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FCC Record

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AUTHENTICATED
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INFORMATION
GPO

FCC Record Volume 39, No. 8, Pages 6443 to 7379, June 12 – July 11, 2024



FEDERAL COMMUNICATIONS COMMISSION

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

In the Matter of	)	
	)	
Alstom Transport Holding US Inc.	)	File No.: EB-IHD-23-00035215
	)	CD Acct. No.: 202432080015
	)	FRN: 0025985227
	)	
	)	

ORDER

Adopted: June 14, 2024 **Released: June 14, 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 Alstom Transport Holding US Inc. (Alstom) failed to seek Commission approval prior to transferring control of private wireless licenses. To settle this matter, Alstom admits that it violated the Commission's rules as described, will implement a compliance plan, and will pay a $30,000 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 Alstom's compliance with section 310(d) of the Communications Act of 1934, as amended (Act),[1] and section 1.948 of the Commission's rules governing the requirement for prior Commission approval before any transfer of control of wireless licenses.[2]

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

4. Accordingly, **IT IS ORDERED** that, pursuant to section 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** in accordance with the terms of the attached Consent Decree**.**

[1] 47 U.S.C. § 310(d).

[2] 47 CFR § 1.948.

[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 Jennifer Callery, Esq., Head of Legal and Contract Management, Alstom Transport Holdings US Inc., 641 Lexington Ave. 28th Floor, New York, NY 10023, and to Paul Feldman, Esq., Fletcher, Heald and Hildreth, 1300 North 17th Street, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of	)	
	)	
Alstom Transport Holding US Inc.	)	File No.: EB-IHD-23-00035215
	)	CD Acct. No.: 202432080015
	)	FRN: 0025985227
	)	
	)	

CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) and Alstom Transport Holding US Inc. (Alstom or Company), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation, as defined below, into whether Alstom violated section 310(d) of the Communications Act of 1934, as amended (Act), and section 1.948 of the Commission's rules (Rules) governing the requirement necessitating prior Commission approval before any transfer of control of FCC licenses. Specifically, the Bureau investigated whether Alstom failed to seek Commission approval prior to purchasing corporate entities holding a total of nine private wireless licenses. To resolve this matter, Alstom agrees to implement a compliance plan and pay a $30,000 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) "Alstom" or "Company" means Alstom Transport Holding US Inc. and its affiliates, 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 202432080015, associated with payment obligations described in paragraph 19 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 Alstom is subject by virtue of its business activities, including but not limited to the Unauthorized Transfer Rules.

(h) "Compliance Officer" means the individual identified at paragraph 14 of this Consent Decree as the person responsible for administration of the Compliance Plan.

(i) "Compliance Plan" means the compliance obligations, program, and procedures

[1] 47 U.S.C. § 151 *et seq.*

described in this Consent Decree at paragraph 15. The Compliance Plan provides for obligations to continue for three years from the Effective Date.

(j) "Covered Employees" means all employees and agents of Alstom who perform, supervise, oversee, or manage the performance of, duties that relate to Alstom's responsibilities under the Communications Laws, including the Unauthorized Transfer Rules.

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

(l) "Investigation" means the investigation commenced by the Bureau in EB-IHD-23-00035215 regarding whether Alstom violated the Unauthorized Transfer Rules.

(m) "LOI" means the Letter of Inquiry issued by the Bureau to Alstom on August 28, 2023, in EB-IHD-23-00035215 in connection with the Company's compliance with the Act and the Commission's Rules.

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

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

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

(q) "Unauthorized Transfer Rules" means section 310(d) of the Act[2] and section 1.948 of the Rules,[3] pertaining to unauthorized transfers of control and assignments of wireless radio service licenses.

II. BACKGROUND

3. *Legal Framework*. Section 310(d) of the Act provides that no radio licenses "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 [the] license," unless the license holder applies for Commission authority to transfer the license, and the Commission finds that the transfer is in the "public interest, convenience, and necessity."[4] The Commission has adopted rules governing the procedures and establishing the conditions for obtaining authorization and approval from the Commission transactions involving the transfer of control or assignment of wireless radio service licenses.

4. Consistent with the Act, section 1.948 provides that transfers of control or assignments of authorizations in the wireless radio services may only be done "upon application to and approval by the Commission."[5] "In the case of an assignment of authorization or transfer of control, the assignor must file an application for approval of the assignment on FCC Form 603."[6]

5. *Factual Background*. Alstom is a wholly owned subsidiary corporation incorporated on December 15, 2005, in the state of Delaware.[7] Alstom's ultimate parent is Alstom SA, which is a

[2] 47 U.S.C. § 310(d).

[3] 47 CFR § 1.948.

[4] 47 U.S.C. § 310(d).

[5] 47 CFR § 1.948(a).

[6] *Id.* § 1.948(c).

[7] Letter from Jennifer A. Callery, Vice President - Legal, Alstom Transport Holding US, Inc., to Patrick M. McGrath, Investigations and Hearings Division, FCC Enforcement Bureau, at Response to Inquiry 1 (Oct. 27, 2023) (on file in EB-IHD-23-00035215) (LOI Response).

publicly traded company on the Paris stock exchange.[8] On January 29, 2021, Alstom SA consummated the acquisition of certain subsidiaries from Bombardier, Inc., which resulted in the full transfer of nine private, wireless radio licenses held by three of the purchased subsidiaries—Bombardier Transportation Services USA Corp., Bombardier Transportation (Holdings) USA, Inc., and Bombardier Mass Transportation Corp.—to Alstom.[9]

6. On February 10, 2022, Alstom filed multiple applications through the Universal Licensing System (ULS) seeking waiver of section 1.948 of the Commission's rules and *nunc pro tunc* consent to the transfers.[10] The Commission granted these licenses on July 17, 2023.[11]

7. In February 2022, the Wireless Telecommunications Bureau referred this matter to the Bureau. On August 28, 2023, the Bureau sent a Letter of Inquiry (LOI) to Alstom.[12] On November 24, 2023, Alstom responded to the LOI, after requesting and receiving additional time to respond.[13] In its response, Alstom acknowledged the foregoing conduct and conceded that it had not received authorization from the Commission prior to consummating the above transaction.[14]

8. The Bureau's Investigation revealed that Alstom failed to request and receive Commission approval prior to acquiring control of three Bombardier entities holding nine private, wireless radio service licenses.[15] To resolve this matter, the Parties enter into this Consent Decree and agree to the following terms and conditions as provided below.

III. TERMS OF AGREEMENT

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

10. **Jurisdiction**. Alstom 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.

11. **Effective Date**. 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.

12. **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, Alstom 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, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Alstom concerning the matters that were the

[8] *Id*.

[9] *Id*. at Responses to Inquiries 14-15. The nine licenses at issue are call signs WRDG773, WRAL479, WRBS357, WRBY220, WPMI477, WQLD864, WPMS986, WRDA259, and WQOF492.

[10] *See FCC Application for Assignments of Authorization or Transfers of Control*, ULS File Nos. 0009896226, 0009898947, 0009900041, 0009900193, 0009901034, and 0009901099 (filed Feb. 10, 2022). These transfer of control applications belatedly authorized both the transfer of control that occurred upon purchase of the Bombardier subsidiaries.

[11] *See* LOI Response, *supra* note 7, at Response to Inquiry 12.

[12] *See* Letter from Patrick M. McGrath, Chief, Investigations and Hearings Division, to Jennifer Callery, Vice President - Legal Alstom Transport Holdings US, Inc. (Aug. 28, 2023) (on file in EB-IHD-23-00035215) (LOI).

[13] *See* LOI Response, *supra* note 7.

[14] *See id*. at Responses to Inquiries 14–15.

[15] *See generally* note 10; LOI Response, *supra* note 7, at Responses to Inquiries 14–15.

subject of the Investigation, or to set for hearing the question of Alstom'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.[16]

13. **Admission of Liability**. Alstom admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 12 herein, that its action described above in paragraphs 5 through 6 of this Consent Decree violated the Unauthorized Transfer Rules.

14. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, Alstom 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 Alstom 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 Unauthorized Transfer Rules prior to assuming his/her duties.

15. **Compliance Plan**. For purposes of settling the matters set forth herein, Alstom 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 Commission's Unauthorized Transfer Rules and with the terms and conditions of this Consent Decree. Alstom will implement, at a minimum, the following procedures:

(a) **Operating Procedures**. Within sixty (60) calendar days after the Effective Date, Alstom shall establish Operating Procedures that all Covered Employees must follow to help ensure Alstom's compliance with the Unauthorized Transfer Rules. Alstom's Operating Procedures shall include internal procedures and policies specifically designed to ensure that Alstom complies with the Unauthorized Transfer Rules. Alstom shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Unauthorized Transfer Rules. With regard to the sale or disposition of any FCC authorizations or licenses, Alstom will include in its standard due diligence checklist a review for filing of necessary FCC applications and consultation with outside counsel at least thirty (30) days prior to closing any such transaction, and confirmation that it has received FCC consent to transfer or assign FCC authorizations or licenses prior to closing the transaction.

(b) **Compliance Manual**. Within ninety (90) 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 Unauthorized Transfer Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Alstom's compliance with the Unauthorized Transfer Rules. Alstom shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Alstom shall distribute any final revisions to the Compliance Manual promptly to all Covered Employees.

(c) **Compliance Training Program**. Alstom shall establish and implement a Compliance Training Program on compliance with the Commission's Unauthorized Transfer Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Alstom's obligation to report any noncompliance with the Unauthorized Transfer Rules under paragraph 16 of this

[16] *See* 47 CFR § 1.93(b).

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 thirty (30) calendar days after the date such person becomes a Covered Employee. Alstom 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.

16. **Reporting Noncompliance**. Alstom shall report any noncompliance with the Unauthorized Transfer 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 Alstom 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 Alstom has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Patrick McGrath at Patrick.McGrath@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, Georgina Feigen at Georgina.Feigen@fcc.gov, Hellen Papavizas at Hellen.Papavizas@fcc.gov, and William Knowles-Kellett at William.Knowles-Kellett@fcc.gov, with a copy submitted electronically to EnforcementBureauIHD@fcc.gov.

17. **Compliance Reports**. Alstom 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 Alstom's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Unauthorized Transfer Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Alstom, stating that the Compliance Officer has personal knowledge that Alstom: (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 16 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.[17]

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Alstom, 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 Alstom 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 Alstom 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 Patrick McGrath at Patrick.McGrath@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, Georgina Feigen at Georgina.Feigen@fcc.gov, Hellen Papavizas at Hellen.Papavizas@fcc.gov, and

[17] 47 CFR § 1.16.

William Knowles-Kellett at William.Knowles-Kellett@fcc.gov, with a copy submitted electronically to EnforcementBureauIHD@fcc.gov.

18. **Termination Date**. Unless stated otherwise, the requirements set forth in paragraphs 14 through 17 of this Consent Decree shall expire thirty-six (36) months after the Effective Date. All obligations thereunder are waived for any period during which Alstom does not hold FCC authorizations.

19. **Civil Penalty**. Alstom will pay a civil penalty to the United States Treasury in the amount of thirty thousand dollars ($30,000) within thirty (30) calendar days of the Effective Date. Alstom 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).[18] Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Alstom shall send electronic notification of payment to Patrick McGrath at Patrick.McGrath@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, Georgina Feigen at Georgina.Feigen@fcc.gov, Hellen Papavizas at Hellen.Papavizas@fcc.gov, William Knowles-Kellett at William.Knowles-Kellett@fcc.gov, and EnforcementBureauIHD@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:[19]

- 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[20] or printed CORES form[21] 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).[22] 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.

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

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

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

[21] 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.

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

- 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.

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

21. **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 Alstom.

22. **Waivers**. As of the Effective Date, Alstom 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. Alstom 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 Alstom nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Alstom shall waive any statutory right to a trial *de novo*. Alstom hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[23] relating to the matters addressed in this Consent Decree.

23. **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.

24. **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.

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

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

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

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

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

29. **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.

30. **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.

31. **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

_____
Jennifer A. Callery
Vice President - Legal
Alstom Transport Holding US Inc.

_____
Date

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

In the Matter of	)	
	)	
PayG, LLC d/b/a Skyswitch	)	File No.: EB-IHD-23-00035031
	)	CD Acct. No.: 202332080027
	)	FRN: 0027004217
	)	
	)	

ORDER

Adopted: June 28, 2024 **Released: June 28, 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 PayG, LLC d/b/a Skyswitch (PayG) failed to pay fully by payment deadlines obligations required under the Commission's Rules for the Universal Service Fund (USF), the Telecommunications Relay Service (TRS) Fund, the North American Numbering Plan (NANP), and federal regulatory fees. To settle this matter, PayG admits that actions originating under PayG's prior ownership violated the Commission's rules as described, will implement a compliance plan, and will pay a $1,000,000 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 PayG's compliance with sections 251(e)(2) and 254(d) of the Communications Act of 1934, as amended (Act),[1] and sections 1.1154, 1.1157(b)(1), 52.17(a), 54.706(a), and 64.604(c)(5)(iii)(A) of the Commission's rules (Rules).[2]

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

4. Accordingly, **IT IS ORDERED** that, pursuant to section 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** in accordance with the terms of the attached Consent Decree**.**

[1] 47 U.S.C. §§ 251(e)(2), 254(d).

[2] 47 CFR §§ 1.1154, 1.1157(b)(1), 52.17(a), 54.706(a), 64.604(c)(5)(iii)(A).

[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 Geoff Bloss, Chief Executive Officer, PayG, LLC d/b/a Skyswitch, 295 Madison Ave, Floor 5, New York, NY 10017, and to Marc Korman, Sidley Austin LLP, 1501 K Street NW, Washington, DC.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of	)	
	)	
PayG, LLC d/b/a Skyswitch	)	File No.: EB-IHD-23-00035031
	)	NAL/CD Acct. No.: 202332080027
	)	FRN: 0027004217
	)	
	)	
	)	
	)	

CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) and PayG, LLC d/b/a Skyswitch (PayG or Company), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation, as defined below, into whether PayG violated sections 251(e)(2) and 254(d) of the Communications Act of 1934, as amended (Act),[1] and sections 1.1154, 1.1157(b)(1), 52.17(a), 54.706(a), and 64.604(c)(5)(iii)(A) of the Commission's rules (Rules) governing the requirements to pay on time and in full assessments for certain cost recovery mechanisms implemented under the Act.[2] Specifically, the Bureau investigated whether PayG failed to pay fully by payment deadlines obligations required under the Commission's Rules for the Universal Service Fund (USF), the Telecommunications Relay Service (TRS) Fund, the North American Numbering Plan (NANP), and federal regulatory fees. To resolve this matter, PayG admits for purposes of this consent decree that actions that originated under PayG's prior ownership violated the provisions of the Act and the Commission's Rules as described herein and agrees to implement a Compliance Plan and pay a one million dollar ($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.[3]

(b) "Adopting Order" means an order of the Commission 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 Rules, and the published and promulgated orders and decisions of the Commission to which the Company is subject by virtue of its business activities, including but not limited to the Contribution Rules.

[1] 47 U.S.C. §§ 251(e)(2), 254(d).

[2] 47 CFR §§ 1.1154, 1.1157(b)(1), 52.17(a), 54.706(a), 64.604(c)(5)(iii)(A).

[3] 47 U.S.C. § 151 *et seq.*

(f) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 15.

(g) "Contribution Rules" means sections 251(e)(2) and 254(d) of the Act; sections 1.1154, 1.1157(b)(1), 52.17(a), 54.706(a), and 64.604(c)(5)(iii)(A) of the Commission's Rules; and other provisions of the Act, the Rules, and Commission orders related to the making of required payments to the Universal Service Fund (USF), Telecommunications Relay Service (TRS) Fund, North American Numbering Plan (NANP), and federal regulatory fees.

(h) "Covered Employees" means all employees and agents of the Company who perform, supervise, oversee, or manage the performance of duties that relate to the Company's responsibilities under the Communications Laws, including the Contribution Rules.

(i) "Effective Date" means the date on which both the Commission and the Company have signed the Consent Decree and the Bureau has released an Adopting Order.

(j) "Investigation" means the investigation commenced by the Bureau in EB-IHD-23-00035031 regarding whether PayG violated the Contribution Rules from August 15, 2018, through June 1, 2022.

(k) "LOI" means the Letter of Inquiry issued by the Bureau to the Company on March 16, 2021, in EB-IHD-21-00031864 in connection with the Company's compliance with the Act and the Commission's Rules.[4]

(l) "NAL Account No." means account number 202332080027, associated with payments obligations described in paragraph 20 of this Consent Decree.

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

(n) "*PayG First NAL*" means the Notice of Apparent Liability for Forfeiture issued to PayG on September 14, 2022, proposing a $153,000 forfeiture—which PayG paid in full on October 4, 2022—for PayG's failures to cooperate with documentation production requirements, to file accurate Annual Telecommunications Reporting Worksheets (Annual Worksheets), and to maintain current information in the Commission Registration System (CORES).[5]

(o) "*PayG Second NAL*" means the Notice of Apparent Liability for Forfeiture issued to PayG on May 30, 2023, proposing a $1,460,085 forfeiture for PayG's apparent violations of the Contribution Rules.[6]

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

(q) "PayG" or "Company" means PayG, LLC d/b/a Skyswitch and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

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

[4] After the Commission issued the *PayG First NAL*, the Commission issued the *PayG Second NAL* in EB-IHD-23-00035031 concerning the Contribution Rules.

[5] *See PayG, LLC*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11021 (2022) (*PayG First NAL*).

[6] *See PayG, LLC*, Notice of Apparent Liability for Forfeiture, FCC 23-43, 2023 FCC LEXIS 1629 (May 30, 2023) (*PayG Second NAL*).

II. BACKGROUND

3. *Legal Background*. In implementing section 254(d) of the Act, the Commission directed all telecommunications carriers providing interstate telecommunications services to contribute to the USF based on their interstate and international end-user telecommunications revenues.[7] Section 254(d) also requires certain providers of interstate telecommunications to contribute to the USF.[8] In addition, certain service providers are also required to contribute to the TRS Fund and NANP administration, and pay federal regulatory fees.[9]

4. *Factual Background*. PayG is a limited liability company that began providing telecommunications services in 2011.[10] PayG has FCC authorization to provide resale service pursuant to section 214 of the Act.[11] By virtue of its business activities, PayG is required to file Annual and Quarterly Worksheets and make USF, TRS Fund, Local Number Portability (LNP), NANP, and federal regulatory fee payments.

5. On December 4, 2020, the Commission granted an application to transfer control of PayG to Thompson Street Capital Partners V, L.P., the current owner of PayG.[12]

6. On September 14, 2022, the Commission released the *PayG First NAL*, proposing a forfeiture penalty of $153,000 for PayG's repeated failures to file accurate Annual Worksheets for 2019 and 2020, to cooperate with Worksheet documentation production requirements, and to maintain current information in CORES.[13] PayG paid the proposed forfeiture on October 4, 2022. In the *PayG First NAL*, the Commission reserved the right to take further enforcement action against PayG for any violations of its USF, TRS Fund, LNP, NANP, and federal regulatory fee payment obligations.[14]

7. On May 30, 2023, the Commission issued the *PayG Second NAL*, proposing a total forfeiture penalty of $1,460,085 for PayG's failures to pay or pay fully on a timely basis payments owed to the USF, TRS Fund, NANP administration, and federal regulatory fees for 2018-2021.[15]

8. To resolve these matters, PayG and the Bureau enter into this Consent Decree and agree to the following terms and conditions.

III. TERMS OF AGREEMENT

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

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[7] *See* 47 U.S.C. § 254(d); 47 CFR § 54.706(a)-(b).

[8] *See* 47 U.S.C. § 254(d); 47 CFR § 54.706(a).

[9] *See* 47 U.S.C. §§ 159(a), 225(b)(1), 254(e)(2); 47 CFR §§ 1.1152–1.1156, 1.1157(b), 52.17, 64.604(c)(5)(iii)(A); *Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Third Report and Order, 8 FCC Rcd 5300, 5301, para. 7 (1993).

[10] *See PayG First NAL*, *supra* note 5, at 11025, para. 8.

[11] *See International Authorizations Granted*, Public Notice, 35 FCC Rcd 14174, 14182 (IB 2020); *International Authorizations Granted*, Public Notice, 32 FCC Rcd 10423 (IB 2017).

[12] *See International Authorizations Granted*, Public Notice, 35 FCC Rcd 14174, 14182 (IB 2020).

[13] *PayG First NAL*, *supra* note 5, at 11038, para. 44 (citing 47 CFR §§ 1.8002(b)(2), 52.17(b), 52.32(b), 54.711(a), 64.604(c)(5)(iii)(B)); *Wireline Competition Bureau Releases the 2020 Telecommunications Reporting Worksheets and Accompanying Instructions*, Public Notice, 35 FCC Rcd 1350, 1362 (WCB 2020) (*2020 Annual Worksheet Instructions*).

[14] *PayG First NAL*, *supra* note 5, at 11029, para. 20 & n.82.

[15] *PayG Second NAL*, *supra* note 6, at *16-37, paras. 13-26.

10. **Jurisdiction**. The Company 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.

11. **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.

12. **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, the Company 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 the Company concerning the matters that were the subject of the Investigation, or to set for hearing the question of the Company'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.[16] For the avoidance of doubt, the Bureau further agrees that it will not continue to investigate or take further enforcement action related to any of the matters at issue in the Investigation absent new material evidence being brought to the Bureau's attention.

13. **Admission**. The Company admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 12 herein, that its actions described in paragraph 7—actions that originated under the Company's prior ownership—violated the Contribution Rules.

14. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Company 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 the Company 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 Contribution Rules prior to assuming his/her duties.

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

(a) **Operating Procedures**. Within thirty (30) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees must follow to help ensure the Company's compliance with the Contribution Rules. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company shall comply with the Contribution Rules. The Company shall also develop a Compliance Checklist that describes the steps a Covered Employee must follow to ensure compliance with the Contribution Rules.

(b) **Compliance Manual**. Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Contribution Rules

[16] *See* 47 CFR § 1.93(b).

and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's compliance with the Contribution Rules and the Operating Procedures. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

(c) **Compliance Training Program**. The Company shall establish and implement a Compliance Training Program on compliance with the Contribution Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any noncompliance with the Contribution Rules under paragraph 16 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. The Company 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.

16. **Reporting Noncompliance**. The Company shall report any noncompliance with the Contribution Rules and/or 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 the Company 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 the Company has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to Patrick McGrath at Patrick.McGrath@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, Georgina Feigen at Georgina.Feigen@fcc.gov, David Janas at David.Janas@fcc.gov and Ryan Mitchell at Ryan.Mitchell@fcc.gov, with an electronic copy to EnforcementBureauIHD@fcc.gov.

17. **Compliance Reports**. The Company 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 the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Contribution Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (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 16 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.[17]

[17] *Id.* § 1.16.

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, 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 the Company 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 the Company 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 Patrick McGrath at Patrick.McGrath@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, Georgina Feigen at Georgina.Feigen@fcc.gov, David Janas at David.Janas@fcc.gov, and Ryan Mitchell at Ryan.Mitchell@fcc.gov, with an electronic copy to EnforcementBureauIHD@fcc.gov.

18. **Termination Date**. Unless stated otherwise, the requirements set forth in paragraphs 14 through 17 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

19. **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[18] against the Company 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 the Company with the Communications Laws.

20. **Civil Penalty**. The Company will pay a Civil Penalty to the United States Treasury in the amount of one million dollars ($1,000,000). Such payment shall be made in four (4) installments of two hundred fifty thousand dollars ($250,000) (each an Installment Payment), paid by the following deadlines: (1) 30 days after the Effective Date; (2) 120 days after the Effective Date; (3) 210 days after the Effective Date; and (4) 300 days after the Effective Date . PayG 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).[19] Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. PayG shall send electronic notification of payment to Patrick McGrath at Patrick.McGrath@fcc.gov, Kalun Lee at Kalun.Lee@fcc.gov, Georgina Feigen at Georgina.Feigen@fcc.gov, David Janas at David.Janas@fcc.gov, Ryan Mitchell at Ryan.Mitchell@fcc.gov, and EnforcementBureauIHD@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.[20] 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:[21]

- 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

[18] 47 U.S.C. § 208.

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

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

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

above and the letters "FORF." In addition, a completed Form 159[22] or printed CORES form[23] 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).[24] 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.

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

22. **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 the Company.

23. **Waivers**. As of the Effective Date, the Company waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or

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

[23] 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.

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

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

24. **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.

25. **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.

26. **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 the Company does not expressly consent) that provision will be superseded by such Rule or order.

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

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

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

30. **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.

31. **Authorized Representative**. Each Party represents and warrants to the others 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.

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

32. **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

_____
Geoff Bloss
Chief Executive Officer
PayG, LLC d/b/a Skyswitch

_____
Date

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

In the Matter of	)	
	)	
Liberty Latin America Limited, Liberty Mobile Puerto Rico Inc., Liberty Mobile USVI Inc.	)))	File No.: EB-TCD-23-00035125 CD Acct. No.: 202432170002 FRNs: 0003473709 & 0004499034

ORDER

Adopted: June 13, 2024 **Released: June 13, 2024**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) has entered into a Consent Decree resolving the Bureau's investigation into whether Liberty Latin America Limited, through its affiliates Liberty Mobile Puerto Rico Inc., and Liberty Mobile USVI Inc. (collectively, Liberty), failed to: (i) reasonably protect the confidentiality of customer information; (ii) timely file a report in the Data Breach Reporting Portal; and (iii) abide by the conditions of a Commission order, in connection with a data breach of a third-party vendor.

2. A principal purpose of Communications Act (Act)[1] is to protect the "national defense."[2] To further this purpose, the Commission reviews all applications from foreign telecommunications carriers, or those carriers with foreign ownership interests, before granting the carrier license to operate U.S. communications infrastructure.[3] This review is conducted pursuant to the Commission's authority, under section 214 of the Act, where the Commission considers the public interest before granting any license or authorization. As part of the Commission's public interest review, it may, in its discretion, refer an application to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee, commonly known as Team Telecom).[4]

3. When the Commission refers an application to the Committee, those agencies review the potential foreign ownership interests, identify any potential national security or law enforcement concerns, and enter into a binding mitigation agreement, often called a Letter of Agreement (LOA) with the applicant. The LOA contains commitments and undertakings by the applicant to address any identified concerns pending the Commission's acceptance of its license application. The Committee may petition the Commission to condition grant of a license on compliance with the LOA.[5] As a result, any future failure to abide by the terms of the LOA are a violation of a Commission order, subject to enforcement action and other penalties by the Commission, up to and including revocation or termination of the underlying license.[6]

[1] 47 U.S.C. § 151 *et seq.*

[2] *Id.* § 151.

[3] *Id.* § 214(a); *see also China Telecom (Americas) Corp.*, Order on Revocation and Termination, 36 FCC Rcd 15966, 15968-69, para. 3 (2021).

[4] Executive Order No. 13913, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 FR 19643 (Apr. 8, 2020) (stating that, "[t]he security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests"); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Second Report and Order, 36 FCC Rcd 14848, 14850, para. 2 (2020).

[5] 47 U.S.C. § 214(c).

[6] 47 U.S.C. § 503(b)(1)(A).

4. In November 2019, Liberty, a Bermuda company, sought Commission approval to acquire U.S. telecommunications operations from another carrier (Carrier 1). Liberty's application underwent the Commission's public interest review described above. The Commission ultimately conditioned approval of the transaction on Liberty's compliance with the LOA to address national security and law enforcement concerns,[7] including a 72-hour beach notification requirement. In January 2023, Liberty learned from Carrier 1 that over 130,000 Liberty customers were affected by a breach of Carrier 1's third-party vendor. The customer data had been provided to the vendor by Carrier 1 prior to Liberty's acquisition of the customers. When Liberty learned its customers had been affected by breach, it did not make timely notifications as required by Commission rules and the LOA. Instead, Liberty spent weeks negotiating with Carrier 1 over which carrier was required to notify the government when Liberty customers were affected.

5. To settle this matter, Liberty Mobile will pay a civil penalty of $100,000 and implement a compliance plan to ensure that Liberty has in place appropriate programs and procedures to comply with statutory reporting requirements in the Act, the Commission's Customer Proprietary Network Information (CPNI) rules,[8] and the LOA. Specifically, Liberty will be required to designate a Compliance Officer and improve its compliance programs by: (i) revising its incident response plan; (ii) providing timely notification to customers of any future breach; (iii) providing privacy and security awareness training for employees; and (iv) requesting, or where permitted, requiring that vendors establish training programs on requirements for handling Liberty customer data. In addition, Liberty will file annual compliance reports with the Commission.

6. 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 Liberty's compliance with sections 201(b) and 222 of the Act, section 64.2011 of the CPNI rules, and the LOA in connection with the aforementioned data breach.

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

8. Accordingly, **IT IS ORDERED** that, pursuant to section 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.

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

[7] Liberty's proposal was submitted to the Commission before the establishment of the Committee through Exec. Order 13913, and thus was not referred to the Committee but instead to the relevant partner national security agencies.

[8] 47 CFR § 64.2001 *et seq.*

10. **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 Alexandra Verdiales, Deputy Head of Compliance and Ethics, Liberty Latin America, Ltd., PO Box 192296, San Juan, PR 00918-2296; to John Winter, General Counsel, Liberty Latin America, Ltd., 1550 Wewatta Street Suite 810, Denver, CO 80202; and to Christopher W. Savage, Davis Wright Tremaine LLP, 1301 K Street NW, Suite 500 East, Washington, DC 20005.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of	)	
	)	File No.: EB-TCD-23-00035125
Liberty Latin America Limited, Liberty Mobile Puerto Rico Inc., Liberty Mobile USVI Inc.	)	CD Acct. No.: 202432170002
	)	FRNs: 0003473709 & 0004499034
	)	
	)	
	)	

CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) and Liberty Latin America Limited (LLA) on behalf of its affiliates Liberty Mobile Puerto Rico Inc. and Liberty Mobile USVI Inc. (Liberty), through their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving the Bureau's Investigation into whether, in connection with a third-party data breach affecting the data of current and former Liberty customers, Liberty violated sections 201(b), 222(a) and (c) of the Communications Act (Act), as amended, section 64.2011 of the Commission's Rules; and the terms of Liberty's authorizations as conditioned by the Commission.[1]

2. To resolve this matter, Liberty agrees to: (i) implement a Compliance Plan that will include an incident response plan and compliance training program, and (ii) pay a $100,000 civil penalty.

I. DEFINITIONS

3. For the purposes of this Consent Decree, the following definitions shall apply:

(a) "Act" means the Communications Act of 1934, as amended.[2]

(b) "Breach" means when a person, without authorization or exceeding authorization, gains access to, uses, or discloses Covered Data. A breach includes use of Covered Data by a Liberty employee or Covered Third Party outside the scope of uses authorized in their work for Liberty, but does not include a good faith acquisition of Covered Data by a Liberty employee or Covered Third Party where such information is not used improperly or further disclosed.

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

(d) "CD Acct No." means account number 202432170002, associated with payment obligations described in paragraph 36 of this Consent Decree.

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

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

[1] 47 U.S.C. §§ 201(b), 222(a), (c); 47 CFR § 64.2011.

[2] 47 U.S.C. § 151 *et seq.*

(g) "Committee" means the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector established pursuant to Executive Order 13913.

(h) "Communications Laws" means collectively, the Act, the Commission's Rules, and the published and effective orders and decisions of the Commission to which Liberty is subject by virtue of its business activities, including but not limited to the Privacy and Data Protection Requirements.

(i) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraphs 30 through 33.

(j) "Covered Data" or "Liberty Covered Data" means PII and CPNI regarding Liberty Customers that is maintained in a Liberty Information System or a Liberty Vendor Information System.

(k) "Covered Third Party" means a Liberty vendor that controls a system that processes, stores, or transmits Liberty Covered Data.

(l) "CPNI Rules" means the Commission's Rules set forth at section 64.2001 *et seq.* and any amendments or additions to those rules after the Effective Date.

(m) "Customer" or "Liberty Customer" means a current, former, or prospective customer of a Liberty Mobile Service, provided that "prospective customer" is limited to individuals who have provided their CPNI and/or PII to Liberty. For avoidance of doubt, "Customer" does not include individuals to whom Liberty has marketed, or proposes to market, Liberty services but who have not provided Liberty with any CPNI and/or PII.

(n) "Customer Proprietary Network Information" or "CPNI" has the meaning set forth at section 222(h) of the Act.

(o) "Effective Date" means the date by which both the Bureau and Liberty have signed the Consent Decree and the Bureau has released the accompanying Adopting Order.

(p) "Incident" means an occurrence that jeopardizes or is reasonably likely to jeopardize the confidentiality, integrity, or availability of a Liberty Information System or a Liberty Vendor Information System, or the information such system processes, stores, or transmits, or that constitutes a violation of the security policies, security procedures, or acceptable use policies applicable to such Liberty Information System or Liberty Vendor Information System. For avoidance of doubt, "Incident" does not include short-term downtime of a Liberty Information System or a Liberty Vendor Information System in the normal course of operations.

(q) "Investigation" means the investigation commenced by the Bureau in EB-TCD-23-00035125 regarding whether Liberty violated the Act and the Privacy and Data Protection Requirements.

(r) "July 2020 LOA" means the Letter of Agreement from John Winter, Senior Vice President, Chief Legal Officer & Secretary, Liberty, to the Assistant Attorney General for National Security, National Security Division, U.S. Department of Justice; Deputy Chief Information Officer for Cybersecurity, United States Department of Defense, [WT] Docket No. 19-384, File Nos. ITC-T/C-20191107-00178 *et al*. (July 1, 2020).

(s) "Letter of Agreement" or "LOA" means a written agreement from an applicant for a Commission authorization or license to the Committee that contains binding commitments to mitigate national security and law enforcement risks identified by the Committee pursuant to Executive Order 13913.

(t) "Liberty" means Liberty Mobile Puerto Rico Inc. and Liberty Mobile USVI Inc. and their successors-in-interest.

(u) "Liberty Employees" means all employees of Liberty who perform, supervise, oversee, or manage the performance of duties that relate to Liberty's responsibilities under the Communications Laws, including the CPNI Rules.

(v) "Liberty Information System" means a data processing system that is operated or controlled by Liberty and that stores, processes, or transmits Liberty Covered Data.

(w) "Liberty Vendor Information System" means a data processing system operated or controlled by a Liberty vendor on Liberty's behalf to the extent that such system stores, processes, or transmits Liberty Covered Data.

(x) "Mobile Service" has the meaning set forth at section 153(33) of the Act.

(y) "National Security Agencies" means the agencies, including member agencies of the Committee, involved in the review of the Transaction for national security and law enforcement concerns prior to the issuance of Executive Order 13913.

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

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

(bb) "Personally Identifiable Information" or "PII" means: (1) An individual's first name or first initial, and last name, in combination with any government-issued identification numbers or information issued on a government document used to verify the identity of a specific individual, or other unique identification number used for authentication purposes; (2) An individual's user name or e-mail address, in combination with a password or security question and answer, or any other authentication method or information necessary to permit access to an account; or (3) Unique biometric, genetic, or medical data. (4) Notwithstanding the above: (A) Dissociated data that, if linked, would constitute personally identifiable information is to be considered personally identifiable if the means to link the dissociated data were accessed in connection with access to the dissociated data; and (B) Any one of the discrete data elements listed in (bb)(1) to (3) above, or any combination of the discrete data elements listed above is personally identifiable information if the data element or combination of data elements would enable a person to commit identity theft or fraud against the individual to whom the data element or elements pertain. Notwithstanding the foregoing, "personally identifiable information" does not include information about an individual that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

(cc) "Privacy and Data Protection Requirements" means the requirements of (1) section 222 of the Act, (2) the CPNI Rules, (3) the published and effective orders and decisions of the Commission interpreting and implementing section 222 of the Act and the CPNI Rules, (4) the published and effective orders and decisions of the Commission interpreting and implementing section 201(b) of the Act to the extent that such orders and decisions relate to privacy and data security requirements, and (5) the terms and conditions of any license, permit, certificate, or other instrument or authorization granted to Liberty related to privacy and data protection.

