	81,669	81,636	$	539
12395	KNDO	326,624	291,816	$	1,925
12427	KNDU	531,985	514,613	$	3,395
17683	KNEP	96,311	91,722	$	605
776145	KNGF	418,755	418,649	$	2,762
48003	KNHL	282,894	282,649	$	1,865
125710	KNIC-DT	2,916,877	2,900,176	$	19,135

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59363	KNIN-TV	861,563	857,065	$ 5,655
48525	KNLC	3,009,669	3,007,124	$ 19,841
84215	KNMD-TV	1,175,472	1,147,431	$ 7,571
55528	KNME-TV	1,185,928	1,145,659	$ 7,559
47707	KNMT	3,242,939	3,141,420	$ 20,727
48975	KNOE-TV	706,833	703,468	$ 4,641
49273	KNOP-TV	84,998	83,626	$ 552
10228	KNPB	684,366	522,715	$ 3,449
55362	KNRR	24,339	24,315	$ 160
35277	KNSD	4,176,531	3,908,916	$ 25,791
19191	KNSN-TV	689,549	521,148	$ 3,439
23302	KNSO	1,962,568	1,942,998	$ 12,820
35280	KNTV	9,285,323	8,743,038	$ 57,687
144	KNVA	3,326,171	3,285,676	$ 21,679
33745	KNVN	497,887	470,307	$ 3,103
69692	KNVO	1,359,785	1,359,785	$ 8,972
29557	KNWA-TV	929,628	912,611	$ 6,021
59440	KNXV-TV	4,836,838	4,826,028	$ 31,842
59014	KOAA-TV	1,865,217	1,422,070	$ 9,383
50588	KOAB-TV	254,424	250,749	$ 1,654
50590	KOAC-TV	2,168,640	1,718,555	$ 11,339
58552	KOAM-TV	822,738	789,385	$ 5,208
53928	KOAT-TV	1,171,605	1,145,416	$ 7,557
35313	KOB	1,189,849	1,152,270	$ 7,603
35321	KOBF	198,225	163,241	$ 1,077
8260	KOBI	595,619	551,251	$ 3,637
62272	KOBR	227,347	226,868	$ 1,497
50170	KOCB	1,803,171	1,802,139	$ 11,891
4328	KOCE-TV	18,212,242	17,141,918	$ 113,102
84225	KOCM	1,615,493	1,614,922	$ 10,655
12508	KOCO-TV	1,890,246	1,881,152	$ 12,412
83181	KOCW	80,292	80,262	$ 530
18283	KODE-TV	789,082	781,251	$ 5,155
66195	KOED-TV	1,555,369	1,523,164	$ 10,050
50198	KOET	657,252	637,057	$ 4,203
51189	KOFY-TV	5,746,338	4,850,897	$ 32,006
34859	KOGG	206,000	173,034	$ 1,142
166534	KOHD	248,737	244,163	$ 1,611
35380	KOIN	3,398,786	3,237,691	$ 21,362

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
35388	KOKH-TV	1,800,124	1,797,602	$	11,861
11910	KOKI-TV	1,428,477	1,415,308	$	9,338
48663	KOLD-TV	1,278,430	932,536	$	6,153
7890	KOLN	1,565,175	1,465,478	$	9,669
63331	KOLO-TV	1,045,027	912,343	$	6,020
28496	KOLR	1,111,540	1,075,340	$	7,095
21656	KOMO-TV	4,798,742	4,748,599	$	31,331
65583	KOMU-TV	560,878	559,926	$	3,694
776087	KONC	1,752,026	1,713,180	$	11,304
35396	KONG	4,651,055	4,627,490	$	30,532
60675	KOOD	107,949	107,840	$	712
50589	KOPB-TV	3,433,002	3,231,453	$	21,321
2566	KOPX-TV	1,674,969	1,674,820	$	11,050
64877	KORO	572,684	572,684	$	3,779
6865	KOSA-TV	412,004	408,993	$	2,699
34347	KOTA-TV	189,181	166,163	$	1,096
8284	KOTI	318,713	97,757	$	645
35434	KOTV-DT	1,476,322	1,464,332	$	9,662
56550	KOVR	11,787,731	7,857,430	$	51,843
51101	KOZJ	431,452	429,469	$	2,834
51102	KOZK	876,101	867,569	$	5,724
3659	KOZL-TV	1,026,947	999,396	$	6,594
35455	KPAX-TV	224,598	210,969	$	1,392
67868	KPAZ-TV	4,842,326	4,829,190	$	31,863
6124	KPBS	3,878,727	3,740,193	$	24,678
50044	KPBT-TV	405,749	405,749	$	2,677
77452	KPCB-DT	30,087	30,010	$	198
35460	KPDX	3,335,153	3,195,785	$	21,086
12524	KPEJ-TV	439,758	439,752	$	2,901
41223	KPHO-TV	4,847,036	4,823,456	$	31,825
61551	KPIC	162,187	108,923	$	719
86205	KPIF	294,133	287,132	$	1,894
25452	KPIX-TV	8,939,616	8,011,243	$	52,858
58912	KPJK	8,580,033	7,562,337	$	49,896
166510	KPJR-TV	3,994,308	3,966,833	$	26,173
13994	KPLC	1,433,578	1,431,830	$	9,447
41964	KPLO-TV	55,567	52,690	$	348
35417	KPLR-TV	3,020,349	3,017,559	$	19,910
12144	KPMR	1,795,745	1,521,941	$	10,042

		Service Area	Terrain Limited	Terrain Limited
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47973	KPNE-TV	89,112	84,360	$ 557
35486	KPNX	4,833,873	4,829,331	$ 31,864
77512	KPNZ	2,843,405	2,620,343	$ 17,289
73998	KPOB-TV	131,017	130,539	$ 861
26655	KPPX-TV	4,839,734	4,825,175	$ 31,837
53117	KPRC-TV	7,306,242	7,305,940	$ 48,205
48660	KPRY-TV	42,882	42,790	$ 282
61071	KPSD-TV	19,034	17,986	$ 119
53544	KPTB-DT	351,156	349,137	$ 2,304
81445	KPTF-DT	83,380	83,378	$ 550
77451	KPTH	709,738	706,066	$ 4,659
51491	KPTM	1,544,022	1,542,684	$ 10,179
33345	KPTS	849,715	845,613	$ 5,579
50633	KPTV	3,367,478	3,193,457	$ 21,070
82575	KPTW	93,904	86,230	$ 569
1270	KPVI-DT	301,761	295,401	$ 1,949
58835	KPXB-TV	7,268,859	7,268,534	$ 47,958
68695	KPXC-TV	3,953,241	3,922,814	$ 25,883
68834	KPXD-TV	7,851,329	7,849,492	$ 51,791
33337	KPXE-TV	2,621,434	2,620,523	$ 17,290
5801	KPXG-TV	3,396,167	3,240,309	$ 21,380
81507	KPXJ	1,114,713	1,111,470	$ 7,333
61173	KPXL-TV	2,675,400	2,663,341	$ 17,573
35907	KPXM-TV	3,872,706	3,871,246	$ 25,542
58978	KPXN-TV	18,009,859	16,478,550	$ 108,725
77483	KPXO-TV	1,016,659	977,430	$ 6,449
21156	KPXR-TV	870,810	864,123	$ 5,701
69619	KPYX	8,951,798	8,033,747	$ 53,007
10242	KQCA	11,066,274	6,905,589	$ 45,563
41430	KQCD-TV	46,118	43,974	$ 290
18287	KQCK	3,914,615	3,869,797	$ 25,533
78322	KQCW-DT	1,198,492	1,192,260	$ 7,867
35525	KQDS-TV	309,526	305,800	$ 2,018
35500	KQED	8,924,403	7,934,659	$ 52,353
35663	KQEH	8,924,403	7,934,659	$ 52,353
8214	KQET	3,221,916	2,234,120	$ 14,741
5471	KQIN	585,179	585,151	$ 3,861
17686	KQME	203,177	198,383	$ 1,309
61063	KQSD-TV	32,060	31,225	$ 206

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8378	KQSL	209,114	145,828	$ 962
20427	KQTV	1,587,910	1,493,576	$ 9,855
78921	KQUP	801,534	624,922	$ 4,123
306	KRBC-TV	237,068	236,992	$ 1,564
166319	KRBK	1,018,307	1,001,775	$ 6,610
22161	KRCA	18,303,336	17,670,502	$ 116,590
57945	KRCB	9,553,735	9,246,484	$ 61,008
41110	KRCG	758,918	744,644	$ 4,913
8291	KRCR-TV	439,734	419,678	$ 2,769
10192	KRCW-TV	3,330,638	3,194,693	$ 21,079
49134	KRDK-TV	396,418	396,379	$ 2,615
52579	KRDO-TV	3,041,472	2,649,733	$ 17,483
70578	KREG-TV	159,270	97,419	$ 643
34868	KREM	934,011	862,068	$ 5,688
51493	KREN-TV	890,359	755,865	$ 4,987
70596	KREX-TV	154,968	154,745	$ 1,021
70579	KREY-TV	77,765	69,062	$ 456
48589	KREZ-TV	148,142	101,846	$ 672
43328	KRGV-TV	1,359,834	1,359,671	$ 8,971
82698	KRII	130,753	129,582	$ 855
29114	KRIN	989,283	975,977	$ 6,439
25559	KRIS-TV	576,145	576,104	$ 3,801
22204	KRIV	7,295,333	7,294,571	$ 48,130
14040	KRMA-TV	4,385,284	4,186,932	$ 27,625
14042	KRMJ	184,799	169,573	$ 1,119
20476	KRMT	3,457,214	3,353,993	$ 22,130
84224	KRMU	86,743	70,549	$ 465
20373	KRMZ	37,319	34,727	$ 229
47971	KRNE-TV	45,930	38,258	$ 252
60307	KRNV-DT	1,043,407	879,554	$ 5,803
65526	KRON-TV	9,335,037	8,729,878	$ 57,600
53539	KRPV-DT	65,504	65,504	$ 432
48575	KRQE	1,174,664	1,143,133	$ 7,542
57431	KRSU-TV	1,078,345	1,076,370	$ 7,102
82613	KRTN-TV	86,907	67,161	$ 443
35567	KRTV	95,862	94,385	$ 623
84157	KRWB-TV	118,050	117,368	$ 774
35585	KRWF	82,308	82,308	$ 543
55516	KRWG-TV	929,122	719,343	$ 4,746

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48360	KRXI-TV	802,294	612,918	$	4,044
307	KSAN-TV	142,667	142,664	$	941
11911	KSAS-TV	773,161	773,144	$	5,101
53118	KSAT-TV	3,075,254	3,027,321	$	19,974
35584	KSAX	380,811	380,811	$	2,513
35587	KSAZ-TV	4,854,767	4,831,287	$	31,877
38214	KSBI	1,751,439	1,749,811	$	11,545
19653	KSBW	5,564,606	4,838,506	$	31,924
19654	KSBY	564,561	526,110	$	3,471
82910	KSCC	534,707	534,707	$	3,528
10202	KSCE	1,093,223	1,089,485	$	7,188
35608	KSCI	18,212,242	17,141,918	$	113,102
72348	KSCW-DT	927,681	922,979	$	6,090
46981	KSDK	3,013,779	3,007,368	$	19,843
35594	KSEE	1,888,344	1,874,494	$	12,368
29121	KSFL-TV	330,215	330,182	$	2,179
48658	KSFY-TV	731,978	677,603	$	4,471
17680	KSGW-TV	63,725	62,410	$	412
59444	KSHB-TV	2,616,078	2,614,543	$	17,251
73706	KSHV-TV	927,614	927,074	$	6,117
29096	KSIN-TV	349,020	347,636	$	2,294
34846	KSIX-TV	79,019	79,019	$	521
35606	KSKN	841,494	741,761	$	4,894
70482	KSLA	998,682	998,217	$	6,586
6359	KSL-TV	2,839,353	2,616,980	$	17,267
71558	KSMN	357,081	357,075	$	2,356
33336	KSMO-TV	2,585,699	2,584,094	$	17,050
28510	KSMQ-TV	540,217	524,751	$	3,462
35611	KSMS-TV	1,684,095	922,727	$	6,088
21161	KSNB-TV	748,097	747,971	$	4,935
72359	KSNC	166,315	165,997	$	1,095
67766	KSNF	640,722	637,167	$	4,204
72361	KSNG	143,267	143,050	$	944
72362	KSNK	46,872	43,725	$	288
67335	KSNT	657,321	629,824	$	4,156
10179	KSNV	2,283,885	2,225,135	$	14,681
72358	KSNW	810,301	809,927	$	5,344
61956	KSPS-TV	935,711	883,159	$	5,827
52953	KSPX-TV	7,814,495	5,846,886	$	38,578

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166546	KSQA	391,323	383,112	$	2,528
53313	KSRE	83,984	83,984	$	554
35843	KSTC-TV	4,228,163	4,218,565	$	27,834
63182	KSTF	49,439	49,305	$	325
28010	KSTP-TV	4,230,921	4,222,032	$	27,857
60534	KSTR-DT	7,934,904	7,932,227	$	52,337
64987	KSTS	9,125,502	7,902,723	$	52,142
22215	KSTU	2,834,133	2,604,938	$	17,187
23428	KSTW	4,945,092	4,849,973	$	32,000
5243	KSVI	192,678	191,712	$	1,265
58827	KSWB-TV	3,976,536	3,773,857	$	24,900
60683	KSWK	78,448	78,334	$	517
35645	KSWO-TV	461,432	437,725	$	2,888
61350	KSYS	551,328	475,899	$	3,140
59988	KTAB-TV	281,813	281,579	$	1,858
999	KTAJ-TV	2,529,426	2,528,757	$	16,685
35648	KTAL-TV	1,072,280	1,070,439	$	7,063
12930	KTAS	501,069	491,644	$	3,244
81458	KTAZ	4,835,851	4,811,877	$	31,749
35649	KTBC	4,138,493	3,857,454	$	25,451
67884	KTBN-TV	18,729,484	17,423,297	$	114,959
67999	KTBO-TV	1,758,274	1,756,813	$	11,591
35652	KTBS-TV	1,138,628	1,135,638	$	7,493
28324	KTBU	7,242,592	7,242,368	$	47,785
67950	KTBW-TV	4,873,117	4,763,879	$	31,432
35655	KTBY	360,565	358,722	$	2,367
68594	KTCA-TV	4,022,616	4,008,908	$	26,451
68597	KTCI-TV	3,912,137	3,908,528	$	25,788
35187	KTCW	106,581	93,009	$	614
36916	KTDO	1,093,374	1,089,602	$	7,189
2769	KTEJ	417,496	415,013	$	2,738
83707	KTEL-TV	61,338	61,328	$	405
35666	KTEN	629,981	627,687	$	4,141
24514	KTFD-TV	3,767,471	3,727,523	$	24,594
35512	KTFF-DT	2,403,821	2,383,063	$	15,723
20871	KTFK-DT	7,705,367	5,721,312	$	37,749
68753	KTFN	1,095,022	1,091,962	$	7,205
35084	KTFQ-TV	1,188,205	1,154,792	$	7,619
29232	KTGM	153,836	153,653	$	1,014

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2787	KTHV	1,302,388	1,276,430	$	8,422
29100	KTIN	275,295	273,715	$	1,806
66170	KTIV	806,217	800,304	$	5,280
49397	KTKA-TV	805,221	786,518	$	5,189
35670	KTLA	18,962,616	17,555,224	$	115,829
62354	KTLM	1,148,738	1,148,738	$	7,579
49153	KTLN-TV	5,867,943	5,221,797	$	34,453
64984	KTMD	7,304,022	7,303,795	$	48,190
14675	KTMF	203,121	182,458	$	1,204
10177	KTMW	2,690,440	2,543,730	$	16,784
21533	KTNC-TV	9,007,762	8,012,556	$	52,867
47996	KTNE-TV	95,310	90,746	$	599
60519	KTNL-TV	8,275	8,274	$	55
74100	KTNV-TV	2,422,112	2,249,532	$	14,842
71023	KTNW	512,412	493,366	$	3,255
8651	KTOO-TV	32,198	32,017	$	211
7078	KTPX-TV	1,138,473	1,136,085	$	7,496
68541	KTRE	438,137	420,563	$	2,775
35675	KTRK-TV	7,318,272	7,316,846	$	48,277
28230	KTRV-TV	869,223	861,267	$	5,683
69170	KTSC	3,598,645	3,397,164	$	22,414
61066	KTSD-TV	84,807	83,980	$	554
37511	KTSF	8,697,794	7,750,134	$	51,135
67760	KTSM-TV	1,093,389	1,090,716	$	7,197
35678	KTTC	836,828	748,435	$	4,938
28501	KTTM	77,930	75,368	$	497
11908	KTTU	1,393,795	1,109,962	$	7,324
22208	KTTV	18,130,338	17,373,502	$	114,630
28521	KTTW	381,013	377,833	$	2,493
65355	KTTZ-TV	402,714	402,692	$	2,657
35685	KTUL	1,573,310	1,543,051	$	10,181
10173	KTUU-TV	397,237	395,237	$	2,608
77480	KTUZ-TV	1,841,616	1,840,457	$	12,143
49632	KTVA	353,795	353,563	$	2,333
34858	KTVB	869,177	862,056	$	5,688
31437	KTVC	140,329	104,355	$	689
68581	KTVD	4,468,718	4,179,057	$	27,573
35692	KTVE	607,145	606,961	$	4,005
49621	KTVF	96,106	95,973	$	633

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5290	KTVH-DT	244,448	199,923	$ 1,319
35693	KTVI	3,025,572	3,022,219	$ 19,941
40993	KTVK	4,837,443	4,825,882	$ 31,841
22570	KTVL	446,924	395,259	$ 2,608
18066	KTVM-TV	303,243	250,287	$ 1,651
59139	KTVN	1,043,407	885,756	$ 5,844
21251	KTVO	220,732	220,235	$ 1,453
35694	KTVQ	197,125	190,529	$ 1,257
50592	KTVR	153,040	56,934	$ 376
23422	KTVT	8,233,312	8,230,812	$ 54,307
35703	KTVU	9,036,813	8,056,602	$ 53,157
35705	KTVW-DT	4,827,096	4,809,796	$ 31,735
68889	KTVX	2,838,210	2,602,217	$ 17,169
55907	KTVZ	249,013	246,030	$ 1,623
18286	KTWO-TV	84,574	84,044	$ 555
70938	KTWU	1,834,018	1,697,183	$ 11,198
51517	KTXA	8,210,642	8,208,172	$ 54,158
42359	KTXD-TV	8,012,541	8,010,333	$ 52,852
51569	KTXH	7,301,821	7,301,673	$ 48,176
10205	KTXL	9,145,873	6,451,158	$ 42,565
308	KTXS-TV	255,216	254,480	$ 1,679
69315	KUAC-TV	96,544	96,043	$ 634
51233	KUAM-TV	153,836	153,836	$ 1,015
2722	KUAS-TV	1,060,599	1,041,636	$ 6,873
2731	KUAT-TV	1,596,429	1,361,399	$ 8,983
60520	KUBD	15,387	13,666	$ 90
70492	KUBE-TV	7,297,882	7,297,596	$ 48,150
1136	KUCW	2,837,693	2,601,359	$ 17,164
69396	KUED	2,837,687	2,603,895	$ 17,180
69582	KUEN	2,806,982	2,580,258	$ 17,025
82576	KUES	32,094	26,754	$ 177
82585	KUEW	174,491	162,588	$ 1,073
66611	KUFM-TV	203,395	180,333	$ 1,190
169028	KUGF-TV	89,762	89,455	$ 590
68717	KUHM-TV	166,592	156,454	$ 1,032
69269	KUHT	7,288,782	7,288,082	$ 48,087
62382	KUID-TV	482,761	308,950	$ 2,038
169027	KUKL-TV	140,626	131,415	$ 867
35724	KULR-TV	194,552	186,663	$ 1,232

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41429	KUMV-TV	70,878	70,314	$ 464
81447	KUNP	133,781	45,006	$ 297
4624	KUNS-TV	4,682,176	4,668,774	$ 30,805
86532	KUOK	28,807	28,738	$ 190
66589	KUON-TV	1,516,440	1,502,853	$ 9,916
86263	KUPB	386,448	386,448	$ 2,550
65535	KUPK	147,290	146,174	$ 964
27431	KUPT	101,334	101,329	$ 669
89714	KUPU	1,019,651	1,010,979	$ 6,670
57884	KUPX-TV	2,824,302	2,598,543	$ 17,145
23074	KUSA	4,470,580	4,195,376	$ 27,681
61072	KUSD-TV	519,419	519,181	$ 3,426
10238	KUSI-TV	3,853,072	3,707,454	$ 24,462
43567	KUSM-TV	155,558	140,071	$ 924
69694	KUTF	1,357,824	1,164,486	$ 7,683
81451	KUTH-DT	2,636,456	2,416,549	$ 15,944
68886	KUTP	4,842,720	4,823,413	$ 31,825
35823	KUTV	2,837,398	2,601,168	$ 17,163
63927	KUVE-DT	1,370,137	1,024,072	$ 6,757
7700	KUVI-DT	1,287,700	1,076,164	$ 7,101
35841	KUVN-DT	7,987,884	7,986,084	$ 52,692
58609	KUVS-DT	4,496,875	4,458,448	$ 29,417
49766	KVAL-TV	1,114,792	948,593	$ 6,259
32621	KVAW	77,028	77,028	$ 508
58795	KVCR-DT	19,073,599	18,308,953	$ 120,802
35846	KVCT	291,432	290,038	$ 1,914
10195	KVCW	2,283,670	2,224,688	$ 14,678
64969	KVDA	3,114,838	3,092,933	$ 20,407
19783	KVEA	18,300,497	17,059,098	$ 112,556
12523	KVEO-TV	1,357,022	1,356,984	$ 8,953
2495	KVEW	537,519	524,246	$ 3,459
35852	KVHP	773,592	773,545	$ 5,104
49832	KVIA-TV	1,093,389	1,090,716	$ 7,197
35855	KVIE	11,759,390	8,232,137	$ 54,316
40450	KVIH-TV	139,435	119,247	$ 787
40446	KVII-TV	392,629	391,979	$ 2,586
61961	KVLY-TV	409,018	408,931	$ 2,698
16729	KVMD	15,940,782	15,143,297	$ 99,915
83825	KVME-TV	26,212	22,277	$ 147

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
25735	KVOA	1,386,793	1,069,725	$	7,058
35862	KVOS-TV	2,566,816	2,493,670	$	16,453
69733	KVPT	1,856,508	1,833,293	$	12,096
55372	KVRR	403,075	403,075	$	2,659
166331	KVSN-DT	3,136,196	2,698,298	$	17,803
608	KVTH-DT	319,985	318,374	$	2,101
2784	KVTJ-DT	1,459,963	1,459,552	$	9,630
607	KVTN-DT	970,045	963,130	$	6,355
35867	KVUE	3,458,312	3,395,187	$	22,401
78910	KVUI	286,007	279,513	$	1,844
35870	KVVU-TV	2,369,125	2,246,682	$	14,824
36170	KVYE	404,453	401,890	$	2,652
35095	KWBA-TV	1,194,062	1,136,172	$	7,496
78314	KWBM	694,164	676,716	$	4,465
27425	KWBN	1,016,508	893,029	$	5,892
76268	KWBQ	1,186,772	1,147,638	$	7,572
66413	KWCH-DT	897,522	896,232	$	5,913
71549	KWCM-TV	253,609	245,441	$	1,619
35419	KWDK	4,867,196	4,778,196	$	31,527
42007	KWES-TV	506,963	506,675	$	3,343
50194	KWET	125,090	109,790	$	724
35881	KWEX-DT	2,871,330	2,864,298	$	18,899
35883	KWGN-TV	4,368,605	4,155,087	$	27,415
37099	KWHB	1,056,520	1,056,118	$	6,968
36846	KWHE	1,015,533	885,013	$	5,839
26231	KWHY-TV	18,512,098	18,476,669	$	121,909
35096	KWKB	1,167,302	1,156,465	$	7,630
162115	KWKS	38,196	37,876	$	250
12522	KWKT-TV	1,631,788	1,626,721	$	10,733
21162	KWNB-TV	87,130	85,538	$	564
67347	KWOG	615,169	608,476	$	4,015
56852	KWPX-TV	4,894,047	4,809,358	$	31,732
6885	KWQC-TV	1,082,087	1,072,789	$	7,078
53318	KWSE	85,141	83,532	$	551
71024	KWSU-TV	824,342	528,984	$	3,490
25382	KWTV-DT	1,801,405	1,800,115	$	11,877
35903	KWTX-TV	2,532,542	2,418,595	$	15,958
593	KWWL	1,127,596	1,116,266	$	7,365
84410	KWWT	358,813	358,813	$	2,367

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
14674	KWYB	91,657	72,951	$ 481
10032	KWYP-DT	163,309	143,265	$ 945
35920	KXAN-TV	3,476,567	3,408,238	$ 22,488
49330	KXAS-TV	8,080,362	8,077,819	$ 53,297
24287	KXGN-TV	14,265	13,906	$ 92
35954	KXII	2,904,223	2,845,456	$ 18,774
55083	KXLA	18,725,198	17,464,578	$ 115,231
35959	KXLF-TV	301,370	256,892	$ 1,695
53847	KXLN-DT	7,293,696	7,293,476	$ 48,122
35906	KXLT-TV	369,632	369,086	$ 2,435
61978	KXLY-TV	884,722	852,475	$ 5,625
55684	KXMA-TV	42,033	41,964	$ 277
55686	KXMB-TV	164,736	160,794	$ 1,061
55685	KXMC-TV	108,096	100,774	$ 665
55683	KXMD-TV	66,215	66,107	$ 436
47995	KXNE-TV	314,798	313,705	$ 2,070
81593	KXNW	707,066	702,866	$ 4,638
35991	KXRM-TV	2,129,262	1,769,815	$ 11,677
1255	KXTF	157,622	157,168	$ 1,037
25048	KXTV	11,761,085	8,212,854	$ 54,188
35994	KXTX-TV	8,029,815	8,026,902	$ 52,961
62293	KXVA	195,284	195,242	$ 1,288
23277	KXVO	1,535,792	1,534,836	$ 10,127
9781	KXXV	2,192,443	2,159,450	$ 14,248
31870	KYAZ	7,248,533	7,248,341	$ 47,825
29086	KYIN	596,722	594,616	$ 3,923
60384	KYLE-TV	367,648	367,562	$ 2,425
33639	KYMA-DT	403,372	400,541	$ 2,643
47974	KYNE-TV	1,089,692	1,089,546	$ 7,189
53820	KYOU-TV	679,167	668,722	$ 4,412
36003	KYTV	1,129,940	1,117,420	$ 7,373
55644	KYTX	956,234	955,262	$ 6,303
13815	KYUR	397,084	395,055	$ 2,607
5237	KYUS-TV	12,525	12,495	$ 82
33752	KYVE	317,640	273,973	$ 1,808
55762	KYVV-TV	66,372	65,857	$ 435
25453	KYW-TV	11,769,848	11,559,783	$ 76,271
69531	KZJL	7,244,427	7,244,235	$ 47,797
69571	KZJO	4,814,396	4,758,120	$ 31,394

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61062	KZSD-TV	40,148	34,607	$ 228
33079	KZTV	578,385	575,560	$ 3,798
57292	WAAY-TV	1,644,869	1,570,146	$ 10,360
1328	WABC-TV	22,259,872	21,880,695	$ 144,369
4190	WABE-TV	6,138,218	6,116,631	$ 40,358
43203	WABG-TV	352,521	352,047	$ 2,323
17005	WABI-TV	532,053	512,796	$ 3,383
16820	WABM	1,857,082	1,825,082	$ 12,042
23917	WABW-TV	1,106,011	1,104,788	$ 7,289
19199	WACH	1,448,991	1,442,358	$ 9,517
189358	WACP	9,884,531	9,777,819	$ 64,514
23930	WACS-TV	785,954	782,957	$ 5,166
60018	WACX	5,173,569	5,164,028	$ 34,072
361	WACY-TV	992,148	991,650	$ 6,543
455	WADL	4,727,529	4,719,528	$ 31,139
589	WAFB	1,928,550	1,927,924	$ 12,720
591	WAFF	1,642,889	1,574,162	$ 10,386
70689	WAGA-TV	6,879,310	6,793,067	$ 44,821
48305	WAGM-TV	60,320	59,087	$ 390
37809	WAGV	1,555,609	1,240,816	$ 8,187
706	WAIQ	624,285	622,198	$ 4,105
701	WAKA	796,039	790,015	$ 5,213
4143	WALA-TV	1,431,666	1,428,457	$ 9,425
70713	WALB	794,686	793,085	$ 5,233
60536	WAMI-DT	6,013,991	6,013,991	$ 39,680
70852	WAND	1,345,860	1,344,596	$ 8,872
39270	WANE-TV	1,182,627	1,182,599	$ 7,803
72120	WANF	6,907,445	6,833,668	$ 45,089
64546	WAOW	642,013	633,108	$ 4,177
52073	WAPA-TV	3,310,492	2,963,089	$ 19,550
49712	WAPT	784,962	783,938	$ 5,172
67792	WAQP	2,125,841	2,121,638	$ 13,999
13206	WATC-DT	6,582,231	6,553,248	$ 43,238
71082	WATE-TV	1,971,491	1,724,804	$ 11,380
22819	WATL	6,759,193	6,686,998	$ 44,121
20287	WATM-TV	868,640	735,080	$ 4,850
11907	WATN-TV	1,792,866	1,789,289	$ 11,806
13989	WAVE	1,998,359	1,989,161	$ 13,124
71127	WAVY-TV	2,171,033	2,171,033	$ 14,324

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54938	WAWD	661,368	661,287	$ 4,363
65247	WAWV-TV	684,558	679,421	$ 4,483
12793	WAXN-TV	3,101,362	3,092,322	$ 20,403
65696	WBAL-TV	10,637,240	10,226,692	$ 67,476
74417	WBAY-TV	1,275,960	1,275,160	$ 8,414
71085	WBBH-TV	2,368,347	2,368,347	$ 15,626
65204	WBBJ-TV	654,842	651,262	$ 4,297
9617	WBBM-TV	10,069,057	10,062,626	$ 66,393
9088	WBBZ-TV	1,293,109	1,281,368	$ 8,454
70138	WBDT	3,996,184	3,976,552	$ 26,237
51349	WBEC-TV	5,979,674	5,979,674	$ 39,454
10758	WBFF	9,293,641	9,148,848	$ 60,364
12497	WBFS-TV	5,895,133	5,895,133	$ 38,896
6568	WBGU-TV	1,325,871	1,325,871	$ 8,748
81594	WBIF	315,981	315,981	$ 2,085
84802	WBIH	734,949	717,111	$ 4,731
717	WBIQ	1,649,738	1,621,834	$ 10,701
46984	WBIR-TV	2,083,590	1,795,576	$ 11,847
67048	WBKB-TV	131,202	123,916	$ 818
34167	WBKI	2,220,753	2,204,001	$ 14,542
4692	WBKO	1,079,438	953,403	$ 6,291
76001	WBKP	54,703	54,532	$ 360
68427	WBMM	595,569	595,314	$ 3,928
73692	WBNA	1,803,465	1,770,024	$ 11,679
23337	WBNG-TV	1,400,072	1,023,266	$ 6,752
71217	WBNS-TV	3,083,491	3,021,775	$ 19,938
72958	WBNX-TV	3,642,087	3,632,499	$ 23,967
71218	WBOC-TV	880,031	880,031	$ 5,806
71220	WBOY-TV	689,705	605,977	$ 3,998
60850	WBPH-TV	11,348,739	10,115,153	$ 66,740
7692	WBPX-TV	7,354,860	7,283,151	$ 48,054
5981	WBRA-TV	1,705,750	1,657,188	$ 10,934
71221	WBRC	1,976,420	1,942,307	$ 12,815
71225	WBRE-TV	2,912,468	2,263,626	$ 14,935
38616	WBRZ-TV	2,299,439	2,298,465	$ 15,165
82627	WBSF	1,816,355	1,811,602	$ 11,953
30826	WBTV	4,973,067	4,828,412	$ 31,858
66407	WBTW	2,060,897	2,044,444	$ 13,489
16363	WBUI	964,071	964,061	$ 6,361