II. BACKGROUND

4. *Liberty Latin America.* LLA is a Bermuda company that provides communications and entertainment services, including video, broadband, telephony, and mobile services in Puerto Rico, the

Caribbean, and across Latin America. LLA is the parent entity of Liberty Mobile Puerto Rico Inc. and Liberty Mobile USVI Inc.

5. Liberty serves "over 1 million mobile subscribers through Puerto Rico and the U.S. Virgin Islands."[3]

6. *Protection of Customer Data and Breach Notification*. The Act and the Commission's Rules govern and limit telecommunications carriers' use and disclosure of certain customer data. Section 222(a) of the Act imposes a duty on telecommunications carriers to "protect the confidentiality of proprietary information" in their possession or under their direct or indirect control, including that of their customers. Section 222(c) of the Act establishes specific privacy requirements carriers must follow to protect CPNI (a subset of customer data) when that data is made available to them by virtue of their provision of telecommunications services to the customer.[4] The Commission has promulgated rules implementing the privacy requirements of section 222, and has amended them from time to time.

7. Among the Commission Rules are requirements for carriers to notify law enforcement after a carrier makes a "reasonable determination" that "a breach of its customers' CPNI" has occurred.[5] Specifically, section 64.2011(b) of the CPNI Rules requires that "[a]s soon as practicable, and in no event later than seven (7) business days, after reasonable determination of the breach, the telecommunications carrier shall electronically notify the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) through a central reporting facility."[6] What constitutes a "reasonable determination" that triggers the reporting obligation is highly fact-dependent.[7]

8. *Reasonable Privacy and Data Security Practices.* Section 201(b) states that "[a]ll charges, practices, classifications, and regulations for and in connection with [interstate or foreign] communication service [by wire or radio], shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful."[8] In *TerraCom*, the Commission stated that section 201(b) of the Act extends to carriers' data security practices.[9] The Commission has further stated that section 201(b) requires carriers to have in place reasonable data governance and compliance programs. Such programs have long been cornerstones of data security and

[3] Liberty Communications of Puerto Rico, *About Us*, https://www.libertypr.com/en/about (last visited May 28, 2024).

[4] 47 U.S.C. § 222(a), (c), (h)(1)(A).

[5] 47 CFR §§ 64.2011(a) ("A telecommunications carrier shall notify law enforcement of a breach of its customers' CPNI"), 64.2011(b) ("after reasonable determination of the breach, the telecommunications carrier shall electronically notify [law enforcement agencies]"). In December 2023, the Commission approved updates to the Commission's Rules requiring notification of a breach of customer data; these updates are not in effect as of the Effective Date. *See Data Breach Reporting Requirements*, Report and Order, FCC 23-111, (WC Dec. 21, 2023) (*Data Breach Order*). At the time of the Vendor Breach and of the Effective Date of this Consent Decree, Commission Rules required notification only after a carrier's reasonable determination that a breach affected CPNI.

[6] 47 CFR § 64.2011.

[7] In the *Data Breach Order*, the Commission did not lay out any specific relevant factors, but for the first time clarified that a "reasonable determination" occurs "when the carrier has information indicating that it is more likely than not that there was a breach." *Data Breach Order*, FCC 23-111 at para. 37.

[8] 47 U.S.C. § 201(b).

[9] *See TerraCom, Inc. and YourTel America, Inc*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd at 13335-37, paras. 31-35 (2014) (*TerraCom*), *consent decree adopted*, *TerraCom, Inc. and YourTel America, Inc*, Order, 30 FCC Rcd 7075 (2015) (companies paid forfeiture of $3.5 million). *See also Advantage Telecommunications Corp*., Forfeiture Order, 32 FCC Rcd 3723 (2017); *Preferred Long Distance, Inc*., Forfeiture Order, 30 FCC Rcd 13711 (2015).

privacy protections.[10] What constitutes a reasonable practice is highly fact-dependent. The Commission expects carriers to employ effective protections of customer data in their own particular systems and to require reasonable oversight policies and procedures to protect customer data held and accessed in the systems of carriers' vendors.[11] Such practices could include encrypting data, placing limits on uses of customer data, and appropriate inventory and accounting for data the carrier or vendor holds on customers.[12]

9. *Foreign Ownership and Operation of U.S. Telecommunications Services and Committee Review of National Security and Law Enforcement Risks*. The Act provides the Commission with authority to regulate U.S. communications infrastructure. A principal purpose of the Act is to protect the "national defense."[13] To further this purpose and the Commission's oversight of U.S. communications infrastructure, any company seeking to use or operate a transmission line for interstate or foreign communications must receive authorization from the Commission pursuant to section 214 of the Act.[14] Any person or entity that holds domestic or international section 214 authority must obtain Commission approval prior to consummating a substantial transfer of control of its domestic or international section 214 license.[15]

10. During the section 214 approval process for carriers with the requisite foreign ownership interests, the Commission considers public interest issues related to national security, law enforcement, foreign policy, and trade policy.[16] For over 25 years, the Commission, at its discretion, has referred certain applications from entities that have reportable foreign ownership to the National Security Agencies, which have expertise in identifying and reviewing areas of potential concern arising from applicants' foreign ownership.[17] In April 2020, Executive Order No. 13913 formalized this process and

[10] *See, e.g.*, Nat'l Inst. Stds. & Tech., The NIST Cybersecurity Framework (CSF) 2.0 (2024), https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.29.pdf; Nat'l Inst. Stds. & Tech., Framework for Improving Critical Infrastructure Cybersecurity (2018), https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf. *See also* Commc'ns Sec., Reliability & Interoperability Council IV, Cybersecurity Risk Management and Best Practices Working Group 4: Final Report at 9 (2015), https://transition.fcc.gov/pshs/advisory/csric4/CSRIC_IV_WG4_Final_Report_031815.pdf (stating that "[w]hen managing cybersecurity risks, it is essential to incorporate a risk governance process into the program").

[11] *AT&T Inc.*, Notice of Apparent Liability for Forfeiture and Admonishment, 35 FCC Rcd 1743, 1746, para. 8 (2020).

[12] *See, e.g.*, *id.* at paras. 7-9, 51-52 (2020) (describing several privacy and security practices as a minimum for reasonableness and stating that, when reviewing a breach, the Commission treats the fact of unauthorized disclosure as *prima facie* evidence that there were not reasonable practices in place).

[13] 47 U.S.C. § 151.

[14] 47 U.S.C. § 214(a) (prohibiting any carrier from constructing, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate from the Commission "that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such . . . line . . . ."); *see also China Telecom (Americas) Corp.*, Order on Revocation and Termination, 36 FCC Rcd 15966, 15968-69, para. 3 (2021) (*China Telecom Order*), *aff'd, China Telecom (Americas) Corp. v. FCC*, 57 F.4th 256 (D.C. Cir. 2022).

[15] 47 CFR §§ 63.03-04, 63.24.

[16] *China Telecom Order*, 36 FCC Rcd at 15970, para. 5.

[17] *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Second Report and Order, 36 FCC Rcd 14848, 14850, para. 2 (2021) (*Foreign Ownership Application Reform Order*). *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*; *Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997) (*Foreign Participation Order*), *recon. denied, Rules and Policies on Foreign Participation in the U.S.*

(continued….)

established the Committee, which is also commonly known as Team Telecom.[18] The Commission, when deciding whether to grant an authorization, ultimately makes an independent decision in light of the information in the record, including any information provided by the applicant, authorization holder, or licensee in response to any filings by the Committee or National Security Agencies.[19]

11. During the course of the Committee's review, the applicant may enter into a mitigation agreement with the Committee, such as a Letter of Agreement (LOA), in which the applicant commits to certain terms in order to address national security and law enforcement risks of concern to the Committee.[20] Following its review, the Committee may recommend that, to mitigate any such concerns, the Commission condition grant of the application on the applicant's compliance with the terms of the LOA.[21] The Commission may, at its discretion, condition its grant of the application on the applicant's compliance with the terms of the LOA. Pursuant to delegated authority, the Commission's Wireless Telecommunications Bureau, Wireline Competition Bureau, and Office of International Affairs monitor compliance with the terms and conditions of authorizations and licenses and pursue enforcement actions in conjunction with appropriate bureaus and offices.[22]

12. The Commission may impose a forfeiture on a carrier that willfully or repeatedly fails to substantially comply with the terms of a Commission order, including the terms of an LOA, where, as here, grant of the carrier's authorizations is conditioned on compliance with the LOA terms.[23] The Act requires that, when determining whether to impose a forfeiture and/or its amount, the Commission must consider the nature, circumstances, extent, and gravity of the violation and, with respect to the carrier, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.[24]

13. *Liberty's Purchase of U.S. Caribbean Telecommunications Operations.* On October 31, 2020, LLA, through subsidiary entities, acquired U.S. telecommunications operations in Puerto Rico and the U.S. Virgin Islands (the Transaction) from a third-party telecommunications company (Carrier 1). As

Telecommunications Market, IB Docket 97-142, Order on Reconsideration, 15 FCC Rcd 18158 (2000); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927, 10928-29, para. 3 (2020) (*Executive Branch Process Reform Order*).

[18] Executive Order No. 13913, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 Fed. Reg. 19643 (Apr. 8, 2020) (stating that, "[t]he security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests") (Exec. Order 13913).

[19] *Foreign Participation Order*, 12 FCC Rcd at 23921, para. 66.

[20] Exec. Order 13913, 85 Fed. Reg. at 19648 (Sec. 10); *see Executive Branch Process Reform Order*, 35 FCC Rcd at 10929-30, para. 5.

[21] *Id.* (Sec. 10(a)). For example, on June 8, 2020, the Executive Branch filed a petition to adopt conditions, and the Commission conditioned its grant of the authorization on the applicant's compliance with the terms of the applicant's letter of assurances. *See* Petition of the U.S. Dep't of Justice to Adopt Conditions to Authorizations and Licenses, File No. ITC-214-20190131-00073 (filed June 8, 2020); *International Authorizations Granted Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b) Petitions (47 CFR § 1.5000)*, Report No. TEL-02025, Public Notice, 35 FCC Rcd 6478 (IB 2020).

[22] *See* 47 CFR §§ 0.19(i), 0.91, 0.131(h).

[23] 47 U.S.C. § 503(b)(1)(A).

[24] *Id.* § 503(b)(2).

part of the Transaction, more than one million individuals who had been customers of Carrier 1 became Liberty Customers.[25]

14. The Transaction involved transfers of control with potential foreign ownership of U.S. telecommunications services that required Commission approval through the section 214 application process.[26] On November 12, 2019, Liberty filed with the Commission applications for transfer of control and a petition for declaratory ruling to exceed the section 310(b) statutory foreign ownership benchmarks, requesting approval of the Transaction. Following its standard practice, the Commission's International Bureau, the predecessor of the Office of International Affairs, referred the Transaction to the National Security Agencies.

15. As a result of the National Security Agencies' review, LLA entered into the July 2020 LOA with the U.S. Departments of Justice (DOJ) and Defense (DOD) in order to address national security and law enforcement risks. The July 2020 LOA requires, among others terms, that Liberty would have and maintain adequate systems and procedures for protecting Liberty Customers' confidential information after the Transaction closed.[27] The July 2020 LOA does not establish any LLA obligations with respect to actions that Carrier 1 may have taken prior to the Transaction. Instead, the July 2020 LOA states that LLA's obligations "should be reasonably interpreted in the context of, and limited in application to, LLA's acquisition" of Carrier 1's U.S. telecommunications operations.[28]

16. Specifically, the July 2020 LOA states that Liberty would report to DOJ in writing "no later than 72 hours[] after [Liberty] learns of information that reasonably indicates . . . [u]nauthorized [a]ccess to, or disclosure of, any information . . . referring or relating in any way, to Liberty's customers."[29] In addition, Liberty agreed to follow Commission CPNI reporting requirements as stated in section 64.2011 of the Commission's Rules.[30] DOJ advised the Commission that "the additional commitments set forth in the LOA will help ensure that [DOJ and DOD] can proceed appropriately in satisfying [DOJ and DOD's] responsibilities to enforce the law, protect the national security, and preserve public safety."[31] DOJ's recommendation to the Commission was predicated on Liberty's compliance with the terms of the July 2020 LOA.

17. The Wireless Telecommunications Bureau, Wireline Competition Bureau, and International Bureau conditioned approval of the Transaction on Liberty's compliance with the July 2020 LOA. Once the grant was so conditioned, a failure to comply with the terms of the July 2020 LOA would also constitute a violation of the grant. In accordance with the provisions of the Act noted above, the

[25] Response to Letter of Inquiry from Christopher W. Savage, Counsel, Liberty Communications of Puerto Rico LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 2 (July 7, 2023) (on file in EB-TCD-23-00035125) (Liberty LOI Response).

[26] 47 U.S.C. § 214 (transfers of control of international and domestic section 214 authority). The Transaction also included transfers of control of wireless licenses and leases, and an associated foreign ownership ruling that the foreign ownership in the wireless licenses and leases in excess of the statutory benchmarks was in the public interest. 47 U.S.C. §§ 310(b), 310(d).

[27] U.S. Dep't of Justice, Petition to Adopt Conditions to Authorizations and Licenses, WT Docket No. 19-384, File Nos. ITC-T/C-20191107-00178 *et al.* (filed July 2, 2020) (July 2020 Petition). *See* Letter from John Winter, Senior Vice President, Chief Legal Officer & Secretary, Liberty, to Assistant Attorney General for National Security, Nat'l Sec. Div., U.S. Dep't of Justice; Deputy Chief Information Officer for Cybersecurity, U.S. Dep't of Defense, W Docket No. 19-384, File Nos. ITC-T/C-20191107-00178 *et al.* (July 1, 2020) (July 2020 LOA).

[28] July 2020 LOA, *supra* note 27 at para. 1.

[29] *Id.* at para. 28.

[30] *Id.* at para. 31.

[31] *See* July 2020 Petition, *supra* note 27.

Commission's order stated that failure to remain in compliance with the July 2020 LOA could result in monetary sanctions or other Commission enforcement actions, including license revocation.

18. *Security Incident Involving Certain Customers Acquired by Liberty*. Years prior to the Transaction, Carrier 1 provided data regarding Carrier 1's customers to a third-party vendor. In January 2023, following the Transaction, that vendor experienced a data breach (the Vendor Breach).[32] The Vendor Breach affected data that Carrier 1 had shared with the vendor, including data on Customers that had been acquired by Liberty through the Transaction. Liberty has never had, prior to or following the Transaction, any direct relationship with the vendor; Liberty Customers were affected by the Vendor Breach solely because Carrier 1 had shared the Customer data with the third-party vendor prior to the Transaction. The Vendor Breach did not involve compromise of any Liberty Information System or any Liberty Vendor Information System and did not affect any systems that Liberty acquired, used, or established "in the context of" or as a result of the Transaction.[33] However, the Vendor Breach did affect data that "referred or related" to Liberty Customers.[34]

19. Though the Vendor Breach affected Liberty Customer data, Liberty was not in possession of the data affected by the Vendor Breach at any point before, during, or after the closing of the Transaction. Prior to learning about the Vendor Breach from Carrier 1, Liberty was unaware that Carrier 1 had supplied data on now-Liberty Customers to the affected vendor or that the vendor retained such data.

20. *Liberty's Knowledge of Breach and Notification.* On January 14, 2023, Carrier 1 advised Liberty of the existence of the Vendor Breach, stating that a Carrier 1 vendor had experienced a Breach which "involved a large number of . . . Liberty customers."[35] Shortly thereafter, on or about January 19, 2023, Carrier 1 provided Liberty with information regarding the Vendor Breach. However, that information was incomplete and conflicting as it related to Liberty customers. On or about February 28, 2023, Carrier 1 provided Liberty with a spreadsheet indicating that the Vendor Breach included data from 130,690 accounts and 269,114 lines that became Liberty Customers when Liberty purchased Carrier 1's Puerto Rico and U.S. Virgin Islands wireless operations.[36]

21. Carrier 1 filed a report in the CPNI Data Breach Reporting Portal of the Vendor Breach on or about February 6, 2023, and provided Liberty with a copy of that notification. The breach report stated that Carrier 1 had not determined that the Vendor Breach involved CPNI, and Carrier 1 advised Liberty that Liberty would need to make its own determination as to whether the Vendor Breach involved CPNI, and whether Liberty had any separate obligation to report the Vendor Breach. Liberty was also aware by this time that the Vendor Breach did not involve any Liberty Information System or any Liberty Vendor Information System.

22. Liberty believed that because the Vendor Breach did not involve any Liberty Information System or Liberty Vendor Information System, any obligation to report the Breach under the Commission's CPNI Rules lay not with Liberty but with Carrier 1, whose vendor had experienced the Breach. However, after Carrier 1 told Liberty that Carrier 1 did not intend its breach report to cover the

[32] Liberty LOI Response at 17, Response to Inquiry 8 (stating that, according to a forensic report, "the earliest evidence of Threat Actor activity occurred on January 1, 2023, and the latest evidence of Threat Actor activity occurred on January 8, 2023") (internal quotations omitted).

[33] *See* July 2020 LOA, *supra* note 27 at 1.

[34] *See id.* at para. 28.

[35] Liberty LOI Response at 17, Response to Inquiry 8.

[36] Response to Supplemental Letter of Inquiry from Christopher W. Savage, Counsel, Liberty Mobile Puerto Rico LLC & Liberty Mobile USVI Inc., to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 2, Response to Inquiry 1 (Feb. 16, 2024) (on file in EB-TCD-23-00035125) (Liberty SLOI Response).

affected Liberty Customers, and after multiple discussions with Carrier 1 on this issue, Liberty concluded on March 23, 2023, that Carrier 1 would not amend its breach report to make clear that the Vendor Breach affected some Liberty Customers. As a result, and in what Liberty believed to be an abundance of caution, Liberty filed a report in the Data Breach Reporting Portal regarding the Vendor Breach on March 30, 2023.[37]

23. Through communications with Carrier 1, Liberty was aware no later than January 19, 2023, that the Vendor Breach included information "referring or relating" to certain Liberty customers. Liberty notified DOJ of the Vendor Breach on or about March 31, 2023.

24. After receiving Liberty's March 30, 2023 CPNI breach report, the Bureau conducted an investigation regarding whether Liberty: (i) failed to provide timely notification of the Vendor Breach to the Commission as required by section 64.2011 of the CPNI Rules; (ii) failed to maintain a reasonable governance program to protect Covered Data as required by sections 201(b) and 222 of the Act; and, on behalf of and in coordination with the Wireless Telecommunications Bureau, Wireline Competition Bureau and Office of International Affairs,[38] (iii) failed to comply with the requirements of the July 2020 LOA. The Parties negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

III. TERMS OF AGREEMENT

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

26. **Jurisdiction**. Liberty 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.

27. **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.

28. **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, Liberty 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 Liberty concerning the matters that were the subject of the Investigation, or to set for hearing the question of Liberty'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.[39]

29. **Admission of Facts**. For the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraphs 4 through 24 herein, Liberty agrees that the description of the facts underlying the Investigation contained in this Consent Decree is true and accurate.

30. **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, Liberty 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

[37] Liberty LOI Response at 35, Response to Inquiry 24; FBI/USSS CPNI Data Breach Reporting Portal Report 2023-2032 (Mar. 30, 2023) (Liberty CPNI Report).

[38] *See* 47 C.F.R. § 0.111(a)(16).

[39] *See* 47 CFR § 1.93(b).

Plan and ensuring that Liberty 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 Privacy and Security Requirements prior to assuming his/her duties.

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

(a) **Incident Response Plan**. Within one hundred and twenty (120) calendar days after the Effective Date, Liberty shall review, revise, and maintain its Incident Response Plan to ensure that it is reasonable, comprehensive, and enables Liberty to detect, respond to, and provide timely notification as required by law, regulation, or Letter of Agreement to all relevant Customers and relevant governmental authorities of any Breach involving Covered Data. Such Incident Response Plan shall contain processes to: (i) identify; (ii) investigate; (iii) mitigate; (iv) remediate; and (v) review information security Incidents arising from a Breach of any Liberty Information System or Liberty Vendor Information System, to identify root causes and to develop improved responses to security threats to such systems. No later than its first annual report to the Commission under this Consent Decree, Liberty shall certify to the Commission that it has performed a test exercise of the Incident Response Plan and provide the Commission with a summary of results from the exercise.

(b) **Compliance Training Program**. Within six (6) months after the Effective Date, Liberty shall review, revise, implement, and maintain a Compliance Training Program to ensure compliance with the CPNI Rules in effect, the July 2020 LOA, applicable Privacy and Data Protection Requirements, and this Consent Decree.

i. The Compliance Training Program shall include reasonable and comprehensive privacy and security awareness training for all Liberty Employees. It shall include instruction on Liberty's obligations, policies, and procedures for protecting Covered Data pursuant to the July 2020 LOA, CPNI rules in effect, applicable Privacy and Data Protection Requirements, and this Consent Decree, including identifying and collecting Covered Data from Liberty Customers, recognizing security threats and suspicious activity that may indicate that Covered Data has been compromised, the timely reporting of Breaches, and other reasonable and appropriate training regarding the protection of Covered Data. Liberty shall cause all Liberty Employees whose job functions relate to implementation of remediation measures to receive training regarding such remediation measures. For purposes of complying with the provisions of this paragraph, Liberty is permitted to provide the training itself or to use a third party to provide the training described herein.

ii. As part of the Compliance Training Program, Liberty shall ensure that each Liberty Employee is advised of Liberty's obligations to report any noncompliance with the Privacy and Data Protection Requirements and this Consent Decree, and is instructed on how to disclose noncompliance to the Compliance Officer, including instructions on how to anonymously report such noncompliance.

iii. Liberty shall ensure that the training for Liberty Employees is conducted pursuant to the Compliance Training Program within six (6) months after the Effective Date, except that any person who becomes a Liberty Employee at any time after that period shall be trained within sixty (60) calendar days after the date such person becomes a Liberty Employee. Liberty shall document Liberty Employees' completion of such trainings.

iv. Liberty shall ensure that the Compliance Training Program is conducted at least annually for Liberty Employees. Liberty shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

v. In addition, Liberty shall request, and, where permitted by contract, require certification from all Covered Third Parties that each Covered Third Party has provided their employees with the trainings and disseminated to their employees information as required in (i) – (iv) above.

32. **Reporting Noncompliance**. Liberty shall report any material noncompliance with the Privacy and Security Requirements and with the terms and conditions of this Consent Decree within seven (7) business days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance, (ii) the steps that Liberty 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 Liberty has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Room 5.350, Washington, DC 20554, with a copy submitted electronically to Shana.Yates@fcc.gov, Jeff.Gary@fcc.gov, and eb-tcd-privacy@fcc.gov.

33. **Compliance Reports**. Liberty 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 Liberty's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the CPNI Rules in effect. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Liberty, stating that the Compliance Officer has personal knowledge that Liberty: (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 32 of this Consent Decree.

(b) Each Compliance Report shall confirm that in the event of a Breach in any Liberty Information System or Liberty Vendor Information System, Liberty shall, to the extent required by law, regulation, or Letter of Agreement, notify all Liberty Customers (at the Customer's last known email or physical address and pursuant to Liberty's reasonable efforts to locate the Customer) whose fully or partially unredacted and/or unencrypted Covered Data has been affected by a Breach.

(c) 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.[40]

(d) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Liberty, 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 Liberty 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 Liberty has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will

[40] *Id.* § 1.16.

be taken.

(e) All Compliance Reports shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 45 L Street NE, Room 5.350, Washington, DC 20554, with a copy submitted electronically to Shana.Yates@fcc.gov, Jeff.Gary@fcc.gov, and eb-tcd-privacy@fcc.gov.

34. **Termination Date**. Unless stated otherwise, the requirements set forth in paragraphs 30 through 33 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

35. **Section 208 Complaints; Subsequent Investigations**. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed by a third party pursuant to section 208 of the Act[41] against Liberty 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 Liberty with the Communications Laws.

36. **Civil Penalty**. Liberty will pay a civil penalty to the United States Treasury in the amount of $100,000 within thirty (30) calendar days of the Effective Date. Liberty 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).[42] Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Liberty shall send electronic notification of payment to Shana.Yates@fcc.gov, Jeff.Gary@fcc.gov, and eb-tcd-privacy@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:[43]

- 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[44] or printed CORES form[45] must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.govon 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).[46] For additional detail and wire transfer instructions, go to https://www.fcc.gov/licensing-databases/fees/wire-transfer.

[41] 47 U.S.C. § 208.

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

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

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

[45] 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.

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

- 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.

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

38. **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 Liberty.

39. **Waivers**. As of the Effective Date, Liberty 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. Liberty 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 Liberty nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Liberty shall waive any statutory right to a trial *de novo*. Liberty hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[47] relating to the matters addressed in this Consent Decree.

40. **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.

41. **Invalidity**. In the event that this Consent Decree in its entirety is rendered invalid by any

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

court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

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

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

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

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

46. **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.

47. **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.

48. **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

_____
Carla Framil Ferran
General Counsel
Liberty Mobile Puerto Rico Inc.

_____
Date

_____
Carla Framil Ferran
General Counsel
Liberty Mobile USVI Inc.

_____
Date

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

In re Applications of	)	
	)	
Puerto Rico Public Broadcasting Corporation	)	FRN: 0005832233
	)	Facility ID Nos. 53859 and 53863
For Renewal of License for	)	Application File Nos. 0000122562 and
Stations WIPR-TV, San Juan, Puerto Rico and	)	0000122564
WIPM-TV, Mayaguez, Puerto Rico	)	

ORDER

Adopted: June 24, 2024 **Released: June 24, 2024**

By the Chief, Video Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Video Division, Media Bureau (Bureau) and Puerto Rico Public Broadcasting Corporation (Licensee), Licensee of noncommercial educational (NCE) television stations WIPR-TV, San Juan, Puerto Rico (WIPR-TV) and WIPM-TV, Mayaguez, Puerto Rico (WIPM-TV) (collectively, the "Stations"). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal applications (Applications) for the Stations. In particular, the Consent Decree resolves the Bureau's investigation of Licensee's compliance with section 73.3527(e)(8) of the Commission's rules (Rules),[1] which sets forth the requirement for NCE stations to place quarterly issues/programs lists in their online public inspection file (OPIF).[2]

2. The Bureau and Licensee have negotiated the attached Consent Decree in which Licensee stipulates that it violated section 73.3527(e)(8) of the Rules and provides that Licensee will be admonished for its violations. Pursuant to the Consent Decree, Licensee also agrees, among other things, to implement a comprehensive compliance plan to ensure future compliance with its OPIF obligations and to submit annual compliance reports to the Bureau. The Bureau agrees to terminate its investigation and grant the pending Applications.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval. Based on the record before us, we also conclude that grant of the Stations' Applications for a period of two years is in the public interest. We believe that the grant of short-term renewals for the Stations, coupled with the compliance plan and reporting requirements set forth in the Consent Decree will help ensure Licensee's ongoing compliance with our OPIF rules, including section 73.3527(e)(8) of the Rules.[3]

4. In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act.[4] That section provides that if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which,

[1] *See* 47 CFR § 73.3527(e)(8).

[2] *Id*.

[3] *Id*.

[4] 47 U.S.C. § 309(k).

taken together, constitute a pattern of abuse, we are to grant the renewal application.[5] If, however, the licensee fails to meet that standard, the Commission may deny the application—after notice and opportunity for a hearing under section 309(e) of the Act—or grant the application "on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted."[6] As discussed in greater detail below and in the Consent Decree, in light of the extent of the Licensee's violations, we are unable to find that Licensee has met the Commission's standard for renewal under section 309(k)(1). However, based on the facts and circumstances, we conclude that the public interest will be served by adopting the Consent Decree and granting the Applications for a short renewal term of two years pursuant to section 309(k)(2) of the Act.[7]

5. We also find that admonishment of Puerto Rico Public Broadcasting Corporation is appropriate for its violations of section 73.3527(e)(8) of the Commission's Rules, which we find particularly concerning given that during the prior license term, Licensee filed twenty-six issues/programs lists late for WIPR-TV and twenty-seven issues/programs late for WIPM-TV. This accounts for almost the entire prior license term and many of the issues/programs were filed more than one year late. While Licensee has undertaken efforts to prevent future shortfalls, that does not excuse prior violations.[8] Given the Stations' status as NCE stations and in consideration of financial difficulties they face in light of current economic conditions in Puerto Rico, the Bureau has reached an agreement not to institute a civil penalty. However, failure in the future by Licensee to comply with its OPIF obligations or implement the terms of the Consent Decree may result in more severe sanction, including but not limited to imposing a civil penalty.

6. **ACCORDINGLY**, **IT IS ORDERED** that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended,[9] and by the authority delegated by sections 0.61, 0.204, and 0.283 of the Rules,[10] the Consent Decree attached hereto **IS ADOPTED** and its terms incorporated by reference without change, addition, or modification.

7. **IT IS FURTHER ORDERED** that the investigation by the Media Bureau of the matters discussed above **IS TERMINATED**, subject to the terms of the attached Consent Decree and the Licensee **IS ADMONISHED** for its violations of section 73.3527(e)(8) of the Commission's Rules.[11]

8. **IT IS FURTHER ORDERED** that pursuant to section 309(k)(2) of the Communications Act of 1934, as amended, the applications of Puerto Rico Public Broadcasting Corporation for renewal of licenses, as captioned above, **ARE GRANTED** for a period of two years subject to the terms and conditions of the attached Consent Decree.

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[5] 47 U.S.C. § 309(k)(1).

[6] 47 U.S.C. §§ 309(k)(2), 309(k)(3).

[7] As a result, we need not determine whether the Licensee committed "serious violations" of our rules or violations that constituted a "pattern of abuse" for purposes of section 309(k)(1). *See Shareholders of Univision Communications Inc. et al*., Memorandum Opinion and Order, 22 FCC Rcd 5842, 5859, para. 42, n.113 (2007) ("Given our finding that the grant of the renewal application is warranted under Section 309(k)(2) of the Act because the consent decree contains appropriate terms and conditions, we need not determine whether Univision committed 'serious violations' of our rules or violations that constituted 'a pattern of abuse' for purposes of Section 309(k))(1)"). We conclude that nothing in the record creates a substantial and material question of fact as to whether Licensee possesses the basic qualifications to remain a Commission licensee.

[8] *See Exec. Broad. Corp.*, Memorandum Opinion and Order, 3 FCC 2d 699, 700, para. 6 (1966) ("The fact that prompt corrective action was taken and that the station has been operated in accordance with rules since the violations were pointed out does not excuse the prior violations.").

[9] 47 U.S.C. §§ 154(i) and 154(j).

[10] 47 CFR §§ 0.61, 0.204, 0.283.

[11] 47 CFR § 73.3527(e)(8).

9. **IT IS FURTHER ORDERED** that copies of this Order and Consent Decree shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Puerto Rico Public Broadcasting Corporation, Marietty Lasanta, P.O. Box 190909, San Juan, Puerto Rico 00919 and by electronic mail to MLasanta@wipr.pr. A copy shall also be sent to Licensee's counsel, Mark Denbo, Esq., by electronic mail to mdenbo@fccworld.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara Kreisman
Chief, Video Division
Media Bureau

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

In re Applications of	)	
	)	
Puerto Rico Public Broadcasting Corporation	)	FRN: 0005832233
	)	Facility ID Nos. 53859 and 53863
For Renewal of License for	)	Application File Nos. 0000122562 and
Stations WIPR-TV, San Juan, Puerto Rico and	)	0000122564
WIPM-TV, Mayaguez, Puerto Rico	)	

CONSENT DECREE

Adopted: June 24, 2024 **Released: June 24, 2024**

1. The Video Division, Media Bureau of the Federal Communications Commission (hereafter "Bureau," as defined below) and Puerto Rico Public Broadcasting Corporation (hereafter "Licensee," as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into Licensee's compliance with section 73.3527(e)(8) of the Commission's rules (Rules),[1] which requires noncommercial educational television (NCE) stations to place quarterly issues/programs lists in their online public inspection file. To resolve this matter, Licensee agrees to implement a comprehensive Compliance Plan (as defined below) with a reporting obligation to ensure its future compliance with section 73.3527(e)(8) of the Rules and its online public inspection file obligations. The Bureau agrees to terminate its investigation, and grant the Stations' pending license renewal applications for a period of two years, subject to the terms and conditions set forth below.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:[2]

(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) "Applications" means the applications of Puerto Rico Public Broadcasting Corporation for renewal of the television broadcast licenses for station WIPR-TV, San Juan, Puerto Rico, LMS File No. 0000122562, and for station WIPM-TV, Mayaguez, Puerto Rico, LMS File No. 0000122564.

(d) "Bureau" means the Video Division, Media Bureau of the Federal Communications Commission.

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

(f) "Compliance Plan" means the processes and procedures developed by Licensee in an effort to ensure compliance with 47 CFR § 73.3527 generally, including 47 CFR 73.3527(e)(8) of the Rules.

(g) "Covered Employees" means all employees, volunteers, and agents of Licensee,

[1] 47 CFR § 73.3527(e)(8).

[2] These definitions apply to all sections of this Consent Decree, including Section III – Terms of Agreement.

who are responsible for performing, supervising, overseeing, or managing activities related to the maintenance of online public inspection files, as required by the OPIF Rule, as defined below.

(h) "Effective Date" means the date by which both the Bureau and the Licensee have signed the Consent Decree.

(i) "Investigation" means the Bureau's decision to hold and not process Licensee's Applications due to Licensee's failure to comply with section 73.3527(e)(8) of the Rules.

(j) "Issues and Programs Lists Rule" means 47 CFR § 73.3527(e)(8).

(k) "Licensee" means Puerto Rico Public Broadcasting Corporation, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(l) "NCE" means noncommercial educational television station as defined by 47 CFR § 73.621.

(m) "OPIF" means the respective station's online public inspection file as defined pursuant to 47 CFR § 73.3527.

(n) "OPIF Rule" means 47 CFR § 73.3527, generally.

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

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

(q) "Stations" means collectively WIPR-TV, San Juan, Puerto Rico (WIPR-TV) and WIPM-TV, Mayaguez, Puerto Rico (WIPM-TV).

II. BACKGROUND

3. On September 28, 2020, Licensee filed the Applications. The Application requires licensees to certify that during the license term they have placed all documents required by section 73.3527 of the Rules into that station's OPIF when required.[3] In its Applications, the Licensee certified "no" to that question and disclosed a number of late filed issues/programs lists from the prior renewal term. However, in some instances, the Licensee believed that the uploads occurred by the deadlines imposed by the Commission's rules but were subsequently moved internally within the Stations' OPIFs, making it appear as if the files were uploaded late.[4] Based on Licensee's apparent failure to comply with the Issues and Programs Lists Rule, the Bureau commenced the Investigation and suspended processing the Applications.

4. As part of the Investigation, when asked by Bureau staff to present evidence of this from the Stations' OPIF histories, the Licensee could provide none. Bureau staff started the internal process of determining if the files had been timely filed and later moved, but prior to that work being able to be completed, the Licensee indicated that the Bureau would be unlikely to find such evidence. In total, WIPR-TV's OPIF included four issues/programs lists filed under one month late, sixteen issues/programs lists filed between one month and one year late, and six issues/programs lists that were filed over one year late. WIPM-TV's OPIF included two lists that were filed under one month late, thirteen lists that were filed between one month and one year late, and twelve issues/programs lists that were filed over one year

[3] *See* 47 CFR § 73.3527.

[4] Application of Puerto Rico Public Broadcasting Corporation for Renewal of License, LMS File No. 0000122562 (filed Sept. 28, 2020) at Attach., WIPR-TV Renewal Application 2020 – Explanation of Public File Discrepancies – 9-25-20; Application of Puerto Rico Public Broadcasting Corporation for Renewal of License, LMS File No. 0000122564 (filed Sept. 28, 2020) at Attach., WIPM-TV Renewal Application 2020 – Explanation of Public File Discrepancies – 9-25-20.

late.

5. Under the Issues and Programs Lists Rule, every NCE television licensee must place in its OPIF, on a quarterly basis, an issues/programs list that details programs that have provided the station's most significant treatment of community issues during the preceding three month period and must include a brief narrative of the issues addressed, as well as the time, date, duration, and title of each program in which the issues were treated.[5] Issues/programs lists must be placed in the station's OPIF by the tenth day of the succeeding calendar quarter and copies must be retained until final action on the station's next license renewal application. The Licensee admits that it has failed to comply with the Issues and Programs Lists Rule.

6. In consideration of the unique facts and nature of the Stations in this case, and given that Licensee has also agreed to be admonished for its repeated violations of the Issues and Programs Lists Rule, 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, Licensee has agreed to implement and maintain a Compliance Plan designed to ensure its future compliance with the Rules noted above as well as a reporting obligation.

III. TERMS OF AGREEMENT

7. **Adopting Order**. The Parties agree that the provisions of this Consent Decree shall be incorporated by reference by the Bureau in an Adopting Order without change, addition, deletion, or modification.

8. **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.

9. **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.

10. **Violations**. The Parties agree that any violation of the Adopting Order or the terms of this Consent Decree, in whole or in part, shall constitute a separate violation of a Commission order, entitling the Commission, or its delegated authority to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. **Admission of Liability**. The Licensee admits, for the purpose of this Consent Decree, that it failed to maintain the Stations' OPIFs, specifically, that it did not timely upload issues/programs lists for the Stations, in violation of 47 CFR § 73.3527(e)(8) during the Stations' prior license term. By entering into this Consent Decree, the Licensee makes no other admission of liability of any Communications Law, and the Bureau makes no finding of any other liability or violation. Pursuant to 47 CFR § 73.3527(e)(11), Licensee shall place, within ten (10) calendar days, a copy of this Adopting Order and Consent Decree in the Stations' OPIFs and that copy must be retained until grant of the Stations' next license renewal applications.

12. **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 and grant, absent any other restrictions, in conjunction with the adoption of this Consent Decree, the Applications for a period of two years from the Effective Date, as set forth in Paragraph 15 of this Consent Decree. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in Paragraphs 16 and 17 of this Consent Decree.

13. The Bureau further agrees that, in the absence of new material evidence, that it will not use the facts developed in the Investigation, through the Effective Date, or the existence of this Consent

[5] 47 CFR § 73.3527(e)(8).

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 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 Licensee's basic qualifications to be a Commission licensee or to hold Commission licenses or authorizations.[6] However, in the event of any future violations by Licensee, the Commission or its delegated entity may consider Licensee's admission in this Consent Decree as a basis for considering its history of compliance with the Rules in order to determine an appropriate forfeiture amount.[7]

14. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission or its delegated authority from investigating new evidence of noncompliance by Licensee with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against the Licensee for alleged violations of the Communications Laws or for any alleged misconduct, regardless of when such misconduct took place. Further, except as expressly provided herein, Licensee acknowledges that the Commission and its delegated authority (including the Bureau) retains the discretion and authority to propose sanctions against Licensee, including the issuance of notices of apparent liability for forfeitures, for any apparent willful and/or repeated violation by Licensee of the Rules or Act. The Commission's adjudication of any complaints or potential will be based solely on the record developed in subsequent proceedings.

15. **Grant of Applications**. In the Adopting Order, the Bureau has determined that grant of the Applications is in the public interest, convenience, and necessity, and consistent with section 309(k)(2) of the Act. The Bureau agrees to grant the Applications following the release of the Adopting Order and Consent Decree for a period of two years from the Effective Date so long as there are no other issues that would preclude the grant of the Applications.

16. **Compliance Plan**. For purposes of settling the matters set forth herein, Licensee 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 OPIF Rule, including but not limited to the Issues and Programs Lists Rule, and the terms and conditions of this Consent Decree. The Compliance Plan shall apply to the Stations, as defined in Paragraph 2(q) of the Consent Decree. The Compliance Plan shall contain, at a minimum, the following elements:

(a) **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, Licensee shall designate a person employed (on a full time, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth below. The Compliance Officer must be provided all necessary corporate and organizational authority to ensure he/she is able to discharge his/her duties. The Compliance Officer shall report directly to Licensee's President (or equivalent senior officer/owner) on a regular basis, and shall be responsible for developing, implementing and administering the Compliance Plan and ensuring that Licensee complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall have specific knowledge of the Commission's OPIF Rule, including but not limited to the Issues and Programs Lists

[6] *See* 47 CFR § 1.93(b).

[7] The Commission may adjust its base forfeiture 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." 47 U.S.C. § 503(b)(2)(E). *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 (1997), recon. denied, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b), paragraph (b)(10), Table 1 and Table 3.

Rule, prior to assuming his/her duties.

(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 Officer may distribute a Compliance Manual that he/she has personally 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 OPIF Rule, including but not limited to the Issues and Programs Lists Rule;

ii. establish Operating Procedures that Covered Employees must follow to help ensure Licensee's compliance with the OPIF Rule, including but not limited to the Issues and Programs Lists Rule. The Operating Procedures shall include internal procedures and policies specifically designed to ensure that Licensee's Stations upload all required information to their OPIF 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 OPIF Rule, including but not limited to the Issues and Programs Lists Rule; and

iii. be reviewed at least every six months by the Compliance Officer and revised as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective. The Compliance Officer shall distribute any revisions to the Compliance Manual within five business days of any updates to all Covered Employees.

(c) **Compliance Training Program**. The Licensee shall establish and implement a Compliance Training Program on compliance with the OPIF Rule, including but not limited to the Issues and Programs Lists Rule. As part of the Compliance Training Program, Covered Employees shall be advised of Licensee's obligation to report any noncompliance with the OPIF Rule, including but not limited to the Issues and Programs Lists 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 ninety (90) 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 thirty (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.

(d) **Compliance Report**. The Licensee shall submit a Compliance Report to the Bureau one year after the Effective Date and annually thereafter on the anniversary of the Effective Date until the Termination Date. The Compliance Report shall contain a certification of Licensee's compliance with the OPIF Rule, including but not limited to the Issues and Programs Lists Rule, during the previous year. The Compliance Report shall include a certification by the Compliance Officer stating that the Compliance Officer has personal knowledge that 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 beyond those reported under Paragraph 17. For any instance of noncompliance, including

those already reported to the Bureau under Paragraph 17, the Compliance Officer must explain (i) the steps that Licensee has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken, and (ii) the steps that have or will be taken to prevent the recurrence of any such noncompliance, including the schedule on which such preventative action will be taken. 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,[8] and be subscribed to as true under penalty of perjury in substantially the form set forth therein. The Bureau may, within its sole discretion, require Licensee to submit documentation or material that supports the certification being provided by the Compliance Officer. The Compliance Report shall be submitted by electronic mail to Bureau staff as follows: Emily Harrison at Emily.Harrison@fcc.gov and David Brown at David.Brown@fcc.gov.

17. **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the OPIF Rule, including but not limited to the Issues and Programs Lists Rule, and any instance of noncompliance with any applicable terms and conditions of this Consent Decree (i.e., paragraph 16) 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 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 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 Bureau staff as follows: Emily Harrison at Emily.Harrison@fcc.gov and David Brown at David.Brown@fcc.gov.

18. **Termination Date**. The obligations to which Licensee is subject pursuant to this Consent Decree shall terminate upon grant of the Stations' next license renewal applications, provided the Bureau is satisfied that Licensee has demonstrated substantial compliance with its obligations. If the Bureau is not satisfied that Licensee has demonstrated substantial compliance with its obligations, the Bureau may, within its sole discretion and authority, extend the Termination Date of this Consent Decree for up to an additional twenty-four (24) months.

19. **Waivers**. As of the Effective Date, 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 Licensee nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and 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[9] relating to the matters addressed in this Consent Decree.

20. **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.

21. **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.

[8] 47 CFR § 1.16.

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

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) that provision will be superseded by such Rule or Order.

23. **Successors and Assigns**. The 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 without the advance written consent of both 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 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. **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.

Federal Communications Commission
By:

_____
Barbara A. Kreisman
Chief, Video Division
Media Bureau

_____
Date

By:

_____
Jorge E. Pagan
President
Puerto Rico Public Broadcasting Corporation

_____
Date

PUBLIC NOTICE

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

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

DA 24-553
Released: June 12, 2024

WIRELESS TELECOMMUNICATIONS BUREAU AND OFFICE OF ENGINEERING AND TECHNOLOGY ANNOUNCE MODIFIED AGGREGATE INTERFERENCE MODEL USED BY SPECTRUM ACCESS SYSTEM ADMINISTRATORS

GN Docket Nos. 17-258 and 15-319

With this Public Notice, the Wireless Telecommunications Bureau (WTB) and the Office of Engineering and Technology (OET) of the Federal Communications Commission (Commission or FCC) notify certified Spectrum Access System (SAS) administrators[1] that they will be permitted to implement changes to the existing aggregate interference model used to protect federal operations in the 3.55-3.7 GHz (3.5 GHz) band from Citizens Broadband Radio Service operations.[2] Specifically, as described in NTIA's June 11, 2024 letter, WTB and OET permit certified SAS administrators "to modify the existing aggregate interference model by adding Time Division Duplex (TDD) and loading factors, accounting for clutter loss, and using a 50% confidence factor and 50% reliability factor for the propagation loss calculations."[3] SAS administrators will be permitted to apply the changes to the aggregate interference model used to protect federal operations in the band only after demonstration—including testing in a non-operational environment—of their ability to effectively implement these changes and subsequent approval by WTB and OET.

Once implemented, the modified aggregate interference model is intended to: (1) decrease the size of the Category B Citizens Broadband Radio Service Device (CBSD) Dynamic Protection Area

[1] On January 27, 2020, WTB and OET approved four SAS administrators for full scale commercial deployment in the 3.5 GHz band. *See WTB And OET 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 (WTB/OET 2020). WTB and OET subsequently approved three more SAS administrators for commercial operations. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access Administrator Amdocs for Full Scale Commercial Deployment in the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 3687 (WTB/OET 2020); *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve 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); *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, Public Notice, DA 23-893, 2023 WL 6263552 (WTB/OET 2023).

[2] See Letter from Paige R. Atkins, Assoc. Admin., Office of Spectrum Mgt., NTIA, to Julius P. Knapp, Chief, Office of Eng. and Tech. and Donald K. Stockdale, Jr., Chief, Wireless Telecom. Bureau, FCC (May 17, 2018) (NTIA 2018 Letter), https://www.fcc.gov/ecfs/document/10530233711963/1.

[3] *See* Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, NTIA, to Ronald T. Repasi, Chief, OET, FCC, and Joel Taubenblatt, Chief, Wireless Telecommunications Bureau, FCC (June 11, 2024), https://www.fcc.gov/ecfs/document/1061155768162/1 (NTIA June 2024 Letter) (footnotes excluded).

(DPA) neighborhood areas along the coastlines and around federal facilities;[4] (2) decrease the number of CBSD grants that are suspended when a DPA is activated; and (3) increase the fidelity of the propagation modeling.[5] SAS administrators that successfully implement these changes should be able to authorize service to *approximately 72 million more people* (for a total of approximately 240 million) nationwide—including millions of people in major metro areas like Atlanta, Phoenix, Las Vegas, San Antonio, and Pittsburgh—without periodic service adjustments to protect federal operations.[6]

Consistent with NTIA's recommendations, our established coordination procedures for the 3.5 GHz band, and the Commission's rules, WTB and OET will allow SAS administrators to apply the following specific changes to the aggregate interference model used to protect federal operations in the 3.5 GHz band, subject to the successful demonstration of their ability to do so:

- The SAS administrators may assume an 80% TDD activity factor and 20% network loading factor for each CBSD in the aggregate interference calculation. The total impact will reduce, by 8 dB, the equivalent isotopically radiated power (EIRP) used in the aggregate interference calculations for each CBSD. [7]
- The SAS administrators may use median Irregular Terrain Model (ITM) terrain dependent propagation loss (in dB)—using reliability and confidence factors of 0.5—to calculate the aggregate received power levels within a DPA.[8]
- The SAS administrators may apply median clutter loss—calculated using the methodology described in Recommendation ITU-R P.2108,[9] section 3.2 —for any CBSD with an antenna height Above Ground Level (AGL) of less than or equal to six meters, that is operating at a distance of at least 250 meters from a DPA boundary.[10]

Accordingly, we invite all certified SAS administrators to submit a demonstration of their ability to implement these new testing parameters in GN Docket No. 15-319, including testing in a non-

[4] DPAs are pre-defined protection areas that extend beyond the coastline or that enclose a protected terrestrial radar facility, which may be activated or deactivated as necessary to protect DoD radar systems. In general, when a DPA is activated, SASs may direct CBSDs in a DPA neighborhood to cease operations, reduce transmit power, or relocate to a non-interfering frequency in order to protect federal operations in the band. *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*); *see also* 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) (depicting the DPAs in Attachment A). This NTIA letter and the specific coordinates for the DPAs and DPA neighborhood areas are available at https://www.ntia.doc.gov/fcc-filing/2015/ntia-letter-fcc-commercial-operations-3550-3650-mhz-band.

[5] NTIA June 2024 Letter at 1.

[6] As NTIA notes in its June 2024 letter, these changes do not supersede the obligation for Citizens Broadband Radio Service users to comply with the Commission's rules, including 47 CFR § 96.15(a)(1) ("CBSDs and End User Devices must not cause harmful interference to and must accept interference from federal Incumbent Users authorized to operate in the 3550-3700 MHz band and below 3550 MHz."). In addition, Citizens Broadband Radio Service users' CBSDs operated outside of DPA neighborhoods would still be subject to pre-emption pursuant to the War Powers clause of the Communications Act. *See* 47 U.S.C. § 606; 47 CFR § 96.15(a)(4) ("[i]f 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."). NTIA June 2024 Letter, note 8.

[7] NTIA June 2024 Letter at 2.

[8] *Id*.

[9] *Id*.; ITU, Recommendations, Rec. P.2108, "Prediction of Clutter Loss" (Sept. 2021), https://www.itu.int/rec/R-REC-P.2108/en.

[10] NTIA June 2024 Letter at 2.

operational environment.[11] WTB/OET will review these submissions in close collaboration with NTIA and DoD. SAS administrators will be permitted to apply the revised parameters only after final approval by WTB and OET.

By the Chief, Wireless Telecommunications Bureau, and the Chief, Office of Engineering and Technology.

- FCC –

[11] *See id*. at 2-3.

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 24-555
Released: June 11, 2024

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES DEADLINES REGARDING PETITION FOR RECONSIDERATION OF THE RESILIENT NETWORKS SECOND REPORT AND ORDER

PS Docket Nos. 21-346 and 15-80, ET Docket No. 04-35

Comments Due: June 24, 2024
Reply Comments Due: July 5, 2024

By this *Public Notice*, the Public Safety and Homeland Security Bureau notifies interested parties of the filing deadlines for oppositions, and replies thereto, to a petition for reconsideration of the *Resilient Networks Second Report and Order* on mandated Disaster Information Reporting System (DIRS) filings, including waiver of Network Outage Reporting System (NORS) requirements during DIRS activation, released on January 26, 2024.[1] The petition for reconsideration was filed by Alliance for Telecommunications Industry Solutions (ATIS).[2]

The Bureau previously announced that oppositions to the petition for reconsideration must be filed within 15 days after the date on which the Federal Register publishes notice of the filing of the petitions, and that replies to oppositions must be filed within 10 days after the time for filing oppositions has expired.[3] The Federal Register published notice of the filing of the petitions for reconsideration on June 7, 2024.[4] Accordingly, oppositions to the petitions are due on **June 24, 2024**, and replies to oppositions are due on **July 5, 2024**.

Filing Procedures. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.[5] Comments and reply comments should refer to PS Docket Nos. 21-346 and 15-80 and ET Docket No. 04-35.

- 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.

[1] *Resilient Networks; 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*, PS Docket Nos. 21-346 and 15-80, ET Docket No. 04-35, Report and Order, FCC-24-5 (2024).

[2] Petition of ATIS for Clarification and/or Reconsideration, PS Docket Nos. 21-346 and 15-80, ET Docket No. 04-35 (filed May 10, 2024), https://www.fcc.gov/ecfs/document/105100798526151/1.

[3] *The Public Safety and Homeland Security Bureau Seeks Comment on Outage Reporting Petition for Reconsideration*, PS Docket Nos. 21-346 and 15-80, ET Docket No. 04-35, Public Notice, DA-24-463 (2024).

[4] *See* FCC, Petition for Reconsideration of Action in a Rulemaking Proceeding, 89 Fed. Reg. 48540 (June 7, 2024).

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

- 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.
    - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.[6]
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

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).

Ex Parte Rules. This proceeding shall continue to 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 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.

Additional Information. For additional information on this proceeding, contact James Wiley, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418–1678, or by email to James.Wiley@fcc.gov, or Logan Bennett, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, (202) 418–7790, or by email to Logan.Bennett@fcc.gov.

-FCC-

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

[7] 47 CFR §§ 1.1200 *et seq.*

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

In the Matter of	)	
	)	PS Docket No. 21-346
Resilient Networks	)	
	)	PS Docket No. 15-80
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	)	ET Docket 04-35

PETITION FOR CLARIFICATION AND/OR RECONSIDERATION

The Alliance for Telecommunications Industry Solution (ATIS), pursuant to 47 C.F.R. §1.429, hereby respectfully requests that the Federal Communications Commission ("Commission") reconsider its January 26, 2024, *Second Report and Order* in the above-referenced dockets. In the *Second R&O*, the Commission revises its Part 4 rules to suspend all Network Outage Reporting System (NORS) reporting obligations pertaining to outages that arise when DIRS reporting is activated, and outages are timely reported in Disaster Information Reporting System (DIRS).[1] ATIS respectfully requests the Commission to: (1) clarify the application of its waiver of NORS filings during DIRS activations to pending and ongoing NORS filings and to the Commission's Public Safety Answering Points (PSAPs) and 988 Suicide & Crisis Lifeline notification requirements, and to clarify that the waiver applies to both DIRS and DIRS-Lite activations; and (2) reconsider its requirements that the final DIRS report includes the estimated dates by which unresolved issues regarding providers' equipment and issues shall be resolved and these reports be filed within 24 hours of DIRS deactivation.

[1] *Second Report and Order* in PS Docket Nos. 21-346 and 15-80 and ET Docket 04-35 (released January 26, 2024) at ¶25.

I. BACKGROUND

ATIS is a global standards development and technical planning organization that develops and promotes worldwide technical and operations standards for information, entertainment, and communications technologies. ATIS' diverse membership includes key stakeholders from the Information and Communications Technologies (ICT) industry – wireless, wireline, and VoIP service providers, equipment manufacturers, broadband providers, software developers, consumer electronics companies, public safety agencies, and internet service providers. ATIS is also a founding partner and the North American Organizational Partner of the Third Generation Partnership Project (3GPP), the global collaborative effort that has developed the 4G Long-Term Evolution (LTE) and 5G New Radio (NR) wireless specifications.

ATIS' NRSC was formed in 1993 at the recommendation of the first Network Reliability and Interoperability Council. The NRSC strives to improve network reliability by providing timely consensus-based technical and operational expert guidance to all segments of the public communications industry. The NRSC addresses network reliability improvement opportunities in an open environment and advises the communications industry through the development of standards, technical requirements, reports, bulletins, Best Practices, and annual reports. The NRSC is comprised of industry experts with primary responsibility for examining, responding to, and mitigating service disruptions for communications companies. NRSC participants are industry subject matter experts on communications network reliability and outage reporting.

II. DISCUSSION

A. Codifying NORS Waiver During DIRS Activations

ATIS seeks clarification of the Commission's decision in the *Second R&O* to codify its practice of waiving NORS filings that would be due while DIRS is activated, explaining further that once an outage has been filed under DIRS per this Order, a provider need not file the same outage in NORS.[2] ATIS NRSC appreciates the Commission's efforts to codify its existing practice of waiving NORS reports when DIRS is activated and understands that this waiver would not require new NORS filings that would otherwise be due during the activation of DIRS. However, as explained below, ATIS NRSC's review of the *Second R&O* has identified some issues that need reconsideration and/or clarification. Given these uncertainties, the Commission should consider taking a broader, more flexible approach to the codification of its NORS waiver. The focus of the Commission's efforts should be on encouraging service providers to collect and provide relevant outage data in a timely manner in the aftermath of a disaster. Providers should not have to worry about fines or penalties for unavailable or unconfirmed data, as long as the provider is using best efforts to collect it. The Commission should limit its enforcement efforts, including fines and penalties, to those companies that fail to participate in NORS and/or DIRS or to those that intentionally fail to submit timely outage reports.

First, ATIS NRSC requests that the Commission clarify the *Second R&O* regarding the application of the waiver to two related, but distinct, scenarios related to pending or ongoing outages. The first scenario involves outages that occur just prior to the activation of DIRS. It is unclear whether the waiver would apply to, for example, an OC3 outage affecting at least 667 OC3 minutes and lasting at least 30 minutes that occurs at 11:30 AM if a DIRS activation occurs in that

[2] *Second R&O* at ¶25.

same activation area at noon. ATIS NRSC recommends that the Commission clarify that the waiver adopted by the Commission in the *Second R&O* would apply to such a scenario.

The second scenario involves outages for which notifications or initial reports have already been filed in NORS. If, for example, an OC3 outage meeting the reporting threshold has occurred and subsequently DIRS is activated for that same area, it is unclear whether providers must submit further reports in NORS related to those outages. ATIS NRSC urges the Commission to apply the waiver to this scenario. Further, for reports that have already been filed in NORS under the conditions outlined in this second scenario, ATIS NRSC urges the Commission to permit providers to withdraw those NORS reports.

ATIS NRSC also seeks clarification as to whether the waiver applies to outage notification requirements affecting special facilities, as defined in Section 4.9 of the rules.[3] The Commission should further clarify that this waiver would apply to the newly adopted and (as the date of this filing) not yet effective 911 and 988 Suicide & Crisis Lifeline notifications adopted by the Commission in PS Docket Nos. 23-5 and 15-80; and WC Docket No. 18-336.[4] ATIS NRSC recommends that the Commission clarify that its waiver apply to these notifications and to not require providers to submit these notifications while DIRS has been activated.

ATIS NRSC further requests that the Commission clarify that its waiver of NORS applies to both DIRS and DIRS-Lite activations. DIRS-Lite is a Commission data collection effort aimed at determining the status of major wireline/wireless assets. It is a scaled back version of DIRS in which the information is collected via e-mail and phone calls that is activated for lesser disasters. While ATIS NRSC understands that DIRS-Lite remains an active Commission initiative, it is not

[3] 47 CFR §4.55(e).

[4] *Report and Order*, released July 21, 2023, in PS Docket No. 23-5, PS Docket No. 15-80, and WC Docket No. 18-336 (*988 Reporting R&O*), which amended Section 4.9, paragraphs (a)(4), (c)(2)(iv), (e) introductory text, (e)(1)(v), (f)(4), and (g)(1)(i).

mentioned in the *Second R&O*. ATIS NRSC urges the Commission to clarify that its waiver would apply to DIRS-Lite activations and to not require providers to report in NORS or to provide notifications regarding special facilities during a DIRS-Lite activation in a given area.

ATIS NRSC believes the clarifications recommended above will better satisfy the purpose of the waiver. The Commission's practice of waiving NORS reports when DIRS is activated was developed to allow service providers to focus on restoring service during major disasters by eliminating certain reporting requirements. If the Commission does not provide greater certainty regarding its waiver of NORS, this waiver will not be as effective because providers will likely not know whether a particular outage is exempt due to the DIRS activation. Therefore, the providers will be forced to defensively file NORS reports for any outage that may, but may not, be related to the DIRS activation or risk possible Commission fines or penalties. Without ATIS' requested clarifications, the waiver would do little to reduce the burden on providers during major disasters and may result in the Commission receiving duplicative outage reports for the same disaster.

B. Final DIRS Reports Upon Deactivation

ATIS also seeks clarification regarding, and reconsideration of, the *Second R&O*'s requirement regarding the submission of a final DIRS report. The Commission in the S*econd R&O* requires providers with ongoing outages at the time of DIRS deactivation to provide a final report that describes their current infrastructure status at the time the system was deactivated to be submitted within 24 hours of deactivation.[5] This report must also include estimated dates by which all issues will be resolved.[6]

[5] *Second R&O* at ¶27.
[6] *Second R&O* at ¶31.

ATIS NRSC seeks reconsideration of the requirement that final reports include the estimated dates by which all issues will be resolved. Given the nature and extent of the disaster, it may not be possible for providers to accurately determine such information within the 24-hour window provided. It is also important to note that the resolution of any remaining issues may be contingent on factors outside of the providers' control, such as access to facilities, restoration of commercial power, and supply chain availability.

ATIS NRSC urges the Commission to either eliminate the requirement that these final reports include estimated resolution dates or specify that providers would not be held accountable for failing to meet estimated restoration times and for impacts that have yet to be discovered. Service providers should be afforded significant flexibility during and after a disaster and ATIS NRSC strongly believes that disaster response efforts deserve the same level of flexibility as has been extended to other administrative tasks, consistent with existing Commission practices.

ATIS NRSC also requests that the Commission provide additional time for providers to submit these final DIRS reports. ATIS NRSC urges the Commission to reconsider its 24-hour deadline and, instead, to require that these reports be filed no sooner than 72 hours after DIRS deactivation, consistent with the Commission's 72-hour deadline for the submission of initial NORS reports.[7] There is simply no need for these reports to be filed so quickly. Providers should be afforded more time to evaluate the outage and its impacts so that the Commission may get a more accurate and complete picture of post-disaster infrastructure status. ATIS NRSC also believes that the Commission should have the flexibility to extend this deadline if appropriate based on factors, including the scale and scope of the event and extent that there are other events

[7] See, e.g., 47 CFR §4.9 (a)(4). (c)(3).

taking place simultaneously. ATIS NRSC notes that, when the Commission deactivates DIRS, the last report submitted in DIRS informs the Commission of the number of affected subscribers in voice, video, and data. The estimated time of restoration can be added within 72 hours to the notes field of the last DIRS report filed during activation.

To facilitate the timely submission of these final reports, ATIS NRSC recommends that the Commission clearly specify the deadlines for these reports. ATIS NRSC recommends that the DIRS deactivation filing deadlines and deadline for the submission of Final DIRS reports be specified in the Commission's *Public Notice* announcing the deactivation of DIRS, as well as in the notifications that are sent by the Commission to coordinators and inputters.

III. CONCLUSION

For the reasons discussed in this Petition, the public interest requires that the Commission reconsider or clarify the *Second R&O* as proposed herein.

Respectfully submitted,



Thomas Goode
ATIS General Counsel

Dated: May 10, 2024

Federal Communications Commission
Washington, D.C. 20554

June 12, 2024

DA 24-556
Released: June 12, 2024

Legacy Broadcasting, LLC
619 Aubrey Circle South
Greenwood, MS 38930

Re: KMLU(TV), Columbia, LA
Facility ID No. 52046
FRN: 0023894017
LMS File No. 0000134394

Dear Licensee:

This letter is in reference to the license renewal application (Application) for KMLU, Columbia, Louisiana (Station), which is licensed to Legacy Broadcasting, LLC (Licensee).[1] As discussed below, we hereby admonish the Licensee for its failure to include non-discriminatory language in the Station's advertising sales agreements.[2]

In the *Promoting Diversification of Ownership in the Broadcast Services Report and Order*, the Commission required commercial TV and radio broadcasters to certify in their renewal applications that their advertising sales agreements contained nondiscrimination clauses.[3] On March 14, 2011, the Media Bureau issued a public notice revising FCC Form 303-S for both radio and television stations to include a certification asking licensees if they complied with this requirement.[4] The Public Notice stated that if a licensee certified "No" they "must attach an exhibit explaining the persons and matters involved and why the matter is not an impediment to grant the station's license renewal application."[5] On March 22, 2011, the Enforcement Bureau released an Enforcement Advisory reminding licensees of their obligation to

[1] Application of Legacy Broadcasting, LLC for Renewal of License, LMS File No. 000052046 (filed Feb. 1, 2021) (Application).

[2] Application at Non-Discriminatory Advertising Sales Agreements Certification, Attach. KMLU Non-Discriminatory Advertising Sales Agreements.

[3] *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922, 5941, para. 49 (2008).

[4] *Media Bureau Announces Revisions to License Renewal Procedures and Form 303-S; Radio License Renewal Cycle to Commence on May 2, 2011*, Public Notice, 26 FCC Rcd 3809, 3810 (MB 2011). *See also Media Bureau Announces Procedures for 2020-2023 Television License Renewal Cycle*, Public Notice 35 FCC Rcd 3656 (MB 2020) (announcing availability of the revised license renewal form – Form 2100, Schedule 303-S – which maintained the certification relating to non-discrimination clauses in joint sales agreements).

[5] *Id.* NCE licensees are not required to make this certification and, therefore, were instructed to select "not applicable." *Id.* KMLU is a commercial television station.

certify on their renewal application that their advertising sales contracts do not discriminate on the basis of race or ethnicity and that such contracts contain non-discrimination clauses.[6]

In its Application, the Licensee responded "No" to the certification stating: "Commercial licensee certifies that its advertising sales agreements do not discriminate on the basis of race or ethnicity and that all such agreements held by the licensee contain non-discrimination clauses."[7] The Licensee provided an attachment to its Application stating that "Licensee certifies that its advertising sales agreements do not discriminate on the basis of race or ethnicity. Licensee will include non-discrimination clauses in written sales documentation going forward."[8] The Licensee did not provide further explanation.

While the Licensee certified "No" in its Application, there has been no evidence presented to the Commission that the Licensee or the Station has engaged in discriminatory behavior with regards to its advertising. We therefore conclude that the Liceensee's failure to include non-discrimination clauses in the Station's advertising sales agreements does not warrant a monetary forfeiture. However, future failures to include non-discrimination clauses in advertising sales agreements may result in more severe sanction, including the assessment of monetary forfeiture.

Accordingly, **IT IS ORDERED** that, the application for renewal of license of KMLU(TV), Columbia, Louisiana **IS GRANTED** and Legacy Broadcasting, LLC **IS ADMONISHED** for its failure to include non-discrimination clauses in the Station's advertising sales agreements. **IT IS FURTHER ORDERED**, that copies of this Letter shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Legacy Broadcasting, LLC, 619 Aubrey Circle South, Greenwood, MS 38930, and e-mail at sherryn@legacybroadcasting.com. In addition, a copy of this letter shall be sent to its counsel, Scott Pippin, Esq., via e-mail at spippin@lermansenter.com.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

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[6] *See FCC Enforcement Advisory, Non-Discrimination in Broadcast Advertising*, Public Notice, 26 FCC Rcd 3875 (EB 2011).

[7] Application at Non-Discriminatory Advertising Sales Agreements Certification.

[8] Application at Attach. KMLU Non-Discriminatory Advertising Sales Agreements.

PUBLIC NOTICE

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

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Internet: http://www.fcc.gov
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DA 24-557
Released: June 12, 2024

Proposed Third Quarter 2024 Universal Service Contribution Factor

CC Docket No. 96-45

In this Public Notice, the Office of Managing Director (OMD) announces that the proposed universal service contribution factor for the third quarter of 2024 will be 0.344 or 34.4 percent.[1]

Rules for Calculating the Contribution Factor

Contributions to the federal universal service support mechanisms are determined using a quarterly contribution factor calculated by the Federal Communications Commission (Commission).[2] The Commission calculates the quarterly contribution factor based on the ratio of total projected quarterly costs of the universal service support mechanisms to contributors' total projected collected end-user interstate and international telecommunications revenues, net of projected contributions.[3]

USAC Projections of Demand and Administrative Expenses

Pursuant to section 54.709(a)(3) of the Commission's rules[4], the Universal Service Administrative Company (USAC) submitted projections of demand and administrative expenses for the third quarter of 2024.[5] Pursuant to the Commission's direction and the Commission's rules,[6] the Wireline Competition Bureau (WCB), in consultation with OMD, previously directed USAC to carry forward any unused funds from prior funding years to the extent necessary to satisfy funding year 2024 Rural Health Care program demand. Further, for third quarter 2024, WCB and OMD instructed USAC to apply $79.76 million in unused funds to offset the $176.73 million projected Rural Health Care program demand

[1] *See* 47 C.F.R. § 54.709(a).

[2] *See id.*

[3] *See* 47 C.F.R. § 54.709(a)(2).

[4] *See* 47 C.F.R. § 54.709(a)(3).

[5] *See* Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2024, available at <https://www.usac.org/fcc-filings> (filed May 2, 2024) (*USAC Filing for Third Quarter 2024 Projections*; *See also* Federal Universal Service Support Mechanisms Quarterly Contribution Base for the Third Quarter 2024, available at <https://www.usac.org/fcc-filings> (filed May 31, 2024) (*USAC Filing for Third Quarter 2024 Contribution Base*).

[6] *See* 47 C.F.R. § 54.619(a)(5).

(based on the annual cap of $706.93 million for funding year 2024). This offset reduces the third quarter 2024 contribution factor to a level below what the contribution factor would be based on USAC's filings.[7]

Accordingly, the projected demand and expenses, after application of the Rural Health Care offset, are as follows:

($ millions)

Program Demand	Projected Program Support	Admin. Expenses	Application of True-Ups & Adjustments	Total Program Collection (Revenue Requirement)
Schools and Libraries	628.55	21.72	(11.19)	639.08
Rural Health Care	88.05	8.92	(3.40)	93.57
High-Cost	1,144.87	21.66	4.69	1,171.22
Lifeline	251.50	23.55	(71.51)	203.54
TOTAL	2,112.97	75.85	(81.41)	2,107.41

USAC Projections of Industry Revenues

USAC submitted projected collected end-user telecommunications revenues for July 2024 through September 2024 based on information contained in the Third Quarter 2024 Telecommunications Reporting Worksheet (FCC Form 499-Q).[8] The amount is as follows:

Total Projected Collected Interstate and International End-User Telecommunications Revenues for Third Quarter 2024: $8.302171 billion.