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59281	WBUP	124,208	111,143	$ 733
60830	WBUY-TV	1,568,306	1,566,684	$ 10,337
72971	WBXX-TV	2,270,940	2,098,066	$ 13,843
25456	WBZ-TV	8,524,410	8,283,402	$ 54,654
63153	WCAU	11,821,594	11,646,436	$ 76,843
363	WCAV	1,122,505	960,525	$ 6,338
46728	WCAX-TV	793,321	675,201	$ 4,455
39659	WCBB	985,125	952,373	$ 6,284
10587	WCBD-TV	1,336,923	1,336,923	$ 8,821
12477	WCBI-TV	675,135	673,011	$ 4,441
9610	WCBS-TV	23,434,126	22,837,346	$ 150,681
49157	WCCB	4,088,954	4,017,224	$ 26,506
9629	WCCO-TV	4,237,121	4,228,346	$ 27,899
14050	WCCT-TV	5,898,482	5,384,454	$ 35,527
69544	WCCU	673,293	673,293	$ 4,442
3001	WCCV-TV	3,000,204	2,188,016	$ 14,437
23937	WCES-TV	1,138,637	1,137,146	$ 7,503
65666	WCET	3,245,827	3,234,134	$ 21,339
46755	WCFE-TV	468,278	427,164	$ 2,818
71280	WCHS-TV	1,276,867	1,199,053	$ 7,911
42124	WCIA	809,784	809,348	$ 5,340
711	WCIQ	3,433,774	3,244,161	$ 21,405
71428	WCIU-TV	10,205,649	10,199,522	$ 67,296
9015	WCIV	1,341,404	1,341,404	$ 8,851
42116	WCIX	531,709	527,935	$ 3,483
16993	WCJB-TV	1,080,055	1,080,055	$ 7,126
11125	WCLF	4,707,313	4,706,427	$ 31,053
68007	WCLJ-TV	2,538,971	2,537,989	$ 16,746
50781	WCMH-TV	2,988,929	2,947,009	$ 19,444
9917	WCML	229,956	221,000	$ 1,458
9908	WCMU-TV	717,859	708,880	$ 4,677
9922	WCMV	435,637	421,372	$ 2,780
9913	WCMW	107,851	105,871	$ 699
32326	WCNC-TV	4,347,601	4,262,460	$ 28,124
53734	WCNY-TV	1,328,626	1,263,336	$ 8,335
73642	WCOV-TV	916,080	911,398	$ 6,013
40618	WCPB	612,947	612,947	$ 4,044
59438	WCPO-TV	3,461,834	3,448,166	$ 22,751
10981	WCPX-TV	9,906,756	9,905,251	$ 65,355

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71297	WCSC-TV	1,188,482	1,188,482	$	7,842
39664	WCSH	1,844,256	1,625,773	$	10,727
69479	WCTE	645,441	572,887	$	3,780
18334	WCTI-TV	1,741,252	1,734,851	$	11,447
31590	WCTV	1,083,799	1,083,709	$	7,150
33081	WCTX	7,999,974	7,453,383	$	49,177
65684	WCVB-TV	8,334,723	8,171,970	$	53,919
9987	WCVE-TV	1,894,231	1,892,374	$	12,486
83304	WCVI-TV	41,004	40,978	$	270
34204	WCVN-TV	2,242,264	2,237,912	$	14,766
9989	WCVW	1,662,141	1,660,801	$	10,958
73042	WCWF	1,181,564	1,180,880	$	7,791
35385	WCWG	3,895,811	3,546,156	$	23,398
29712	WCWJ	1,938,352	1,938,263	$	12,789
73264	WCWN	1,917,787	1,630,664	$	10,759
2455	WCYB-TV	2,296,374	1,447,129	$	9,548
11291	WDAF-TV	2,724,533	2,722,049	$	17,960
21250	WDAM-TV	507,937	495,331	$	3,268
22129	WDAY-TV	389,109	389,023	$	2,567
22124	WDAZ-TV	155,202	154,877	$	1,022
71325	WDBB	1,874,003	1,841,150	$	12,148
71326	WDBD	924,445	923,304	$	6,092
71329	WDBJ	1,603,364	1,421,509	$	9,379
51567	WDCA	8,945,253	8,890,093	$	58,657
16530	WDCQ-TV	1,226,421	1,226,397	$	8,092
30576	WDCW	9,008,590	8,971,597	$	59,195
54385	WDEF-TV	1,818,758	1,592,644	$	10,508
32851	WDFX-TV	343,408	343,096	$	2,264
43846	WDHN	454,174	453,945	$	2,995
71338	WDIO-DT	345,803	332,242	$	2,192
714	WDIQ	674,543	625,633	$	4,128
53114	WDIV-TV	5,555,564	5,555,436	$	36,655
71427	WDJT-TV	3,315,464	3,306,632	$	21,817
39561	WDKA	640,692	640,230	$	4,224
64017	WDKY-TV	1,280,920	1,245,717	$	8,219
67893	WDLI-TV	4,131,639	4,098,980	$	27,045
72335	WDPB	652,694	652,694	$	4,306
83740	WDPM-DT	1,493,282	1,491,552	$	9,841
1283	WDPN-TV	12,164,952	12,033,746	$	79,399

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6476	WDPX-TV	7,354,860	7,283,151	$ 48,054
28476	WDRB	2,166,593	2,149,625	$ 14,183
12171	WDSC-TV	4,131,441	4,131,441	$ 27,259
17726	WDSE	335,589	320,243	$ 2,113
71353	WDSI-TV	1,155,212	1,094,624	$ 7,222
71357	WDSU	1,746,300	1,746,300	$ 11,522
7908	WDTI	2,314,404	2,313,996	$ 15,268
65690	WDTN	3,998,815	3,979,357	$ 26,256
70592	WDTV	554,217	513,260	$ 3,386
25045	WDVM-TV	3,360,750	2,931,025	$ 19,339
4110	WDWL	2,449,731	2,192,227	$ 14,464
49421	WEAO	3,954,789	3,936,003	$ 25,970
71363	WEAR-TV	1,662,799	1,662,271	$ 10,968
7893	WEAU	1,031,280	993,529	$ 6,555
61003	WEBA-TV	652,051	645,245	$ 4,257
19561	WECN	2,551,597	2,296,482	$ 15,152
48666	WECT	1,284,078	1,284,078	$ 8,472
13602	WEDH	5,419,331	4,792,684	$ 31,622
13607	WEDN	3,520,804	2,654,657	$ 17,515
69338	WEDQ	6,372,341	6,354,538	$ 41,927
21808	WEDU	6,372,341	6,354,538	$ 41,927
13594	WEDW	21,942,405	21,529,106	$ 142,049
13595	WEDY	5,419,331	4,792,684	$ 31,622
24801	WEEK-TV	730,054	729,949	$ 4,816
6744	WEFS	4,115,849	4,115,849	$ 27,156
24215	WEHT	854,000	838,936	$ 5,535
721	WEIQ	1,138,095	1,137,690	$ 7,506
18301	WEIU-TV	442,120	442,040	$ 2,917
69271	WEKW-TV	1,306,163	800,635	$ 5,283
60825	WELF-TV	1,547,836	1,455,263	$ 9,602
26602	WELU	2,052,918	1,847,568	$ 12,190
40761	WEMT	1,708,704	1,169,182	$ 7,714
69237	WENH-TV	4,865,355	4,679,954	$ 30,878
71508	WENY-TV	636,768	501,692	$ 3,310
83946	WEPH	604,510	602,977	$ 3,978
81508	WEPX-TV	945,425	945,425	$ 6,238
25738	WESH	4,917,201	4,906,261	$ 32,372
65670	WETA-TV	9,177,186	9,112,861	$ 60,127
69944	WETK	681,830	571,729	$ 3,772

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60653	WETM-TV	844,248	745,266	$	4,917
18252	WETP-TV	2,251,212	1,940,383	$	12,803
2709	WEUX	396,788	387,527	$	2,557
72041	WEVV-TV	751,428	750,047	$	4,949
59441	WEWS-TV	4,098,329	4,061,663	$	26,799
72052	WEYI-TV	3,802,069	3,734,694	$	24,642
72054	WFAA	8,238,058	8,226,984	$	54,282
81669	WFBD	919,012	918,335	$	6,059
69532	WFDC-DT	9,008,590	8,971,597	$	59,195
10132	WFFF-TV	644,230	566,681	$	3,739
25040	WFFT-TV	1,133,445	1,133,031	$	7,476
11123	WFGC	3,402,762	3,402,762	$	22,451
6554	WFGX	1,631,714	1,631,224	$	10,763
13991	WFIE	742,941	741,771	$	4,894
715	WFIQ	550,070	548,067	$	3,616
64592	WFLA-TV	6,656,303	6,639,930	$	43,810
22211	WFLD	10,111,733	10,105,397	$	66,675
72060	WFLI-TV	1,357,801	1,252,063	$	8,261
39736	WFLX	6,299,680	6,299,680	$	41,565
72062	WFMJ-TV	4,291,547	3,802,286	$	25,087
72064	WFMY-TV	5,399,787	5,364,129	$	35,393
39884	WFMZ-TV	11,348,739	10,115,153	$	66,740
83943	WFNA	1,511,431	1,509,839	$	9,962
47902	WFOR-TV	5,952,062	5,952,062	$	39,272
11909	WFOX-TV	1,881,740	1,881,740	$	12,416
40626	WFPT	6,479,421	6,072,020	$	40,063
21245	WFPX-TV	2,980,937	2,976,800	$	19,641
25396	WFQX-TV	537,914	533,910	$	3,523
9635	WFRV-TV	1,313,825	1,300,885	$	8,583
53115	WFSB	4,799,110	4,417,573	$	29,147
6093	WFSG	403,233	403,173	$	2,660
21801	WFSU-TV	592,693	592,676	$	3,910
11913	WFTC	4,159,690	4,144,073	$	27,343
64588	WFTS-TV	6,213,173	6,213,039	$	40,994
16788	WFTT-TV	5,291,296	5,291,296	$	34,912
72076	WFTV	4,707,940	4,707,940	$	31,063
70649	WFTX-TV	2,076,721	2,076,721	$	13,702
60553	WFTY-DT	5,838,625	5,724,691	$	37,772
25395	WFUP	235,473	234,457	$	1,547

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
60555	WFUT-DT	21,842,105	21,428,169	$	141,383
22108	WFWA	1,071,881	1,071,733	$	7,071
9054	WFXB	1,448,018	1,447,713	$	9,552
3228	WFXG	1,126,109	1,115,208	$	7,358
70815	WFXL	792,863	786,514	$	5,189
19707	WFXP	556,627	543,130	$	3,584
24813	WFXR	1,418,873	1,283,217	$	8,467
6463	WFXT	8,044,623	7,951,492	$	52,464
22245	WFXU	225,675	225,675	$	1,489
43424	WFXV	682,282	587,673	$	3,877
25236	WFXW	240,198	240,193	$	1,585
41397	WFYI	2,614,535	2,613,865	$	17,246
53930	WGAL	6,592,850	5,851,154	$	38,606
2708	WGBA-TV	1,219,315	1,218,972	$	8,043
24314	WGBC	233,035	232,798	$	1,536
72099	WGBH-TV	8,264,395	8,151,180	$	53,781
12498	WGBO-DT	9,984,682	9,984,501	$	65,878
11113	WGBP-TV	1,964,065	1,956,753	$	12,911
72098	WGBX-TV	8,354,289	8,184,570	$	54,002
72096	WGBY-TV	4,556,980	3,838,887	$	25,329
62388	WGCU	1,789,951	1,789,951	$	11,810
54275	WGEM-TV	340,572	335,705	$	2,215
27387	WGEN-TV	47,451	47,451	$	313
7727	WGFL	958,665	958,665	$	6,325
25682	WGGB-TV	3,501,457	3,092,700	$	20,406
11027	WGGN-TV	4,010,515	3,987,566	$	26,310
9064	WGGS-TV	2,978,169	2,919,596	$	19,263
72106	WGHP	4,716,324	4,663,025	$	30,767
710	WGIQ	367,358	367,140	$	2,422
12520	WGMB-TV	1,815,089	1,814,919	$	11,975
25683	WGME-TV	1,562,382	1,391,898	$	9,184
24618	WGNM	765,295	764,308	$	5,043
72119	WGNO	1,737,340	1,737,340	$	11,463
9762	WGNT	2,218,861	2,218,861	$	14,640
72115	WGN-TV	10,139,791	10,133,994	$	66,864
40619	WGPT	570,828	347,754	$	2,294
65074	WGPX-TV	3,063,562	3,053,879	$	20,149
64547	WGRZ	1,896,029	1,833,959	$	12,100
63329	WGTA	1,174,842	1,134,460	$	7,485

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
66285	WGTE-TV	2,250,689	2,250,689	$	14,850
59279	WGTQ	114,517	109,995	$	726
59280	WGTU	369,755	364,263	$	2,403
23948	WGTV	6,872,895	6,793,292	$	44,822
7623	WGTW-TV	830,912	830,818	$	5,482
24783	WGVK	2,565,756	2,563,031	$	16,911
24784	WGVU-TV	1,943,807	1,894,218	$	12,498
21536	WGWG	1,146,502	1,146,502	$	7,565
56642	WGWW	1,742,591	1,714,951	$	11,315
58262	WGXA	799,532	798,664	$	5,270
73371	WHAM-TV	1,381,792	1,333,395	$	8,798
32327	WHAS-TV	2,065,124	2,034,746	$	13,425
6096	WHA-TV	1,715,866	1,709,075	$	11,276
13950	WHBF-TV	1,726,114	1,713,500	$	11,306
12521	WHBQ-TV	1,735,050	1,714,081	$	11,310
10894	WHBR	1,425,293	1,424,691	$	9,400
65128	WHDF	1,720,614	1,666,798	$	10,998
72145	WHDH	7,993,816	7,899,325	$	52,120
83929	WHDT	6,334,757	6,334,757	$	41,797
70041	WHEC-TV	1,322,761	1,278,323	$	8,434
67971	WHFT-TV	5,976,793	5,976,793	$	39,435
41458	WHIO-TV	4,041,602	4,033,560	$	26,613
713	WHIQ	1,383,801	1,329,761	$	8,774
61216	WHIZ-TV	962,141	885,771	$	5,844
18780	WHLA-TV	569,415	530,529	$	3,500
48668	WHLT	481,036	479,959	$	3,167
24582	WHLV-TV	4,739,820	4,739,820	$	31,273
37102	WHMB-TV	3,187,327	3,126,458	$	20,628
61004	WHMC	838,228	838,228	$	5,531
36117	WHME-TV	1,490,612	1,490,518	$	9,834
37106	WHNO	1,592,553	1,592,553	$	10,508
72300	WHNS	2,753,561	2,462,848	$	16,250
48693	WHNT-TV	1,687,347	1,607,863	$	10,609
66221	WHO-DT	1,226,093	1,209,327	$	7,979
6866	WHOI	716,035	715,956	$	4,724
72313	WHP-TV	4,219,869	3,695,568	$	24,383
51980	WHPX-TV	5,666,126	5,176,293	$	34,153
73036	WHRM-TV	537,971	535,112	$	3,531
25932	WHRO-TV	2,261,464	2,261,381	$	14,921