Adjusted Contribution Base

To determine the quarterly contribution base, we decrease the third quarter 2024 estimate of projected collected interstate and international end-user telecommunications revenues by the projected revenue requirement to account for circularity and decrease the result by one percent to account for uncollectible contributions. Accordingly, the quarterly contribution base for the third quarter of 2024 is as follows:

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[7] *See* Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2024, available at <http://www.usac.org/fcc-filings> (filed May 2, 2024) (*USAC Filing for Third Quarter 2024 Projections)*.

[8] *USAC Filing for Third Quarter 2024 Contribution Base* at 4.

Adjusted Quarterly Contribution Base for Universal Service Support Mechanism

(Third Quarter 2024 Revenues - Projected Revenue Requirement) * (100% - 1%)

= ($8.302171 billion – $2.107410 billion) * 0.99

=$6.132813 billion.

Unadjusted Contribution Factor

Using the above-described adjusted contribution base and the total program collection (revenue requirement) from the table above, the proposed unadjusted contribution factor for the third quarter of 2024 is as follows:

Contribution Factor for Universal Service Support Mechanisms

Total Program Collection / Adjusted Quarterly Contribution Base

=$2.107410 billion / $6.132813 billion

=0.343629

Unadjusted Circularity Factor

USAC will reduce each provider's contribution obligation by a circularity discount approximating the provider's contributions in the upcoming quarter. Accordingly, the proposed unadjusted circularity factor for the third quarter of 2024 is as follows:

Unadjusted Circularity Factor for Universal Service Support Mechanisms

= Total Program Collection / Projected Third Quarter 2024 Revenues
= $2.107410 billion / $8.302171 billion
= 0.253838

Proposed Contribution Factor

The Commission has directed OMD to announce the contribution factor as a percentage rounded up to the nearest tenth of one percent.[9] Accordingly, the proposed contribution factor for the third quarter of 2024 is as follows:

34.4%

Proposed Circularity Discount Factor

The Commission also has directed OMD to account for contribution factor rounding when calculating the circularity discount factor.[10] Accordingly, the proposed circularity factor for the third quarter of 2024 is as follows:

0.254644[11]

Conclusion

If the Commission takes no action regarding the projections of demand and administrative expenses and the proposed contribution factor within the 14-day period following release of this Public Notice, they shall be deemed approved by the Commission.[12] USAC shall use the contribution factor to calculate universal service contributions for the third quarter of 2024. USAC will reduce each provider's contribution obligation by a circularity discount approximating the provider's contributions in the upcoming quarter.[13] USAC includes contribution obligations less the circularity discount in invoices sent to contributors. Contribution payments are due on the dates shown on the invoice. Contributors will pay interest for each day for which the payments are late. Contributors failing to pay contributions in a timely fashion may be subject to the enforcement provisions of the Communications Act of 1934, as amended,

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[9] *See Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, Order and Second Order on Reconsideration, 18 FCC Rcd 4818, 4826, para. 22 (2003) (*Second Order on Reconsideration)*.

[10] *Id*.

[11] The proposed circularity discount factor = 1 + [(unadjusted circularity discount factor – 1) * (unadjusted contribution factor / proposed contribution factor)]. The proposed circularity discount factor is calculated in a spreadsheet program, which means that internal calculations are made with more than 15 decimal places.

[12] *See* 47 C.F.R. § 54.709(a)(3).

[13] USAC will calculate each individual contributor's contribution in the following manner: (1-Circulatory Factor) * (Contribution Factor*Revenue)

and any other applicable law. In addition, contributors may be billed by USAC for reasonable costs of collecting overdue contributions.[14]

We also emphasize that carriers may not mark up federal universal service line-item amounts above the contribution factor.[15] Thus, carriers may not, during the third quarter of 2024, recover through a federal universal service line item an amount that exceeds 34.4 percent of the interstate telecommunications charges on a customer's bill.

In addition, under the limited international revenues exception (LIRE) in section 54.706(c) of the Commission's rules, a contributor to the universal service fund whose projected collected interstate end-user telecommunications revenues comprise less than 12 percent of its combined projected collected interstate and international end-user telecommunications revenues shall contribute based only on projected collected interstate end-user telecommunications revenues, net of projected contributions.[16] The rule is intended to exclude from the contribution base the international end-user telecommunications revenues of any entity whose annual contribution, based on the provider's interstate and international end-user telecommunications revenues, would exceed the amount of its interstate end-user revenues.[17] The proposed contribution factor exceeds 12 percent, which we recognize could result in a contributor being required to contribute to the universal service fund an amount that exceeds its interstate end-user telecommunications revenue. Should a contributor face this situation, the contributor may petition the Commission for waiver of the LIRE threshold.[18]

For further information, contact Dan Daily at (202) 418-1832 or Kim Yee at (202) 418-0805, TTY (888) 835-5322, in the Office of Managing Director.

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[14] *See* 47 C.F.R. § 54.713.

[15] *See* 47 C.F.R. § 54.712.

[16] *See* 47 C.F.R. § 54.706.

[17] *See Federal-State Joint Board on Universal Service*, Sixteenth Order on Reconsideration, CC Docket No. 96-45, Eighth Report and Order, CC Docket No. 96-45, Sixth Report and Order, Docket No. 96-262, 15 FCC Rcd 1679, 1687-1692, paras. 17-29 (1999) (*Fifth Circuit Remand Order*).

[18] Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may consider considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166; 47 C.F.R. § 54.802(a).

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j), Table of	)	MB Docket No. 24-152
Allotments, Television Broadcast Stations	)	RM-11982
(Boise, Idaho)	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: June 13, 2024 **Released: June 13, 2024**

Comment Date: [30 days after date of publication in the Federal Register]

Reply Comment Date: [45 days after date of publication in the Federal Register]

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division, Media Bureau (Bureau), has before it a petition for rulemaking filed May 10, 2024, by King Broadcasting Company (Petitioner), the licensee of KTVB, channel 7, Boise, Idaho (Station or KTVB).[1] The Petitioner requests the substitution of channel 23 for channel 7 at Boise, Idaho (Boise), in the Table of TV Allotments.[2]

II. BACKGROUND

2. In support of its channel substitution request, the Petitioner states that its proposed channel substitution would serve the public interest by resolving persistent reception complaints it has received from viewers,[3] and substantially improve the Boise community's access to the Station's local news, emergency, NBC network, and other programming.[4] 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.[5] Additionally, the Petitioner notes that the Commission has observed "large variability in the performance (especially intrinsic gain) 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."[6]

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[1] 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.

[2] 47 CFR § 73.622(j).

[3] *See* Petition at Exh. A (Viewer Complaints).

[4] Petition at 1.

[5] *Id*. at 2, citing *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, ET Docket No.10-235, Notice of Proposed Rulemaking, 25 FCC Rcd 16498, 16511, para. 42 (2010) (*Channel Sharing NPRM*).

[6] *Id*., citing *Channel Sharing NPRM,* 25 FCC Rcd at 16512, para. 44. Petitioner further states that the Commission has recognized that although VHF reception issues are not universal, "environmental noise blockages affecting [VHF] signal strength and reception exist" and "[vary] widely from service area to service area. Petition at 2 and n.6, citing *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, MD Docket No. 20-105, Report and Order, 35 FCC Rcd 4976, 4997, para. 52 (2020).

3. 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.[7] In addition, the proposed channel 23 facility will not result in any loss of service to existing viewers within the Station's noise limited service contour (NLSC).[8]

III. DISCUSSION

4. We believe that the Petitioner's channel substitution proposal for KTVB warrants consideration. Channel 23 can be substituted for channel 7 at Boise as proposed, in compliance with the principal community coverage requirements of section 73.618(a) of the Commission's rules (rules),[9] at coordinates 43-45'-15.6" N. and 116-05'-59.4" W. In addition, we find that this channel change meets the technical requirements set forth in section 73.622(a) of the rules.[10] The proposal would not result in loss of service to any viewers within the Station's existing NLSC.

5. We propose to substitute channel 23 for channel 7 for KTVB at Boise with the following specifications:

City and State	DTV Channel	DTV Power (kW)	Antenna HAAT (m)
Boise, Idaho	23	1000	805.5

6. Accordingly, we seek comment on the proposed amendment of the Table of TV Allotments, section 73.622(j) of the rules,[11] for the community listed below, to read as follows:

	Channel No.	
City and State	Present	Proposed
Boise, Idaho	7, 15, 20, *21	15, 20, *21, 23

IV. PROCEDURAL MATTERS

7. *Showings Required*. Comments are invited on the proposal discussed in this Notice of Proposed Rulemaking (*NPRM*). The Petitioner or any proponent that expresses interest in the allotment will be expected to answer whatever questions are presented in initial comments. The petitioner of a proposed allotment is required to file comments even if it only resubmits or incorporates by reference its former pleadings. The petitioner must restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly.[12] Failure to file may lead to denial of the request. Any

[7] Petition at 4; Engineering Statement at 3 and App. B.

[8] Petition at 4; Engineering Statement at 4 and App. C.

[9] 47 CFR § 73.618(a) (formerly § 73.623(c)). The Commission recently amended its television rules to reflect the transition from analog to digital-only operations, the completion of the post-incentive auction transition, and to reorganize a portion of the part 73 rules to make them easier to find and more practical for users. *See Media Bureau Announces March 4, 2024 Effective Date for All Revisions to Part 73 Commission Rules for Full Power and Class A Television Stations*, MB Docket No. 22-227, Public Notice, DA 24-196 (rel. Mar. 4, 2024); *Amendment of Part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Report and Order, FCC 23-72 at para. 40 (2023) (*Part 73 Amendment R&O*).

[10] 47 CFR § 73.622(a) (formerly §§ 73.616 and 73.623). *See also supra* n.9 and *Part 73 Amendment R&O* at para. 40.

[11] 47 CFR § 73.622(j).

[12] *See, e.g., Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-279, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

requests by a proponent for withdrawal or dismissal of an allotment request must be filed with the Commission in accordance with section 1.420(j) of the rules.[13]

8. *Cut-off Protection*. The following procedures will govern the consideration of the filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.[14]

(b) The filing of a counterproposal may lead the Commission to allot a different channel than was requested in the Petition.[15]

9. *Comments and Reply Comments*. Pursuant to sections 1.415, 1.419, and 1.420 of the rules,[16] 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).[17]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://apps.fcc.gov/ecfs/. Parties that choose to file electronically only need to submit one copy of each filing so long as the submission conforms to all procedural and filing requirements. Online filing is optional.
- 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 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. Any paper filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington D.C. 20554.
  - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.[18]
  - During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

[13] 47 CFR § 1.420(j).

[14] 47 CFR § 1.420(d).

[15] 47 CFR § 1.420(g)(2).

[16] 47 CFR §§ 1.415, 1.419, and 1.420.

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

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

10. *Service.* Pursuant to section 1.420 of the rules,[19] all submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments.[20] Additionally, a copy of such comments should be served on counsel for petitioner, as follows:

Michael Beder, Esq.
Associate General Counsel
TEGNA Inc.
8350 Broad Street
Suite 2000
Tysons, Virginia 22102

11. *Ex Parte Notices– Restricted*. The proceeding this Notice initiates shall be treated as a "restricted" proceeding in accordance with the Commission's *ex parte* rules.[21] For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a notice of proposed rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court.[22] An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding.[23] However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement.[24] Any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

12. *Providing Accountability Through Transparency Act.* The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule.[25] Accordingly, the Commission will publish the required summary of this Notice of Proposed Rulemaking on https://www.fcc.gov/proposed-rulemakings.

13. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection via ECFS (http://apps.fcc.gov/ecfs/). Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

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[19] 47 CFR § 1.420.

[20] *See* 47 CFR §1.420(a), (b) and (c).

[21] 47 CFR §§ 1.1200 *et seq.*

[22] 47 CFR § 1.1208.

[23] 47 CFR § 1.1204(a)(10).

[24] 47 CFR § 1.1204(a)(10)(ii). In addition, an oral presentation in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay is permitted. A detailed summary of the presentation must be filed in the record and served by the person making the presentation on the other parties to the proceeding, who may respond in support or opposition to the request for expedition, including by oral *ex parte* presentation, subject to the same service requirement. 47 CFR § 1.1204(a)(11).

[25] 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act, Pub. L. No. 118-9 (2023), amended section 553(b) of the Administrative Procedure Act.

14. *Paperwork Reduction and Regulatory Flexibility*. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,[26] do not apply to a rulemaking proceeding to amend the Table of TV Allotments, section 73.622(j) of the rules.[27] This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995.[28] In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.[29]

15. *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).

16. *Additional Information*. For further information concerning the proceeding listed above, contact Joyce Bernstein, Video Division, Media Bureau, Joyce.Bernstein@fcc.gov.

V. ORDERING CLAUSES

17. **IT IS ORDERED** that, pursuant to authority found in 47 U.S.C. sections 4(i), 5(c)(1), 303(g) and (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 PROPOSED TO AMEND** the Table of TV Allotments, section 73.622(j) of the rules, 47 CFR § 73.622(j), as set forth in this *NPRM*, and this *NPRM* **IS ADOPTED.**

18. **IT IS FURTHER ORDERED** that, pursuant to applicable procedures set forth in sections 1.415, 1.419, 1.420 of the rules, 47 CFR §§ 1.415, 1.419, and 1.420, interested parties may file comments, including counterproposals, on the *NPRM* in MB Docket No. 24-152 and RM-11982 on or before thirty (30) days after publication in the Federal Register and reply comments on or before forty five (45) days after publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[26] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, 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). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[27] 47 CFR § 73.622(j).

[28] *See* 44 U.S.C. §§ 3501-3520.

[29] *See* 44 U.S.C. § 3506(c)(4).

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j), Table of	)	MB Docket No. 24-153
Allotments, Television Broadcast Stations	)	RM-11983
(Augusta, Georgia)	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: June 13, 2024 **Released: June 13, 2024**

Comment Date: [30 days after date of publication in the Federal Register]

Reply Comment Date: [45 days after date of publication in the Federal Register]

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division, Media Bureau (Bureau), has before it a petition for rulemaking filed June 7, 2024, by Gray Television Licensee, LLC (Gray), the licensee of WRDW-TV, channel 12, Augusta, Georgia (Station or WRDW-TV).[1] Gray also holds a construction permit to construct a facility on channel 27 at Augusta.[2] Gray now requests that the Bureau substitute channel 12 for channel 27 at Augusta in the Table of TV Allotments,[3] with the technical parameters as set forth in WRDW-TV's current license.[4]

II. BACKGROUND

2. On May 15, 2021, the Bureau granted a petition for rulemaking submitted by Gray to substitute channel 27 for channel 11 at Augusta for WRDW-TV.[5] On June 25, 2021, Gray was granted a construction permit for its new channel, which is scheduled to expire on June 25, 2024. In its Petition, Gray states that it will be unable to complete construction of the channel 27 facility by the expiration date.[6] Thus, Gray requests amendment of the Table of TV Allotments to allow it to continue to operate on channel 12. Gray proposes to specify the technical parameters of its currently licensed channel 12 facility.

III. DISCUSSION

3. We believe that the Petitioner's channel substitution proposal for WRDW-TV warrants consideration. WRDW-TV is currently operating on channel 12 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. Given that Gray proposes to utilize its currently

[1] Petition of Gray Television Licensee, LLC for Rulemaking (filed June 7, 2024), on file at LMS File No. 00000000245959 (Petition).

[2] LMS File No. 0000150357.

[3] 47 CFR § 73.622(j).

[4] File No. BLCDT-20090227ABQ.

[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] Petition at 2.

licensed parameters, we believe channel 12 can be substituted for channel 27 at Augusta as proposed, in compliance with the principal community coverage requirements of section 73.618(a) of the Commission's rules (rules),[7] at coordinates 33-24'-37" N. and 081-50'-36.0" W. In addition, we find that this channel change meets the technical requirements set forth in section 73.622(a) of the rules.[8]

4. We propose to substitute channel 12 for channel 27 for WRDW-TV at Augusta with the following specifications:

City and State	DTV Channel	DTV Power (kW)	Antenna HAAT (m)
Augusta, Georgia	12	20.2	483.6

5. Accordingly, we seek comment on the proposed amendment of the Table of TV Allotments, section 73.622(j) of the rules,[9] for the community listed below, to read as follows:

	Channel No.	
City and State	Present	Proposed
Augusta, Georgia	27, 28, 36	12, 28, 36

IV. PROCEDURAL MATTERS

6. *Showings Required*. Comments are invited on the proposal discussed in this Notice of Proposed Rulemaking (*NPRM*). The Petitioner or any proponent that expresses interest in the allotment will be expected to answer whatever questions are presented in initial comments. The petitioner of a proposed allotment is required to file comments even if it only resubmits or incorporates by reference its former pleadings. The petitioner must restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly.[10] Failure to file may lead to denial of the request. Any requests by a proponent for withdrawal or dismissal of an allotment request must be filed with the Commission in accordance with section 1.420(j) of the rules.[11]

7. *Cut-off Protection*. The following procedures will govern the consideration of the filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.[12]

[7] 47 CFR § 73.618(a) (formerly § 73.623(c)). The Commission recently amended its television rules to reflect the transition from analog to digital-only operations, the completion of the post-incentive auction transition, and to reorganize a portion of the part 73 rules to make them easier to find and more practical for users. *See Media Bureau Announces March 4, 2024 Effective Date for All Revisions to Part 73 Commission Rules for Full Power and Class A Television Stations*, MB Docket No. 22-227, Public Notice, DA 24-196 (rel. Mar. 4, 2024); *Amendment of Part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Report and Order, FCC 23-72 at para. 40 (Sept. 19, 2023) (*Part 73 Amendment R&O*).

[8] 47 CFR § 73.622(a) (formerly §§ 73.616 and 73.623). *See also supra* n.5 and *Part 73 Amendment R&O* at para. 40.

[9] 47 CFR § 73.622(j).

[10] *See, e.g., Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-279, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

[11] 47 CFR § 1.420(j).

[12] 47 CFR § 1.420(d).

(b) The filing of a counterproposal may lead the Commission to allot a different channel than was requested in the Petition.[13]

8. *Comments and Reply Comments*. Pursuant to sections 1.415, 1.419, and 1.420 of the rules,[14] 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).[15]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://apps.fcc.gov/ecfs/. Parties that choose to file electronically only need to submit one copy of each filing so long as the submission conforms to all procedural and filing requirements. Online filing is optional.
- 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 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. Any paper filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary. Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington D.C. 20554.
  - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.[16]
  - During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

9. *Service.* Pursuant to section 1.420 of the rules,[17] all submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments.[18] Additionally, a copy of such comments should be served on counsel for petitioner, as follows:

Joan Stewart, Esq.
Wiley Rein LLP
1776 K Street, NW
Washington, D.C. 20006

[13] 47 CFR § 1.420(g)(2).

[14] 47 CFR §§ 1.415, 1.419, and 1.420.

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

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

[17] 47 CFR § 1.420.

[18] *See* 47 CFR §1.420(a), (b) and (c).

10. *Ex Parte Notices– Restricted*. The proceeding this Notice initiates shall be treated as a "restricted" proceeding in accordance with the Commission's *ex parte* rules.[19] For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a notice of proposed rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court.[20] An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding.[21] However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement.[22] Any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

11. *Providing Accountability Through Transparency Act*. The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule.[23] Accordingly, the Commission will publish the required summary of this Notice of Proposed Rulemaking on https://www.fcc.gov/proposed-rulemakings.

12. *Availability of Documents*. Comments, reply comments, and *ex parte* submissions will be available for public inspection via ECFS (http://apps.fcc.gov/ecfs/). Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

13. *Paperwork Reduction and Regulatory Flexibility*. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,[24] do not apply to a rulemaking proceeding to amend the Table of TV Allotments, section 73.622(j) of the rules.[25] This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995.[26] In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.[27]

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[19] 47 CFR §§ 1.1200 *et seq.*

[20] 47 CFR § 1.1208.

[21] 47 CFR § 1.1204(a)(10).

[22] 47 CFR § 1.1204(a)(10)(ii). In addition, an oral presentation in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay is permitted. A detailed summary of the presentation must be filed in the record and served by the person making the presentation on the other parties to the proceeding, who may respond in support or opposition to the request for expedition, including by oral *ex parte* presentation, subject to the same service requirement. 47 CFR § 1.1204(a)(11).

[23] 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act, Pub. L. No. 118-9 (2023), amended section 553(b) of the Administrative Procedure Act.

[24] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, 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). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[25] 47 CFR § 73.622(j).

[26] *See* 44 U.S.C. §§ 3501-3520.

[27] *See* 44 U.S.C. § 3506(c)(4).

14. *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).

15. *Additional Information*. For further information concerning the proceeding listed above, contact Joyce Bernstein, Video Division, Media Bureau, Joyce.Bernstein@fcc.gov.

V. ORDERING CLAUSES

16. **IT IS ORDERED** that, pursuant to authority found in 47 U.S.C. sections 4(i), 5(c)(1), 303(g) and (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 PROPOSED TO AMEND** the Table of TV Allotments, section 73.622(j) of the rules, 47 CFR § 73.622(j), as set forth in this *NPRM*, and this *NPRM* **IS ADOPTED.**

17. **IT IS FURTHER ORDERED** that, pursuant to applicable procedures set forth in sections 1.415, 1.419, 1.420 of the rules, 47 CFR §§ 1.415, 1.419, and 1.420, interested parties may file comments, including counterproposals, on the *NPRM* in MB Docket No. 24-153 and RM-11983 on or before thirty (30) days after publication in the Federal Register and reply comments on or before forty five (45) days after publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Connect America Fund Phase II Auction	)	AU Docket No. 17-182
	)	

ORDER

Adopted: June 12, 2024 **Released: June 12, 2024**

By the Chief, Wireline Competition Bureau:

1. In this Order, we grant RiverStreet Communications of North Carolina, Inc. (RiverStreet) a limited waiver of the Commission's Connect America Fund (CAF) Phase II auction service milestone and non-compliance rules to permit RiverStreet to pay early a portion of the required support recovery for defaulting on eligible census blocks within census block groups (CBGs) in its CAF Phase II auction-funded service area.[1] Our grant of this limited waiver serves the public interest because we are able to safeguard the public's funds by recovering support early for CBGs RiverStreet will not serve pursuant to its CAF Phase II auction obligations. At the same time, our limited waiver enables RiverStreet to come into compliance with its CAF Phase II auction obligations in its remaining CBGs, allowing RiverStreet to continue receiving support, so that RiverStreet can serve consumers with voice and broadband in these CBGs.

I. BACKGROUND

2. For the CAF Phase II auction, carriers must offer voice and broadband service meeting the relevant performance requirements to a set number of locations by certain interim service milestones.[2] The number of locations they are required to serve is based on the Connect America Cost Model's estimate of how many locations are in the eligible census blocks in the carrier's service area, and compliance with service milestones is determined on a state-level basis—i.e., the Bureau will confirm a carrier is serving the required location totals across all of its eligible census blocks within a state, rather than on a census block-by-census block basis.[3] More specifically, CAF Phase II auction carriers must offer voice and broadband service meeting the relevant performance obligations to 40% of the required number of locations by December 31, 2022; 60% of the required number of locations by December 31,

[1] Petition for Waiver of RiverStreet Communications of North Carolina, Inc., WC Docket No. 10-90 (filed May 22, 2024) (RiverStreet Waiver Petition).

[2] 47 CFR § 54.310(a), (c); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 31 FCC Rcd 5949, 5964, para. 40 (2016) (*CAF Phase II Auction Order*); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, 35 FCC Rcd 109, 112, para. 9 (2020).

[3] *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 46.

2023; 80% of the required number of locations by December 31, 2024; and 100% of the required number of locations by December 31, 2025.[4]

3. The Commission takes compliance with the terms and conditions of the CAF Phase II auction support program seriously and imposes non-compliance measures if the requirements are not met. If a CAF Phase II auction carrier fails to meet the interim service milestones, it will be subject to non-compliance measures that scale with the extent of non-compliance, including additional reporting requirements, withholding of future support, and recovery of support already paid.[5] For the final 100% service milestone, if a CAF Phase II auction carrier fails to serve at least 95% of its required number of locations, the Commission requires that the Bureau recover "an amount of support that is equal to 1.89 times the average amount of support per location received in the state over the six-year period for the relevant number of locations the [carrier] has failed to offer service to, plus 10 percent of the [carrier's] total [CAF] Phase II support received in the state over the six-year period for deployment."[6] Carriers must pay the required support recovery within six months after support recovery is initiated, or the Bureau will direct the Universal Service Administrative Company (USAC or Administrator) to draw on the carrier's letter of credit.[7] CAF Phase II auction carriers are also subject to other non-compliance measures including, but not limited to, the Commission's enforcement procedures and penalties, reductions in support amounts, potential revocation of Eligible Telecommunications Carrier (ETC) designation, and suspension or debarment.[8]

4. In July 2019, RiverStreet was authorized to receive $679,130.10 over 10 years to serve 368 locations in North Carolina with voice and broadband at the Gigabit performance tier with Low Latency.[9] RiverStreet sent a letter in March 2024 to the Bureau notifying us that it would not serve three North Carolina CBGs in its CAF Phase II auction-funded area.[10] The Bureau announced in April 2024 that RiverStreet defaulted on the eligible census blocks within these North Carolina CBGs, covering 234 locations.[11] At the same time, we directed USAC to stop future support payments for the defaulted area and indicated that recovery of support already paid for these areas would occur at the end of the deployment period consistent with the Commission's rules.[12] When RiverStreet notified the Bureau

[4] 47 CFR § 54.310(c); *CAF Phase II Auction Order*, 31 FCC Rcd at 5964, para. 40.

[5] 47 CFR § 54.320(d); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15694-700, paras. 142-54 (2014) (*2014 Connect America Order*) (adopting a framework for support reductions, support recovery, and reporting obligations that are calibrated to the extent of a carrier's non-compliance with service milestones).

[6] 47 CFR § 54.320(d)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191. If a CAF Phase II auction carrier serves at least 95% of its total number of required locations but less than 100%, it will be required to return support for the unserved locations that is equal to the average support per location in the state times 1.89. 47 CFR § 54.310(c)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 45. A CAF Phase II auction carrier has one year after the final service milestone to cure its non-compliance before we will initiate support recovery. 47 CFR § 54.320(d)(2).

[7] 47 CFR § 54.315(c)(4)(i); *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191.

[8] 47 CFR § 54.320(c).

[9] *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids*, AU Docket No. 17-182 et al., Public Notice, 34 FCC Rcd 5966, Attach. A (WCB/OEA 2019).

[10] Letter from Carri Bennet, Counsel to RiverStreet Communications of North Carolina, Inc., to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, WC Docket No. 10-90 et al. (filed Mar. 13, 2024).

[11] *Wireline Competition Bureau Announces Certain RDOF and CAF Phase II Auction Census Block Groups are Eligible for Other Funding Programs*, AU Docket No. 20-34 et al., Public Notice, DA 24-357 (WCB Apr. 15, 2024) (*RiverStreet Post-Authorization Default Public Notice*).

[12] *Id.* at 3-5.

before the six-year deployment period had ended that it would not serve the identified census blocks, we were able to notify other federal agencies and the North Carolina Division of Broadband and Digital Equity that the census blocks were eligible for funding from other federal and state funding programs subject to the rules of those programs, furthering our responsibility to coordinate with other agencies to maximize the deployment of high-quality broadband service to consumers across the United States.[13] To promote the efficient use of broadband funding, a number of funding programs make areas ineligible for broadband deployment funding where a service provider is already subject to an enforceable commitment to serve.[14] Our announcement avoided leaving consumers in these areas unserved for the duration of the CAF Phase II auction deployment period,[15] because providers in these areas may now have access to alternative funding to serve these areas.[16]

5. *RiverStreet's Waiver Petition*. On May 22, 2024, after consulting with Bureau staff regarding its support recovery options, RiverStreet filed a petition seeking waiver of section 54.320 of the Commission's rules and requested to pay the required support recovery early rather than wait until the end of the six-year deployment period and then have the number of locations in the defaulted census blocks

[13] 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.*) (BICA) (requiring the Federal Communications Commission, the Department of Agriculture, and the National Telecommunications and Information Administration to "enter into an interagency agreement requiring coordination between the covered agencies for the distribution of funds for broadband deployment . . . ."). On June 25, 2021, the agencies announced that they had entered into an agreement. 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-sign-interagency-pact-broadband-funding-deployment (last visited Feb. 28, 2024) (FCC, NTIA and USDA Interagency Agreement Press Release). In an effort to further facilitate broadband deployment funding coordination, on May 9, 2022, the FCC, USDA, and NTIA entered into an interagency agreement with the Department of Treasury. 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.

[14] *See, e.g.*, Department of Commerce, National Telecommunications and Information Administration, Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity at 36-37 & n.52 (May 13, 2022), https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf (explaining that any location that is already subject to an enforceable commitment for the deployment of qualifying broadband cannot be treated as unserved or underserved); Department of Commerce, National Telecommunications and Information Administration, Tribal Broadband Connectivity Program Round 2 Notice of Funding Opportunity at 10-11, 28 (July 27, 2023), https://www.ntia.gov/sites/default/files/2023-07/ntia-tbcp-round2-nofo.pdf ("A Tribal Government may not certify Tribal Lands covered under an Enforceable Buildout Commitment as defined [in the NOFO] . . ., as Unserved"); Department of Agriculture, Rural Utilities Service, Corrected Notice of Funding Opportunity for the Community Connect Grant Program for Fiscal Year 2023, 88 Fed. Reg. 87750, 87751 (Dec. 19, 2023) ("Areas receiving, or areas that have received final approval for, other federal funding to construct terrestrial facilities providing at least 10/1 Mbps service in the project Proposed Funded Service Area as of the date of this notice, and which have been reported to the agency, are ineligible."); Department of Agriculture, Rural Utilities Service, Rural eConnectivity (ReConnect) Program Notice of Funding Opportunity, 89 Fed. Reg. 13035, 13036 (Feb. 21, 2024) (defining an enforceable commitment to mean "a legally enforceable obligation by any federal, state, or local agency, utilizing Federal Funds, to provide broadband service with speeds of at least 100 megabits per second (Mbps) downstream and 20 (Mbps) upstream"); Department of Treasury, Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States, at 3-4 (Sept. 2021), https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf ("To the extent Recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable wireline service at speeds of at least 100 Mbps of download speed and 20 Mbps of upload speed, the Recipient should ensure that the Capital Projects Fund grant funding will not be used for costs that will be reimbursed by the other federal or state funding stream(s). That is, Capital Projects Fund grant funds must be used only for complementary purposes.").

[15] 47 CFR § 54.310(c); *CAF Phase II Auction Order*, 31 FCC Rcd at 5964, para. 40.

[16] *See* RiverStreet Waiver Petition at 3.

removed from RiverStreet's required location total.[17] RiverStreet missed the 40% and 60% service milestones and is currently in non-compliance Tier 4.[18] RiverStreet claims that if the defaulted locations were removed from its required location total, RiverStreet will have deployed to enough other locations to come into compliance with its service milestones and no longer be subject to the withholding and potential recovery of support required by Tier 4.[19]

II. DISCUSSION

6. Generally, the Commission's rules may be waived for good cause shown.[20] 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.[21]

7. We grant a limited waiver to the extent described herein of sections 54.310(a) and (c), 54.315(c)(4)(i), and 54.320(d) of the Commission's rules and the requirement that compliance be determined at the state level.[22] Rather than wait until the end of the deployment period to determine compliance with the final service milestone at a state-level basis and initiate support recovery as contemplated by the rules,[23] we direct USAC to initiate the recovery of a portion of the required support now, which is subject to a later true-up process, and then recover the remaining required support recovery at the end of the sixth year deployment process, as described in more detail below. Pursuant to section 54.320(c) of the Commission's rules, we have already suspended support associated with the census blocks where RiverStreet has defaulted, and we will make no further support payments associated with those census blocks.[24] Once RiverStreet has paid the required early support recovery for defaulted census blocks, we will remove the defaulted locations from its required location total for purposes of determining compliance with service milestones moving forward.

8. We find good cause to provide a limited waiver of the Commission's service milestone and support recovery rules to initiate a portion of the required support recovery now and adjust the required location totals to remove locations in the defaulted census blocks. We conclude special circumstances exist.[25] The Commission specifically adopted the non-compliance tiers and support recovery rules to

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[17] *See generally* RiverStreet Waiver Petition. RiverStreet also requested "waiver of any other relevant FCC rules that may be needed to be waived to allow for the relief requested herein." *Id.* at 1 n.1.

[18] RiverStreet Waiver Petition at 2. A carrier is in Tier 4 because it has a compliance gap of 50% or more of the number of locations that it is required to have built out to by the interim service milestone. USAC will withhold 50% of such carrier's monthly support for the state and the carrier must file quarterly reports on its deployment status. 47 CFR § 54.320(d)(1)(iv)(A). If after having 50% of its support withheld for six months, a CAF Phase II auction carrier has not certified serving more than 50% of the required number of locations, USAC will withhold 100% of the carrier's CAF Phase II auction monthly support and will commence a recovery action for a percentage of support that is equal to the carrier's compliance gap plus 10% of the support that has been disbursed to date. 47 CFR § 54.320(d)(1)(iv)(B).

[19] RiverStreet Waiver Petition at 2.

[20] 47 CFR § 1.3.

[21] *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)).

[22] 47 CFR §§ 54.310(a) & (c), 54.315(c)(4)(i), 54.320(d); *CAF Phase II Auction Order*, 31 FCC Rcd at 5966, para. 46.

[23] 47 CFR § 54.320(d)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191.

[24] 47 CFR § 54.320(c); *RiverStreet Post-Authorization Default Public Notice* at 3-5.

[25] Letter from Carri Bennet, Counsel to RiverStreet Communications of North Carolina, Inc., to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, WC Docket No. 10-90 et al. (filed Mar. 13, 2024).

encourage carriers to come back into compliance with the service milestones.[26] However, the incentives are not applicable to the census blocks where RiverStreet has already defaulted, because RiverStreet has no intention of coming back into compliance and serving these census blocks pursuant to its CAF Phase II auction obligations.

9. We also conclude it serves the public interest to provide RiverStreet with the opportunity to pay a portion of the support recovery early and then be able to demonstrate compliance with its future service milestones for its remaining locations. By permitting RiverStreet to pay a portion of the support recovery early and having its location total adjusted to remove the defaulted locations, RiverStreet will be in compliance for the remainder of the six-year deployment CAF Phase II auction period to the extent it otherwise meets its deployment obligations in its remaining census blocks.[27] This means RiverStreet will not be subject to the support withholding that may otherwise be required if RiverStreet were unable to meet future interim service milestones due to defaulting early in the census blocks.[28] Instead, RiverStreet will continue to receive CAF Phase II auction support payments for its remaining census blocks to serve consumers as required.[29] Moreover, access to other financing needed to serve consumers will not be disrupted due to being out of compliance with CAF Phase II auction obligations. Recovering support early also has the benefit of furthering our role as stewards of the public's funding and our obligation to implement safeguards to ensure that high-cost funds are being used for their intended purpose.[30] By recovering support that has been allocated to areas RiverStreet has no intention of serving, we reduce the risk that the public's funds will be used improperly.

10. The approach we take here also underscores the importance the Commission places on ensuring that service providers meet their service milestones. Although RiverStreet will pay some of the required support recovery early, it will still be subject to the similar support recovery as if it had notified the Commission after the deployment period that it would not serve the required number of locations. The Commission will fully recover support paid for the defaulted locations, and in the future the Commission would recover support for any additional locations that RiverStreet failed to serve. While there may be some benefits to the carrier associated with us stopping support for the early defaulted CBGs early and reducing the location total for purposes of determining compliance with service milestones moving forward, we conclude that any benefits to RiverStreet are incidental and outweighed by the administrative simplicity of being able to determine compliance based on locations that RiverStreet still intends to serve and ensuring that support is being recovered for areas that RiverStreet has already indicated it will not serve.