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68058	WHSG-TV	6,744,093	6,678,392	$	44,064
4688	WHSV-TV	894,602	760,620	$	5,019
9990	WHTJ	867,445	743,025	$	4,902
72326	WHTM-TV	3,349,178	2,923,354	$	19,288
11117	WHTN	2,283,942	2,273,175	$	14,998
27772	WHUT-TV	8,785,956	8,745,663	$	57,704
18793	WHWC-TV	1,205,932	1,152,576	$	7,605
72338	WHYY-TV	10,984,166	10,590,279	$	69,875
5360	WIAT	1,959,076	1,921,566	$	12,678
63160	WIBW-TV	1,312,372	1,263,123	$	8,334
25684	WICD	1,220,886	1,219,775	$	8,048
25686	WICS	1,060,412	1,058,572	$	6,984
24970	WICU-TV	704,263	654,470	$	4,318
62210	WICZ-TV	1,208,124	932,840	$	6,155
18410	WIDP	2,258,204	2,022,801	$	13,346
26025	WIFS	1,664,757	1,659,814	$	10,951
720	WIIQ	330,593	326,759	$	2,156
68939	WILL-TV	1,148,587	1,125,681	$	7,427
6863	WILX-TV	3,505,808	3,321,258	$	21,914
22093	WINK-TV	2,135,187	2,135,187	$	14,088
67787	WINM	1,035,236	1,004,998	$	6,631
41314	WINP-TV	2,918,791	2,870,939	$	18,942
3646	WIPB	2,098,072	2,097,589	$	13,840
48408	WIPL	902,112	849,374	$	5,604
53863	WIPM-TV	2,018,636	1,743,992	$	740
53859	WIPR-TV	3,164,369	2,988,035	$	19,715
10253	WIPX-TV	2,538,971	2,537,989	$	16,746
39887	WIRS	962,531	803,553	$	2,946
71336	WIRT-DT	125,282	123,221	$	813
13990	WIS	2,873,204	2,819,721	$	18,605
65143	WISC-TV	1,816,917	1,779,975	$	11,744
13960	WISE-TV	1,105,600	1,105,444	$	7,294
39269	WISH-TV	3,141,430	3,093,806	$	20,413
65680	WISN-TV	3,041,677	3,036,957	$	20,038
73083	WITF-TV	2,532,625	2,299,838	$	15,174
73107	WITI	3,149,773	3,140,719	$	20,722
594	WITN-TV	1,942,458	1,927,751	$	12,719
61005	WITV	1,002,380	1,002,380	$	6,614
7780	WIVB-TV	1,911,934	1,834,562	$	12,104

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11260	WIVT	831,941	612,317	$	4,040
60571	WIWN	3,387,206	3,370,697	$	22,240
62207	WIYC	673,128	670,480	$	4,424
73120	WJAC-TV	2,152,162	1,855,359	$	12,242
10259	WJAL	9,654,785	9,309,845	$	61,426
50780	WJAR	7,602,846	7,447,435	$	49,138
35576	WJAX-TV	1,909,321	1,909,321	$	12,598
27140	WJBF	1,669,785	1,652,861	$	10,906
73123	WJBK	5,840,177	5,804,131	$	38,296
37174	WJCL	1,031,857	1,031,857	$	6,808
73130	WJCT	1,893,148	1,892,490	$	12,487
29719	WJEB-TV	1,880,192	1,880,192	$	12,406
65749	WJET-TV	711,412	685,375	$	4,522
7651	WJFB	2,745,573	2,734,787	$	18,044
49699	WJFW-TV	281,148	271,274	$	1,790
73136	WJHG-TV	912,881	905,531	$	5,975
57826	WJHL-TV	2,035,505	1,463,539	$	9,656
68519	WJKT	645,594	645,161	$	4,257
1051	WJLA-TV	9,654,785	9,314,754	$	61,459
86537	WJLP	22,694,994	22,426,423	$	147,970
9630	WJMN-TV	158,494	151,938	$	1,002
61008	WJPM-TV	587,058	586,836	$	3,872
58340	WJPX	2,861,004	2,653,740	$	17,509
21735	WJRT-TV	2,831,612	2,583,368	$	17,045
23918	WJSP-TV	4,678,958	4,643,904	$	30,640
41210	WJTC	1,517,180	1,516,056	$	10,003
48667	WJTV	966,513	958,676	$	6,325
73150	WJW	3,969,148	3,895,876	$	25,705
61007	WJWJ-TV	1,180,652	1,180,652	$	7,790
58342	WJWN-TV	1,830,695	1,568,858	$	2,946
53116	WJXT	1,899,110	1,899,110	$	12,530
11893	WJXX	1,888,910	1,888,113	$	12,458
32334	WJYS	9,820,848	9,820,831	$	64,798
25455	WJZ-TV	10,637,240	10,228,751	$	67,489
73152	WJZY	4,965,077	4,831,865	$	31,881
64983	WKAQ-TV	3,259,225	2,914,322	$	1,101
6104	WKAR-TV	1,713,640	1,709,038	$	11,276
34171	WKAS	522,877	496,277	$	3,274
51570	WKBD-TV	5,180,191	5,179,980	$	34,178

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73153	WKBN-TV	4,870,043	4,522,748	$	29,841
13929	WKBS-TV	1,054,914	914,205	$	6,032
74424	WKBT-DT	905,659	860,444	$	5,677
54176	WKBW-TV	2,261,221	2,175,654	$	14,355
53465	WKCF	5,109,221	5,107,692	$	33,701
73155	WKEF	3,860,944	3,850,405	$	25,405
34177	WKGB-TV	444,266	442,639	$	2,921
34196	WKHA	475,212	372,027	$	2,455
34207	WKLE	918,947	911,337	$	6,013
34212	WKMA-TV	558,464	558,150	$	3,683
71293	WKMG-TV	4,643,692	4,643,692	$	30,639
34195	WKMJ-TV	1,572,974	1,565,579	$	10,330
34202	WKMR	457,241	422,772	$	2,789
34174	WKMU	339,477	339,064	$	2,237
42061	WKNO	1,649,295	1,647,327	$	10,869
83931	WKNX-TV	1,778,483	1,548,751	$	10,219
34205	WKOH	591,189	584,484	$	3,856
67869	WKOI-TV	3,996,184	3,976,552	$	26,237
34211	WKON	1,170,361	1,163,470	$	7,677
18267	WKOP-TV	1,641,367	1,465,642	$	9,670
64545	WKOW	1,999,166	1,978,160	$	13,052
21432	WKPC-TV	1,620,977	1,613,304	$	10,645
65758	WKPD	277,245	276,367	$	1,823
34200	WKPI-TV	552,999	432,287	$	2,852
27504	WKPT-TV	1,107,992	876,999	$	5,786
58341	WKPV	981,832	762,182	$	2,946
11289	WKRC-TV	3,412,677	3,359,970	$	22,169
73187	WKRG-TV	1,661,088	1,660,222	$	10,954
73188	WKRN-TV	2,843,550	2,823,383	$	18,629
34222	WKSO-TV	675,800	663,810	$	4,380
40902	WKTC	1,422,142	1,421,788	$	9,381
60654	WKTV	1,566,267	1,340,030	$	8,842
73195	WKYC	4,162,460	4,109,739	$	27,116
24914	WKYT-TV	1,263,314	1,247,201	$	8,229
71861	WKYU-TV	447,402	444,471	$	2,933
34181	WKZT-TV	1,092,295	1,075,603	$	7,097
18819	WLAE-TV	1,489,518	1,489,518	$	9,828
36533	WLAJ	4,230,811	4,195,529	$	27,682
2710	WLAX	480,917	455,361	$	3,004

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68542	WLBT	930,984	929,897	$	6,135
39644	WLBZ	374,046	364,463	$	2,405
69328	WLED-TV	333,929	175,095	$	1,155
63046	WLEF-TV	201,828	200,259	$	1,321
73203	WLEX-TV	1,037,124	1,032,416	$	6,812
37806	WLFB	756,510	656,110	$	4,329
37808	WLFG	1,555,609	1,240,816	$	8,187
73204	WLFI-TV	2,422,930	2,397,991	$	15,822
73205	WLFL	4,154,373	4,151,842	$	27,394
19777	WLII-DT	2,472,430	2,284,000	$	15,070
37503	WLIO	1,076,204	1,052,712	$	6,946
38336	WLIW	21,331,793	21,007,396	$	138,607
27696	WLJC-TV	1,433,034	1,317,702	$	8,694
71645	WLJT-DT	382,232	381,417	$	2,517
53939	WLKY	2,035,700	2,028,397	$	13,383
11033	WLLA	2,204,047	2,203,715	$	14,540
1222	WLMA	1,681,703	1,678,515	$	11,075
17076	WLMB	2,820,328	2,813,733	$	18,565
68518	WLMT	1,739,879	1,737,416	$	11,463
22591	WLNE-TV	6,880,185	6,815,475	$	44,969
74420	WLNS-TV	4,230,811	4,195,529	$	27,682
73206	WLNY-TV	7,829,527	7,746,153	$	51,109
84253	WLOO	897,764	896,755	$	5,917
56537	WLOS	3,337,211	2,748,224	$	18,133
37732	WLOV-TV	608,778	606,994	$	4,005
13995	WLOX	1,236,798	1,224,809	$	8,081
38586	WLPB-TV	1,263,410	1,263,379	$	8,336
73189	WLPX-TV	1,012,910	963,892	$	6,360
66358	WLRN-TV	6,010,422	6,010,422	$	39,657
73226	WLS-TV	10,333,090	10,326,952	$	68,137
73230	WLTV-DT	5,988,029	5,988,029	$	39,509
37176	WLTX	1,614,789	1,611,719	$	10,634
37179	WLTZ	738,023	734,057	$	4,843
21259	WLUC-TV	103,185	95,367	$	629
4150	WLUK-TV	1,237,211	1,236,394	$	8,158
73238	WLVI	7,993,816	7,899,325	$	52,120
36989	WLVT-TV	11,348,739	10,115,153	$	66,740
3978	WLWC	3,398,164	3,257,998	$	21,496
46979	WLWT	3,499,610	3,489,652	$	23,025

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54452	WLXI	3,243,843	3,015,382	$ 19,895
55350	WLYH	3,349,178	2,923,354	$ 19,288
43192	WMAB-TV	389,089	384,767	$ 2,539
43170	WMAE-TV	692,999	663,737	$ 4,379
43197	WMAH-TV	1,302,245	1,301,790	$ 8,589
43176	WMAO-TV	333,490	333,321	$ 2,199
47905	WMAQ-TV	10,069,653	10,068,069	$ 66,429
59442	WMAR-TV	10,025,750	9,879,744	$ 65,187
43184	WMAU-TV	637,434	631,358	$ 4,166
43193	WMAV-TV	1,018,601	1,018,556	$ 6,720
43169	WMAW-TV	731,384	716,614	$ 4,728
46991	WMAZ-TV	1,238,176	1,180,117	$ 7,786
66398	WMBB	990,632	964,744	$ 6,365
43952	WMBC-TV	22,446,503	21,778,765	$ 143,696
42121	WMBD-TV	720,722	720,669	$ 4,755
83969	WMBF-TV	526,232	526,232	$ 3,472
60829	WMCF-TV	644,916	641,833	$ 4,235
9739	WMCN-TV	10,984,166	10,590,279	$ 69,875
19184	WMC-TV	2,057,112	2,053,563	$ 13,549
189357	WMDE	6,933,795	6,802,466	$ 44,883
73255	WMDN	259,822	259,616	$ 1,713
16455	WMDT	790,315	790,315	$ 5,214
39656	WMEA-TV	965,365	911,355	$ 6,013
39648	WMEB-TV	411,335	396,677	$ 2,617
70537	WMEC	199,187	198,698	$ 1,311
39649	WMED-TV	28,850	27,884	$ 184
39662	WMEM-TV	66,343	64,625	$ 426
41893	WMFD-TV	1,637,011	1,379,386	$ 9,101
41436	WMFP	6,230,964	5,959,061	$ 39,318
61111	WMGM-TV	830,912	830,818	$ 5,482
43847	WMGT-TV	614,625	614,040	$ 4,051
73263	WMHT	1,729,302	1,559,066	$ 10,287
68545	WMLW-TV	1,863,951	1,863,679	$ 12,297
53819	WMOR-TV	6,400,456	6,400,333	$ 42,229
81503	WMOW	122,110	106,904	$ 705
65944	WMPB	8,059,368	7,940,127	$ 52,389
43168	WMPN-TV	843,756	841,772	$ 5,554
65942	WMPT	9,500,117	9,442,413	$ 62,301
60827	WMPV-TV	1,565,537	1,564,599	$ 10,323

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10221	WMSN-TV	2,030,916	2,010,636	$	13,266
2174	WMTJ	2,764,573	2,492,464	$	16,445
6870	WMTV	1,628,641	1,625,206	$	10,723
73288	WMTW	2,041,342	1,737,673	$	11,465
23935	WMUM-TV	926,604	921,419	$	6,080
73292	WMUR-TV	5,652,739	5,453,759	$	35,984
42663	WMVS	3,216,887	3,155,770	$	20,822
42665	WMVT	3,216,887	3,155,770	$	20,822
81946	WMWC-TV	935,338	912,437	$	6,020
56548	WMYA-TV	1,808,659	1,723,755	$	11,373
74211	WMYD	5,840,155	5,839,880	$	38,532
20624	WMYT-TV	4,965,077	4,831,865	$	31,881
25544	WMYV	4,406,813	4,379,408	$	28,895
73310	WNAB	2,600,886	2,591,235	$	17,097
73311	WNAC-TV	7,817,084	7,459,610	$	49,219
47535	WNBC	23,283,577	22,722,761	$	149,925
83965	WNBW-DT	1,557,530	1,550,637	$	10,231
72307	WNCF	665,079	658,994	$	4,348
50782	WNCN	4,201,973	4,186,944	$	27,625
57838	WNCT-TV	2,034,787	1,975,930	$	13,037
41674	WNDU-TV	1,901,588	1,870,311	$	12,340
28462	WNDY-TV	3,141,430	3,093,806	$	20,413
71928	WNED-TV	1,408,141	1,390,745	$	9,176
60931	WNEH	1,389,794	1,383,193	$	9,126
41221	WNEM-TV	1,437,726	1,434,104	$	9,462
49439	WNEO	3,343,598	3,265,373	$	21,545
73318	WNEP-TV	3,472,501	2,879,994	$	19,002
18795	WNET	22,428,695	21,915,470	$	144,598
51864	WNEU	7,676,529	7,606,661	$	50,189
23942	WNGH-TV	6,461,522	6,281,764	$	41,447
67802	WNIN	907,713	891,200	$	5,880
41671	WNIT	1,335,767	1,335,767	$	8,813
48457	WNJB	22,145,547	21,374,668	$	141,030
48477	WNJN	22,145,547	21,374,668	$	141,030
48481	WNJS	7,729,626	7,710,589	$	50,874
48465	WNJT	7,729,626	7,710,589	$	50,874
73333	WNJU	23,283,577	22,722,761	$	149,925
73336	WNJX-TV	1,446,990	1,265,826	$	905
61217	WNKY	414,184	412,652	$	2,723

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
71905	WNLO	1,911,934	1,834,562	$	12,104
4318	WNMU	178,504	177,692	$	1,172
73344	WNNE	801,186	684,501	$	4,516
54280	WNOL-TV	1,730,074	1,730,074	$	11,415
71676	WNPB-TV	2,094,971	1,923,306	$	12,690
62137	WNPI-DT	159,208	154,143	$	1,017
41398	WNPT	2,692,492	2,657,273	$	17,533
28468	WNPX-TV	2,494,581	2,470,662	$	16,301
61009	WNSC-TV	2,860,897	2,853,300	$	18,826
61010	WNTV	2,775,252	2,572,161	$	16,971
16539	WNTZ-TV	328,336	327,661	$	2,162
7933	WNUV	9,944,268	9,735,378	$	64,234
9999	WNVC	867,445	743,025	$	4,902
10019	WNVT	1,894,231	1,892,374	$	12,486
73354	WNWO-TV	2,915,507	2,915,507	$	19,237
136751	WNYA	1,932,105	1,656,014	$	10,926
30303	WNYB	1,784,805	1,758,025	$	11,599
6048	WNYE-TV	20,693,079	20,445,674	$	134,901
34329	WNYI	1,609,642	1,329,569	$	8,772
67784	WNYO-TV	1,449,480	1,428,169	$	9,423
73363	WNYT	1,691,742	1,539,006	$	10,154
22206	WNYW	21,377,740	21,043,915	$	138,848
69618	WOAI-TV	3,063,753	3,050,610	$	20,128
66804	WOAY-TV	536,548	414,046	$	2,732
41225	WOFL	4,897,034	4,891,577	$	32,275
70651	WOGX	1,262,333	1,262,333	$	8,329
8661	WOI-DT	1,278,698	1,277,340	$	8,428
39746	WOIO	3,819,462	3,739,439	$	24,673
71725	WOLE-DT	1,581,955	1,411,809	$	5,385
73375	WOLF-TV	3,025,477	2,531,097	$	16,700
60963	WOLO-TV	2,854,959	2,814,886	$	18,573
36838	WOOD-TV	2,637,147	2,631,110	$	17,360
67602	WOPX-TV	4,677,102	4,676,992	$	30,859
64865	WORA-TV	3,172,055	2,933,387	$	19,354
73901	WORO-DT	2,847,102	2,661,536	$	17,561
60357	WOST	1,055,465	918,659	$	6,061
66185	WOSU-TV	3,073,523	3,013,857	$	19,885
131	WOTF-TV	4,204,625	4,204,625	$	27,742
10212	WOTV	2,493,328	2,492,908	$	16,448

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50147	WOUB-TV	739,667	721,384	$	4,760
50141	WOUC-TV	1,680,457	1,618,502	$	10,679
23342	WOWK-TV	1,098,995	1,028,502	$	6,786
65528	WOWT	1,516,978	1,514,052	$	9,990
31570	WPAN	1,392,393	1,392,261	$	9,186
51988	WPBF	3,601,603	3,601,603	$	23,763
21253	WPBN-TV	452,157	440,310	$	2,905
62136	WPBS-TV	332,147	296,972	$	1,959
13456	WPBT	5,976,331	5,976,331	$	39,432
13924	WPCB-TV	2,920,794	2,802,648	$	18,492
64033	WPCH-TV	6,826,973	6,747,200	$	44,518
4354	WPCT	207,688	207,286	$	1,368
17012	WPDE-TV	1,845,347	1,838,747	$	12,132
52527	WPEC	6,332,850	6,332,850	$	41,784
84088	WPFO	1,390,230	1,272,952	$	8,399
54728	WPGA-TV	575,813	575,578	$	3,798
60820	WPGD-TV	2,787,190	2,772,517	$	18,293
73875	WPGH-TV	3,209,933	3,099,658	$	20,452
2942	WPGX	448,453	445,686	$	2,941
73879	WPHL-TV	10,944,731	10,756,717	$	70,973
73881	WPIX	22,259,872	21,818,842	$	143,961
69880	WPKD-TV	3,366,547	3,181,216	$	20,990
53113	WPLG	6,165,413	6,165,413	$	40,679
11906	WPMI-TV	1,609,741	1,609,491	$	10,619
10213	WPMT	2,532,625	2,299,838	$	15,174
18798	WPNE-TV	1,210,150	1,209,366	$	7,979
73907	WPNT	3,148,917	3,050,465	$	20,127
28480	WPPT	11,348,739	10,115,153	$	66,740
51984	WPPX-TV	8,429,105	8,212,096	$	54,183
47404	WPRI-TV	7,754,340	7,480,561	$	49,357
51991	WPSD-TV	852,232	848,332	$	5,597
12499	WPSG	11,342,493	11,068,585	$	73,031
66219	WPSU-TV	1,016,983	842,529	$	5,559
73905	WPTA	1,136,029	1,135,873	$	7,494
25067	WPTD	3,535,155	3,522,151	$	23,239
25065	WPTO	3,080,289	3,066,947	$	20,236
59443	WPTV-TV	6,414,108	6,414,108	$	42,320
57476	WPTZ	801,186	684,501	$	4,516
8616	WPVI-TV	11,997,071	11,834,791	$	78,086

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48772	WPWR-TV	10,111,733	10,105,397	$	66,675
51969	WPXA-TV	7,486,662	7,341,812	$	48,441
71236	WPXC-TV	1,812,411	1,812,329	$	11,958
5800	WPXD-TV	5,357,614	5,357,504	$	35,349
37104	WPXE-TV	3,105,562	3,094,581	$	20,418
48406	WPXG-TV	2,760,323	2,697,351	$	17,797
73312	WPXH-TV	1,558,487	1,543,110	$	10,181
73910	WPXI	3,270,399	3,179,997	$	20,982
2325	WPXJ-TV	2,383,753	2,319,308	$	15,303
52628	WPXK-TV	1,897,932	1,672,850	$	11,037
21729	WPXL-TV	1,738,354	1,738,354	$	11,470
48608	WPXM-TV	5,673,283	5,673,283	$	37,432
73356	WPXN-TV	22,193,311	21,756,322	$	143,548
27290	WPXP-TV	6,117,297	6,117,297	$	40,362
50063	WPXQ-TV	3,398,164	3,257,998	$	21,496
70251	WPXR-TV	1,361,522	1,199,794	$	7,916
40861	WPXS	2,313,093	2,228,599	$	14,704
53065	WPXT	1,058,317	1,005,248	$	6,633
37971	WPXU-TV	764,835	764,835	$	5,046
67077	WPXV-TV	1,997,620	1,997,620	$	13,180
74091	WPXW-TV	8,918,745	8,866,240	$	58,499
21726	WPXX-TV	1,563,942	1,560,675	$	10,297
73319	WQAD-TV	1,077,293	1,065,179	$	7,028
65130	WQCW	1,234,953	1,165,995	$	7,693
71561	WQEC	177,193	175,191	$	1,156
41315	WQED	3,491,971	3,385,114	$	22,335
3255	WQHA	2,936,821	2,543,288	$	16,781
60556	WQHS-DT	3,982,203	3,936,334	$	25,972
53716	WQLN	573,688	553,172	$	3,650
52075	WQMY	403,099	246,363	$	1,626
64550	WQOW	383,460	372,929	$	2,461
5468	WQPT-TV	928,221	922,909	$	6,089
64690	WQPX-TV	1,624,976	1,207,503	$	7,967
52408	WQRF-TV	1,384,090	1,360,850	$	8,979
2175	WQTO	2,533,848	1,714,503	$	4,010
8688	WRAL-TV	4,258,430	4,255,027	$	28,075
10133	WRAY-TV	4,701,102	4,682,210	$	30,893
64611	WRAZ	4,206,845	4,204,439	$	27,741
136749	WRBJ-TV	1,029,422	1,026,759	$	6,775

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3359	WRBL	1,573,722	1,534,121	$	10,122
57221	WRBU	2,964,043	2,960,986	$	19,537
54940	WRBW	4,929,252	4,926,807	$	32,507
59137	WRCB	1,674,932	1,436,942	$	9,481
47904	WRC-TV	9,040,003	8,996,367	$	59,358
54963	WRDC	4,380,924	4,374,069	$	28,860
55454	WRDQ	4,765,929	4,765,929	$	31,446
73937	WRDW-TV	1,630,465	1,580,144	$	10,426
66174	WREG-TV	1,645,112	1,638,826	$	10,813
61011	WRET-TV	2,775,252	2,572,161	$	16,971
73940	WREX	2,367,561	2,071,361	$	13,667
54443	WRFB	2,361,435	2,105,790	$	1,101
73942	WRGB	1,773,206	1,559,637	$	10,290
411	WRGT-TV	3,563,572	3,528,799	$	23,283
74416	WRIC-TV	2,264,724	2,197,233	$	14,497
61012	WRJA-TV	1,227,284	1,220,205	$	8,051
412	WRLH-TV	2,215,949	2,152,568	$	14,203
61013	WRLK-TV	1,268,677	1,267,713	$	8,364
43870	WRLM	3,954,789	3,936,003	$	25,970
74156	WRNN-TV	21,146,732	20,904,564	$	137,928
73964	WROC-TV	1,210,157	1,192,546	$	7,868
159007	WRPT	108,521	108,009	$	713
20590	WRPX-TV	2,980,937	2,976,800	$	19,641
62009	WRSP-TV	1,062,091	1,060,251	$	6,996
40877	WRTV	3,148,448	3,125,475	$	20,622
15320	WRUA	2,624,204	2,339,222	$	15,434
71580	WRXY-TV	2,114,529	2,114,529	$	13,952
48662	WSAV-TV	1,094,897	1,094,884	$	7,224
6867	WSAW-TV	657,843	651,328	$	4,297
36912	WSAZ-TV	1,173,019	1,103,266	$	7,279
56092	WSBE-TV	8,044,866	7,776,757	$	51,311
73982	WSBK-TV	7,834,658	7,766,985	$	51,247
72053	WSBS-TV	47,386	47,386	$	313
73983	WSBT-TV	1,790,673	1,780,628	$	11,749
23960	WSB-TV	6,772,503	6,695,450	$	44,177
69446	WSCG	961,649	961,649	$	6,345
64971	WSCV	6,029,382	6,029,382	$	39,782
70536	WSEC	517,830	517,364	$	3,414
49711	WSEE-TV	585,062	562,271	$	3,710

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21258	WSES	1,905,067	1,866,312	$	12,314
73988	WSET-TV	1,587,650	1,345,990	$	8,881
13993	WSFA	1,206,335	1,168,069	$	7,707
11118	WSFJ-TV	1,911,871	1,902,328	$	12,552
10203	WSFL-TV	5,890,244	5,890,244	$	38,864
72871	WSFX-TV	1,088,964	1,088,964	$	7,185
73999	WSIL-TV	650,734	647,093	$	4,270
4297	WSIU-TV	994,418	936,746	$	6,181
74007	WSJV	1,686,953	1,680,493	$	11,088
78908	WSKA	530,610	416,302	$	2,747
74034	WSKG-TV	866,172	616,130	$	4,065
76324	WSKY-TV	2,003,325	2,002,894	$	13,215
776220	WSLN	3,269,796	3,020,118	$	19,927
57840	WSLS-TV	1,436,974	1,276,869	$	8,425
21737	WSMH	2,350,370	2,335,477	$	15,409
41232	WSMV-TV	2,883,773	2,837,323	$	18,721
70119	WSNS-TV	10,069,653	10,068,069	$	66,429
74070	WSOC-TV	4,156,321	4,085,565	$	26,957
66391	WSPA-TV	3,717,232	3,549,667	$	23,421
64352	WSPX-TV	1,285,581	1,167,040	$	7,700
17611	WSRE	1,490,766	1,489,946	$	9,831
63867	WSST-TV	312,974	312,260	$	2,060
60341	WSTE-DT	3,284,058	3,220,155	$	21,247
21252	WSTM-TV	1,437,543	1,367,590	$	9,023
11204	WSTR-TV	3,424,743	3,411,973	$	22,512
19776	WSUR-DT	3,276,102	3,182,722	$	5,385
2370	WSVI	41,004	41,004	$	271
63840	WSVN	6,165,386	6,165,386	$	40,679
73374	WSWB	1,516,774	1,088,360	$	7,181
28155	WSWG	389,103	389,030	$	2,567
71680	WSWP-TV	849,038	633,378	$	4,179
74094	WSYM-TV	1,607,593	1,607,277	$	10,605
73113	WSYR-TV	1,314,500	1,226,575	$	8,093
40758	WSYT	1,962,530	1,731,744	$	11,426
56549	WSYX	2,871,413	2,825,664	$	18,644
65681	WTAE-TV	2,985,875	2,865,692	$	18,908
23341	WTAJ-TV	1,158,024	925,907	$	6,109
4685	WTAP-TV	489,083	469,004	$	3,094
416	WTAT-TV	1,284,148	1,284,148	$	8,473

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67993	WTBY-TV	16,997,114	16,897,718	$	111,491
29715	WTCE-TV	2,964,583	2,964,583	$	19,560
65667	WTCI	1,276,295	1,159,269	$	7,649
67786	WTCT	590,643	586,819	$	3,872
28954	WTCV	2,861,004	2,653,740	$	17,509
74422	WTEN	1,913,356	1,621,808	$	10,701
9881	WTGL	4,516,827	4,516,827	$	29,802
27245	WTGS	1,064,292	1,064,066	$	7,021
70655	WTHI-TV	966,268	914,388	$	6,033
70162	WTHR	3,175,603	3,122,761	$	20,604
147	WTIC-TV	5,397,501	4,767,795	$	31,458
26681	WTIN-TV	3,277,279	3,162,469	$	905
66536	WTIU	1,690,704	1,689,678	$	11,148
1002	WTJP-TV	2,037,103	2,002,301	$	13,211
4593	WTJR	316,974	316,852	$	2,091
70287	WTJX-TV	112,125	104,561	$	690
47401	WTKR	2,242,929	2,242,846	$	14,798
82735	WTLF	883,350	883,326	$	5,828
23486	WTLH	1,082,589	1,082,542	$	7,143
67781	WTLJ	1,738,667	1,736,853	$	11,460
65046	WTLV	2,041,165	2,022,822	$	13,347
74098	WTMJ-TV	3,139,304	3,123,411	$	20,608
74109	WTNH	7,999,974	7,453,267	$	49,177
19200	WTNZ	1,790,817	1,598,570	$	10,547
590	WTOC-TV	1,061,993	1,061,993	$	7,007
74112	WTOG	6,239,245	6,236,871	$	41,151
4686	WTOK-TV	391,847	386,112	$	2,548
13992	WTOL	4,534,147	4,527,590	$	29,873
21254	WTOM-TV	120,159	116,524	$	769
74122	WTOV-TV	3,866,114	3,605,421	$	23,789
82574	WTPC-TV	2,138,494	2,132,635	$	14,071
86496	WTPX-TV	258,246	258,154	$	1,703
6869	WTRF-TV	2,938,363	2,562,114	$	16,905
67798	WTSF	879,853	811,994	$	5,358
11290	WTSP	6,538,906	6,515,239	$	42,988
4108	WTTA	6,656,303	6,639,930	$	43,810
74137	WTTE	2,926,672	2,885,004	$	19,035
22207	WTTG	8,945,253	8,890,093	$	58,657
56526	WTTK	3,074,975	3,055,143	$	20,158

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74138	WTTO	1,966,252	1,931,949	$	12,747
56523	WTTV	2,752,635	2,749,080	$	18,138
10802	WTTW	9,929,487	9,929,071	$	65,512
74148	WTVA	807,017	794,561	$	5,243
22590	WTVC	1,658,814	1,434,931	$	9,468
8617	WTVD	4,201,042	4,188,018	$	27,633
55305	WTVE	5,368,807	5,365,301	$	35,400
36504	WTVF	2,816,921	2,798,755	$	18,466
74150	WTVG	4,440,934	4,429,742	$	29,227
74151	WTVH	1,375,016	1,313,054	$	8,664
10645	WTVI	3,286,073	3,261,428	$	21,519
63154	WTVJ	6,009,434	6,009,434	$	39,650
52280	WTVK	7,403,075	7,395,979	$	48,799
595	WTVM	1,577,223	1,471,502	$	9,709
72945	WTVO	1,413,778	1,400,377	$	9,240
28311	WTVP	660,258	660,214	$	4,356
51597	WTVQ-DT	1,060,102	1,054,409	$	6,957
57832	WTVR-TV	1,998,729	1,990,377	$	13,133
16817	WTVS	5,607,125	5,606,929	$	36,995
68569	WTVT	6,511,462	6,491,829	$	42,833
3661	WTVW	839,062	833,035	$	5,496
35575	WTVX	3,558,645	3,556,727	$	23,467
4152	WTVY	1,032,612	1,029,898	$	6,795
40759	WTVZ-TV	2,246,928	2,246,845	$	14,825
66908	WTWC-TV	1,078,213	1,078,166	$	7,114
20426	WTWO	716,304	710,680	$	4,689
81692	WTWV	1,529,924	1,528,555	$	10,085
51568	WTXF-TV	11,330,716	11,023,958	$	72,736
41065	WTXL-TV	1,071,056	1,070,908	$	7,066
8532	WUAB	3,819,462	3,739,439	$	24,673
12855	WUCF-TV	4,516,827	4,516,827	$	29,802
36395	WUCW	4,213,867	4,205,494	$	27,748
69440	WUFT	1,524,792	1,524,792	$	10,061
413	WUHF	1,161,377	1,157,795	$	7,639
8156	WUJA	2,449,731	2,192,227	$	14,464
69080	WUNC-TV	4,701,102	4,682,210	$	30,893
69292	WUND-TV	1,526,704	1,526,704	$	10,073
69114	WUNE-TV	3,449,284	2,886,515	$	19,045
69300	WUNF-TV	2,825,704	2,517,064	$	16,608