11. To implement the early support recovery path, we direct USAC to recover support as follows for RiverStreet. Section 54.320(d)(2) of the Commission's rules requires that we initiate support recovery for three different components at the end of the six-year deployment period after an opportunity to cure: 1) "support received"—i.e., average amount of support per location received for unserved locations over the six-year deployment period, 2) a "multiplier" calculation—i.e., .89 times the average amount of

[26] *2014 Connect America Order*, 29 FCC Rcd at 15697, para. 148 n.328 ("Our overriding objective is to create a framework that incents full performance.").

[27] RiverStreet Waiver Petition at 2. RiverStreet claims that "within the next several months" RiverStreet expects to meet the 80% interim service milestone in its remaining census blocks. *Id.* at 2 n.6.

[28] 47 CFR § 54.320(d)(1).

[29] RiverStreet Waiver Petition at 3 ("[T]o deny a waiver would impose undue financial burdens on RiverStreet, and potentially slow its buildout efforts for the remainder of the process.").

[30] 47 U.S.C. § 254(e) ("A carrier that receives [universal service] support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.").

support per location received over the six-year deployment period,[31] and 3) an "extra percentage"—i.e., 10% of CAF Phase II auction support received over the six-year deployment period.[32]

12. Pursuant to this limited waiver, rather than wait until the end of the six-year deployment period, we direct USAC to initiate recovery upon release of this Order: 1) "support received"—CAF II auction support that the carrier has already received for the early defaulted census blocks,[33] and 2) the "extra percentage"—10% of support that we project over the six-year deployment period.[34] At the end of the six-year deployment period and after the year cure period, we direct USAC to recover: 1) "support received" for any additional unserved locations over the six-year deployment period and 2) the "multiplier"—an amount of support that is equal to .89 times the average amount of support per location received in the state over the six-year period for all locations that the carrier did not serve, including the locations in the early defaulted census blocks.[35]

13. At the end of the six-year deployment period and after the year cure period, USAC shall also recalculate the "extra percentage" based on support the carrier has actually received at the end of six years. If this amount is lower than the amount of "extra percentage" support we recovered earlier when we projected 10% of support received over the six-year deployment period, USAC shall true up the carrier's support so that it is reimbursed for the difference between what we projected versus what it actually received. If the actual amount is more than the amount of "extra percentage" support we collected earlier, the carrier shall pay the difference as part of its support recovery.[36]

14. We direct USAC to issue an invoice to RiverStreet for the support issued for the defaulted locations as soon as practicable. RiverStreet has six months from the date of USAC's invoice to repay the support for the defaulted locations.[37] If it does not repay the required support amount within six months, it will remain subject to the Commission's service milestone and non-compliance rules, and support

[31] 47 CFR § 54.320(d)(2) requires that we recover support that is "equal to 1.89 times the average amount of support per location received in the support area for that carrier over the term of support for the relevant number of locations," but we already recover the "1" portion of the 1.89 when we recover "support received," so the "multiplier" is ".89" rather than 1.89.

[32] 47 CFR § 54.320(d)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191.

[33] This support recovery will be calculated as (all disbursements up to when we stopped payments for the early defaulted census blocks/total number of originally authorized locations) x (number of early defaulted locations).

[34] In projecting the support that the carrier would receive over the six-year deployment period, we direct USAC to recover: .10 x support projected over the six-year deployment period (i.e., all support received to date + full originally authorized monthly support amount for the remaining months of the six-year deployment period). Because we are unable to estimate how much support a carrier will actually receive over the six-year deployment period, we find that it serves the public interest to protect the funds by calculating projected support as if the carrier was in full compliance for the remainder of the six-year deployment period and then true up the carrier's support at the end of the six-year deployment period as described herein.

[35] For administrative simplicity and to minimize the true-ups we would have to do at the end of the deployment period as we would otherwise have to project the support that the carrier would receive by the end of the deployment period, we will recover the "multiplier" calculation for locations in the early defaulted census blocks at the end of the deployment period so that we can base the calculation on support actually received.

[36] Because RiverStreet has already defaulted on more than 5% of its total locations in North Carolina, the 95% flexibility will not be an option for RiverStreet at the end of the deployment term. 47 CFR § 54.310(c)(2); *CAF Phase II Auction Order*, 31 FCC Rcd at 5965-66, paras. 44-46.

[37] The requirement that RiverStreet pay the support recovery within six months is consistent with the requirement that CAF Phase II auction carriers pay within six months the section 54.320(d)(2) support recovery that USAC will initiate after the six-year deployment period and one year cure period. 47 CFR § 54.315(c)(4)(i); *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191.

recovery will occur at the end of the deployment period.[38] Once RiverStreet has paid the required support recovery, we will remove the locations associated with the defaulted census blocks from its deployment obligation. The new location total will be used to determine if RiverStreet has met interim service milestones and the final service milestone. RiverStreet can also reduce the value of its letter of credit to reflect its reduced support amounts moving forward.[39] RiverStreet remains subject to the Commission's rules for its remaining CAF Phase II auction-funded census blocks, including the requirement that it test and certify compliance with the relevant performance requirements and pay the associated support recovery if it does not comply.[40]

III. ORDERING CLAUSES

15. 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.

16. IT IS FURTHER ORDERED that the petition for limited waiver of RiverStreet Communications of North Carolina, Inc. is GRANTED to the extent described herein.

17. IT IS FURTHER ORDERED that, pursuant to section 54.320(d)(2) of the Commission's rules, 47 CFR § 54.320(d)(2), and the limited waiver granted by the Bureau, the Administrator will recover high-cost support from RiverStreet Communications of North Carolina, Inc. as described herein.

18. 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

[38] 47 CFR § 54.320(d)(2).

[39] 47 CFR § 54.315(c)(1). Carriers that are out of compliance and that move to the Tier 1 non-compliance tier or come into compliance with their service milestones are entitled to receive withheld or recovered support pursuant to section 54.320(d)(1) of the Commission's rules. 47 CFR § 54.320(d)(1). For any support that was withheld or recovered prior to USAC stopping support for early defaulted CBGs, USAC should reduce the support that is restored on a pro rata basis so that an early defaulting carrier does not receive withheld or recovered support that was allocated to CBGs it will not serve.

[40] 47 CFR § 54.320(d)(2); *Performance Measures for Connect America High-Cost Universal Service Support Recipients*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509 (WCB/WTB/OET 2018).

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 24-561
Released: June 12, 2024

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON EMPOWER BROADBAND, INC.'S PETITION FOR EXPANSION OF ITS ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

WC Docket No. 09-197

Comment Date: July 12, 2024
Reply Comment Date: July 29, 2024

The Wireline Competition Bureau (WCB or Bureau) seeks comment on the petition of EMPOWER Broadband, Inc. (EMPOWER) to expand its Eligible Telecommunications Carrier (ETC) designated service area in Virginia.[1] EMPOWER seeks to expand its ETC designated service area to become eligible to receive Connect America Fund (CAF) Phase II Auction (Auction 903) support associated with certain census blocks (constituting complete census block groups (CGBs)) in Virginia, a subpart of an original CAF II support award authorized to RiverStreet Communications of Virginia, Inc.(RiverStreet).[2] In connection with this ETC petition, EMPOWER and RiverStreet have sought WCB's approval of a section 214 authorization transfer application to assign this support in addition to all rights, obligations, and conditions associated with the receipt of this support, which remains pending.[3]

[1] EMPOWER Broadband, Inc. Petition for Designation as an Expanded Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Communications Act of 1934, WC Docket No. 09-197 (filed May 14, 2024), https://www.fcc.gov/ecfs/document/10514443805984/1 (ETC Petition). EMPOWER has been designated an ETC by the Commission in areas where it has been authorized to receive Connect America Fund (CAF) Phase II Auction and Rural Digital Opportunity Fund (RDOF) support, and as a Lifeline-only ETC in areas where it is not eligible to receive high cost support. *See Telecommunications Carriers Eligible for Universal Service Support, et al*., WC Docket Nos. 09-197, 10-90, Order, 34 FCC Rcd 1966 (WCB 2019) (designating EMPOWER as an ETC in areas where it becomes authorized to receive CAF II support and additional areas for the purpose of becoming eligible to receive only lifeline support); *Connect America Fund II Support Authorized for 856 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 4725, Attach. A at 10 (AU/WCB 2019) (authorizing EMPOWER to receive $1,868,320.00 in CAF II support in Virginia to serve 838 locations); *Telecommunications Carriers Eligible for Universal Service Support, et al.,* WC Docket Nos. 09-197, 10-90, Order, 36 FCC Rcd 9384 (WCB 2021) (designating EMPOWER as an ETC in areas where it becomes authorized to receive RDOF support); *Rural Digital Opportunity Fund Support Authorized For 469 Winning Bids*, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, Public Notice, DA 21-1287, Attach. A (WCB 2021) (authorizing EMPOWER to receive $5,053,914.90 in RDOF support in Virginia to serve 3,602 locations).

[2] *See* ETC Application at 3, Exh. A1, List of Census Blocks in which Petitioner Seeks an Expanded Designation as a High-Cost and Low-Income (Lifeline) Eligible Telecommunications Carrier; *Connect America Fund Phase II Auction Support Authorized for 2,413 Winning Bids,* AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 5966, Attach. A at 118 (AU/WCB 2019) (authorizing RiverStreet to receive $32,140,887.10 in CAF II support to serve 13,518 locations in eligible areas in Virginia).

[3] *See* Domestic Section 214 Application for Consent to Assign Connect America Fund Phase II Auction Funding and Related Buildout and Service Obligations of RiverStreet Communications of Virginia, Inc. by Empower

(continued….)

Accordingly, the expansion of EMPOWER's ETC designated service area to include the Assigned CGBs will be conditioned upon approval of the 214 Transfer Application.[4] EMPOWER also seeks to expand its designation to include additional areas that are not eligible for high cost support but for which it intends to seek Lifeline support, which we will evaluate separately from the general ETC designation request to become eligible to receive support for areas where it may be authorized to receive high cost support.[5]

ETC designation is a prerequisite to receiving universal service support available through the high-cost and Lifeline programs.[6] To receive an ETC designation, a petitioner must, in addition to meeting high-cost program requirements and other related obligations as specified below, offer the Lifeline discount on all qualifying services in areas where it receives high-cost support, deploy a network capable of delivering service that meets the Lifeline program's minimum service standards, and commercially offer such service pursuant to its high-cost obligations.[7]

Requirements for FCC ETC Designation

Section 254(e) of the Communications Act of 1934, as amended (the Act), provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support."[8] Congress gives primary authority for ETC designations to state commissions.[9] The Federal Communications Commission (FCC or Commission) has authority only when "a common carrier [is] providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission."[10] The petitioner for ETC designation must demonstrate that the FCC has jurisdiction and may do so by submitting an "affirmative statement from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission's jurisdiction."[11] The Commission has delegated authority to the Bureau to consider appropriate ETC designation requests.[12]

A petition for ETC designation by the FCC must include: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act; (2) a certification that the petitioner offers or intends to offer the supported services either

(Continued from previous page)

Broadband, Inc., WC Docket No. 24-145 (filed May 14, 2024). Applicants provide a list of each of the CBGs to be assigned (Assigned CGBs). *See* Application, Exh. A (Census Block Groups, Location Figures and 10 Year CAF II Funding Amounts Applicants Propose to Assign from RiverStreet Communications of Virginia, Inc. to EMPOWER Broadband, Inc.) at 1. On May 15, 2024, Applicants filed a supplement to their domestic section 214 application. Supplement to Joint Domestic 214 Application for Consent to Assign Connect America Fund Phase II Auction Funding and Related Buildout and Service Obligations, WC Docket No. 24-145 (filed May 15, 2024) (Supplement).

[4] We will define the expanded designated service area based on the published list of CAF-eligible census blocks associated with the assigned CGBs, thus superseding any discrepancies in the ETC petition's descriptions of such areas. *See* Connect America Fund Phase II: Assignments - Assigned Census Blocks, https://auctiondata.fcc.gov/public/projects/auction903/reports/all_assigned_census_blocks.

[5] ETC Petition at 3; *id*. at Exh. A2, List of Census Blocks in which Petitioner Seeks Designation Solely as a Low-Income (Lifeline) Eligible Telecommunications Carrier.

[6] 47 U.S.C. § 254(e).

[7] 47 CFR part 54, subparts D, K, L, M.

[8] 47 U.S.C. § 254(e).

[9] *Id.* § 214(e)(2).

[10] *Id.* § 214(e)(6).

[11] *See Federal-State Joint Board on Universal Service et al*., CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12267, para. 120 (2000); 47 U.S.C. § 214(e)(6).

[12] *See Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

using its own facilities or a combination of its own facilities and resale of another carrier's services;[13] (3) a description of how the petitioner advertises the availability of the supported services and the charges therefor using media of general distribution;[14] (4) a detailed description of the geographic service area for which the petitioner requests to be designated as an ETC;[15] and (5) a certification that neither the petitioner, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.[16]

In addition, a petitioner must demonstrate its ability to meet certain service standards. A petitioner seeking an ETC designation for purposes of becoming eligible to receive high cost support must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) demonstrate its ability to remain functional in emergency situations; and (3) demonstrate its ability to satisfy applicable consumer protection and service quality standards.[17] To receive a Lifeline-only ETC designation, a petitioner must specifically commit to meeting Lifeline consumer enforcement and certification standards and describe how it intends to meet such standards.[54] Further, prior to designating a petitioner as an ETC pursuant to section 214(e)(6) of the Act, the Commission must determine whether such designation is in the public interest.[18]

Comment Filing Requirements

Interested parties may file **comments on or before July 12, 2024** and **replies on or before July 29, 2024.** All pleadings must reference **WC Docket No. 09-197**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[19]

- *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs.
- *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

[13] 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(1).

[14] 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(2).

[15] An ETC's "service area" is set by the designating authority and is the geographic area within which an ETC has universal service obligations and may receive universal service support. 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a). Although section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), requires conformance of a competitive ETC's service area and an incumbent rural telephone company's service area, the Commission has separately forborne from imposing such requirements on Auction 904 support recipients. *See Rural Digital Opportunity Fund; Connect America Fund*, WC Docket Nos. 19-126, 10-90, Report and Order, 35 FCC Rcd 686, 728, paras. 93-94 (2020).

[16] 21 U.S.C. § 862; 47 CFR § 1.2002(a)–(b).

[17] *See* 47 CFR § 54.202(a).

[18] 47 U.S.C. § 214(e)(6); 47 CFR § 54.202(b). For CAF II support recipients, the Bureau waived certain requirements in section 54.202 of the Commission's rules and adopted a presumption that designation will serve the public interest. W*CB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier,* WC Docket Nos. 09-197 and 10-90, Public Notice, 33 FCC Rcd 6696, 6699-6701 (WCB 2019). Because EMPOWER will stand in the shoes of RiverStreet with respect to service and support for the Assigned CGBs if the 214 Transfer Application is approved, the Bureau finds that EMPOWER is in the same position as an Auction 903 awardee with respect to a future ETC designation conditioned upon such approval and is entitled to the same waivers and presumption.

[19] *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998); 63 Fed. Reg. 24121 (1998).

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.[20]

Additional Copies. Parties should send a copy of their filings to by e-mail to Nissa.Laughner@fcc.gov.

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

Permit but Disclose Ex Parte Communications. For the purposes of the Commission's *ex parte* rules, each petition submitted pursuant to section 214(e)(6) will be treated as initiating a permit-but-disclose proceeding under the Commission's rules.[21] 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).[22] 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.[23] 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.[24] 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).[25] 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).[26] Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

[20] *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.

[21] *See* 47 CFR § 1.1206.

[22] *Id*. § 1.1206(b)(2)(iii).

[23] *Id*. § 1.1206(b)(1).

[24] *Id*.

[25] *Id*. § 1.1206(b)(2).

[26] *Id*. § 1.1206(b)(2)(i); *see also id.* § 1.49(f).

For additional information on this proceeding, please contact Nissa Laughner Nissa.Laughner@fcc.gov of the Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400.

-FCC-

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j), Table of	)	MB Docket No. 24-176
Allotments, Television Broadcast Stations	)	RM-11984
(Cape Girardeau, Missouri)	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: June 28, 2024 **Released: June 28, 2024**

Comment Date: [30 days after date of publication in the Federal Register]

Reply Comment Date: [45 days after date of publication in the Federal Register]

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Video Division, Media Bureau (Bureau), has before it a petition for rulemaking filed June 7, 2024, by Gray Television Licensee, LLC (Gray), the licensee of KFVS-TV, channel 11, Cape Girardeau, Missouri (Station or KFVS-TV).[1] Gray held a construction permit to construct a facility on channel 32 at Cape Girardeau.[2] Gray now requests that the Bureau substitute channel 11 for channel 32 at Cape Girardeau in the Table of TV Allotments,[3] with the technical parameters as set forth in KFVS-TV's current license.[4]

II. BACKGROUND

2. On May 5, 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] On June 23, 2021, Gray was granted a construction permit for its new channel, with an expiration date of June 23, 2024. In its Petition, Gray stated that it would be unable to complete construction of the channel 32 facility by the expiration date.[6] Thus, Gray requests amendment of the Table of TV Allotments to allow it to continue to operate on channel 11. Gray proposes to specify the technical parameters of its currently licensed channel 11 facility.

[1] Petition of Gray Television Licensee, LLC for Rulemaking (filed June 7, 2024), on file at LMS File No. 0000245961 (Petition).

[2] LMS File No. 0000150355.

[3] 47 CFR § 73.622(j).

[4] LMS File No. 0000115816.

[5] *See Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Cape Girardeau, Missouri)*, MB Docket No. 21-50, Report and Order, 36 FCC Rcd 8172 (MB 2021).

[6] Petition at 2. The channel 32 facility was not constructed by June 23, 2024, and the construction permit has been forfeited. *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.").

III. DISCUSSION

3. We believe that the Petitioner's channel substitution proposal for KFVS-TV warrants consideration. KFVS-TV is currently operating on channel 11 and the substitution of channel 11 for channel 32 in the Table of TV Allotments will allow the Station to remain on the air and continue to provide service to viewers within its service area. Given that Gray proposes to utilize its currently licensed parameters, we believe channel 11 can be substituted for channel 32 at Cape Girardeau as proposed, in compliance with the principal community coverage requirements of section 73.618(a) of the Commission's rules (rules),[7] at coordinates 37-25'-44.7" N. and 089-30'-14.2" W. In addition, we find that this channel change meets the technical requirements set forth in section 73.622(a) of the rules.[8]

4. We propose to substitute channel 11 for channel 32 for KFVS-TV at Cape Girardeau with the following specifications:

City and State	DTV Channel	DTV Power (kW)	Antenna HAAT (m)
Cape Girardeau, Missouri	11	11.8	609

5. Accordingly, we seek comment on the proposed amendment of the Table of TV Allotments, section 73.622(j) of the rules,[9] for the community listed below, to read as follows:

	Channel No.	
City and State	Present	Proposed
Cape Girardeau, Missouri	32, 36	11, 36

IV. PROCEDURAL MATTERS

6. *Showings Required*. Comments are invited on the proposal discussed in this Notice of Proposed Rulemaking (*NPRM*). The Petitioner or any proponent that expresses interest in the allotment will be expected to answer whatever questions are presented in initial comments. The petitioner of a proposed allotment is required to file comments even if it only resubmits or incorporates by reference its former pleadings. The petitioner must restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly.[10] Failure to file may lead to denial of the request. Any requests by a proponent for withdrawal or dismissal of an allotment request must be filed with the Commission in accordance with section 1.420(j) of the rules.[11]

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[7] 47 CFR § 73.618(a) (formerly § 73.623(c)). The Commission recently amended its television rules to reflect the transition from analog to digital-only operations, the completion of the post-incentive auction transition, and to reorganize a portion of the part 73 rules to make them easier to find and more practical for users. *See Media Bureau Announces March 4, 2024 Effective Date for All Revisions to Part 73 Commission Rules for Full Power and Class A Television Stations*, MB Docket No. 22-227, Public Notice, DA 24-196 (MB Mar. 4, 2024); *Amendment of Part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Report and Order, FCC 23-72 at para. 40 (Sept. 19, 2023) (*Part 73 Amendment R&O*).

[8] 47 CFR § 73.622(a) (formerly §§ 73.616 and 73.623). *See also supra* n.7 and *Part 73 Amendment R&O* at para. 40.

[9] 47 CFR § 73.622(j).

[10] *See, e.g., Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-279, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

[11] 47 CFR § 1.420(j).

7. *Cut-off Protection*. The following procedures will govern the consideration of the filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.[12]

(b) The filing of a counterproposal may lead the Commission to allot a different channel than was requested in the Petition.[13]

8. *Comments and Reply Comments*. Pursuant to sections 1.415, 1.419, and 1.420 of the rules,[14] 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).[15]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs/.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by 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.[16]
    - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
    - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554

9. *Service.* Pursuant to section 1.420 of the rules,[17] all submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments.[18] Additionally, a copy of such comments should be served on counsel for petitioner, as follows:

Joan Stewart, Esq.
Wiley Rein LLP
1776 K Street, NW
Washington, D.C. 20006

[12] 47 CFR § 1.420(d).

[13] 47 CFR § 1.420(g)(2).

[14] 47 CFR §§ 1.415, 1.419, and 1.420.

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

[16] Hand-delivered or messenger delivered paper filings continue to NOT be accepted at FCC Headquarters.

[17] 47 CFR § 1.420.

[18] *See* 47 CFR §1.420(a), (b) and (c).

10. *Ex Parte Notices– Restricted*. The proceeding this Notice initiates shall be treated as a "restricted" proceeding in accordance with the Commission's *ex parte* rules.[19] For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a notice of proposed rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court.[20] An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding.[21] However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement.[22] Any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

11. *Providing Accountability Through Transparency Act.* The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule.[23] Accordingly, the Commission will publish the required summary of this Notice of Proposed Rulemaking on https://www.fcc.gov/proposed-rulemakings.

12. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection via ECFS (http://apps.fcc.gov/ecfs/). Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

13. *Paperwork Reduction and Regulatory Flexibility*. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,[24] do not apply to a rulemaking proceeding to amend the Table of TV Allotments, section 73.622(j) of the rules.[25] This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995.[26] In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.[27]

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[19] 47 CFR §§ 1.1200 *et seq.*

[20] 47 CFR § 1.1208.

[21] 47 CFR § 1.1204(a)(10).

[22] 47 CFR § 1.1204(a)(10)(ii). In addition, an oral presentation in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay is permitted. A detailed summary of the presentation must be filed in the record and served by the person making the presentation on the other parties to the proceeding, who may respond in support or opposition to the request for expedition, including by oral *ex parte* presentation, subject to the same service requirement. 47 CFR § 1.1204(a)(11).

[23] 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act, Pub. L. No. 118-9 (2023), amended section 553(b) of the Administrative Procedure Act.

[24] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, 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). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[25] 47 CFR § 73.622(j).

[26] *See* 44 U.S.C. §§ 3501-3520.

[27] *See* 44 U.S.C. § 3506(c)(4).

14. 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).

15. *Additional Information*. For further information concerning the proceeding listed above, contact Joyce Bernstein, Video Division, Media Bureau at Joyce.Bernstein@fcc.gov or Mark Colombo, Video Division, Media Burau at Mark.Colombo@fcc.gov.

V. ORDERING CLAUSES

16. **IT IS ORDERED** that, pursuant to authority found in 47 U.S.C. sections 4(i), 5(c)(1), 303(g) and (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 PROPOSED TO AMEND** the Table of TV Allotments, section 73.622(j) of the rules, 47 CFR § 73.622(j), as set forth in this *NPRM*, and this *NPRM* **IS ADOPTED.**

17. **IT IS FURTHER ORDERED** that, pursuant to applicable procedures set forth in sections 1.415, 1.419, 1.420 of the rules, 47 CFR §§ 1.415, 1.419, and 1.420, interested parties may file comments, including counterproposals, on the *NPRM* in MB Docket No. 24-176 and RM-11984 on or before thirty (30) days after publication in the Federal Register and reply comments on or before forty five (45) days after publication in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

Federal Communications Commission
Washington, D.C. 20554

June 13, 2024

DA 24-563
In Reply Refer to:
1800B3-JCB
Released: June 13, 2024

Athens State University
c/o Troy Adair
300 N Beaty St.
Athens, AL 35611
troy.adair@athens.edu

Re: **Athens State University**
New LPFM, Athens, Alabama
Facility ID No. 784986
Application File No. 0000232649

Petition for Reconsideration

Dear Applicant:

We have before us the Petition for Reconsideration (Petition)[1] filed by Athens State University (Petitioner or ASU), seeking reconsideration of the Media Bureau's (Bureau) dismissal of Petitioner's application (Application) for a construction permit for a new low power FM (LPFM) station at Athens, Alabama.[2] For the reasons set forth below, we deny the Petition.

Background. Petitioner filed the Application during the 2023 LPFM Filing Window.[3] On January 19, 2024, Bureau staff dismissed the Application for failure to meet the minimum distance spacing requirements of section 73.807(a)[4] of the Commission's rules (Rules), with respect to 1) the co-channel licenses of stations WAKD(FM), Sheffield, Alabama, and WZTN(FM), Cornersville, Tennessee, and 2) the first-adjacent channel license of station WJOU(FM), Huntsville, Alabama. The staff also noted that an amendment was not permitted under section 73.870(c) of the Rules.[5]

In the Petition, Petitioner seeks reinstatement of the Application so it can change the proposed Station channel to Channel 250 to comply with the section 73.807 spacing requirements.[6] Petitioner: 1) claims that student members of ASU's college radio station incorrectly entered Station Channel 210,

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[1] Pleading File No. 0000239429 (filed Feb. 18, 2024).

[2] Application File No. 0000232649 (filed Dec. 13, 2023).

[3] *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).

[4] *See* 47 CFR § 73.807(a)(1).

[5] *See Broadcast Actions*, Public Notice, Report No. PN-2-240123-01 (MB Jan. 19, 2024) (citing 47 CFR § 73.870(c)) (*Dismissal Public Notice*). *See also* Application File Nos. BLED-20060130APV, BLED-20121119AHN, and BLED-19780906AO (license applications for stations WAKD(FM), WZTN(FM), and WJOU(FM)).

[6] Petition at 1.

instead of ASU's intended Channel 250, in the Application Tech Box, leading to the minimum spacing defect in the Application;[7] 2) states that the selection of Station Channel 210 was a typographic error and that its intent was "technical compliance" with section 73.807 of the Rules;[8] and 3) argues that the Commission dismissed similar LPFM applications in previous LPFM windows due to section 73.807 location typographical errors, but the applicants were permitted to correct their errors, and the Commission reinstated the applications.[9]

Petitioner also argues that there is good cause for requesting a waiver under 73.870(c), which would allow for a curative amendment. Specifically, it asserts that: 1) section 73.870(c) of the Rules conflicts with the public interest and would be outweighed by local benefits derived from a license grant; 2) amendment of the application error *nunc pro tunc* should be permitted because it is "permissible for every other radio broadcast service"; 3) small nonprofits cannot be expected to perfectly fill out the engineering portion of the LPFM application, and therefore, they should be afforded flexibility and the ability to amend application errors; 4) it is "unreasonable" and not in alignment with the public interest for Petitioner to have to wait another decade for an LPFM license because of a typographic error; and 5) granting the waiver request is in the public interest because "[t]he grant of the LPFM service will provide the first truly locally-original[] service for the Athens community and ASU student body via FM."[10]

Discussion. The Commission will consider a petition for reconsideration only when the petitioner shows either a material error in the Commission's original determination, or raises additional facts not known or existing at the time of the petitioner's last opportunity to present such matters.[11] Petitioner has not demonstrated any legal error in the Bureau's dismissal of the Application, nor has it cited any precedent that warrants reinstatement.

Section 73.807 Violation. Bureau staff correctly dismissed the Application for failure to meet the section 73.807(a) co-channel and first- adjacent channel spacing requirements.[12] Specifically, LPFM applicants must protect authorized FM stations, pending applications for new and existing FM stations filed prior to the release of the *Procedures Public Notice*, authorized LPFM stations and vacant FM allotments, by meeting the minimum spacing requirements provided in section 73.807 of the Rules.[13] Pursuant to section 73.870(c), any application submitted during an LPFM filing window that fails to meet the minimum distance separation requirements of section 73.807 will be dismissed without opportunity to amend.[14] Moreover, the *Procedures Public Notice* warned LPFM applicants that, "[c]onsistent with established processing rules, an LPFM application that fails to protect these authorizations, applications, and vacant FM allotments will be *dismissed with no opportunity to correct the deficiency*."[15]

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[7] *Id.* at 2.

[8] *Id.* at 3.

[9] *Id.* (citing Application File Nos. BNPL-20131114AUD, BNPL-20131112ABV, BNPL-20131114AVO, and BNPL-20131114ADG) (collectively, Reinstated 2013 LPFM Applications).

[10] *Id.* at 5-9.

[11] *See* 47 CFR § 1.106(c), (d); *see also WWIZ, Inc.,* Memorandum Opinion and Order, 37 FCC 685, 686 (1964).

[12] *See* 47 CFR § 73.807(a)(1).

[13] *See id.*.

[14] *See id.* § 73.870(c).

[15] *See Procedures Public Notice* at 3 and n.14 (emphasis in original) (citing *Low Power FM Filing Window*, Public Notice, 15 FCC Rcd 24817, 24818 (MB 2000)); *Media Bureau Announces Availability of the Revised FCC Form 318 and the Filing Procedures for October 15-October 29, 2013 Low Power FM Filing Window*, Public Notice, 28 FCC Rcd 8854, 8855 (MB 2013); 47 CFR § 73.870(c)); *see also Christian Charities Deliverance Church*,

In addition, section 3(b)(1) of the Local Community Radio Act of 2010 statutorily bars the Commission from "amend[ing] its rules to reduce the minimum co-channel and first-and second-adjacent channel distance separation requirements" in effect on the date of its enactment, and the Commission cannot waive the co-channel or first-adjacent minimum distance spacing requirements imposed by statute.[16]

The Commission has held that when determining technical acceptability, Bureau staff relies *only* on the technical parameters specified within the Tech Box of the application.[17] Bureau staff does *not* review attachments or information specified elsewhere in the application to resolve discrepancies caused by typographical or other applicant errors.[18] Accordingly, here, the Bureau correctly dismissed the Application because the channel specified in the "Channel and Facility Information" section of the Application failed to meet the minimum distance spacing requirements of section 73.807(a)(1) with respect to the co-channel licenses for stations WAKD(FM) and WZTN(FM), and the first-adjacent channel license for station WJOU(FM). As noted, the Commission has previously held that the Bureau may properly prohibit dismissed LPFM applicants that did not comply with the spacing rules in the filing window from filing amendments to correct violations of section 73.807.[19] Additionally, typographical error claims cannot be used to justify filing an otherwise prohibited amendment.[20]

Reinstated LPFM Applications. We reject Petitioner's reliance on the Reinstated LPFM Applications. The Reinstated Applications were reinstated pursuant to the Bureau's former practice to allow otherwise prohibited corrective amendments where an Antenna Site Registration (ASR) number or technical exhibit did not conflict with the intended coordinates of the transmission antenna, or in cases

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Memorandum Opinion and Order, 30 FCC Rcd 10548, 10552-53, paras. 11-12 (2015) (*Christian Charities*) (affirming section 73.870(c) dismissal of applications for failure to meet minimum spacing requirements).

[16] Pub. L. No. 111-371, 124 Stat. 4072 (2011). *See also Rural Health Care Support Mechanism*, Order, 22 FCC Rcd 20360, 20415, para. 106 (2007) ("although the Commission has authority to waive regulatory requirements, it does not have authority to waive a requirement imposed by statute"); *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order, 15 FCC Rcd 7170, 7178, para. 13 (1999) (rejecting request to waive statute); *see also Chrysler Corp. v. Brown*, 441 U.S. 281, 302 (1979) ("[T]he exercise of quasi-legislative authority by governmental departments and agencies must be rooted in a grant of such power by the Congress and subject to the limitations which that body imposes.").

[17] *See Roman Catholic Diocese of Portland*, Memorandum Opinion and Order, 29 FCC Rcd 15068, 15072, para. 8 (2014) (*Diocese of Portland*).

[18] *See id.* (directing staff to "make any technical and legal evaluations of, and take any actions regarding, such applications based upon the stated antenna location coordinates specified in the Tech Box, without resort to any other data in the Tech Box or elsewhere in the application or attachments. Such staff actions may include, but are not limited to, dismissal of such defective applications and refusal to accept amendments where such amendments would conflict with accurate and rule-compliant window-filed applications."); *see also Procedures Public Notice* at 8 (cautioning LPFM applicants of this practice).

[19] *See Calvary Chapel of Bremerton*, Letter Order, 28 FCC Rcd 15537, 15538-39 (MB 2013) (dismissing LPFM applications that fail to meet minimum co-channel spacing requirements, and noting that the Commission does not have authority to waive co-channel spacing requirements); *Christian Charities*, 30 FCC Rcd at 10549, para. 5 (finding *nunc pro tunc* reinstatement inapplicable because it is superseded by section 73.870(c)) (citing *People of Progress*, Memorandum Opinion and Order, 29 FCC Rcd 15065 (2014) (*People of Progress*); *Clifford Brown*, Memorandum Opinion and Order, 29 FCC Rcd 13258 (2014)).

[20] *NCE MX Group 82*, Letter Order, DA 23-348 (MB Apr. 25, 2023) (rejecting argument to correct typographical error where corrective amendment was prohibited) (*NCE MX Group 82*). Because we only rely on the Tech Box data to determine technical acceptability, we reject Petitioner's argument that, "It is apparent just by tuning-in to the channel, locally, that the erroneous proposal would not be desired[,]" to demonstrate that its channel selection was a typographical error, and should therefore, be excused.

that did not involve section 73.807 minimum distance spacing requirements. The Petitioner cannot rely on any of those exceptions in this case. The Application designates an incorrect proposed channel, rather than a coordinate filing defect. Moreover, the Reinstated 2013 LPFM Applications predate *Diocese of Portland*, where the Commission clarified that it would, going forward, rely solely on Tech Box data to determine technical acceptability and prohibit applicants from curing a location deficiency in an application with a prohibited amendment.[21] Since *Diocese of Portland*, the Commission has repeatedly adhered to this practice.[22]

Section 73.870(c) Waiver Request. We reject Petitioner's request for a waiver of section 73.870(c) to allow it to amend the Application to correct the proposed Station channel number to meet the minimum spacing requirements of section 73.807. The Commission's Rules may be waived only for good cause shown.[23] The Commission must give waiver requests "a hard look," but an applicant for waiver "faces a high hurdle even at the starting gate"[24] and must support its waiver request with a compelling showing.[25] Waiver is appropriate only if both 1) special circumstances warrant a deviation from the general rule, and 2) such deviation better serves the public interest.[26]

Petitioner fails to meet this burden. Petitioner claims that section 73.870(c) of the Rules conflicts with the public interest, argues that the Commission's amendment policy is arbitrary and capricious, and broadly asks that smaller entities be permitted to amend application errors *nunc pro tunc* solely because translator and full power applicants have the ability to seek amendments.[27] When the Commission established the LPFM service, it adopted section 73.870(c) to promote efficiency in the processing of LPFM applications.[28] Permitting applicants to file application amendments to resolve section 73.807 minimum distance separation requirements after the close of the filing window and the Commission's dismissal of their applications would frustrate the processing efficiencies which sections 73.807 and 73.870(c) were designed to promote and be unfair to the many applicants who fully complied with the rules and filing requirements. It is, therefore, contrary to the public interest. Moreover, such policy-related complaints are more appropriately suited for rulemakings.[29]

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[21] *See Christian Charities*, 30 FCC Rcd at 10522, n.26 (citing *People of Progress* and *Diocese of Portland*).