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69124	WUNG-TV	4,065,099	4,049,218	$	26,717
60551	WUNI	7,755,236	7,627,170	$	50,324
69332	WUNJ-TV	1,224,449	1,224,449	$	8,079
69149	WUNK-TV	2,105,575	2,099,533	$	13,853
69360	WUNL-TV	3,243,843	3,015,382	$	19,895
69444	WUNM-TV	1,370,547	1,370,547	$	9,043
69397	WUNP-TV	1,488,708	1,474,989	$	9,732
69416	WUNU	1,212,006	1,210,875	$	7,989
83822	WUNW	2,012,283	1,476,883	$	9,744
6900	WUPA	6,845,271	6,764,030	$	44,629
13938	WUPL	1,833,116	1,833,116	$	12,095
10897	WUPV	2,142,407	2,122,016	$	14,001
19190	WUPW	2,136,541	2,135,020	$	14,087
23128	WUPX-TV	1,182,585	1,166,267	$	7,695
65593	WUSA	9,654,785	9,309,845	$	61,426
4301	WUSI-TV	320,658	320,658	$	2,116
60552	WUTB	9,293,641	9,148,848	$	60,364
30577	WUTF-TV	8,479,857	8,266,141	$	54,540
57837	WUTR	511,394	470,311	$	3,103
415	WUTV	1,611,128	1,579,265	$	10,420
16517	WUVC-DT	4,224,285	4,208,453	$	27,767
48813	WUVG-DT	6,908,879	6,834,542	$	45,094
3072	WUVN	1,236,426	1,156,397	$	7,630
60560	WUVP-DT	10,944,731	10,756,717	$	70,973
9971	WUXP-TV	2,749,827	2,737,094	$	18,059
417	WVAH-TV	1,295,710	1,222,075	$	8,063
23947	WVAN-TV	1,118,534	1,117,845	$	7,376
65387	WVBT	1,964,109	1,964,109	$	12,959
72342	WVCY-TV	3,149,773	3,140,719	$	20,722
60559	WVEA-TV	5,324,315	5,322,343	$	35,117
74167	WVEC	2,189,627	2,184,435	$	14,413
5802	WVEN-TV	4,749,513	4,749,513	$	31,337
61573	WVEO	962,531	803,553	$	2,946
69946	WVER	903,858	770,412	$	5,083
10976	WVFX	688,514	596,278	$	3,934
47929	WVIA-TV	3,472,501	2,879,994	$	19,002
3667	WVII-TV	368,499	348,813	$	2,301
70309	WVIR-TV	2,140,100	2,107,081	$	13,903
74170	WVIT	5,920,252	5,425,459	$	35,797

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
18753	WVIZ	3,694,957	3,687,740	$	24,332
70021	WVLA-TV	1,969,063	1,969,000	$	12,991
81750	WVLR	1,483,484	1,376,091	$	9,079
35908	WVLT-TV	1,983,974	1,714,780	$	11,314
74169	WVNS-TV	889,675	560,472	$	3,698
11259	WVNY	755,448	673,828	$	4,446
29000	WVOZ-TV	981,832	762,182	$	2,946
71657	WVPB-TV	939,383	910,465	$	6,007
60111	WVPT	995,523	887,449	$	5,855
70491	WVPX-TV	4,131,639	4,098,980	$	27,045
66378	WVPY	995,523	887,449	$	5,855
67190	WVSN	2,593,148	2,271,512	$	14,987
69940	WVTB	468,294	246,240	$	1,625
74173	WVTM-TV	2,101,947	2,026,895	$	13,373
74174	WVTV	3,130,664	3,122,630	$	20,603
77496	WVUA	2,305,621	2,250,337	$	14,848
4149	WVUE-DT	1,759,779	1,759,779	$	11,611
4329	WVUT	267,636	267,555	$	1,765
74176	WVVA	997,556	690,651	$	4,557
3113	WVXF	70,673	66,853	$	441
12033	WWAY	1,328,366	1,328,366	$	8,765
30833	WWBT	2,109,206	2,074,930	$	13,690
20295	WWCP-TV	2,798,717	2,540,105	$	16,760
24812	WWCW	1,390,908	1,210,482	$	7,987
23671	WWDP	6,230,964	5,959,061	$	39,318
21158	WWHO	2,994,400	2,952,760	$	19,482
14682	WWJE-DT	7,755,236	7,627,170	$	50,324
65919	WWJS	3,798,882	3,731,768	$	24,622
72123	WWJ-TV	5,653,566	5,653,219	$	37,300
166512	WWJX	524,625	524,579	$	3,461
6868	WWLP	3,866,407	3,097,621	$	20,438
74192	WWL-TV	1,908,335	1,908,335	$	12,591
3133	WWMB	1,596,320	1,591,501	$	10,501
74195	WWMT	2,667,986	2,657,016	$	17,531
68851	WWNY-TV	368,613	341,101	$	2,251
74197	WWOR-TV	21,146,732	20,904,564	$	137,928
65943	WWPB	3,531,585	3,086,500	$	20,365
23264	WWPX-TV	2,612,045	2,544,163	$	16,786
68547	WWRS-TV	2,376,549	2,354,442	$	15,535

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
61251	WWSB	3,830,838	3,830,838	$ 25,276
23142	WWSI	11,821,594	11,646,436	$ 76,843
16747	WWTI	195,127	188,538	$ 1,244
998	WWTO-TV	6,837,732	6,837,732	$ 45,115
26994	WWTV	1,047,227	1,032,448	$ 6,812
84214	WWTW	1,529,924	1,528,555	$ 10,085
26993	WWUP-TV	114,688	108,690	$ 717
23338	WXBU	4,219,869	3,695,568	$ 24,383
61504	WXCW	2,000,927	2,000,927	$ 13,202
61084	WXEL-TV	5,976,331	5,976,331	$ 39,432
60539	WXFT-DT	10,333,090	10,326,952	$ 68,137
23929	WXGA-TV	618,176	616,843	$ 4,070
51163	WXIA-TV	7,067,151	6,920,534	$ 45,662
53921	WXII-TV	3,895,811	3,546,156	$ 23,398
146	WXIN	3,066,589	3,043,020	$ 20,078
39738	WXIX-TV	3,033,449	3,023,049	$ 19,946
414	WXLV-TV	4,920,177	4,882,710	$ 32,216
68433	WXMI	2,110,083	2,109,607	$ 13,919
64549	WXOW	433,343	422,605	$ 2,788
6601	WXPX-TV	5,414,068	5,411,832	$ 35,707
74215	WXTV-DT	21,842,105	21,428,169	$ 141,383
12472	WXTX	745,811	742,438	$ 4,899
11970	WXXA-TV	1,691,753	1,553,272	$ 10,248
57274	WXXI-TV	1,192,140	1,176,310	$ 7,761
53517	WXXV-TV	1,235,520	1,233,511	$ 8,139
10267	WXYZ-TV	5,716,967	5,716,632	$ 37,718
77515	WYCI	32,321	21,447	$ 142
70149	WYCW	3,717,232	3,549,667	$ 23,421
62219	WYDC	542,984	435,924	$ 2,876
18783	WYDN	2,760,323	2,697,351	$ 17,797
35582	WYDO	1,340,990	1,340,990	$ 8,848
25090	WYES-TV	2,002,806	2,002,459	$ 13,212
53905	WYFF	2,836,376	2,609,544	$ 17,218
49803	WYIN	7,062,511	7,062,511	$ 46,598
24915	WYMT-TV	1,144,051	819,069	$ 5,404
17010	WYOU	2,912,468	2,246,394	$ 14,822
77789	WYOW	94,927	94,486	$ 623
13933	WYPX-TV	1,547,670	1,434,147	$ 9,463
4693	WYTV	4,870,043	4,522,748	$ 29,841

		Service Area	Terrain Limited	Terrain Limited	
Facility Id.	Call Sign	Population	Population	Fee Amount	
5875	WYZZ-TV	1,008,995	1,002,743	$	6,616
15507	WZBJ	1,603,364	1,421,509	$	9,379
28119	WZDX	1,714,034	1,633,019	$	10,775
70493	WZME	21,320,488	20,875,035	$	137,733
81448	WZMQ	73,784	73,510	$	485
71871	WZPX-TV	2,165,413	2,165,333	$	14,287
136750	WZRB	1,007,172	1,006,731	$	6,642
418	WZTV	2,743,270	2,733,978	$	18,039
83270	WZVI	64,187	63,279	$	418
19183	WZVN-TV	2,331,155	2,331,155	$	15,381
49713	WZZM	1,678,220	1,652,095	$	10,901

[1] Call signs WIPM and WIPR are stations in Puerto Rico that are linked together with a total fee of $20,455.

[2] Call signs WNJX and WAPA are stations in Puerto Rico that are linked together with a total fee of $20,455.

[3] Call signs WKAQ and WORA are stations in Puerto Rico that are linked together with a total fee of $20,455.

[4] Call signs WOLE and WLII are stations in Puerto Rico that are linked together with a total fee of $20,455.

[5] Call signs WVEO and WTCV are stations in Puerto Rico that are linked together with a total fee of $20,455.

[6] Call signs WJPX and WJWN are stations in Puerto Rico that are linked together with a total fee of $20,455.

[7] Call signs WAPA and WTIN are stations in Puerto Rico that are linked together with a total fee of $20,455.

[8] Call signs WSUR and WLII are stations in Puerto Rico that are linked together with a total fee of $20,455.

[9] Call signs WVOZ and WTCV are stations in Puerto Rico that are linked together with a total fee of $20,455.

[10] Call signs WJPX and WKPV are stations in Puerto Rico that are linked together with a total fee of $20,455.

[11] Call signs WMTJ and WQTO are stations in Puerto Rico that are linked together with a total fee of $20,455.

[12] Call signs WIRS and WJPX are stations in Puerto Rico that are linked together with a total fee of $20,455.

[13] Call signs WRFB and WORA are stations in Puerto Rico that are linked together with a total fee of $20,455.

APPENDIX H

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) Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	700 700
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

Fee Category	Annual Regulatory Fee (U.S. $s)
Low Power TV, Class A TV, TV/FM Translators & FM Boosters (47 CFR part 74)	260
CARS (47 CFR part 78)	1,720
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV and Direct Broadcast Satellite (DBS)	1.23
Interstate Telecommunication Service Providers (per revenue dollar)	.00540
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.13
Earth Stations (47 CFR part 25)	575
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	117,580
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Other)	347,755
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Less Complex)	130,405
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)	$26
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	$7,680
50 Gbps or greater, but less than 250 Gbps	.125 Units	$15,355
250 Gbps or greater, but less than 1,500 Gbps	.25 Units	$30,705
1,500 Gbps or greater, but less than 3,500 Gbps	.5 Units	$61,410
3,500 Gbps or greater, but less than 6,500 Gbps	1.0 Unit	$122,815
6,500 Gbps or greater	2.0 Units	$245,630

APPENDIX I

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *FY 2024 NPRM* released in June 2024.[2] The Federal Communications Commission (Commission or FCC) sought written public comment on the proposals in the *FY 2024 NPRM,* including comment on the IRFA. No comments were filed addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

A. Need for, and Objectives of, the Report and Order

2. In the *FY* 2024 *Report and Order*, the Commission adopts a regulatory fee schedule to meet its objective of fully complying with its congressionally mandated requirement of collecting regulatory fees for fiscal year (FY) 2024. For FY 2024, the Commission is required to collect $390,192,000 in regulatory fees, an amount equal to the Commission's annual salaries and expenses appropriation, pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act),[4] and the Commission's FY 2024 Further Consolidation Appropriations Act.[5] 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."[6] The total amount the Commission must collect in an offsetting collection generally changes each fiscal year, and payors' regulatory fees will also typically change each fiscal year as a mathematical consequence of the changes in the total amount to be collected, the number of full-time equivalents (FTEs), and projected unit estimates for each regulatory fee category.

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[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] *Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, MD Docket No. 24-86, *Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024*, MD Docket No. 24-86, Second Notice of Proposed Rulemaking, FCC 24-68 (rel. June 13, 2024) (*FY 2024 NPRM*). The first Notice of Proposed Rulemaking in this docket for FY 2024 focused on issues pertaining to regulatory fees paid by entities overseen by the Space Bureau. *Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024*, MD Docket No. 24-85; *Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, MD Docket No. 24-86, Notice of Proposed Rulemaking, FCC 24-31 (Mar. 13, 2024) (*FY 2024 Space and Earth Station Regulatory Fees NPRM*). In June of 2024, the Commission adopted resolved some of the proposals from the *FY 2024 Space and Earth Station Regulatory Fees NPRM*. *Space and Earth Station Regulatory Fees for Fiscal Year 2024, Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, MD Docket Nos. 24-85, 24-86, Report and Order, FCC 24-70 (rel. June 13, 2024) (*FY 2024 Space Station Regulatory Fees Order*).

[3] 5 U.S.C. § 604.

[4] 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).

[5] 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 salaries and expenses (S&E) appropriation directing the amount to be collected as an offsetting collection. Further Consolidation Appropriations Act, 2024, Pub. L. No. 118-47, Division B— Financial Services and General Government Appropriations Act, 2024 (FY 2024 Consolidated Appropriations Act). The total offsetting collection for FY 2024 is identical to the total offsetting collection for FY 2023. *See* 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] 47 U.S.C. § 159(d).

3. In 2023, the Commission eliminated the International Bureau, established a new Space Bureau and a new Office of International Affairs, and reallocated the authorities and functions of the International Bureau to the Space Bureau and the Office of International Affairs.[7] In light of these actions, for FY 2024, the Commission reviewed the FY 2023 reallocations to determine if any changes are warranted, and proposed to slightly revise the FY 2023 reallocations to the core bureaus, including the new Space Bureau and the new Office of International Affairs.

4. In the *FY 2024 NPRM,* the Commission also sought comment on several additional regulatory fee issues, including: (i) the calculation of television broadcaster regulatory fees; (ii) how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility; (iii) the end of temporary relief measures we implemented in response to the COVID-19 pandemic; (iv) our proposal to discontinue the Commission's presumption that broadcast stations that are dark or were recently dark or bankrupt are experiencing financial hardship sufficient to justify waiver of their regulatory fees; and (v) ways in which the Commission might assist regulatory fee payors in meeting their annual regulatory fee obligations. For FY 2024, the Commission adopts, with modification, the regulatory fee schedule set forth in Appendices B and C to the Report and Order.

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

5. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA. However, one commenter, Iridium, contends that adopting the 60/40 allocation split between Geostationary Orbit (GSO) and Non-Geostationary Orbit (NGSO) for FY 2024 would impose a burden on smaller NGSO systems.[8] The Commission does not agree that it would be appropriate to delay this allocation, in that it more accurately represents the FY 2024 FTE burden in the Space Bureau than the prior 80/20 allocation.

C. Response to Comments by Chief Counsel for Advocacy of the Small Business Administration

6. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.[9] The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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.[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

[7] *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*).

[8] Iridium Reply at 3-4. Iridium is a global satellite communications company with over $790 million in 2023 revenues. *See* Iridium Communications, Inc., 2023 Annual Report, available at https://investor.iridium.com/annual-reports (last visited Aug. 6, 2024).

[9] 5 U.S.C § 604 (a)(3).

[10] *Id.* § 603(b)(3).

[11] *Id.* § 601(6).

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]

8. *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, 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 33.2 million businesses.[16]

9. 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 2022, there were approximately 530,109 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]

10. 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 2022 Census

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[12] *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."

[13] 15 U.S.C. § 632.

[14] 5 U.S.C. § 601(3)-(6).

[15] *See* SBA, Office of Advocacy, "What's New With Small Business?," https://advocacy.sba.gov/wp-content/uploads/2023/03/Whats-New-Infographic-March-2023-508c.pdf (Mar. 2023).

[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. S*ee* 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. 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.

[19] *See* Exempt Organizations Business Master File Extract (EO BMF), "CSV Files by Region," https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf. The IRS Exempt Organization Business Master File (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 2022 with revenue less than or equal to $50,000 for Region 1-Northeast Area (71,897), Region 2-Mid-Atlantic and Great Lakes Areas (197,296), and Region 3-Gulf Coast and Pacific Coast Areas (260,447) that includes the continental U.S., Alaska, and Hawaii. This data includes information for Puerto Rico (469).

[20] 5 U.S.C. § 601(5).

of Governments[21] indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[22] Of this number, there were 36,845 general purpose governments (county,[23] municipal, and town or township[24]) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts[25]) with enrollment populations of less than 50,000.[26] Accordingly, based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 entities fall into the category of "small governmental jurisdictions."[27]

11. *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.[28] 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.[29] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[30] Wired Telecommunications Carriers

[21] 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/economic-census/year/2022/about.html.