[22] *See, e.g., Renew Taylorsville*, Letter, DA 24-289 (MB 2024) (dismissing application based on Tech Box data and rejecting prohibited amendment to correct typographical errors); *NCE MX Group 82*, *supra* note 20 (same).

[23] 47 CFR § 1.3.

[24] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (subsequent history omitted).

[25] *Greater Media Radio Co., Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 7090 (1999) (citing *Stoner Broadcasting System, Inc.*, Memorandum Opinion and Order, 49 FCC 2d 1011, 1012 (1974)).

[26] *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[27] Petition at 5-7.

[28] *See Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2257 (2000) ("In accordance with our window filing procedure for commercial broadcast applications, after the LPFM window closes the staff initially will screen applications for the purpose of identifying those that are mutually exclusive and those that fail to protect existing broadcast stations in accordance with the standards adopted herein. Applications that fail to properly protect these existing stations will be dismissed without the applicant being afforded an opportunity to amend. This will increase the speed and efficiency with which LPFM applications can be processed by the staff.").

[29] *See Adelphi Communications Corporation and Time-Warner Cable, Inc.*, Memorandum Opinion and Order, 21 FCC Rcd 8203, 8288, para. 192 (2006) (finding that some of the concerns regarding a proposed transfer of control are not transaction-specific and are more appropriately addressed in other proceedings); *Birmingham Christian Radio, Inc. and Radio South Inc.*, Memorandum Opinion and Order, 18 FCC Rcd 7909, 7915, para. 19 (determining that a party's generalized arguments challenging an interim policy on defining the relevant product market are more appropriately addressed in the context of the local ownership rulemaking proceeding); *Sunburst Media LP and Clear*

We also reject Petitioner's argument that flexibility and a waiver is warranted because small nonprofits cannot be expected to correctly prepare the engineering section of the LPFM application. The majority of LPFM applicants are small nonprofit organizations, similar to Petitioner.[30] Moreover, the Commission simplified procedures in the LPFM service to enable nonprofit organizations with limited expertise and small budgets to build community-oriented stations,[31] and the Bureau also specifically advised LPFM applicants to use consulting engineers to determine technical acceptability and/or prepare their applications.[32]

Finally, while we are sympathetic to Petitioner's argument that the Bureau should grant a waiver because it " . . . will provide the first truly locally-original[] service for the Athens community and ASU student body via FM"[33] and it is not in the public interest to have the station wait another ten years for an LPFM license, we cannot grant a waiver in this case. We agree that providing new locally-originated service is a laudable goal, however, the loss of LPFM service to Athens, unfortunately, was caused by Petitioner's mistake, not by an erroneous or harsh Bureau approach to its Application. Moreover, our approach in this case is consistent with our treatment of appeals by others whose applications were dismissed for failure to meet the minimum distance spacing requirements.[34] Petitioner has not persuaded us that deviation from our rules or unusual treatment is justified here.

Petitioner has not demonstrated any basis to contravene the rules and established precedent and reinstate the Application. We thus deny the Petition.

Conclusion. For the reasons set forth above, **IT IS ORDERED** that the Petition for Reconsideration filed by Athens State University, on February 18, 2024 (Pleading File No. 0000239429), **IS DENIED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

Channel Broadcasting Licenses, Inc., Memorandum Opinion and Order, 17 FCC Rcd 1366, 1368, para. 6 (2002) (concluding that a party's request to change our policy with respect to network affiliation agreements is more appropriately addressed in a rule making proceeding); *see also Centenary College*, Letter Order, 23 FCC Rcd 17317, 17322 (MB 2008) (rejecting waiver request of NCE spacing rules and noting "fundamental policy change advocated by [licensee] would be most appropriately considered in a rulemaking proceeding").

[30] *See, e.g.*, *Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations*, Memorandum Opinion and Order, 34 FCC Rcd 12519, 12559 (2019) (explaining that "given the fact that low power FM stations may only be licensed to not-for-profit organizations or institutions that must be based in their community and are typically small, volunteer-run groups, we will presume that these licensees qualify as small entities.").

[31] *See, e.g.*, *Amendments of Parts 73 and 74 to Improve the Low Power FM Radio Service Technical Rules*, Report and Order, 35 FCC Rcd 4115 (2020).

[32] *See Procedures Public Notice* at 4.

[33] Petition at 8.

[34] *See, e.g.*, *Blueberry Radio,* Letter, DA 24-227 (MB March 8, 2024); *Aire Broadcasting Foundation*, Letter, DA 24-186 (MB Feb. 29, 2024); *see also Applications for Review of Decisions Regarding Six Applications for New Low Power FM Stations*, 28 FCC Rcd 13390, 13392 (2013) (affirming dismissal of LPFM application and rejecting argument that public interest benefits of constructing a new LPFM station to serve community justified reinstatement).

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

In the Matter of	)	
	)	
Gray Television Licensee, LLC	)	Facility ID Nos. 68713
	)	NAL/Acct. No. 202441420008
Licensee of Station KCWY-DT, Casper, Wyoming	)	FRN: 0018223693
	)	LMS File No. 0000192157

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: June 13, 2024 **Released: June 13, 2024**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it the application of Gray Television Licensee, LLC (Licensee or Gray), for renewal of its license for station KCWY-DT, Casper, Wyoming (Station or KCWY).[1] In this *Notice of Apparent Liability for Forfeiture* (*NAL*), we find that the Licensee apparently willfully and repeatedly violated section 73.3526(e)(11)(ii) of the Commission's rules (Rules) by failing to timely file required online public inspection file (OPIF) documents, specifically its records of compliance with the commercial limits on children's programming.[2] Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of twenty thousand dollars ($20,000).

II. BACKGROUND

2. Section 73.3526(e)(11)(ii) of the Rules requires every commercial television licensee to place in its OPIF "records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's programming established in 47 U.S.C. 303a and § 73.670."[3] Section 303a(b) requires that "each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays."[4] Section 73.670 codifies those limits, and also limits the display "of Internet Web site addresses during program material or promotional material not counted as commercial time."[5] Until fourth quarter 2019, Commercial Limits Certifications were required to be placed in the station's OPIF by the tenth day of the succeeding calendar

[1] Application of Gray Television Licensee, LLC for Renewal of License, LMS File No. 0000192157 (filed May 31, 2022) (Application). As is permitted, the Application includes two commonly licensed low power stations KCBZ-LD, Casper, WY and K16JI-D, Casper, WY. Because these stations are in a joint renewal application, we will take action on their license renewal requests at the same time as KCWY's. *See infra* para. 10. The action we take herein involving KCWY does not relate to KCBZ-LD and K16JI-D and we find that both stations have complied with the requirements of section 309(k) of the Communications Act of 1934, as amended (Act) and renewal of their licenses is appropriate. *See* 47 U.S.C. § 309(k).

[2] 47 CFR § 73.3526(e)(11)(ii).

[3] *Id.*

[4] 47 U.S.C. § 303a(b).

[5] 47 CFR § 73.670.

quarter.[6] Beginning with the first quarter of 2020, Commercial Limits Certifications were required to be filed on an annual rather than quarterly basis, within 30 days after the end of the calendar year.[7]

3. On May 31, 2022, the Licensee filed the Application. In the Application, the Licensee disclosed that "most certifications concerning compliance with commercial limits were not uploaded during the license term."[8] According to the Licensee, the employee who was responsible for uploading the Station's Commercial Limits Certifications "believed the commercial limits certification was covered by the quarterly Children's Programming Report submission."[9] The Licensee has since uploaded the missing Commercial Limits Certifications.[10] A Bureau staff inspection of the Station's OPIF confirmed the late filings and revealed a total of twenty-three late filed Commercial Limits Certifications, which were filed between one month and over seven years late.

III. DISCUSSION

4. This *NAL* is issued pursuant to section 503(b)(1)(B) of the Communications Act of 1934, as amended (the Act), which states 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.[11] 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.[12] 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,[13] and the Commission has so interpreted the term in the section 503(b) context.[14] 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."[15]

5. *Apparent Violation.* In total, the Licensee failed to upload in a timely manner to the Station's OPIF copies of the Station's Commercial Limits Certifications for twenty-three quarters. These lists were filed between one month late and over seven years late. We therefore find that the Licensee has apparently willfully and repeatedly violated sections 73.3526(e)(11)(ii) of the Rules.[16]

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[6] *Children's Television Programming Rules; Modernization of Media Regulation Initiative*, MB Docket Nos. 18-202 and 17-105, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 5822 (2019) (*Report and Order*). The revised filing rule for records of compliance with the commercial limits on children's programming took effect on January 21, 2020. *See* 84 Fed. Reg. 70037 (Dec. 20, 2019). *Media Bureau Announces Effective Date of Remaining KidVid Rules, Availability and Extension of Time to File the Revised Children's Television Programming Report in LMS, and Guidance Concerning the Filing of Final Quarterly Commercial Limits Certifications*, MB Docket Nos. 18-202 and 17-105, Public Notice, 34 FCC Rcd 12517 (MB 2019) (*KidVid Remaining Rules Transition PN*).

[7] 47 CFR § 73.3526(e)(11)(ii); *Report and Order* at 5863, para. 70; *KidVid Remaining Rules Transition PN*, 34 FCC Rcd at 12517.

[8] Application at Attach., KCWY DTV Cert (Renewal) Exhibit.

[9] *Id.*

[10] See generally, OPIF for Facility ID 68713, Records Concerning Commercial Limits in Children's Programming.

[11] *See* 47 U.S.C. § 503(b)(1)(B); *see also* 47 CFR § 1.80(a)(2).

[12] 47 U.S.C. § 312(f)(1).

[13] *See* H.R. Rep. No. 97-765, at 51 (1982) (Conf. Rep.).

[14] *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991) (*Southern California*), recon. denied, 7 FCC Rcd 3454 (1992).

[15] 47 U.S.C. § 312(f)(2).

[16] *See* 47 CFR § 73.3526(e)(11)(ii).

6. *Proposed Forfeiture.* The Commission's *Forfeiture Policy Statement* and section 1.80(b)(10) of the Rules establish a base forfeiture amount of $10,000 for public file violations.[17] 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."[18]

7. In this case, the Licensee failed to timely upload to its OPIF its Commercial Limits Certifications for twenty-three quarters, in violation of section 73.3526(e)(11)(ii) of the Rules.[19] In its Application, the Licensee acknowledges its repeated failure to timely upload these items. The Licensee states its failure to timely file the lists was because of a misunderstanding by the employee responsible for uploading the Station's Commercial Limits Certifications to the Station's OPIF.[20] It is well settled precedent that licensees are responsible for the errors or oversights of their employees.[21] Furthermore, administrative oversight is not an excuse for failure to comply with the Commission's rules or a mitigating circumstance.[22]

8. Taking into consideration all of the factors required by section 503(b)(2)(E) of the Act and the *Forfeiture Policy Statement*, we find that under the facts of this case a forfeiture in the amount of $20,000 is appropriate for the Licensee's apparent failure to timely upload its Commercial Limits Certifications to the Station's OPIF.

9. *License Renewal Application.* In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act.[23] That section provides that if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.[24] If, however, the licensee fails to meet that standard, the Commission may deny the application—after notice and opportunity for a hearing under section 309(e) of the Act—or grant the application "on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted."[25]

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[17] *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, 17113-15 (1997) (*Forfeiture Policy Statement*), *recon. denied*, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b), para. (b)(11), Table 1.

[18] 47 U.S.C. § 503(b)(2)(E). *See also Forfeiture Policy Statement*, 12 FCC Rcd at 17100–01; 47 CFR § 1.80(b)(11); 47 CFR § 1.80(b), para. (b)(11), Table 3.

[19] *See* 47 CFR §§ 73.3526(e)(11)(ii).

[20] Application at Attach., KCWY DTV Cert (Renewal) Exhibit.

[21] *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).

[22] *See, e.g.*, Townsquare Media of El Paso, Inc., Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6661, 6665, para. 5 and n. 37 (EB 2020) (paid July 24, 2020) ("It is immaterial whether . . . violations were inadvertent, the result of ignorance of the law, or the product of administrative oversight.") (internal cites omitted). *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, para. 3 (1991), recon. denied, 7 FCC Rcd 3454 (1992) (stating that "inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance") (internal cite omitted); *Standard Comm'cns Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358, para. 4 (1986) (stating that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations").

[23] 47 U.S.C. § 309(k).

[24] 47 U.S.C. § 309(k)(1).

[25] 47 U.S.C. §§ 309(k)(2), (k)(3).

10. We find that the Licensee's apparent violation of section 73.3526(e)(11)(ii) of the Rules does not constitute a "serious violation" warranting designation of the Application for evidentiary hearing. At all times during the prior license term the Licensee certifies that it complied with the Commission's commercial limits during children's programming.[26] Moreover, we find no evidence of violations that, when considered together, constitute a pattern of abuse.[27] Further, based on our review of the Application, we find that the Station served the public interest, convenience, and necessity during the subject license term. We will therefore grant the Application by separate action upon the conclusion of this forfeiture proceeding if there are no issues other than those set forth in this *NAL* that would preclude grant of the Application.[28]

IV. ORDERING CLAUSES

11. 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 **Gray Television Licensee, LLC**, is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of twenty thousand dollars ($20,000) for its apparent willful and repeated violation of section 73.3526(e)(11)(ii) of the Commission's rules, 47 CFR § 73.3526(e)(11)(ii).

12. **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*, **Gray Television Licensee, LLC, SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),[29] or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted**. Upon payment, the must send notice that payment has been made to VideoNAL@fcc.gov**. Below are instructions that payors should follow based on the form of payment selected:[30]

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed 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

[26] *See* 47 CFR § 73.670.

[27] For example, we do not find here that the Licensee's Station operation "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies." *See Heart of the Black Hills Stations*, Decision, 32 FCC 2d 196, 198, para. 6 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." *Id.* at 200, paras. 10–11. *See also Center for Study and Application of Black Econ. Dev.*, Hearing Designation Order, 6 FCC Rcd 4622 (1991); *Calvary Educ. Broad. Network, Inc.*, Hearing Designation Order, 7 FCC Rcd 4037 (1992).

[28] Our action today addresses known apparent violations from the date the prior license renewal application was granted through the adoption date of this item. Any violations that are discovered or may occur following the adoption date of this item and prior to the grant of the current Application would be separate violations and potentially subject to additional Commission action.

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

[30] For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).[31] For additional detail and wire transfer instructions, go to https://www.fcc.gov/licensing-databases/fees/wire-transfer.

- Payment by credit card must be made by using the Commission's Registration System (CORES) at https://apps.fcc.gov/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.

14. 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, ATTN: Barbara A. Kreisman, Chief, Video Division, Media Bureau, and **MUST INCLUDE** the NAL/Acct. No. referenced above. **A copy must also be emailed to VideoNAL@fcc.gov to assist in processing the response.**

- 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.
    - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
    - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.[32]

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-

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

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

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.[33]

16. 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.[34] 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.

17. **IT IS FURTHER ORDERED**, that a copy of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to David Burke, Senior Vice President and CTO, Gray Television Licensee, LLC, 201 Monroe Street, Montgomery, AL 36104 and be e-mail to david.burke@gray.tv. A copy will also be sent to Station's counsel, Joan Stewart, Wiley Rein LLP, 2050 M Street, NW, Washington, DC 20036 and by e-mail to jstewart@wiley.law.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[33] *See, e.g.*, *Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44–45 (2018).

[34] *See* 47 CFR § 1.1914.

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

In the Matter of	)	
	)	
Clear Rate Communications	)	Complaint No. 7055239
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

ORDER

Adopted: June 12, 2024 **Released: June 13, 2024**

By the Deputy Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau:

1. In this Order, we consider a complaint alleging that Clear Rate Communications, (Clear Rate) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.[1] We find that Clear Rate has responded fully to the Complainant's complaint and has taken action to resolve the complaint.

2. Section 258 of the Communications Act of 1934, as amended (the Act), prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.[2] The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.[3] Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that satisfies our rules; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the order.[4] The Commission has also adopted rules to limit the liability of subscribers when an unauthorized carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.[5]

3. We received Complainant's complaint alleging that Clear Rate had changed Complainant's telecommunications service provider without Complainant's authorization. Pursuant to

[1] *See* Informal Complaint No. 7055239 (May. 24, 2024); *see also* 47 CFR §§ 64.1100 – 64.1190.

[2] 47 U.S.C. § 258(a).

[3] *See* 47 CFR § 64.1120.

[4] *See id.* § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

[5] These rules require the unauthorized carrier to absolve the subscriber where the subscriber has not paid his or her bill. If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. *See id.* §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.* Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. *See id.* §§ 64.1140, 64.1170.

our rules, we notified Clear Rate of the complaint.[6] Based on the information provided by Clear Rate, it appears that Clear Rate has fully absolved Complainant of all charges assessed by Clear Rate in a manner consistent with the Commission's liability rules.[7] We therefore find that the complaint referenced herein has been resolved.[8]

4. Accordingly, IT IS ORDERED that, pursuant to section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.719, the complaint filed against Clear Rate Communications, IS RESOLVED.

5. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kristi Thornton
Deputy Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

[6] *Id*. § 1.719 (Commission procedure for informal complaints filed pursuant to section 258 of the Act); *id*. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

[7] *See* Clear Rate's Response to Informal Complaint No. 7055239 (Jun. 5, 2024); *see also* 47 CFR § 64.1160.

[8] If Complainant is unsatisfied with the resolution of its complaint, the Complainant may file a formal complaint with the Commission pursuant to section 1.721 of the Commission's rules, 47 CFR § 1.721. Such filing will be deemed to relate back to the filing date of such Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to such Complainant. *See id.* § 1.719.

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

In the Matter of	)	
	)	
Clear Rate Communications	)	Complaint No. 7074776
	)	
Complaint Regarding	)	
Unauthorized Change of	)	
Subscriber's Telecommunications Carrier	)	

ORDER

Adopted: June 12, 2024 **Released: June 13, 2024**

By the Deputy Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau:

1. In this Order, we consider a complaint alleging that Clear Rate Communications (Clear Rate) changed Complainant's telecommunications service provider without obtaining authorization and verification from Complainant as required by the Commission's rules.[1] We conclude that Clear Rate's actions violated the Commission's slamming rules, and we grant the complaint.

2. Section 258 of the Communications Act of 1934, as amended (the Act), prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.[2] The Commission's implementing rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.[3] Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that satisfies our rules; (2) obtain confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an appropriately qualified independent third party to verify the order.[4] The Commission has also adopted rules to limit the liability of subscribers when an unauthorized carrier change occurs, and to require carriers involved in slamming practices to compensate subscribers whose carriers were changed without authorization.[5]

3. The Commission's slamming rules prohibit misrepresentations on sales calls to further reduce the incidence of slamming.[6] Under the rules, upon a finding of material misrepresentation during

[1] *See* Informal Complaint No. 7074776 (Jun. 4, 2024); *see also* 47 CFR §§ 64.1100 – 64.1190.

[2] 47 U.S.C. § 258(a).

[3] *See* 47 CFR § 64.1120.

[4] *See id.* § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. *Id.* § 64.1130.

[5] These rules require the unauthorized carrier to absolve the subscriber where the subscriber has not paid his or her bill. If the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30 days after the unauthorized change. *See id.* §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.* Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150 percent of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50 percent of all charges paid by the subscriber to the unauthorized carrier. *See id.* §§ 64.1140, 64.1170.

[6] *Id.* § 64.1120(a)(1)(i)(A).

the sales call, the consumer's authorization to change carriers will be deemed invalid even if the carrier has some evidence of consumer authorization of a carrier switch, e.g., a third-party verification (TPV) recording. Sales misrepresentations may not be cured by a facially valid TPV.[7] The rule provides that a consumer's credible allegation of misrepresentation shifts the burden of proof to the carrier to provide evidence to rebut the consumer's claim regarding misrepresentation. The Commission made clear that an accurate and complete recording of the sales call may be the carrier's best persuasive evidence to rebut the consumer's claim that a misrepresentation was made on the sales call.[8]

4. We received Complainant's complaint alleging that Complainant's telecommunications service provider had been changed from Lumen to Clear Rate without authorization.[9] Complainant stated that "around February / March 2024, Clear Rate . . . cold called one of our business establishments and spoke to a random employee."[10] Complainant explained that Clear Rate "falsified that they were affiliated with Lumen as a 'sister company' and offered 'better rates' by switching" from Lumen to Clear Rate."[11] Despite the fact that our employee did not accept Clear Rate's offer and instead instructed them to contact our corporate office, "Clear Rate requested our phone numbers to be ported from Lumen and acquired our account without our knowledge and consent."[12] According to Complainant, after he asked Clear Rate for the LOA, Clear Rate provided "a manipulated audio recording between Clear Rate and our employee from the initial sales conversation. . . . with affirmative copied responses from our employee authorizing the switching of the services, which was never done."[13] Subsequently, "Clear Rate terminated our service and held our lines hostage demanding payment in order to restore. [W]e did so in order to get phone service restored to continue operations for our store. . . . [and] we ported the lines back over with Lumen and terminated the account which was never authorized to start with Clear Rate."[14]

5. Pursuant to our rules, we notified Clear Rate of the complaint, directing the company to address the allegation of misrepresentation and to provide evidence to rebut the claim.[15] Clear Rate responded, stating that while it is regrettable when miscommunication or misunderstandings occur within a customer's organization, in this instance, the customer indicated that he was authorized to make changes to the phone service.[16] Clear Rate explained that when a customer explicitly states they are authorized to make such changes, the company proceeds with the conversion, adhering strictly to industry standards and regulatory guidelines.[17] Clear Rate also provided two audio recordings—the TPV recording and a recording Clear Rate characterized as a "quality assurance call." Clear Rate did not address

[7] *See Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges*, 33 FCC Rcd 5773, 5778-80, paras. 17-19 (2018) (*2018 Slamming Order*); 47 CFR § 64.1120(a)(1)(i)(A).

[8] *See 2018 Slamming Order*, 33 FCC Rcd at 5781, para. 23. The Commission also stated that a carrier is uniquely positioned via its access to sales scripts, recordings, training, and other relevant materials relating to sales calls to proffer evidence to rebut a consumer's claims. *Id*.

[9] *See* Informal Complaint No. 7074776.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] 47 CFR § 1.719 (Commission procedure for informal complaints filed pursuant to section 258 of the Act); *id.* § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier). In the notification, we directed Clear Rate to respond to the specific misrepresentation allegation and to provide any evidence to rebut it.

[16] *See* Clear Rate Response to Informal Complaint No. 7074776 (Jun. 5, 2024).

[17] *Id.*

Complainant's misrepresentation claim and did not provide a recording of the sales call or any other evidence related to the sales call.

6. Based on the evidence in the record, we find Complainant's allegation of a sales call misrepresentation to be credible. We further find that Clear Rate has failed to provide persuasive evidence to rebut Complainant's misrepresentation claim and therefore that Complainant's authorization to change carriers is invalid. As the Commission stated in the *2018 Slamming Order*, "[w]hen a consumer's decision to switch carriers is predicated on false information provided in a sales call, that consumer's authorization to switch carriers can no longer be considered binding."[18] We therefore find that Clear Rate's actions resulted in an unauthorized change in Complainant's telecommunications service provider, as defined by the rules, and we discuss Clear Rate's liability below.[19]

7. Clear Rate must remove all charges incurred for service provided to Complainant for the first 30 days after the alleged unauthorized change in accordance with the Commission's liability rules.[20] We have determined that Complainant is entitled to absolution for the charges incurred during the first 30 days after the unauthorized change occurred and that neither the Complainant's authorized carrier nor Clear Rate may pursue any collection against Complainant for those charges.[21] Any charges imposed by Clear Rate on the Complainant for service provided after this 30-day period shall be paid by the Complainant to the authorized carrier at the rates the Complainant was paying the authorized carrier at the time of the unauthorized change of their telecommunications service provider.[22]

8. Accordingly, IT IS ORDERED that, pursuant to section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and sections 0.141, 0.361, and 1.719 of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.719, the complaint filed against Clear Rate Communications IS GRANTED.

9. IT IS FURTHER ORDERED that, pursuant to section 64.1170(d) of the Commission's rules, 47 CFR § 64.1170(d), Complainant is entitled to absolution for the charges incurred during the first 30 days after the unauthorized change occurred and that Clear Rate Communications may not pursue any collection against Complainant for those charges.

10. IT IS FURTHER ORDERED that this Order is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kristi Thornton
Deputy Chief
Consumer Policy Division
Consumer and Governmental Affairs Bureau

[18] *2018 Slamming Order*, 33 FCC Rcd at 5779, para. 18 (citing *Advantage Forfeiture Order*, 32 FCC Rcd 3723, 3725-30, paras. 7-13 (2017) (finding that the carrier's TPV recordings did not disprove that unlawful misrepresentations were made during the telemarketing calls and further, that questions posed during the separate TPV calls did not cure those misrepresentations)).

[19] If Complainant is unsatisfied with the resolution of the complaint, Complainant may file a formal complaint with the Commission pursuant to section 1.721 of the Commission's rules, 47 CFR § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. *See id.* § 1.719.

[20] *See id.* § 64.1160(b).

[21] *See id.* § 64.1160(d).

[22] *See id.* §§ 64.1140, 64.1160.

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 24-567
Released: June 14, 2024

COMMENTS INVITED ON SECTION 214 APPLICATION(S) TO DISCONTINUE DOMESTIC NON-DOMINANT CARRIER TELECOMMUNICATIONS SERVICES

WC Docket No(s). 24-167

Comments Due: July 1, 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 **July 15, 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 action, as

[1] 47 CFR § 63.71.

[2] 47 U.S.C. § 214.

[3] 47 CFR § 63.71.

[4] *See* 47 CFR § 63.71(f) (stating, in relevant part, that an application filed by a non-dominant carrier "shall be automatically granted on the 31st day… unless the Commission has notified the applicant that the grant will not be automatically effective.").

applicable. Should no petitions for reconsideration, applications for review, or petitions for judicial review be timely filed, the proceeding(s) listed in this Public Notice shall be terminated, and the docket(s) will be closed.

Comments objecting to any of the applications listed in the Appendix must be filed with the Commission on or before **July 1, 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 by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit one additional copy for each additional docket or rulemaking number associated with the proceeding in which they choose to file comments. Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.[7] All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, D.C. 20554.

Copies of the comments may also be emailed to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, using the contact information listed in the Appendix for the appropriate Section 214 Application. In addition, comments should be served upon the Applicant(s).

These proceedings are considered "permit but disclose" proceedings for purposes of the Commission's *ex parte* rules.[8] Participants should familiarize themselves with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or

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[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] Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (OMD 2020), https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.

[8] 47 CFR § 1.1200 *et seq*.

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).

People with Disabilities: We ask that requests for accommodations be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530.

For further information, please see the contact(s) for the specific discontinuance proceeding you are interested in as listed in the Appendix. For further information on procedures regarding section 214 please visit https://www.fcc.gov/encyclopedia/domestic-section-214-discontinuance-service.

– FCC –

Appendix

1) **Applicant(s): TDS Metrocom, LLC**
WC Docket No. 24-167, Comp. Pol. File No. 1917
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2224-167%22))
Affected Service(s) – all voice and data services
Service Area(s) – Appleton, De Pere, Fond du Lac, Green Bay, Neenah and Oshkosh,Wisconsin
Authorized Date(s) – on or after July 15, 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 St., N.E.
Washington, D.C. 20554

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

DA 24-568
Released: June 13, 2024

DOMESTIC SECTION 214 APPLICATION GRANTED FOR THE TRANSFER OF CONTROL OF ATLINK SERVICES, INC. TO ELEMENT8 TECHNOLOGY INVESTMENT GROUP INC.

WC Docket No. 23-268

By this Public Notice, the Wireline Competition Bureau (Bureau) grants an application filed by AtLink Services, LLC (AtLink) and Element8 Technology Investment Group Inc. (Element8), (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 to transfer control of AtLink to Element8.[2]

On September 8, 2023, the Bureau released a Public Notice seeking comment on the Application.[3] The Bureau did not receive comments or petitions in opposition to the Application.

Applicants and Description of Transaction

AtLink, an Oklahoma limited liability company, currently provides voice and broadband service to approximately 10,000 Oklahomans in rural communities and urban areas throughout the state using fixed wireless and fiber-to-the-home technologies.[4] On January 24, 2019, the Oklahoma Corporation Commission (OCC) designated AtLink as an ETC for the Oklahoma census blocks where it was the

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

[2] AtLink Services, LLC and Element8 Technology Investment Group Inc. Application Filed for Consent to Transfer Control of Domestic Section 214 Authorization, WC Docket No. 23-268 (filed Aug. 4, 2023) (Application). Applicants filed a supplement to the Application on September 1, 2023. Letter from Trey Hanbury, Counsel to Element8, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-268 (filed Sept. 1, 2023) (Supplement Letter). Applicants filed an application for the transfer of certain spectrum licenses and a petition for declaratory ruling (Petition) asking the Commission to find that it would serve the public interest to permit foreign ownership of the proposed controlling U.S. parent, Digital Alpha, to exceed the 25% benchmark in section 310(b)(4) of the Commission's rules, 47 U.S.C. §310(b)(4). *See* ICFS File No. ISP-PDR-20230807-00007 (amended and restated Aug. 30, 2023). Any action on the Application is without prejudice to Commission action on other related, pending actions.

[3] *See Domestic Section 214 Application Filed for the Transfer of AtLink Services, LLC to Element8 Technology Investment Group Inc.*, WC Docket No. 23-268, Public Notice, DA 23-829 (WCB 2021) (Public Notice).

[4] Application at 3. AtLink participates in the Lifeline program and had participated in the Affordable Connectivity Program (ACP). Applicants state that the proposed transaction will not affect AtLink's participation in these programs. *Id*. at 6. We note, however, that due to a lack of additional Congressional funding, the agency officially ended the ACP on June 1, 2024. Press Release, FCC, *The FCC Brings the Affordable Connectivity Program to a Close* (May 31, 2024), https://docs.fcc.gov/public/attachments/DOC-402930A1.pdf.

auction winner for Connect America Fund Phase II Auction (Auction 903) (CAF) support.[5] On July 15, 2019, the Bureau authorized AtLink to receive $4,762,647.20 in CAF support for 12,491 locations in Oklahoma.[6] In addition, AtLink was authorized to receive, pursuant to approvals of section 214 transfer applications, an additional $594,975.00 in CAF support to serve an additional 1,166 locations in Oklahoma acquired from Cherokee Telephone Company,[7] and an additional $1,948,205.00 in CAF support to serve 3,013 locations in Oklahoma acquired from Redwire, Inc.[8]

Element8, a Texas corporation, provides broadband services. Element8 is supported by a substantial investment from the Digital Alpha family of funds, which focuses on investing in digital infrastructure.[9] Applicants state that "a U.S. citizen holds ultimate control of the Digital Alpha family of funds; however, non-U.S. investors hold insulated, non-voting, equity interests equal to an aggregate total of approximately 54% of the equity of the Digital Alpha funds seeking to invest in AtLink."[10] Applicants estimate that, post-consummation, non-U.S. entities will hold 37.97% of AtLink's equity interests.[11]

Pursuant to the terms of the proposed transaction, Element8 will acquire control of AtLink.[12] As a result, AtLink will become a subsidiary of Element8.[13] Applicants state that AtLink would continue to exist and operate under the same name and would continue to provide service pursuant to then-existing rates, terms, and conditions for the near term.[14]

Applicants assert that the proposed transaction would serve the public interest, convenience, and necessity.[15]

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[5] Application at 3-4.

[6] *See Connect America Fund Phase II Auction Support Authorized for 2,413 Wining Bids*, Public Notice, AU Docket No. 17-182 and WC Docket No. 10-90, 34 FCC Rcd 5966, Attach. A (WCB 2019) (*AtLink CAF Phase II Authorization Public Notice*).

[7] *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 (WCB 2022); *Domestic 214 Application Granted for the Transfer of Certain Authorizations of Cherokee Telephone Company to AtLink Services, LLC*, WC Docket No. 21-423, Public Notice, 37 FCC Rcd 701 (WCB 2022).

[8] *Transfer of Connect America Fund Phase II Auction Support to AtLink Services, LLC et al*., WC Docket Nos. 22-55 et al., Public Notice, 37 FCC Rcd 14086 (WCB 2022); *Domestic 214 Application and Waivers Granted for the Transfer of Connect America Fund Phase II Auction Support Obligations from Redwire, Inc. to AtLink Services, LLC et al.*, WC Docket No. 22-55 et al., Public Notice, 37 FCC Rcd 7406 (WCB 2022).

[9] Application at 4.

[10] Supplement Letter at 1-2. Applicants submitted a chart illustrating AtLink's post-transaction ownership. *Id.* at Exh. 1 (Post-Closing Ownership).

[11] *Id*. at 2, Exh. 1 (Post-Closing Ownership).

[12] Application at 2. The Bureau applies the same principal regarding the transfer of RDOF obligations to the transfer of CAF obligations. *See Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 09-197 & 10-90, Order, 36 FCC Rcd 9384, 9393-94, para. 30 (WCB 2021) ("ETCs seeking to transfer control of their domestic authorizations to operate pursuant to section 214 of the Act or to engage in the sale of assets under section 214 (including any authorization to receive RDOF support) must first receive approval from the Commission in accordance with sections 63.03 and 63.04 of the Commission's rules governing the procedures for domestic transfer of control/asset applications.").

[13] Application at 5.

[14] *Id*.

[15] *Id*. at 7.

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.[16] We then employ a balancing test weighing any potential public interest harms of the proposed transaction against any potential public interest benefits.[17] The Applicants bear the burden of proving, by a preponderance of the evidence, that the proposed transaction, on balance, serves the public interest.[18]

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 neither Element8 nor any of its affiliates currently provide domestic telecommunications services, and thus there will be no physical overlap or reduction in service providers in any markets as a result of the transaction.[19] Further, because AtLink "will continue to provide service pursuant to then-existing rates, terms, and conditions for the near term,"[20] we expect no potential harm to existing customers to result from the transaction.

Second, Element8 commits to meeting all public interest and performance obligations associated with the receipt of the transferred CAF funding,[21] and the record indicates that AtLink has the technical, financial, and managerial expertise to do so.[22] In this regard, Element8 attests that it will "ensure that all CAF performance and buildout obligations of AtLink are met following consummation of the Transaction."[23] Applicants maintain that "Element8 has both the necessary industry experience and

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[16] *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*)).

[17] *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).

[18] *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).

[19] Application at 9, Supplement at 1.

[20] Application at 5.

[21] *Id*. at 8-9.

[22] *Id*. at 7-9. The Bureau has provided a summary of the various obligations of authorized CAF support recipients in prior authorization public notices. As stated in these public notices, the list is not intended to be comprehensive, and all authorized parties are responsible for conducting the due diligence required to comply with universal service fund requirements and the Commission's rules. *See, e.g.*, *AtLink CAF Phase II Authorization Public Notice*, 34 FCC Rcd at 5967-71.