[22] *See* U.S. Census Bureau, 2022 Census of Governments – Organization Table 2. Local Governments by Type and State: 2022 [CG2200ORG02], https://www.census.gov/data/tables/2022/econ/gus/2022-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* tbl.2. CG2200ORG02 Table Notes_Local Governments by Type and State_2022.

[23] *See id.* at tbl.5. County Governments by Population-Size Group and State: 2022 [CG2200ORG05], https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html. There were 2,097 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: 2022 [CG2200ORG06], https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html. There were 18,693 municipal and 16,055 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: 2022 [CG2200ORG10], https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html. There were 11,879 independent school districts with enrollment populations less than 50,000. *See also* tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2022 [CG2200ORG04], CG2200ORG04 Table Notes_Special Purpose Local Governments by State_Census Years 1942 to 2022.

[26] While the special purpose governments category also includes local special district governments, the 2022 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

[27] 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 (36,845) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (11,879), from the 2022 Census of Governments - Organizations tbls. 5, 6 & 10.

[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] *Id.*

[30] *Id.*

are also referred to as wireline carriers or fixed local service providers.[31]

12. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[32] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[33] Of this number, 2,964 firms operated with fewer than 250 employees.[34] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services.[35] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[36] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

13. *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 Carriers[37] is the closest industry with an SBA small business size standard.[38] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[39] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[40] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[41] Of this number, 2,964 firms operated with fewer than

[31] 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.

[32] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[33] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[34] *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.

[35] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[36] *Id.*

[37] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[38] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[39] 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.

[40] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111)

[41] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

250 employees.[42] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were fixed local exchange service providers.[43] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[44] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

14. *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 Carriers[45] is the closest industry with an SBA small business size standard.[46] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[47] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[48] Of this number, 2,964 firms operated with fewer than 250 employees.[49] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers.[50] Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees.[51] 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.

15. *Competitive Local Exchange Carriers (CLECs).* 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.[52] Wired Telecommunications Carriers[53] is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having

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[42] *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.

[43] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[44] *Id.*

[45] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[46] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[47] *Id.*

[48] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[49] *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.

[50] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[51] *Id.*

[52] 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.

[53] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

1,500 or fewer employees as small.[54] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[55] Of this number, 2,964 firms operated with fewer than 250 employees.[56] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local service providers.[57] Of these providers, the Commission estimates that 3,230 providers have 1,500 or fewer employees.[58] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers[59] is the closest industry with a SBA small business size standard.[60] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[61] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[62] Of this number, 2,964 firms operated with fewer than 250 employees.[63] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services. Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees.[64] 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.

17. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. Telecommunications Resellers[65] 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

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[54] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[55] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[56] *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.

[57] 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.

[58] *Id.*

[59] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[60] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[61] *Id.*

[62] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[63] *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.

[64] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[65] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

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.[66] Mobile virtual network operators (MVNOs) are included in this industry.[67] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[68] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[69] Of that number, 1,375 firms operated with fewer than 250 employees.[70] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 62 providers that reported they were engaged in the provision of prepaid card services.[71] Of these providers, the Commission estimates that 61 providers have 1,500 or fewer employees.[72] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

18. *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.[73] 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.[74] Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.[75] Mobile virtual network operators (MVNOs) are included in this industry.[76] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[77] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[78] Of that number, 1,375

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[66] *Id.*

[67] *Id*.

[68] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[69] *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.

[70] *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.

[71] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[72] *Id.*

[73] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[74] *Id.*

[75] *Id*.

[76] *Id*.

[77] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[78] *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.

firms operated with fewer than 250 employees.[79] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 207 providers that reported they were engaged in the provision of local resale services.[80] Of these providers, the Commission estimates that 202 providers have 1,500 or fewer employees.[81] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

19. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size standard specifically for Toll Resellers. Telecommunications Resellers[82] 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.[83] Mobile virtual network operators (MVNOs) are included in this industry.[84] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[85] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[86] Of that number, 1,375 firms operated with fewer than 250 employees.[87] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 457 providers that reported they were engaged in the provision of toll services.[88] Of these providers, the Commission estimates that 438 providers have 1,500 or fewer employees.[89] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

20. *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 Carriers[90] is the closest

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[79] *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.

[80] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[81] *Id.*

[82] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[83] *Id.*

[84] *Id*.

[85] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[86] *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.

[87] *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.

[88] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[89] *Id.*

[90] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

industry with a SBA small business size standard.[91] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[92] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[93] Of this number, 2,964 firms operated with fewer than 250 employees.[94] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 90 providers that reported they were engaged in the provision of other toll services.[95] Of these providers, the Commission estimates that 87 providers have 1,500 or fewer employees.[96] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

21. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[97] 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.[98] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[99] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[100] Of that number, 2,837 firms employed fewer than 250 employees.[101] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services.[102] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.[103] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

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[91] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[92] *Id.*

[93] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[94] *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.

[95] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[96] *Id.*

[97] *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.

[98] *Id.*

[99] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[100] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517312, https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[101] *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.

[102] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[103] *Id.*

22. *Television Broadcasting.* This industry is comprised of "establishments primarily engaged in broadcasting images together with sound."[104] These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.[105] 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 $47 million or less in annual receipts as small.[106] 2017 U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year.[107] Of that number, 657 firms had revenue of less than $25,000,000.[108] Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

23. As of June 30, 2024, there were 1,384 licensed commercial television stations.[109] Of this total, 1,307 stations (or 94.4%) had revenues of $47 million or less in 2023, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on July 3, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of June 30, 2024, there were 382 licensed noncommercial educational (NCE) television stations, 379 Class A TV stations, 1,821 LPTV stations and 3,100 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 these television station licensees, we presume that all of these entities qualify as small entities under the above SBA small business size standard.

24. *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 industry classifies firms having $47 million or less in annual receipts as small.[113] U.S. Census Bureau

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[104] *See* U.S. Census Bureau, *2017 NAICS Definition, "515120 Television Broadcasting,*" https://www.census.gov/naics/?input=515120&year=2017&details=515120.

[105] *Id.*

[106] *See* 13 CFR § 121.201, NAICS Code 515120 (as of 10/1/22 NAICS Code 516120).

[107] *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. At this time, the 2022 Economic Census data is not available.

[108] *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.

[109] *Broadcast Station Totals as of June 30, 2024*, Public Notice, DA 24-644 (rel. July 3, 2024) (*July 2024 Broadcast Station Totals PN*), https://docs.fcc.gov/public/attachments/DA-24-644A1.pdf.

[110] *Id.*

[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.*

[113] *See* 13 CFR § 121.201, NAICS Code 515112 (as of 10/1/22 NAICS Code 516110).

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.

25. The Commission estimates that as of June 30, 2024, there were 4,413 licensed commercial AM radio stations and 6,620 licensed commercial FM radio stations, for a combined total of 11,033 commercial radio stations.[116] Of this total, 11,032 stations (or 99.99 %) had revenues of $47 million or less in 2023, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on July 3, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of June 30, 2024, there were 4,356 licensed noncommercial (NCE) FM radio stations, 1,965 low power FM (LPFM) stations, and 8,906 FM translators and boosters.[117] 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.

26. We note, however, that in assessing whether a business concern qualifies as "small" under the above definition, business (control) affiliations[118] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of "small business" requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and is therefore possibly over-inclusive. An additional element of the definition of "small business" is that the entity must be independently owned and operated. Because it is difficult to assess these criteria in the context of media entities, the estimate of small businesses to which the rules may apply does not exclude any radio or television station from the definition of a small business on this basis and similarly may be over-inclusive.

27. *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,

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[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. At this time, the 2022 Economic Census data is not available.

[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 that 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 June 30, 2024*, Public Notice, DA 24-644 (rel. July 3, 2024) (*July 2024 Broadcast Station Totals PN*), https://docs.fcc.gov/public/attachments/DA-24-644A1.pdf.

[117] *Id.*

[118] "[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both." 13 CFR § 21.103(a)(1).

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 U.S.[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 serving 15,000 or fewer subscribers.[122] Based on industry data, there are about 4,139 cable systems (headends) in the U.S.[123] Of these, about 639 have more than 15,000 subscribers.[124] Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

28. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, contains a size standard for a "small cable 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."[125] For purposes of the Telecom Act Standard, the Commission determined that a cable system operator that serves fewer than 498,000 subscribers, either directly or through affiliates, will meet the definition of a small cable operator.[126] Based on industry data, only six cable system operators have more than 498,000 subscribers.[127] 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.[128] 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.

29. *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

[119] 47 CFR § 76.901(d).

[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).

[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] S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q (*last visited May 26, 2022).

[125] 47 U.S.C. § 543(m)(2).

[126] *FCC Announces Updated Subscriber Threshold for the Definition of Small Cable Operator*, Public Notice, DA 23-906 (MB 2023) (*2023 Subscriber Threshold PN*). In this Public Notice, the Commission determined that there were approximately 49.8 million cable subscribers in the United States at that time using the most reliable source publicly available. *Id*. This threshold will remain in effect until the Commission issues a superseding Public Notice.. *See* 47 CFR § 76.901(e)(1).

[127] S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 06/23Q (*last visited Sept. 27, 2023); S&P Global Market Intelligence, Multichannel Video Subscriptions, Top 10 (April 2022).

[128] 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).

video using wired telecommunications networks.[129] Transmission facilities may be based on a single technology or combination of technologies.[130] 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.[131] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[132]

30. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[133] U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year.[134] Of this number, 2,964 firms operated with fewer than 250 employees.[135] 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 (co-owned by AT&T) and DISH Network (owned by EchoStar Corp.), which require a great deal of capital for operation.[136] 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.

31. *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."[137] Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with $44 million or less in annual receipts as small.[138] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[139] Of this number, 242 firms had revenue of less than

[129] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[130] *Id.*

[131] *See id*. Included in this industry are: broadband Internet access 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).

[132] *Id*.

[133] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[134] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[135] *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.

[136] *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).

[137] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[138] *See* 13 CFR § 121.201, NAICS Code 517410.

[139] *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 517410, https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

$25 million.[140] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 65 providers that reported they were engaged in the provision of satellite telecommunications services.[141] Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.[142] Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

32. *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.[143] 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.[144] 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.[145] The SBA small business size standard for this industry classifies firms with annual receipts of $40 million or less as small.[146] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[147] Of those firms, 1,039 had revenue of less than $25 million.[148] Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

33. *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.[149] 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.[150]

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[140] *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.

[141] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[142] *Id.*

[143] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[144] *Id.*

[145] *Id*.

[146] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[147] *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. At this time, the 2022 Economic Census data is not available.

[148] *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.

[149] *See* 47 CFR § 52.101(b).

[150] *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 Aug. 6, 2024). SOMOS serves as the North American Numbering Plan Administrator (NANPA) for more

(continued….)

RespOrgs are often wireline carriers, however they can be include non-carrier entities. Accordingly, the description below for RespOrgs include both Carrier RespOrgs and Non-Carrier RespOrgs.

34. *Carrier RespOrgs*. Neither the Commission nor the SBA have developed a small business size standard for Carrier RespOrgs. *Wired Telecommunications Carriers*,[151] and *Wireless Telecommunications Carriers (except Satellite)*[152] are the closest industries with a SBA small business size applicable to Carrier RespOrgs.[153]

35. *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.[154] 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.[155] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[156] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated for the entire year.[157] Of this number, 2,964 firms operated with fewer than 250 employees.[158] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

36. *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.[159] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[160]

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than 800 million local and wireless telephone numbers and as the Reassigned Number Database Administrator. *See also* 2023 NANPA Annual Report at 11, available at https://www.nationalnanpa.com/reports/2023_NANPA_AnnualReport.pdf (last visited Aug. 6, 2024).

[151] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[152] *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.

[153] The industry descriptions selected for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

[154] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[155] *Id*.

[156] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[157] *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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[158] *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.

[159] *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.

[160] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.[161] Of this number, 2,837 firms employed fewer than 250 employees.[162] Based on this data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

37. *Non-Carrier RespOrgs.* Neither the Commission, nor the SBA have developed a small business size standard Non-Carrier RespOrgs. *Other Services Related to Advertising*[163] and *Other Management Consulting Services*"[164] are the closest industries with a SBA small business size applicable to Non-Carrier RespOrgs. [165]

38. 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).[166] The SBA small business size standard for this industry classifies a business as small that has annual receipts of $16.5 million or less.[167] U.S. Census Bureau data for 2017 show that 5,650 firms operated in this industry for the entire year.[168] Of that number, 3,693 firms operated with revenue of less than $10 million.[169] Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.

39. 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

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[161] *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 517312, https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false. At this time, the 2022 Economic Census data is not available.

[162] *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.

[163] *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.

[164] *See* U.S. Census Bureau, *2017 NAICS Definition, "541618 Other Management Consulting Services,"* https://www.census.gov/naics/?input=541618&year=2017&details=541618.

[165] The industry descriptions selected for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

[166] *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.

[167] *See* 13 CFR § 121.201, NAICS Code 541890.

[168] *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. At this time, the 2022 Economic Census data is not available.

[169] *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.

logistics consulting).[170] Establishments providing telecommunications or utilities management consulting services are included in this industry.[171] 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.[172] U.S. Census Bureau data for 2017 show that 4,696 firms operated in this industry for the entire year.[173] Of that number, 3,700 firms had revenue of less than $10 million.[174] Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

40. The *Report and Order* does not adopt any changes to the Commission's current information collection, reporting, recordkeeping, or other compliance requirements for collecting regulatory fees from 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 in order to comply, as they are accustomed to paying the annual fees and most should be familiar with both the Commission's current collection process as well as the process put in place prior to the COVID-19 pandemic.

41. However, the *Report and Order* does adopt changes to the current fee waiver process, which may impact small entities, by returning to normal, pre-COVID-19 pandemic operations and discontinuing temporary waiver relief from regulatory fees available in the *FY 2023 Report and Order* that was not codified at that time. The Commission now will require small and other entities seeking relief through a waiver, reduction, and/or deferral of fees to submit all financial documents necessary to support their hardship request at the time of filing the request. In addition, the Commission is restoring the red light rule so that entities, including small entities, must not be in red light status at the time of filing a request for waiver, reduction, deferral, or installment payments. Small entities may be able to take advantage of the streamlined waiver processes, including permitting parties to submit a single waiver request for various forms of relief electronically, instead of separate filings and for FY 2024 regulatory fees, a low interest rate and no down payment requirement for installment payment of regulatory fees.

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

42. 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

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[170] *See* U.S. Census Bureau, *2017 NAICS Definition, "541618 Other Management Consulting Services,"* https://www.census.gov/naics/?input=541618&year=2017&details=541618..

[171] *Id.*

[172] *See* 13 CFR § 121.201, NAICS Code 541618.

[173] *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. At this time, the 2022 Economic Census data is not available.

[174] *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.

other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected."[175]

43. In response to the *FY 2024 NPRM*, the Commission received comments proposing alternatives to various elements of the methodology for assessing regulatory fees and the FY 2024 regulatory fee schedule, as well as other issues related to the collection of regulatory fees. After considering those alternatives, as well as those discussed amongst Commission staff, the rules adopted in the *Report and Order* reflect the Commission's efforts to minimize significant economic impact on small entities when practicable. Below is a discussion of some of the steps the Commission has taken in the *Report and Order* and alternative proposals it considered in reaching its conclusions.

44. *Assessment of Regulatory Fees.* For FY 2024, we employ the same methodology as the Commission did in FY 2023. However, we conclude that changes within the Commission's organizational structure and in additional staff resources merits a review of the FY 2023 reallocations of the FTEs located in the Office of General Counsel, the Office of Economics and Analytics, and the Public Safety and Homeland Security Bureau that were previously considered to be indirect FTEs and were allocated as direct FTEs to a core bureau. Specifically, effective on April 10, 2023, the International Bureau was eliminated by establishing a new Space Bureau and a new Office of International Affairs,[176] We also analyzed the FTEs previously reallocated as direct to a core bureau in FY 2023 for regulatory fee purposes to determine whether there have been any shifts in work assignments such that the number of allocations to a core bureau for regulatory fee purposes should be adjusted. Also, in instances where an FTE was previously allocated to the International Bureau as direct for regulatory fee purposes, we analyzed the specific work done by the FTE to determine whether such FTE should be allocated to the new Office of International Affairs or the new Space Bureau. Based on the results of our evaluation, we conclude 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 2024, which could reduce regulatory fee obligations for some small and other regulatory payees.