[23] Application at 8.

requisite financial means to take on the responsibility of owning [AtLink],"[24] and that Element8 and AtLink "are not assuming any debt obligations in connection with the Transaction, and the Transaction will not increase AtLink's cost to deploy service or negatively affect its deployment timetable."[25] In addition, Applicants have confirmed that "Element8 does not contemplate any changes to the CAF buildout plans or services obligations."[26] 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.[27] Applicants must provide evidence of a claimed benefit to allow the Commission to verify its likelihood and magnitude.[28] 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.[29]

Applicants assert that the infusion of capital and human resources resulting from the proposed transaction will enhance "AtLink's ability to serve unserved and underserved rural and Tribal areas of Oklahoma."[30] Further, Applicants assert that "Element8 also has expansion plans in non-CAF areas."[31] Applicants also assert that, with the support of Element8, "AtLink aspires to bring Gigabit-speed internet service to areas that do not have this level of service available on an accelerated basis."[32] As a result of the proposed transaction, Applicants aver that customers will benefit from "increased investment and competition for telecommunications and broadband services in Oklahoma."[33]

The Commission has specified that ensuring consumers receive new or additional services is an important public interest factor,[34] and accelerating private sector deployment of advanced services is one of the aims of the Act.[35] In light of Applicants' respective commitments to meet all of AtLink's federal high-cost funding obligations[36] and the fact that Applicants are prepared to devote additional capital to

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[24] *Id*. at 7.

[25] *Id*. We find relevant AtLink's successful completion of the CAF Phase II Auction application process, which required the Bureau to assess the applicant's audited financial statements, managerial experience, and technical capabilities and plans necessary to demonstrate that it could meet RDOF obligations. 47 CFR § 54.315; *see generally Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing Requirements and Other Procedures for Auction 903*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 33 FCC Rcd 1428 (2018).

[26] Application at 8.

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

[28] *See id*. at 9237-38, paras. 275-76.

[29] *See id*.

[30] Application at 9.

[31] *Id*.

[32] *Id*.

[33] *Id*.

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

[35] *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")).

[36] Application at 8-9.

accelerate facilities-based service offerings,[37] we find it likely that the proposed transaction would result in some public interest benefits. Absent any potential harms, and considering that the proposed transaction is likely to yield some benefits, we find, on balance, that the proposed transaction serves the public interest.

National Security, Law Enforcement, Foreign Policy and Trade Policy Concerns

On May 22, 2024, the National Telecommunications and Information Administration (NTIA), on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), submitted a Petition to Adopt Conditions to Authorization and License (Committee Petition).[38] We grant the Committee Petition and condition grant of the Application on compliance by the Applicants with the commitments and undertakings set out in the Letter of Agreement (LOA) filed with the Committee Petition.

When analyzing a transfer of control or assignment application that includes foreign investment, we also consider public interest issues related to national security, law enforcement, foreign policy, or trade policy concerns.[39] As part of our public interest analysis, the Commission coordinates with the relevant Executive Branch agencies that have expertise in these particular issues.[40] The Commission accords deference to the expertise of these Executive Branch agencies in identifying issues related to national security, law enforcement, foreign policy, or trade policy concerns raised by the relevant Executive Branch agencies.[41] The Commission, however, ultimately makes an independent decision on the application based on the record in the proceedings.[42]

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[37] *Id*. at 2, 8-9.

[38] National Telecommunications and Information Administration, Petition to Adopt Conditions to Authorization and License, WC Docket No. 23-268, ISP-PDR -20230801-00007 (filed May 22, 2024).

[39] *See Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket 16-155, Report and Order, 35 FCC Rcd 10927 (2020) (setting rules and procedures for referring applications for Executive Branch review consistent with Executive Order No. 13913) (*Executive Branch Review Order*); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-21, paras. 59-66 (1997) (*Foreign Participation Order*), *recon. denied*, 15 FCC Rcd 18158 (2000) (in opening the U.S. telecommunications market to foreign entry in 1997, the Commission affirmed that it would consider national security, law enforcement, foreign policy, and trade policy concerns related to reportable foreign ownership as part of its overall public interest review of application for international section 214 authority, submarine cable landing licenses, and declaratory rulings to exceed the foreign ownership benchmarks of section 310(b) of the Act); *see also Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations, et al.*, WT Docket 18-197, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10732-33, para. 349 (2019) (*T-Mobile/Sprint Order*).

[40] *See Executive Branch Review Order*, 35 FCC Rcd at 10935-36, paras. 17, 24.

[41] *Id.* at 10930, para. 7 (citing *Foreign Participation Order*, 12 FCC Rcd at 23920-21, paras. 65-66; *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States; Amendment of Section 25.131 of the Commission's Rules and Regulations to Eliminate the Licensing Requirement for Certain International Receive-Only Earth Stations*, IB Docket No. 96-111, CC Docket No 93-23, RM-7931, Report and Order, 12 FCC Rcd 24094, 24171-72, paras. 179, 182 (1997)); *see also T-Mobile/Sprint Order*, 34 FCC Rcd at 10733, paras. 349; *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11271, 11277, para. 6 (2016), *Pet. for recon. dismissed*, 32 FCC Rcd 4780 (2017).

[42] 47 CFR § 1.40001(b) ("The Commission will consider any recommendations from the [E]xecutive [B]ranch on pending application(s) . . . that may affect national security, law enforcement, foreign policy, and/or trade policy as part of its public interest analysis. The Commission will evaluate concerns raised by the [E]xecutive [B]ranch and will make an independent decision concerning the pending matter.").

Pursuant to Commission practice, the Application and the Petition for Declaratory Ruling, FCC Nos. ISP-PDR-20230807-00007, were referred to the relevant Executive Branch agencies for their review of any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Applicants.[43] On September 14, 2023, the U.S. Department of Justice (DOJ), on behalf of the Committee, informed the Commission that the Committee was reviewing the Application for any national security and law enforcement concerns that may be raised by foreign participation in the United States telecommunications services sector and requested that the Commission defer action on the Application.[44] We deferred action in response to this request from the Committee. Then, on January 23, 2024, DOJ notified the Commission that the Committee was "conducting [a 120-day] initial review to assess whether granting the Application will pose a risk to national security or law enforcement interests of the United States."[45]

In the Committee Petition, the Committee advises that it "has no objection to the Commission granting the above-captioned application, provided that the Commission conditions its consent" on compliance with the May 2, 2024, LOA, which NTIA filed with the Committee Petition.[46]

In accordance with the request of the Committee, and in the absence of any objection from the Applicants, we grant the Committee Petition. Accordingly, we condition grant of the Application to transfer domestic section 214 authority on compliance by the Applicants with the commitments and undertakings set forth in the LOA that apply to the Application.[47] A failure to comply with and/or remain in compliance with any of the provisions of the LOA shall constitute a failure to meet a condition of this grant and the underlying authorizations and licenses and thus grounds for declaring the underlying authorizations and licenses terminated without further action on the part of the Commission. A failure to meet a condition of this grant and the underlying authorizations and licenses may also result in monetary sanctions or other enforcement action by the Commission.

Grant of Application

We find, upon consideration of the record, that the proposed transfer will serve the public interest, convenience, and necessity.[48] This grant of the Application is conditioned 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.[49]

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[43] *See Public Notice* at 3.

[44] Letter from Elizabeth K. McIntyre, Attorney Advisor, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-268; File No. ISP-PDR-20230807-00007, and Attach. (filed Sept. 14, 2023).

[45] Letter from Nadia Asancheyev, Attorney Advisor, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 23-268; File No. ISP-PDR-20230807-00007, and Attach. (filed Jan. 23, 2024).

[46] Committee Petition at 2.

[47] *T-Mobile/Sprint Order*, 34 FCC Rcd at 10732-33, para. 349*; Foreign Participation Order*, 12 FCC Rcd at 23918-21, paras. 59-66.

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

[49] *See, e.g.*, *AtLink CAF Phase II Authorization Public Notice,* 34 FCC Rcd at 5967-71 (providing a non-exhaustive list of obligations).

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the grant is effective upon release of this Public Notice.[50] 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.

-FCC-

[50] We direct Applicants to submit, within 30 days of closing the proposed transaction, a notice in WC Docket No. 23-268 that the proposed transaction has closed, with the consummation date, and also provide a courtesy copy of the notice to hcinfo@usac.org.

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
45 L 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. 24-569

Report No. SAT-01828 **Friday June 14, 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-AMD-20221014-00136 E S3042 HawkEye 360, Inc.
Amendment
Granted in Part/ Deferred in Part Effective Date: 06/10/2024

Nature of Service: Earth Exploration Satellite Service, Other

See ICFS File No. SAT-MOD-20220906-00099 for a description of the action taken.

SAT-MOD-20220906-00099 E S3042 HawkEye 360, Inc.
Modification
Granted in Part/ Deferred in Part Effective Date: 06/10/2024

Nature of Service: Earth Exploration Satellite Service, Other

On June 10, 2024, the Satellite Programs and Policy Division granted in part, with conditions, the request of HawkEye360, Inc. for modification of the HE360 non-geostationary orbit satellite license. Specifically, the Division modified the license to update the conditions for operations of three of HawkEye360's satellites, identified as its Cluster 10. The license was also modified to specify an operational altitude range for authorized HE360 satellites down to 400 km.

SAT-MOD-20230724-00181 E S3042 HawkEye 360, Inc.
Modification
Granted in Part/ Deferred in Part Effective Date: 06/10/2024

Nature of Service: Earth Exploration Satellite Service, Other

See ICFS File No. SAT-MOD-20220906-00099 for a description of the action taken.

SAT-PPL-20240328-00066 E S3192 Embratel TVSAT Telecomunicacoes S.A.
Petition for Declaratory Ruling to be Added to the Permitted List
Grant of Authority Effective Date: 06/13/2024

Nature of Service: Fixed Satellite Service

On June 13, 2024, the Satellite Programs and Policy Division granted, with conditions, the request of Embratel TVSAT Telecomunicaçôes S.A. to add the Star One C4 satellite, operating at 70° W.L., to the Commission's Permitted Space Station list using the 11.7-12.2 GHz (space-to-Earth) and 14.0-14.5 GHz (Earth-to-space) frequency bands.

For more information concerning this Notice, contact the Satellite Licensing Division and Satellite Programs and Policy Division at (202) 418-0719.

Federal Communications Commission
Washington, D.C. 20554

June 14, 2024

DA 24-570
Released: June 14, 2024

Byrne Acquisition Group, LLC
2927 Devine St.
Ste. 100
Columbia, SC 29205

Re: W30CV-D, Hilton Head Island, SC
Facility ID No. 67140
FRN: 0024880726
LMS File No. 0000119483

Dear Licensee:

This letter is in reference to the license renewal application (Application) for Class A television station W30CV-D, Hilton Head Island, South Carolina (Station), which is licensed to Byrne Acquisition Group, LLC (Licensee).[1] As discussed below, we hereby admonish the Licensee for its failure to include non-discriminatory language in the Station's advertising sales agreements.[2]

In the *Promoting Diversification of Ownership in the Broadcast Services Report and Order*, the Commission required commercial TV and radio broadcasters to certify in their renewal applications that their advertising sales agreements contained nondiscrimination clauses.[3] On March 14, 2011, the Media Bureau issued a public notice revising FCC Form 303-S for both radio and television stations to include a certification asking licensees if they complied with this requirement.[4] The Public Notice stated that if a licensee certified "No" they "must attach an exhibit explaining the persons and matters involved and why the matter is not an impediment to grant the station's license renewal application."[5] On March 22, 2011, the Enforcement Bureau released an Enforcement Advisory reminding licensees of their obligation to certify on their renewal application that their advertising sales contracts do not discriminate on the basis of race or ethnicity and that such contracts contain non-discrimination clauses.[6]

[1] Application of Byrne Acquisition Group, LLC for Renewal of License, LMS File No. 000052046 (filed Feb. 1, 2021) (Application).

[2] Application at Non-Discriminatory Advertising Sales Agreements Certification, Attach. W30CV-D – License Renewal Application Exhibit.

[3] *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922, 5941, para. 49 (2008).

[4] *Media Bureau Announces Revisions to License Renewal Procedures and Form 303-S; Radio License Renewal Cycle to Commence on May 2, 2011*, Public Notice, 26 FCC Rcd 3809, 3810 (MB 2011). *See also Media Bureau Announces Procedures for 2020-2023 Television License Renewal Cycle*, Public Notice 35 FCC Rcd 3656 (MB 2020) (announcing availability of the revised license renewal form – Form 2100, Schedule 303-S – which maintained the certification relating to non-discrimination clauses in joint sales agreements).

[5] *Id.*

[6] *See FCC Enforcement Advisory, Non-Discrimination in Broadcast Advertising*, Public Notice, 26 FCC Rcd 3875 (EB 2011).

In its Application, the Licensee responded "No" to the certification stating: "Commercial licensee certifies that its advertising sales agreements do not discriminate on the basis of race or ethnicity and that all such agreements held by the licensee contain non-discrimination clauses."[7] The Licensee provided an attachment to its Application explaining "there have been occasions during the license term when the Licensee has used written agreements, and…did not always contain non-discrimination clauses. To the extent the Licensee does currently use a standard written agreement, such agreement does contain such a clause."[8]

While the Licensee certified "No" in its Application, there has been no evidence presented to the Commission that the Licensee or the Station has engaged in discriminatory behavior with regards to its advertising. We therefore conclude that the Licensee's failure to include non-discrimination clauses in the Station's advertising sales agreements does not warrant a monetary forfeiture. However, future failures to include non-discrimination clauses in advertising sales agreements may result in more severe sanction, including the assessment of monetary forfeiture or downgrade to low power television status.

Accordingly, **IT IS ORDERED** that, the application for renewal of license of W30CV-D, Hilton Head Island, South Carolina **IS GRANTED** and Byrne Acquisition Group, LLC **IS ADMONISHED**.[9] **IT IS FURTHER ORDERED**, that copies of this Letter shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Byrne Acquisition Group, LLC, 2927 Devine St., Ste. 100, Columbia, SC 29205, and e-mail at jbyrne@whhitv.com. In addition, a copy of this letter shall be sent to its counsel, Timothy Nelson, esq., via e-mail at tnelson@brookspierce.com.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[7] Application at Non-Discriminatory Advertising Sales Agreements Certification.

[8] Application at Attach. W30CV-D – License Renewal Application Exhibit.

[9] Pursuant to section 73.3526(e)(10), 47 CFR § 73.3526(10), the Licensee shall place, within ten (10) calendar days of the release date, a copy of this letter in the Stations' online public inspection file (OPIF) and that copy must be retained until grant of the Stations' next license renewal application. The letter must be placed in the OPIF folder entitled "FCC Investigations or Complaints."

Federal Communications Commission
Washington, D.C. 20554

June 14, 2024

DA 24-571
Released: June 14, 2024

Free Life Ministries, Inc.
PO Box 282.
Goldsboro, NC 27533

Re: WHFL-CD, Goldsboro Island, NC
Facility ID No. 22485
FRN: 005100284
LMS File Nos. 0000118049

Dear Licensee:

This letter is in reference to the license renewal application (Application) for WHFL-CD, Goldsboro Island, North Carolina (Station), which is licensed to Free Life Ministries, Inc. (Licensee).[1] As discussed below, we hereby admonish the Licensee for its failure to include non-discriminatory language in the Station's advertising sales agreements.[2]

In the *Promoting Diversification of Ownership in the Broadcast Services Report and Order*, the Commission required commercial TV and radio broadcasters to certify in their renewal applications that their advertising sales agreements contained nondiscrimination clauses.[3] On March 14, 2011, the Media Bureau issued a public notice revising FCC Form 303-S for both radio and television stations to include a certification asking licensees if they complied with this requirement.[4] The Public Notice stated that if a licensee certified "No" they "must attach an exhibit explaining the persons and matters involved and why the matter is not an impediment to grant the station's license renewal application."[5] On March 22, 2011, the Enforcement Bureau released an Enforcement Advisory reminding licensees of their obligation to certify on their renewal application that their advertising sales contracts do not discriminate on the basis of race or ethnicity and that such contracts contain non-discrimination clauses.[6]

In its Application, the Licensee responded "No" to the certification stating: "Commercial licensee certifies that its advertising sales agreements do not discriminate on the basis of race or ethnicity

[1] Application of Free Life Ministries, Inc. for Renewal of License as Amended, LMS File No. 0000118049 (filed Feb. 1, 2021; amended Mar. 23, 2021 and Feb. 23, 2022) (Application).

[2] Application at Non-Discriminatory Advertising Sales Agreements Certification, Attach. Anti-Discrimination Statement.

[3] *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rulemaking, 23 FCC Rcd 5922, 5941, para. 49 (2008).

[4] *Media Bureau Announces Revisions to License Renewal Procedures and Form 303-S; Radio License Renewal Cycle to Commence on May 2, 2011*, Public Notice, 26 FCC Rcd 3809, 3810 (MB 2011). *See also Media Bureau Announces Procedures for 2020-2023 Television License Renewal Cycle*, Public Notice 35 FCC Rcd 3656 (MB 2020) (announcing availability of the revised license renewal form – Form 2100, Schedule 303-S – which maintained the certification relating to non-discrimination clauses in joint sales agreements).

[5] *Id.*.

[6] *See FCC Enforcement Advisory, Non-Discrimination in Broadcast Advertising*, Public Notice, 26 FCC Rcd 3875 (EB 2011).

and that all such agreements held by the licensee contain non-discrimination clauses."[7] The Licensee provided an attachment to the Application explaining "Free Life certifies that its advertising sales agreement do not discriminate on the basis of race or color or ethnicity. . . .Free life has discovered that their sales agreements inadvertently omitted a written non-discrimination clause."[8] On February 23, 2022, the Licensee amended the Application to include an additional attachment explaining "Free Life updated the language in its advertising contracts to include non-discriminatory language concurrent with filing the license renewal application in July 2020. The non-discriminatory language has been included in all advertising contracts since July 2020."[9]

While the Licensee certified "No" in its Application, there has been no evidence presented to the Commission that the Licensee or the Station has engaged in discriminatory behavior with regards to its advertising. We therefore conclude that the Liceensee's failure to include non-discrimination clauses in the Station's advertising sales agreements does not warrant a monetary forfeiture. However, future failures to include non-discrimination clauses in advertising sales agreements may result in more severe sanction, including the assessment of monetary forfeiture or downgrade to low power television status.

Accordingly, **IT IS ORDERED** that, the application for renewal of license of WHFL-CD, Goldsboro, North Carolina **IS GRANTED** and Free Life Ministries, Inc. **IS ADMONISHED** for its failure to include non-discrimination clauses in the Station's advertising sales agreements.[10] **IT IS FURTHER ORDERED**, that copies of this Letter shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Free Life Ministries, Inc., PO Box 282, Goldsboro, NC 27533, and e-mail at tjohnson@whfl.org. In addition, a copy of this letter shall be sent to its counsel, David O'Neil, esq., via e-mail at doneil@rinioneil.com.

Sincerely,

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[7] Application at Non-Discriminatory Advertising Sales Agreements Certification.

[8] Application at Attach. Anti-Discrimination Statement.

[9] Application at Attach. Free Life Amendment.

[10] Pursuant to section 73.3526(e)(10), 47 CFR § 73.3526(10), the Licensee shall place, within ten (10) calendar days of the release date, a copy of this letter in the Stations' online public inspection file (OPIF) and that copy must be retained until grant of the Stations' next license renewal application. The letter must be placed in the OPIF folder entitled "FCC Investigations or Complaints."

PUBLIC NOTICE

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

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

DA 24-572
Released: June 14, 2024

FCC ANNOUNCES THE FIRST MEETING OF THE NINTH COMMUNICATIONS SECURITY, RELIABILITY, AND INTEROPERABILITY COUNCIL ON JUNE 28, 2024

This Public Notice serves as an announcement that, consistent with the Federal Advisory Committee Act,[1] the Federal Communications Commission (FCC or Commission) will hold the first meeting of the Communications Security, Reliability and Interoperability Councill IX (CSRIC IX or Council) on **Friday, June 28, 2024, beginning at 1:00 pm EDT, at the FCC, 45 L Street, N.E., Washington, D.C., and via video conference call.** Notice of this meeting was published in the Federal Register on June 10, 2024.[2]

The first meeting will include introductions of the Council's Co-chairs, working group co-chairs, and discussion of the topics that CSRIC IX will consider and address, as well as important procedural information for members.[3] The meeting is open to the public and will be streamed live at http://www.fcc.gov/live. While the CSRIC IX meeting is open to the public, the FCC headquarters building is not open access, and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees will not be required to have an appointment but must otherwise comply with protocols outlined at: https://www.fcc.gov/visit. Members of the news media are welcome to attend the meeting.

The CSRIC IX meeting will also be streamed via live feed at https://www.fcc.gov/live. Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via e-mail to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is required to fulfill the request. Please allow at least five days advance notice for accommodation requests; last minute requests will be accepted but may not be possible to accommodate.

More information about CSRIC can be found at https://www.fcc.gov/about-fcc/advisory-committees/communications-security-reliability-and-interoperability-council-0. You may also contact Suzon Cameron, Designated Federal Official (DFO) for CSRIC IX, at (202) 418-1916, Kurian Jacob, Deputy DFO, at (202) 418-2040, or Logan Bennett, Deputy DFO at (202) 418-7790 and via the CSRIC e-mail account at CSRIC@fcc.gov.

–FCC–

[1] 5 U.S.C. §§ 1001-1014.

[2] Federal Communications Commission, Communications Security, Reliability, and Interoperability Council, Notice of Public Meeting, 89 FR 48897 (June 10, 2024).

[3] A Public Notice announcing the Co-chairs, members, working group topics, and inviting nominations to participate as a member of the CSRIC IX working groups was released by the FCC on June 10, 2024.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202 / 418-0500
Internet: https://www.fcc.gov
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DA 24-573
Released: June 14, 2024

WIRELINE COMPETITION BUREAU ANNOUNCES THE AVAILABILITY OF UNUSED FUNDS TO FULLY SATISFY DEMAND FOR RURAL HEALTH CARE PROGRAM FUNDING FOR FUNDING YEAR 2024

WC Docket No. 02-60

By this Public Notice, the Wireline Competition Bureau (Bureau), in consultation with the Office of the Managing Director, announces the amount of unused funds for the Rural Health Care (RHC) Program that have been carried forward for funding year 2024.[1] The Commission's rules for the RHC Program establish a process to carry forward unused funds from past funding years for use in future funding years.[2] In consultation with the Office of the Managing Director, the Bureau must announce a specific amount of unused funds from prior funding years to be carried forward to increase available funding for future funding years.[3]

The Universal Service Administrative Company (USAC) projects that, as of April 30, 2024, $161.57 million in unused funds is available for use in future funding years beginning in funding year 2024.[4] Pursuant to the Commission's direction and section 54.619(a)(4)-(5) of the Commission's rules, the Bureau, in consultation with the Office of the Managing Director, directs USAC to carry forward up to $161.57 million in unused funds from prior funding years to the extent necessary to satisfy funding year 2024 RHC Program demand.[5]

With the carry-forward funding announced in this Notice, eligible RHC Program funding requests filed during the funding year 2024 application filing window or filed after the close of the filing window but received a waiver of the application filing deadline[6] can be fully funded without prioritization.[7] The

[1] *See* 47 CFR § 54.619(a)(5); *see also Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 33 FCC Rcd 6574, 6584-85, para. 27 (2018) (*RHC Program Funding Cap Order*) ("The Bureau will announce the availability and amount of carryover funds during the second quarter of the calendar year."); *Promoting Telehealth in Rural America*, WC Docket 17-310, Report and Order, 34 FCC Rcd 7335, 7402, para. 142 (2019).

[2] *See RHC Program Funding Cap Order*, 33 FCC Rcd at 6584-85, paras. 24-28; *see also* 47 CFR § 54.619(a)(4)-(5).

[3] *RHC Program Funding Cap Order*, 33 FCC Rcd at 6584-85, para. 27; 47 CFR § 54.619(a)(5).

[4] Letter from Mark Sweeney, Vice President, Rural Health Care Division, USAC, to Jodie Griffin, Chief, Telecommunication Access Policy Division, FCC Wireline Competition Bureau, and Bryan Boyle, Deputy Chief, Telecommunication Access Policy Division, FCC Wireline Competition Bureau, WC Docket 02-60 (filed June 13, 2024) (*USAC Demand and Carry-Forward Funding Letter*). The amount of unused funding may fluctuate slightly due to the resolution of pending funding requests and appeals. If the actual amount of unused funds is lower than the estimated amount, USAC is directed to carry forward the lower amount.

[5] 47 CFR § 54.619(a)(4)-(5).

[6] *See Streamlined Resolution of Requests Related to Actions by The Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 02-60, 21-93, Public Notice, DA 24-482, 2024 WL 2828426, at *18-19, nn.36-37 (WCB June 3, 2024).

RHC Program funding cap for funding year 2024 is $706,926,603.[8] The internal cap on multi-year commitments and upfront payments under the Healthcare Connect Fund Program is $178,496,951.[9] These funding year 2024 caps represent a 3.6% inflation-adjusted increase to the RHC Program funding cap and the internal cap on multi-year commitments and upfront payments from funding year 2023.[10] The estimated total RHC Program demand for funding year 2024 is $788.73 million,[11] of which approximately $180.75 million represents demand for upfront payments and multi-year commitments in the Healthcare Connect Fund.[12]

For further information, please contact Bryan P. Boyle, Wireline Competition Bureau at (202) 418-7924 or via email at Bryan.Boyle@fcc.gov.

- FCC -

(Continued from previous page)

[7] *See* 47 CFR § 54.621(b) (requiring prioritization of funding requests by Priority Tiers when demand for RHC Program support exceeds available funding); 47 CFR § 54.619(a).

[8] *Wireline Competition Bureau Announces E-Rate and RHC Programs' Inflation-Based Caps for Funding Year 2024*, CC Docket No. 02-6, WC Docket No. 02-60, Public Notice, DA 24-229, 2024 WL 1068445, at *1 (WCB Mar. 8, 2024). The 2024 funding year runs from July 1, 2024 to June 30, 2025.

[9] *Id*.

[10] *Id*.

[11] *See USAC Demand and Carry-Forward Funding Letter*. The $788.73 million estimated total RHC Program demand includes $753.06 million estimated demand from applications filed within the funding year 2024 application filing window, $0.08 million estimated demand from applications filed after the close of the funding year 2024 application filing window for which the Bureau has granted a waiver of the application filing deadline and for which the funding request number was included in the Bureau's public notice granting the waiver, and the projected USAC administrative expenses of $35.59 million. *Id*. at 1, n.2.

[12] *Id*. While the demand for upfront payments and multi-year commitments in the Healthcare Connect Fund exceeds the internal cap on multi-year commitments and upfront payments, the internal cap will not apply for funding year 2024 because total demand does not exceed total support available for funding year 2024 with the carry-forward funding announced in this Notice. *See* 47 CFR § 54.619(a).

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 24-574
Released: June 14, 2024

FCC ANNOUNCES A TRIBAL WORKSHOP IN BILLINGS, MT, July 24-25, 2024

By this Public Notice, the Federal Communications Commission (FCC) announces an upcoming in-person workshop for Tribal Nations. The FCC's Tribal workshops are designed to provide information that will help Tribal Nations identify and evaluate opportunities to develop more robust broadband infrastructure and services in Tribal communities. This will be the FCC's third in-person Tribal workshop for 2024, and will include a special focus on broadband data and mapping.

FCC staff, including staff from the Broadband Data Task Force (BDTF), will provide presentations on the FCC's Broadband Data Collection (BDC) and a range of important FCC initiatives that support the deployment of communications infrastructure and services in Tribal communities (e.g., Broadband Data Collection, carrier reporting requirements, and FCC programs). This will include discussion on how to file reports and broadband data for the BDC. There will also be a presentation from the FCC's Office of Native Affairs and Policy (ONAP) on how to follow FCC rulemakings and file comments in FCC proceedings so that Tribal Nations can help inform the FCC.

Tribal government leaders, Tribal service providers and IT managers, Tribal government planners and managers, Tribal enterprise specialists, and Tribal broadband providers are all persons who should consider attending this event. The workshop will be held July 24-25, 2024, at the Doubletree by Hilton Hotel Billings in Billings, Montana.

Registration is free. To register for the workshop, please visit ONAP's event registration page (www.fcc.gov/onap-event-registration) and submit the requested information. ONAP staff will contact you to confirm your registration by email from **Tribal.Events@fcc.gov**. Any questions about the workshop may be directed to the Office of Native Affairs and Policy: **Tribal.Events@fcc.gov**. Walk-ins can also be accommodated.

Reasonable accommodations for people with disabilities are available upon request by sending an e-mail to: FCC504@fcc.gov or calling the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice). Include a description of the accommodation you will need and tell us how to contact you if we need more information. Please make accommodation requests as early as possible as we may be unable to fulfill last minute requests.

-FCC-

PUBLIC NOTICE

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

News Media Information 202 / 418-0500
Internet: https://www.fcc.gov
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DA 24-575
Released: June 17, 2024

NOTICE CONCERNING *EX PARTE* STATUS OF PRESENTATIONS RELATED TO WORLD RADIOCOMMUNICATIONS CONFERENCE ADVISORY COMMITTEE

OIA Docket No. 24-30

The World Radio Conference Advisory Committee (Committee or WAC) mission is to provide to the Commission advice, including technical advice, and recommended proposals for the International Telecommunication Union World Radiocommunication Conferences (WRCs). In particular, the Committee will focus on the international frequency spectrum issues identified on the WRC-27 agenda with the goal of identifying private sector/public priorities and objectives. The Committee will be charged with gathering the data and information necessary to formulate meaningful recommendations for these objectives. The WAC is organized under, and operates in accordance with, the provisions of the Federal Advisory Committee Act (FACA).[1]

Pursuant to the FACA, the Commission is responsible for oversight of the WAC, including its subcommittees and working groups.[2] As a result, FCC staff or Commissioners may participate in or attend meetings or other activities held by both the WAC and its subcommittees and working groups. In light of this, we are announcing that, pursuant to section 1.1200(a) of the Commission's rules, 47 CFR § 1.1200(a), presentations to the WAC, including to its subcommittees and working groups, and at any roundtable discussions sponsored by the WAC, as well as presentations between WAC members (including members of any subcommittees or working groups) and FCC staff or Commissioners incidental to and in connection with such WAC meetings or roundtable discussions, will be treated as exempt presentations for *ex parte* purposes. This exemption covers presentations from WAC members to FCC staff and Commissioners in other settings only to the extent that the WAC members are presenting the views of the WAC or its working groups, as opposed to an individual member's own views or that of a member's organization. We find that this modification of the *ex parte* rules is in the public interest because it will allow the WAC to develop and shape its advice and recommendations to the Commission more efficiently and effectively.

We recognize that some issues may be addressed by the WAC that are the subject of pending FCC proceedings. The Commission will not rely in these proceedings on any information submitted to the WAC, or to any of its subcommittees, working groups, or sponsored roundtables, or information conveyed WAC members (including members of any subcommittees or working groups) to FCC staff or Commissioners unless that information is first placed in the record of the relevant proceeding.[3]

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[1] *See* 5 U.S.C. App. 2.

[2] *See id*.

[3] This notice updates any prior notice, released during a prior term of the WAC, addressing the *ex parte* status of information submitted to or by the WAC. The treatment of *ex parte* presentations specified in this notice shall apply to this and future terms of the WAC unless modified by a subsequent public notice.

Additional information on WRCs, specifically WRC-27, is available at www.fcc.gov/wrc-27 . You may also contact Gregory Baker, Designated Federal Official for the Committee, at (202) 919-0758 (Gregory.Baker@fcc.gov).

- FCC -

PUBLIC NOTICE

Federal Communications Commission
45 L St., N.E.
Washington, D.C. 20002

News media information 202-418-0500
Internet: http://www.fcc.gov

REPORT NO: 0513 SPECIAL RELIEF AND SHOW CAUSE PETITIONS June 17, 2024

Portions of this Public Notice have been produced by the Media Bureau's computer-based Data Management systems.

This Public Notice is intended to list only special relief requests, petitions for order to show cause and related petitions for reconsideration or applications for review. CSR (cable special relief) petitions and CSC (cable show cause) petitions refer to cable-related matters pursuant to Part 76. The newly-designated BSR (broadcast special relief) petitions refer to certain non-application-related broadcast matters pursuant to Part 73.

Parties seeking special relief pursuant to Part 76 are advised that such requests must be initiated through the special relief provisions of Section 76.7 of the Rules. Many of these filings are subject to the pleading cycle rules set forth in Section 76.7, while others have their own pleading cycle relative to the particular rule involved. For BSR petitions filed pursuant to Part 73, the pleading cycle will be the same as that mandated by Section 76.7 unless stated otherwise.

Petitions for reconsideration and applications for review are listed for informational purposes only. The applicable pleading cycles for these types of petitions are found in Sections 1.106 and 1.115 of the Commission's rules, respectively.

Please Note that files containing these petitions can no longer be reviewed in the Commissions Reference Information Center, CY-Level, 445 12th Street, SW Washington, DC 20554. Anyone may search for petitions electronically filed via the Commission's Electronic Comment Filing System (ECFS) by using MB Docket No. 12-1 in the proceeding number field. Once the Media Bureau has issued a Special Relief and Show Cause Petition Public Notice, interested parties can find the petition at issue by using the newly assigned docket number or the CSR or CSC number. Enter the CSR or CSC number into the Bureau Identification Number field in ECFS.

The letter code following a CSR Number refers to the particular subject of the petition. Those currently in use are: A – ADI/DMA; M – must carry; E – effective competition; C – retransmission consent; P – program access; R – rate regulation; F – rate freeze; L – commercial leased access; Z – technical; S – significantly viewed; N – nonduplication/syndicated exclusivity/sports deletion; D – small system definition; O – OTARD; and X – cross ownership. If no letter appears after the CSR number, the petition is considered to be in the miscellaneous category. CSC and BSR petitions do not have letter code designations. It is requested that all responses or statements refer to the CSR file number or docket number assigned to the petition.

Docket No.	CSR Number	Petitioner	Respondent	Special Relief Request Communities
24-179	CSR-9018-A	Elko County, Nevada	PBS Reno KTVN-TV KOLO-TV KREN TV KRNS CA TV KRNV TV KRXI TV	Elko County, Nevada

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

In the Matter of	)	
	)	
Jupiter Community Radio, Inc.	)	File No.: EB-FIELDSCR-17-00025789
	)	NAL/Acct. No.: 202032020007
	)	FRN: 0009817149
Licensee of Station WJUP-LP	)	
Jupiter, Florida	)	Facility ID: 133909

MEMORANDUM OPINION AND ORDER

Adopted: June 18, 2024 **Released: June 18, 2024**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. We deny the Petition for Reconsideration filed by Jupiter Community Radio, Inc. (Jupiter), licensee of Low Power FM (LPFM) station WJUP-LP, Jupiter, Florida (Station),[1] seeking reconsideration of a forfeiture order issued by the Enforcement Bureau (Bureau).[2] In the *Forfeiture Order*, the Bureau imposed a forfeiture of $25,000 against Jupiter for failing to: (a) operate the Station in accordance with the terms of its Federal Communications Commission (FCC or Commission) authorization and the applicable LPFM technical rules; (b) make the Station available for inspection; and (c) maintain Emergency Alert System (EAS) equipment. Each is a violation of the Communications Act of 1934, as amended (Act),[3] and the Commission's rules.[4] Upon review of the Petition for Reconsideration and the entire record, we affirm the findings in the *Forfeiture Order* and deny the Petition.