45. Additionally, on March 13, 2024, the Commission released the *Space and Earth Station Regulatory Fees NPRM* seeking comment on proposed changes to the regulatory fee methodology used for assessing space and earth station regulatory fees for FY 2024.[177] We proposed regulatory fee rates based on the proposals set forth in the *Space and Earth Station Regulatory Fees NPRM*, and therefore, did not need to seek comment again on the *FY 2024 NPRM.*[178]

46. *Broadcast Regulatory Fees.* In the *Report and Order*, we 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 may reduce the economic impact of the regulatory fees for some small licensees. While the population-based methodology increases fees for some licensees and reduces fees for others, we believe the population-based metric better conforms with the service of broadcasting television to the American people.

47. In addition, entities experiencing financial hardship, including small businesses, 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

[175] 5 U.S.C. § 604(a)(6).

[176] *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).

[177] *Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024, MD Docket No. 24-85; Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024, MD Docket No. 24-86*, Notice of Proposed Rulemaking, FCC 24-31 (2024) (*Space and Earth Station Regulatory Fees NPRM*).

[178] *Id.*

minimis threshold that the Commission has established.

48. *Relief Measures*. During the COVID-19 pandemic and through FY 2023, the Commission provided certain temporary relief to regulatory fee payors experiencing financial hardship caused or exacerbated by the COVID-19 pandemic through a combination of partial rule waivers and direction to the Office of the Managing Director in exercising its delegated authority. In the *Report and Order*, the Commission eliminates some temporary measures for FY 2024 because the circumstances for which the measures were temporarily implemented have changed, i.e., the National Emergency COVID-19 pandemic has ended[179] and the national economy is rebounding.

49. The Commission restores operation of the "red light" rule and therefore will not act on and will dismiss any requests for waiver, reduction, deferral, or for installment payments if the payor is in red light status when the request is filed. Further, the Commission, under section 1.1166 of the rules, now requires parties to submit, at the time of filing, their financial information to support any request for waiver, reduction, deferral or installment payments. Finally, in recognition of the possible hardship to certain Space Bureau fee payors caused by a significant increase in their FY 2024 regulatory fees, the Commission will, for all regulatory fee payors' installment payment plans, fix interest rates on all installment payments for payment of FY 2024 regulatory fee debt at the lowest rate permitted by statute; will not require parties to submit the customary down payment for installment payment plans.

50. *Non-Operating Broadcast Stations*. In the *Report and Order*, we end the policy of presuming that dark or silent stations have experienced financial hardship and therefore merit granting a request for waiver of regulatory fees on the basis of financial hardship,[180] without requiring submission of evidence of actual financial hardship. This policy was first mentioned by the Commission in 1995,[181] and then applied by the Commission's Office of the Managing Director in 1996.[182] The Commission, however, has never codified this policy and it is rarely used. The policy, moreover, appears to assume that the only rationale for a dark or silent station is financial duress. There is no such limitation, however, contained in Section 73.1740(a)(4) of the Commission's rules.[183] Licensees might go dark for different

[179] A National Emergency concerning COVID-19 was originally declared on March 13, 2020, by Presidential Proclamation No. 9994. 85 FR 15337 (2020). On April 10, 2023, the President signed into law a resolution terminating the National Emergency. H.J.Res.7 - Relating to a national emergency declared by the President on March 13, 2020, Pub. L. 118-3 (2023).

[180] *See* 47 CFR § 73.1740(a)(4) ("In the event that causes beyond the control of a licensee make it impossible to adhere to the operating schedule of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 30 days without further authority from the FCC. Notification must be sent to the FCC in Washington, D.C. not later than the 10th day of limited or discontinued operation. During such period, the licensee shall continue to adhere to the requirements in the station license pertaining to the lighting of antenna structures. In the event normal operation is restored prior to the expiration of the 30 day period, the licensee will so notify the FCC of this date. If the causes beyond the control of the licensee make it impossible to comply within the allowed period, informal written request shall be made to the FCC no later than the 30th day for such additional time as may be deemed necessary.").

[181] *Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12762, para. 15 (1995) (*1995 Regulatory Fee Order*); Assessment and Collection of Regulatory Fees for Fiscal Year 2008, *Report and Order*, 24 FCC Rcd 10301, 10310, para. 30 (2009); *In the Matter of Mt. Rushmore Broadcasting, Inc.*, Order on Review, 28 FCC Rcd 5944, 5948, n.28 (2013) (*Mount Rushmore Order*).

[182] *Petition for Reconsideration WMDN, Inc.*, DA 96-1132, Letter Order, 11 FCC Rcd 8174, 8175 (OMD 1996). OMD reasoned that "a new licensee acquiring a bankrupt or dark station faces a heavy burden in restoring to service a station that previously did not have an economically sustainable operation" and that waiving the regulatory fee in the first year of the station's operation would remove "a potential obstacle or barrier to the development of a fledgling broadcast service." *Id.*; *see also Henry A. Solomon, Esquire,* DA 96-1132, Letter Order, 11 FCC Rcd 8174, 8175 (OMD 1996) (applying the same policy).

[183] 47 CFR § 73.1740(a)(4).

reasons depending on each station's particular circumstances.[184] Thus, drawing on the Commission's experience since establishment of the policy in 1995, the assumption that requiring financial information in a request for waiver of regulatory fees is unnecessary by the operators of a dark or silent station appears to be no longer accurate in 2024. In the *Report and Order*, we therefore end the assumption that stations are dark or were recently dark or bankrupt are experiencing financial distress when they file a request for waiver of regulatory fees. Instead, we require that these licensees submit supporting financial documentation with their fee requests to prove financial hardship sufficient to justify a fee waiver, just as all other regulatory fee payors are required to do under section 1.1166 of our rules.[185] In order to give regulatory fee payors, many of which are small entities, more time to make any necessary changes to comply with this change in policy, we will make this change effective for fiscal year 2025.

G. Report to Congress

51. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.[186] In addition, the Commission will send a copy of the *Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Report and Order*, and FRFA (or summaries thereof) will also be published in the *Federal Register*.[187]

[184] For example, causes of a station seeking a Special Temporary Authority (STA) include equipment failure and damage to transmission systems. 47 CFR § 73.1635 governs the STA process. An STA may be granted for an initial period not to exceed 180 days. An extension of an STA may be granted. The licensee must demonstrate that the extension is necessary and that all steps to resume normal operations are being undertaken in an expeditious and timely fashion. 47 CFR § 73.1635(a)(4).

[185] 47 CFR § 1.1166.

[186] 5 U.S.C. § 801(a)(1)(A).

[187] *Id.* § 604(b).

APPENDIX J
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:47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note; 47 U.S.C. 1754, unless otherwise noted.

1. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees for wireless radio services.

Exclusive use services (per license)	**Fee Amount**[188]
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR part 90)	
a) New, Renew/Mod (FCC 601 & 159)	$25.00
b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$25.00
c) Renewal Only (FCC 601 & 159)	$25.00
d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$25.00
220 MHz Nationwide a) New, Renew/Mod (FCC 601 & 159)	$25.00
b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$25.00

[188] Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by a 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. Also, application fees may apply as detailed in § 1.1102 of this chapter.

c) Renewal Only (FCC 601 & 159)	$25.00
d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$25.00

2. Microwave (47 CFR Pt. 101) (Private)

a) New, Renew/Mod (FCC 601 & 159)	$25.00
b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$25.00
c) Renewal Only (FCC 601 & 159)	$25.00
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	$25.00

3. Shared Use Services

Land Mobile (Frequencies Below 470 MHz – except 220 MHz)

a) New, Renew/Mod (FCC 601 & 159)	$10.00
b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	$10.00
c) Renewal Only (FCC 601 & 159)	$10.00
d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$10.00

Rural Radio (Part 22)

a) New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159)	$10.00
b) Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159)	$10.00

Marine Coast	
a) New Renewal/Mod (FCC 601 & 159)	$40.00
b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	$40.00
c) Renewal Only (FCC 601 & 159)	$40.00
d) Renewal Only (Electronic Filing) (FCC 601 & 159)	$40.00
Aviation Ground	
a) New, Renewal/Mod (FCC 601 & 159)	$20.00
b) New, Renewal/Mod (Electronic Filing) (FCC 601 & 159)	$20.00
c) Renewal Only (FCC 601 & 159)	$20.00
d)Renewal Only (Electronic Only) (FCC 601 & 159)	$20.00
Marine Ship	
a) New, Renewal/Mod (FCC 605 & 159)	$15.00
b) New, Renewal/Mod (Electronic Filing) (FCC 605 & 159)	$15.00
c) Renewal Only (FCC 605 & 159)	$15.00
d) Renewal Only (Electronic Filing) (FCC 605 & 159)	$15.00
Aviation Aircraft	
a) New, Renew/Mod (FCC 605 & 159)	$10.00
b) New, Renew/Mod	$10.00

(Electronic Filing) (FCC 605 & 159)	
c) Renewal Only (FCC 605 & 159)	$10.00
d) Renewal Only (Electronic Filing) (FCC 605 & 159)	$10.00
4. CMRS Cellular/Mobile Services (per unit) (FCC 159)	$ .16[189]
5. CMRS Messaging Services (per unit) (FCC 159)	$ .08[190]
6. Broadband Radio Service (formerly MMDS and MDS)	$ 725
7. Local Multipoint Distribution Service	$ 725

2. Section 1.1153 is revised to read as follows:

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

Radio [AM and FM] (47 CFR part 73)	**Fee Amount**
1. AM Class A	
<=10,000 population	$560
<10,001-25,000 population	$935
25,001-75,000 population	$1,405
75,001-150,000 population	$2,105
150,001-500,000 population	$3,160
500,001-1,200,000 population	$4,730
1,200,001-3,000,000 population	$7,105
3,000,001-6,000,000 population	$10,650
>6,000,000 population	$15,980
2. AM Class B	
<=10,000 population	$405
<10,001-25,000 population	$675
25,001-75,000 population	$1,015
75,001-150,000 population	$1,520
150,001-500,000 population	$2,280

[189] These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

[190] These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

500,001-1,200,000 population	$3,415
1,200,001-3,000,000 population	$5,130
3,000,001-6,000,000 population	$7,690
>6,000,000 population	$11,535

3. AM Class C

<=10,000 population	$350
<10,001-25,000 population	$585
25,001-75,000 population	$880
75,001-150,000 population	$1,315
150,001-500,000 population	$1,975
500,001-1,200,000 population	$2,960
1,200,001-3,000,000 population	$4,445
3,000,001-6,000,000 population	$6,665
>6,000,000 population	$10,000

4. AM Class D

<=10,000 population	$385
<10,001-25,000 population	$645
25,001-75,000 population	$970
75,001-150,000 population	$1,450
150,001-500,000 population	$2,180
500,001-1,200,000 population	$3,265
1,200,001-3,000,000 population	$4,900
3,000,001-6,000,000 population	$7,345
>6,000,000 population	$11,025

5. AM Construction Permit $585

6. FM Classes A, B1 and C3

<=10,000 population	$615
<10,001-25,000 population	$1,025
25,001-75,000 population	$1,540
75,001-150,000 population	$2,305
150,001-500,000 population	$3,465
500,001-1,200,000 population	$5,185
1,200,001-3,000,000 population	$7,790
3,000,001-6,000,000 population	$11,675
>6,000,000 population	$17,515

7. FM Classes B, C, C0, C1 and C2

<=10,000 population	$700
<10,001-25,000 population	$1,170
25,001-75,000 population	$1,755
75,001-150,000 population	$2,635
150,001-500,000 population	$3,955
500,001-1,200,000 population	$5,920
1,200,001-3,000,000 population	$8,890
3,000,001-6,000,000 population	$13,325
>6,000,000 population	$19,995

8.	FM Construction Permits	$1,025

TV (47 CFR, part 73)
Digital TV (UHF and VHF Commercial Stations)

1.	Digital TV Construction Permits	$5,200
2.	Television Fee Factor	$.006598 per population count

Low Power TV, Class A TV, TV/FM Translator, & FM Booster (47 CFR part 74)	$ 245

3. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges for common carrier services.

Radio Facilities		**Fee Amount**
1.	Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159)	$25.00

Carriers

1.	Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499-A)	$ .00542
2.	Toll Free Number Fee	$.12 per Toll Free Number

4. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees for cable television services.

		Fee Amount
1.	Cable Television Relay Service	$1,825
2.	Cable TV System, Including IPTV and DBS (per subscriber)	$ 1.27 per subscriber
3.	Direct Broadcast Satellite (DBS)	$1.27 per subscriber

5. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees for Space and International services.

a. The following schedule applies for the listed services:

Fee Category	Fee Amount
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	$144,155
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Other)	$964,200
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Less Complex)	$441,925
Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)	$12,215
Earth Stations: Transmit/Receive & Transmit only (per authorization or registration)	$2,610

b. *International Terrestrial and Satellite*. Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31 of the prior year in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier terrestrial and satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. "Active circuits" for these purposes include backup and redundant circuits. In addition, whether circuits are used specifically for voice or data is not relevant in determining that they are active circuits.

The fee amount, per active Gbps circuit will be determined for each fiscal year.

International Terrestrial and Satellite (capacity as of December 31, 2023)	Fee Amount
Terrestrial Common Carrier and Non Common Carrier Satellite Common Carrier and Non-Common Carrier	$17 per Gbps circuit

c. *Submarine cable:* Regulatory fees for submarine cable systems will be paid annually, per cable landing license, for all submarine cable systems operating as of December 31 of the prior year. The fee amount will be determined by the Commission for each fiscal year.

FY 2024 International Bearer Circuits - Submarine Cable Systems

Submarine Cable Systems (capacity as of December 31, 2023)	**Fee Ratio**	**FY 2024 Regulatory Fees**
Less than 50 Gbps	.0625 Units	$5,570
50 Gbps or greater, but less than 250 Gbps	.125 Units	$11,140
250 Gbps or greater, but less than 1,500 Gbps	.25 Units	$22,275

1,500 Gbps or greater, but less than 3,500 Gbps	.5 Units	$44,550
3,500 Gbps or greater, but less than 6,500 Gbps	1.0 Unit	$89,095
6,500 Gbps or greater	2.0 Units	$178,190

STATEMENT OF
COMMISSIONER BRENDAN CARR
APPROVING IN PART AND DISSENTING IN PART

Re: *Review of the Commission's Assessment and Collection of Regulatory Fees for FY 2024; Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024*, Second Report and Order.

Congress requires the FCC and a number of other administrative agencies to fund their annual budgets by collecting fees every year from a portion of the businesses and licensees that we regulate or that benefit from the FCC's work. Or to put it more precisely, the FCC collects these regulatory fees to offset the annual funding that Congress provides to the Commission through the appropriations process.

Despite this proceeding's staid title, "Review of the Commission's Assessment and Collection of Regulatory Fees," determining who pays and how much is the subject of regular tussling within the agency's docket. That makes sense. After all, millions of dollars are at issue, and this year Congress has directed the Commission to assess and collect $390 million for FY2024.

The FCC does not have an entirely free hand here, though. A lot of the agency's cuts are driven by determinations that Congress has made and codified in federal law. And the Commission is not going to make everyone happy. More often, regulated entities walk away with the feeling that they are being compelled to pay for the red tape that they will confront down the road.

Over the past several years, I have worked with my FCC colleagues to make progress on our approach to collecting and assessing regulatory fees. And I appreciate their efforts to accommodate many of my views. I will be voting to approve in part and dissent in part today.

Fundamentally, I believe the Commission can make even more progress in maximizing our efficiency as a government agency. And that starts with first principles thinking. Question every requirement. Delete unnecessary processes. Then simplify and optimize. If we start there first, then our regulatory fee process will align more closely with efficient outcomes. As it stands today, we're leaving too many cumbersome processes in place, putting lots of staff time into working through the issues and appeals and challenges that result from those processes, and then passing those staff time costs on to some businesses (but not others). That's not the most efficient approach or one that scales very well. I want to see the agency move more quickly in reforming our processes.