II. BACKGROUND

2. On October 26, 2020, the Bureau issued a *Notice of Apparent Liability for Forfeiture* (*NAL*) against Jupiter, proposing a $25,000 penalty for apparent willful violations of section 301 of the Act, and sections 11.11(a), 73.840, 73.845, and 73.878(a) of the Commission's rules.[5] Specifically, in the *NAL* the Commission found that Jupiter failed to operate the Station in accordance with the terms of its authorization and the applicable LPFM technical rules, failed to make the Station available for inspection, and failed to maintain the required EAS equipment necessary to convey critical emergency information to Jupiter's audience, all in apparent violation of section 301 of the Act and the aforementioned sections of the Commission's rules.[6] Jupiter filed a response to the Bureau's *NAL* on November 30, 2020.[7] In its response, Jupiter did not dispute the violations described in the *NAL*. Instead, Jupiter sought reduction or

[1] *See Jupiter Community Radio, Inc.*, Petition for Reconsideration (filed Sept. 12, 2022) (on file in EB-FIELDSCR-17-00025789) (Petition).

[2] *Jupiter Community Radio, Inc.*, Forfeiture Order, 37 FCC Rcd 9222 (EB 2022) (*Forfeiture Order*).

[3] 47 U.S.C. § 151 *et seq*.

[4] 47 U.S.C. § 301; 47 CFR §§ 11.11(a), 73.840, 73.845, 73.878(a).

[5] *See Jupiter Community Radio, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 11831 (EB 2020) (*NAL*). The *NAL* and *Forfeiture Order* include more complete discussions of the facts and history of this case and are incorporated herein by reference.

[6] *Id.* at 11831, para. 1.

[7] *See Jupiter Community Radio, Inc*., Petition for Reduction or Cancellation of Forfeiture (filed Nov. 30, 2020) (on file in EB-FIELDSCR-17-00025789) (NAL Response).

cancellation of the proposed forfeiture amount, arguing that: (a) the Bureau assessed the wrong base forfeiture for its unauthorized operation; (b) Jupiter would make operational changes to better permit station inspection; (c) Jupiter provided EAS logs after the *NAL* was issued which warranted cancellation of the proposed forfeiture for the EAS violation; and (d) Jupiter had a record of prior compliance.[8] In its NAL Response, however, Jupiter did not argue that it could not pay the proposed forfeiture.

3. On August 11, 2022, the Bureau issued the *Forfeiture Order* rejecting Jupiter's arguments and imposing the full $25,000 penalty.[9] In the *Forfeiture Order,* the Bureau concluded that Jupiter willfully violated section 301 of the Act, and sections 73.840, 73.845, 73.878(a), and 11.11(a) of the Commission's rules, by failing to operate the Station in accordance with the terms of its FCC authorization and the applicable LPFM technical rules, failing to make the Station available for inspection, and failing to maintain EAS equipment.[10]

4. On September 12, 2022, Jupiter filed a Petition for Reconsideration, again conceding the violations, but this time seeking reduction or cancellation of the $25,000 forfeiture based solely on its inability to pay.[11] In its Petition, Jupiter asserts that after it filed its response to the *NAL*, Jupiter's financial situation changed when its new board took over management of the Station in October 2021.[12] In support, Jupiter submits a declaration from its president, a list of the Station's non-cash assets, and copies of eleven (11) months of bank statements from October 2021—when the current board took over management of the Station—through August 2022.[13] Jupiter argues that this financial information qualifies as "other reliable and objective documentation that accurately reflects the [petitioner's] current financial status," and that such information should meet the Commission's required documentation for an inability to pay claim.[14] It further argues that, based on this information, it is in the public interest to cancel or reduce the forfeiture so that the Station can continue to serve the local community.[15] Jupiter also asserts that it has installed the Station's own EAS equipment and that while it acknowledges past problems, it "has addressed them."[16]

5. On April 2, 2024, Bureau field agents attempted to conduct an inspection of the Station.[17] Upon arriving at the Station's authorized location, they found that the Station was off the air. An agent contacted Jupiter's president to arrange an inspection of the Station's facilities, but the president was

[8] *See id.* at 1-4.

[9] *Forfeiture Order*, *supra* note 2, at 9222, para. 1.

[10] *Id.* at 9230-31, para. 16.

[11] *See* Petition, *supra* note 1.

[12] *See id.* at 1-2.

[13] *See id.* at Exhibit 1 (on file in EB-FIELDSCR-17-00025789).

[14] *See id.* at 3; *see also NAL*, *supra* note 5, at 11838, para. 25.

[15] Petition, *supra* note 1, at 1-2, 4.

[16] *Id.* at 1-5. Jupiter does not argue in its Petition that the forfeiture should be reduced or cancelled for these reasons. Nevertheless, the Bureau already considered such factors and made clear in the *Forfeiture Order* that remedial steps taken in response to an enforcement action do not support a reduced forfeiture for Jupiter's failure to permit inspection and failure to install EAS equipment at the time of inspection. *See Forfeiture Order*, *supra* note 2, at 9227-29, paras. 9-12. As the Bureau considered and rejected these arguments in the *Forfeiture Order*, we find no reason to address them again here.

[17] *See* 47 CFR § 73.878(a) (stating that an LPFM licensee "shall make the station available for inspection by representatives of the FCC during the station's business hours"); *see also* 47 U.S.C. § 303(n).

uncooperative at the time and did not return the agent's follow-up calls seeking access to the Station's facilities to conduct an inspection.[18]

III. DISCUSSION

6. Upon review of the Petition and the entire record, we find no basis to reconsider the *Forfeiture Order*. Petitions for reconsideration are granted only in limited circumstances. Specifically, section 1.106(c) of the Commission's rules authorizes the Bureau to grant a petition for reconsideration that relies on new facts or arguments only if: (a) those facts or arguments relate to events that have occurred, or circumstances that have changed, since the last opportunity to present such matters; (b) the petition relies on facts or arguments unknown to the petitioner until after its last opportunity to present those facts or arguments; or (c) the Bureau determines that consideration of the new facts or arguments is required in the public interest.[19]

A. Section 1.106 of the Commission's Rules Procedurally Bars the Bureau from Granting a Petition Based on the New Arguments and Facts Raised in the Petition

7. Jupiter raises an argument in its Petition—specifically, that it is unable to pay the assessed forfeiture—that it did not make in its NAL Response. Jupiter argues the Commission should nevertheless consider this argument now because its financial situation "is not the same as it was when [the Bureau] issued the [*NAL*]."[20]

8. As discussed above, section 1.106(c) of Commission's rules authorizes us to consider new facts or arguments only if those facts or arguments relate to circumstances that have changed or that were unknown to the *petitioner* until after the time of his last opportunity to present those facts or arguments.[21] Jupiter was clearly aware of its financial condition when it filed its NAL Response and could have requested a reduction in the proposed forfeiture amount based on its inability to pay at that time. Jupiter was in the best position to make such an argument in a timely manner, yet it opted not to do so.[22] The fact that a new governing board took over management of the Station almost a year after Jupiter responded to the *NAL* does not alter what Jupiter, as a corporate entity, knew about its financial condition when it submitted its NAL Response or that it failed to seek a forfeiture adjustment based on its ability to pay at that time. Jupiter maintains that its circumstances have changed, yet fails to provide any information in its Petition about it financial status at the time of the *NAL*, other than to say it did not have a bank account and did not keep any financial records.[23] Even if Jupiter's financial condition changed

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[18] The property manager at the Station's authorized transmitter site reported to the agents that Jupiter's lease expired more than a year ago (in March 2023), and that he did not believe Jupiter had operated the Station from the site since the lease expired.

[19] 47 CFR § 1.106(c); *see EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (EB 2000) (citing *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)); *see also Ely Radio*, *LLC*, Memorandum Opinion and Order, 27 FCC Rcd 7608, 7610, para. 6 (EB 2012) (articulating the standard of review for Petitions for Reconsideration).

[20] Petition, *supra* note 1, at 1-2.

[21] 47 CFR § 1.106(c).

[22] *See, e.g.*, *Ravi's Import Warehouse, Inc., Dallas, Texas*, Memorandum Opinion and Order, 37 FCC Rcd 1575 (2022) (noting the Commission's well-established principle that "[w]e cannot allow [a party] to sit back and hope that a decision will be in its favor and then, when it isn't, to parry with an offer of more evidence. No judging process in any branch of government could operate efficiently or accurately if such a procedure were allowed.") (citing *GLH Communications, Inc.*, Order on Reconsideration, 33 FCC Rcd 5926, 5928-29, para. 8 & nn.27-28 (2018) (quoting *Colorado Radio Corp. v. FCC*, 118 F.2d 24, 26 (D.C. Cir. 1941)), *aff'd*, 930 F.3d 449 (D.C. Cir. 2019)).

[23] Petition, *supra* note 1, at 2.

after it filed its NAL Response, Jupiter had ample time to supplement the response before the Bureau issued the *Forfeiture Order*.[24] Thus, we find that Jupiter has failed to establish any changed circumstances that warrant our considering its inability to pay argument now. We therefore dismiss the Petition, as it fails to satisfy the requirements of section 1.106 of the Commission's rules and affirm the $25,000 forfeiture against Jupiter imposed in the *Forfeiture Order*.[25]

B. No Reduction of the Forfeiture is Warranted on the Merits

9. Even if we were to consider Jupiter's new inability to pay argument, it lacks merit. In the *NAL,* the Bureau provided instructions regarding the information Jupiter would need to provide with any request to cancel or reduce the forfeiture.[26] Specifically, we pointed to the Commission's policy that it will:

> [N]ot consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.[27]

In addition, any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.[28]

10. Jupiter did not submit any federal tax returns or financial statements prepared according to generally accepted accounting practices.[29] Instead, Jupiter submits a declaration from the Station's president, a list of non-cash assets, and 11 months of bank statements from October 2021 through August 2022, maintaining that such information should be considered reliable and objective documentation of Jupiter's financial status.[30]

11. We are cognizant of the concerns raised by small entities as to the burden and expense of documenting their inability to pay a forfeiture. As a general matter, we are willing to consider other documentation, not simply audited financial statements, that is considered probative, objective evidence of a violator's ability to pay a forfeiture.[31] However, in this case, we find that Jupiter's bank account

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[24] If, for example, Jupiter's financial situation was affected by the Covid pandemic (which Jupiter implies in its Petition, *supra* note 1, at 1, n.2), Jupiter had ample time to submit updated information after it submitted its NAL Response in November 2020 and prior to our issuing the *Forfeiture Order* in August 2022.

[25] *See, e.g.*, *Ravi's Import Warehouse, Inc., Dallas, Texas*, Memorandum Opinion and Order, 35 FCC Rcd 14525, 14527-28, para. 10 (EB 2020) (denying the Petition because, in violation of the Commission's procedural rules, petitioner relied on facts and arguments not previously presented), *aff'd Ravi's Import Warehouse, Inc., Dallas, Texas*, *supra* note 22.

[26] *See NAL*, *supra* note 5, at 11838, para. 25.

[27] *Id.* (citing 47 U.S.C. § 503(b)(2)(E)).

[28] *Id.*

[29] Jupiter states that it does not file federal tax returns because it is a state-chartered nonprofit corporation and that it relies on "simple bookkeeping methods that do not yield GAAP-compliant audited financial statements." Petition, *supra* note 1, at 3.

[30] *See* Petition, *supra* note 1, at 3 & Exhibit 1. Jupiter's president, however, states that all cleared checks were redacted. *See* Petition at Exhibit 1, Declaration of Paula Henry.

[31] *See The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17106, para. 44 (1997) (citing 47 CFR § 1.80(f)(3) (current 47 CFR § 1.80(g)(3), which states that "[a]ny showing as to why the forfeiture should not be imposed or should be reduced shall include a *detailed* factual statement and such documentation and affidavits as may be pertinent" (emphasis added), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999)).

statements and its list of non-cash assets did not provide the Bureau with sufficient evidence to assess Jupiter's claim, as the bank information provided represents less than one year of the Station's financial activity. While we recognize that Jupiter first established a bank account following a change in its governing board, Jupiter has had ample time to supplement its Petition with the additional financial information (i.e., additional bank statements) that would have enabled the Bureau to better evaluate Jupiter's current ability to pay the forfeiture. Therefore, after careful consideration of Jupiter's submission, we conclude that Jupiter failed to provide sufficient information in the Petition to enable the Bureau to assess the company's financial condition and its ability to pay the forfeiture amount.

12. Moreover, as noted above, Jupiter asserted in its Petition that it installed the Station's own EAS equipment, that it "now operates an authorized facility," and that it has addressed any "past problems."[32] However, when Bureau field agents recently attempted to inspect the Station and its EAS equipment, Jupiter's president was uncooperative, and the agents were ultimately unable to gain access to the Station's facilities to conduct an inspection—the very same behavior that formed one of the violations in the underlying *NAL* and *Forfeiture Order*.[33] Given the limited financial information Jupiter submitted with its Petition, coupled with Jupiter's continued unwillingness to permit Bureau agents to inspect the Station, we find that the public interest does not favor granting the relief that Jupiter seeks. Accordingly, and on alternate and independent grounds, we deny the Petition and affirm the $25,000 forfeiture against Jupiter imposed in the *Forfeiture Order*.

IV. ORDERING CLAUSES

13. Accordingly, **IT IS ORDERED** that, pursuant to section 405 of the Communications Act of 1934, as amended, 47 U.S.C. § 405, and section 1.106 of the Commission's rules, 47 CFR § 1.106, the Petition for Reconsideration filed by Jupiter Community Radio, Inc. is hereby **DISMISSED**, or in the alternative, **DENIED**.

14. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and sections 0.111, 0.204, 0.311, and 1.80 of the Commission's rules, 47 CFR §§ 0.111, 0.204, 0.311, 1.80, Jupiter Community Radio, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty-five thousand dollars ($25,000) for willfully violating section 301 of the Act and sections 11.11(a), 73.840, 73.845, and 73.878(a) of the Commission's rules.

15. Payment of the forfeiture is required to be made in the manner provided for in section 1.80 of the Commission's rules, 47 CFR § 1.80, within thirty (30) calendar days after the release of this Memorandum Opinion and Order. Jupiter Community Radio, Inc. shall send electronic notification of payment to the Office of the Field Director, Enforcement Bureau, Federal Communications Commission, at field@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, 47 U.S.C. § 504(a).[34]

16. In order for Jupiter Community Radio, Inc. to pay the proposed forfeiture, Jupiter Community Radio, Inc. shall notify the Office of the Field Director at field@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at https://apps.fcc.gov/cores/userLogin.do. Payment of the forfeiture must be made by credit card using CORES at https://apps.fcc.gov/cores/userLogin.do, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments

[32] *See supra*, para. 3; Petition, *supra* note 1, at 4.

[33] *See NAL*, *supra* note 5, at 11832, 11835, paras. 5, 14; *Forfeiture Order*, *supra* note 2, at 9230-31, para. 16.

[34] 47 U.S.C. § 504(a). Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

by check or money order. Below are instructions that payors should follow based on the form of payment selected:[35]

- 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 NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a $24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at https://apps.fcc.gov/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 NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

17. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554. Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

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

[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 http://www.fcc.gov/Forms/Form159/159.pdf.

18. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by first class mail and certified mail, return receipt requested, to Jupiter Community Radio, Inc. at its address of record, and to Aaron Shainis, Esq., Shainis and Peltzman, Chartered, 1850 M Street, NW, Suite 240, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of	)	
	)	
Cellco Partnership d/b/a Verizon Wireless	)	File No.: EB-SED-23-00035114
	)	NAL/CD Acct. No.: 202432100004
	)	FRN: 0003290673
	)	
	)	

ORDER

Adopted: June 25, 2024 **Released: June 25, 2024**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission has entered into a Consent Decree to resolve its investigation into whether Cellco Partnership d/b/a Verizon Wireless (Verizon Wireless) violated the Commission's rules requiring transmission of all 911 calls to public safety answering points. It is a bedrock principle embedded in the Commission's rules that reliable 911 service must be available to all persons in the United States at all times. Timely responses to 911 users are vital to public safety. To settle this matter, Verizon Wireless: admits that a 911 outage on December 21, 2022, occurred when certain operating procedures were not followed; will implement a compliance plan designed to prevent future such outages; and will pay a $1,050,000 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 Verizon Wireless's compliance with the design, operation, and delivery of 911 wireless calls to public safety answering points, and sections 9.4 and 9.10 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 Verizon Wireless'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 Act[3] and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,[4] the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

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

[1] 47 CFR §§ 9.4, 9.10.

[2] *See id.* § 1.93(b).

[3] 47 U.S.C. § 154(i).

[4] 47 CFR §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Patrick Murray, Associate General Counsel, Cellco Partnership d/b/a Verizon Wireless, 1300 I Street, NW, Suite 500 East, Washington, DC 20005, and e-mail to patrick.murray@verizonwireless.com.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of	)	
	)	
Cellco Partnership d/b/a Verizon Wireless	)	File No.: EB-SED-23-00035114
	)	NAL/Acct. No.: 202432100004
	)	FRN: 0003290673

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and Cellco Partnership d/b/a Verizon Wireless, by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into whether Verizon Wireless violated sections 9.4 and 9.10 of the Commission's rules in connection with a 911 outage that occurred on December 21, 2022. To resolve this matter, Verizon Wireless agrees to the terms and conditions below, including implementing a compliance plan and paying a $1,050,000 civil penalty.

I. DEFINITIONS

2. For the purposes of this Consent Decree, the following definitions shall apply:

(a) "911 Rules" means section 9.4 and 9.10 of the Commission's rules, as applicable, and other Communications Laws governing the design, operation, and delivery of wireless 911 calls to Public Safety Answering Points (PSAPs).[1]

(b) "Act" means the Communications Act of 1934, as amended.[2]

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

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

(e) "CD Acct No." means account number 202432100004, 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 Verizon Wireless is subject by virtue of its business activities, including but not limited to the 911 Rules.

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

(i) "Covered Employees" means all employees and agents of Verizon Wireless who perform, supervise, oversee, or manage the performance of, duties that relate to Verizon Wireless's responsibilities under the 911 Rules.

[1] *See* 47 CFR §§ 9.4, 9.10.

[2] 47 U.S.C. § 151 *et seq.*

(j) "Effective Date" means the date by which both the Bureau and Verizon Wireless 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-23-00035114 regarding whether Verizon Wireless violated the 911 Rules.

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

(m) "Parties" means Verizon Wireless 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) "Verizon Wireless" or "Company" means Cellco Partnership d/b/a Verizon Wireless and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest, that provide services subject to the 911 Rules.

II. BACKGROUND

3. Commission rules require providers to transmit 911 calls. Section 9.4 of the Commission's rules states, "[a]ll telecommunications carriers shall transmit all 911 calls to a PSAP [Public Safety Answering Point], to a designated statewide default answering point, or to an appropriate local emergency authority as set forth in section 9.5."[3] Section 9.10(b) of the Commission's rules states that commercial mobile radio service (CMRS) providers "must transmit all wireless 911 calls without respect to their call validation process to a Public Safety Answering Point, or, where no Public Safety Answering Point has been designated, to a designated statewide default answering point or appropriate local emergency authority pursuant to § 9.4."[4]

4. On December 21, 2022, Verizon Wireless experienced a network outage (Outage) impacting 911 wireless Voice over Long-Term Evolution (VoLTE) traffic in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee. The Outage manifested similarly to a prior Verizon Wireless outage that occurred in October 2022. In response to Verizon Wireless's root cause analysis of the outage that occurred in October 2022, the Company implemented a wide range of audits and technical system updates designed to protect against future recurrences of configuration and one-way audio issues.[5] The December Outage was the result of the reapplication of a known flawed security policy update file by a Verizon Wireless employee. Prior to the reapplication of the security policy update file, Verizon Wireless was aware that the version of the security policy update file that caused the Outage was related to the root cause of the outage that occurred in October. Due to insufficient naming convention protocols and a failure to follow then-current implementation protocols, the flawed security policy update file was reintroduced into the Verizon Wireless network. This resulted in the Outage, however without the one-way audio issues.[6] Despite this prior outage and Verizon Wireless's understanding that the flawed security policy update file resulted in that prior outage, Verizon Wireless did not remove that security policy update file from the inventory of available security policies, which enabled personnel to select and reapply the flawed security policy update file to the Verizon Wireless network. Additionally, Verizon Wireless admits its employees failed to comply with its "business-as-usual" operating and implementation procedures, which procedures required additional oversight prior to the implementation of the type of

[3] 47 CFR § 9.4.

[4] 47 CFR § 9.10(b).

[5] *See* Revised Response to Letter of Inquiry from Verizon Wireless, Spectrum Enforcement Division, FCC Enforcement Bureau at 11-13, 42-43 (Sept. 6, 2023) (on file in EB-SED-23-00035114) (LOI Response).

[6] *See* LOI Response at 11-13, 42-43.

security policy update that caused the December Outage.[7] The Outage lasted for one hour and forty-four minutes and prevented hundreds of 911 calls from completing through Verizon Wireless's network.[8]

5. The Public Safety and Homeland Security Bureau referred the matter to the Enforcement Bureau, and, on April 5, 2023, the Bureau's Spectrum Enforcement Division (SED) issued a letter of inquiry (LOI) to Verizon Wireless directing Verizon Wireless to submit a written response to a series of questions relating to the Outage.[9] On June 20, 2023, Verizon Wireless submitted its response to SED.[10] On September 6, 2023, Verizon Wireless submitted a final revised response to the LOI.[11] On September 29, 2023, SED issued a follow-up LOI to Verizon Wireless.[12] On October 24 and October 27, 2023, Verizon Wireless submitted follow-up responses to SED.[13]

6. Verizon Wireless and the Bureau subsequently engaged in settlement negotiations. To resolve this matter, Verizon Wireless 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**. Verizon Wireless 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**. 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, Verizon Wireless 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 Verizon Wireless concerning the matters that were the subject of the Investigation, or to set for hearing the question of Verizon Wireless'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.[14]

11. **Admission**. Verizon Wireless 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,

[7] *See* Response to Follow-up Letter of Inquiry, from Verizon Wireless to Spectrum Enforcement Division, FCC Enforcement Bureau at 10 (Oct. 24, 2023) (on file in EB-SED-23-00035114) (FLOI Response).

[8] *See* LOI Response at 19.

[9] Letter of Inquiry from Spectrum Enforcement Division, FCC Enforcement Bureau to Verizon Wireless (April 5, 2023) (on file in EB-SED-23-00035114) (LOI).

[10] *See generally* Response to Letter of Inquiry from Verizon Wireless, to Spectrum Enforcement Division, FCC Enforcement Bureau at 1 (June 20, 2023) (on file in EB-SED-23-00035114).

[11] *See generally* LOI Response.

[12] *See* E-mail, Spectrum Enforcement Division, FCC Enforcement Bureau, to Verizon Wireless. (Sept. 29, 2023, 11:20 EST) (on file in EB-SED-23-00035114).

[13] *See* FLOI Response; Supplemental Response to Follow-up Letter of Inquiry, from Verizon Wireless to Spectrum Enforcement Division, FCC Enforcement Bureau (Oct. 27, 2023) (on file in EB-SED-23-00035114) (Supplemental FLOI Response).

[14] *See* 47 CFR § 1.93(b).

that its actions, as 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, Verizon Wireless shall designate a senior corporate manager 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 Verizon Wireless 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.

13. **Compliance Plan**. Verizon Wireless 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, Verizon Wireless shall develop and implement, or, where processes already exist, improve upon, as necessary, 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, Verizon Wireless will implement, at a minimum, the following procedures:

a. **Operating Procedures**. Within thirty (30) calendar days after the Effective Date, Verizon Wireless shall establish Operating Procedures that all Covered Employees shall follow to help ensure that Verizon Wireless complies with the 911 Rules. The Operating Procedures shall include, but are not limited to, the following:

   i. **Develop Compliance Checklist**. Verizon Wireless shall develop a compliance checklist that describes the steps for Verizon Wireless to follow to comply with the 911 Rules.

   ii. **Develop Processes to Prevent Future Reoccurrence of Firewall and One-Way Audio Issues**. Verizon Wireless shall review, implement, and revise, as necessary, all new and existing audits and system updates identified in the LOI Response to prevent a reoccurrence of issues that resulted in the October outage.[15]

   iii. **Establish Enhanced Processes for Implementing Security Policy Updates.** Consistent with the new and existing procedure identified in the LOI Response to prevent the reoccurrence of the Outage,[16] Verizon Wireless shall establish unique file naming convention standards for all security policy updates which shall include the date and time each policy is created and superseded to prevent accidental selection from prior time periods. Verizon Wireless shall remove any flawed files from available inventory within 24 hours of discovery to make the flawed files unavailable to employees implementing security policy updates. Verizon Wireless shall also establish unique file naming convention standards for all security policy updates. Verizon Wireless shall also establish and implement Operating Procedures that ensures any network change or software protocol deemed to be unsuitable for reapplication into Verizon Wireless's network is removed and safeguarded from reapplication. Verizon Wireless employees and

[15] *See* LOI Response at 11-13, 42-43.

[16] *See* LOI Response at 11-13.

vendors must certify that business-as-usual procedures have been followed when implementing security policy updates.

iv. **Establish Testing Prior to Significant Network Change**. Verizon Wireless shall establish and implement Operating Procedures (including, as necessary, reviewing and revising any existing procedures) to ensure that all planned significant network changes, including without limitation any significant (i) network upgrades, and (ii) network updates (including all phases of such maintenance, upgrades, and updates), are tested in a laboratory or other test environment that simulates the target network and load (including, as applicable, interim operating states) prior to the first application in the network. Verizon Wireless shall do so in a manner consistent with any applicable FCC *Communications Security, Reliability, and Interoperability Council* (CSRIC) best practices, relating to testing of network elements and upgrades. Such Operating Procedures shall, at a minimum, adhere to the following CSRIC best practices, and any future revisions thereto, relating to testing of network elements and upgrades: 13-10-0559 ("Network Operators, Service Providers, and Public Safety should consider validating upgrades, new procedures and commands in a lab or other test environment that simulates the target network and load prior to the first application in the field") and 13-10-0600 ("Network Operators and Service Providers should establish and document a process to plan, test, evaluate and implement major change activities in their network").

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, Verizon Wireless 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**. Verizon Wireless shall identify the primary risks to Verizon Wireless' 911 transmission and delivery network, and implement risk management controls and methodologies to address those risks, with specific attention to those issues that were identified as the root cause of the December Outage and other contributing factors underlying that root cause. Verizon Wireless shall utilize an industry recognized risk control methodology that provides, at a minimum, that:

1. Verizon Wireless shall develop key risk indicators for compliance with the 911 rules.
2. Verizon Wireless 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. Verizon Wireless shall assess, at least annually, internal and external risks to the reliability and resiliency of Verizon Wireless's 911 network and its ability to transmit and deliver 911 calls consistent with the 911 Rules.
4. Verizon Wireless 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 revised 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 Verizon Wireless's compliance with the 911 Rules and to implement the Operating Procedures. Verizon Wireless shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Verizon Wireless shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.

c. **Compliance Training Program**. Verizon Wireless 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 Verizon Wireless'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 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. Verizon Wireless 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**. Verizon Wireless 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 Verizon Wireless, Verizon Wireless may provide an updated noncompliance report within fifteen (15) calendar days after the initial report of material noncompliance. Such reports shall include a detailed explanation of: (i) each instance of such noncompliance, including the geographic area affected and the impact, if any, on 911 call transmission; (ii) the steps that the Company 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 the Company 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 Commission's rules.[17] If an initial and an updated noncompliance report are provided, Verizon Wireless shall include an affidavit or declaration with the updated noncompliance report. All reports of noncompliance shall be submitted to electronically to Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, via EB-SED-Response@fcc.gov.

15. **Compliance Reports**. Verizon Wireless 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 Verizon Wireless'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 Verizon Wireless, stating that the Compliance Officer has personal knowledge that Verizon Wireless: (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.

[17] 47 CFR § 1.16.

(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.[18]

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Verizon Wireless, 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 Verizon Wireless 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 Verizon Wireless 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[19] against the Company 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 the Company with the Communications Laws.

18. **Civil Penalty**. Verizon Wireless will pay a civil penalty to the United States Treasury in the amount of one million fifty thousand dollars ($1,050,000) within thirty (30) calendar days of the Effective Date. Verizon Wireless 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).[20] Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Verizon Wireless 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, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts Civil Penalty payment by check or money order. Below are instructions that payors should follow based on the form of payment selected:[21]

- 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

[18] 47 CFR § 1.16.

[19] 47 U.S.C. § 208.

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

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

above and the letters "FORF". In addition, a completed Form 159[22] or printed CORES form[23] 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).[24] 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**. Verizon Wireless agrees that an Event of Default shall occur upon the failure by Verizon Wireless 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 Verizon Wireless.

21. **Waivers**. As of the Effective Date, Verizon Wireless 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. Verizon Wireless shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If

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

[23] 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.

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

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 Verizon Wireless nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Verizon Wireless shall waive any statutory right to a trial *de novo*. Verizon Wireless hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[25] 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 Verizon Wireless does not expressly consent) that provision will be superseded by such Rule or order.

25. **Successors and Assigns**. Verizon Wireless 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.

[25] *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

_____
Andrea K. Short
Senior Vice President & Deputy General Counsel, Chief Litigation Officer
Cellco Partnership d/b/a Verizon Wireless

_____
Date

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

In the Matter of	)	
	)	
Consent to Assign Certain Licenses from Gray Television Licensee, LLC to Marquee Broadcasting West, Inc. and Assignment of Construction Permit from Marquee Broadcasting West, Inc. to Gray Television Licensee, LLC	)	Lead LMS File Nos. 0000238010, 0000238009, and 0000238018

MEMORANDUM OPINION AND ORDER

Adopted: June 18, 2024 **Released: June 18, 2024**

By the Chief, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it unopposed applications (Applications)[1] for assignment of certain licenses from Gray Television Licensee, LLC (Gray) to Marquee Broadcasting West, Inc. (Marquee) (jointly, the Applicants) and, in exchange, to assign an unbuilt construction permit from Marquee to Gray. In the Applications, among other proposed station acquisitions, Marquee proposes to own a station with two top-four network affiliations in the Cheyenne-Scottsbluff Nielsen Designated Market Area (Cheyenne-Scottsbluff DMA).[2] The Local Television Ownership Rule generally prohibits top-four combinations in a market (Top-Four Prohibition), including the transfer or assignment of ownership of multiple top-four affiliated program streams serving a single DMA. Yet the Commission will consider, on a case-by-case basis, whether the public interest would be served by permitting the arrangement to continue, including any unique circumstances of the market and potential effects related to service disruption to viewers.[3] We have reviewed the Applicants' case-by-case showing and find that it

[1] *See* LMS Lead File Nos. 0000238010, 0000238009, and 0000238018 (filed Feb. 1, 2024 and amended Apr. 11, 2024).

[2] In the Cheyenne-Scottsbluff DMA, Gray presently owns KGWN-TV (Facility ID No. 63166) (KGWN), which currently has two top-four rated network affiliations, including CBS on its primary stream and NBC on its secondary stream. *See* Application, Comprehensive Exhibit (Comprehensive Exhibit), at n.4 and Application, Amendment to Assignment Application (Amendment), at 1.

[3] *See* 47 CFR § 73.3555(b) and Note 11; *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*, MB Docket No. 18-349, Report and Order, FCC 23-117, para. 104, n.335 (Dec. 26, 2023) (*2018 Quadrennial Order*); *id*. at para. 88, n.294 (explaining that a "case-by-case approach allows for the Commission to address the challenges faced by small and other uniquely situated markets"); *id*. at para. 108, n.348 (stating that "[i]n small markets, the Commission may look favorably upon a request for consideration where, if Note 11 were to be applied, the result would be fewer programming streams in the market than there were before (e.g., *an assignment or transfer of control of a grandfathered combination where coming into compliance with Note 11 would result in the loss of an existing top four stream from the market*") (emphasis added); *see also 2014 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 et al.*, MB Docket Nos. 14-50 et al., Order on Reconsideration and Notice of Proposed Rulemaking, 32 FCC Rcd 9802, 9836-39, paras. 78-82 (2017) (adopting case-by-case examination of the (continued….)

would be in the public interest to permit Marquee to own KGWN in the Cheyenne-Scottsbluff DMA with both top-four network affiliations intact, consistent with the standard articulated in the *2018 Quadrennial Order*. Accordingly, we conclude that application of the Top-Four Prohibition is not warranted in this case and grant the Applications.[4]

II. BACKGROUND

A. The Transactions

2. Pursuant to an Asset Purchase Agreement dated January 30, 2024, Gray seeks to acquire the construction permit for KCBU(TV), Price, Utah (KCBU) from Marquee. In addition, pursuant to another Asset Purchase Agreement dated January 30, 2024, Marquee seeks to acquire the licenses of television stations KCWY-DT, Casper, Wyoming (KCWY) in the Casper-Riverton DMA; KGWN-TV, Cheyenne, Wyoming (KGWN) and KSTF(TV), Scottsbluff, Nebraska (KSTF) in the Cheyenne-Scottsbluff DMA; and KNEP(TV), Sidney, Nebraska (KNEP) in the Denver DMA; and the related low-power stations from Gray.[5] The Applicants assert that the digital noise-limited service contours (NLSCs) of KGWN and KSTF in the Cheyenne-Scottsbluff market do not overlap.[6] However, if the proposed assignment were granted, Marquee would own KGWN, which currently has two top-four rated network affiliations on its programming streams in the Cheyenne-Scottsbluff DMA.

3. The Local Television Ownership Rule allows an entity to own two television stations licensed in the same DMA if: (1) the digital NLSCs of the stations (as determined by Section 73.619(c) 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 Sunday to Saturday, 7 a.m. to 1 a.m. daypart audience share ratings averaged over a 12-month period immediately preceding the date of the application, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service. For any station broadcasting multiple programming streams, the audience share of all free-to-consumer non-simulcast multicast programming airing on streams owned, operated, or controlled by a single station must be aggregated to determine the station's audience share and ranking in a DMA (to the extent that such streams are ranked by Nielsen or a comparable professional, accepted audience ratings service).[7] In the *2018 Quadrennial Review Order*, the Commission expanded the anti-circumvention measure in the Top-Four Prohibition to prohibit, among other things, the transfer or assignment of ownership of multiple top-four rated program streams serving a single DMA.[8] Entities may seek case-by-case examination of the proposed transaction and seek

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Top-Four Prohibition) (*2010/2014 Quadrennial Review Order on Reconsideration*). The Commission has previously acted upon such showings under 47 CFR § 73.3555(b)(2). *See Applications for Transfer of Control of Tribune Media Co. to Nexstar Media Group, Inc.,* MB Docket No. 19-30, Memorandum Opinion and Order, FCC 19-89, at 19-26, paras. 33-52 (Sept. 16, 2019) (*Nexstar-Tribune Order*) (approving two top-four requests); *see also Applications for Consent to Transfer Control of Certain License Subsidiaries of Raycom Media, Inc. to Gray Television, Inc.*, Memorandum Opinion and Order, 33 FCC Rcd 12349 (MB 2018) (approving two top-four requests).

[4] *See* 47 CFR § 73.3564(b).

[5] The complete station list is provided in the Appendix.

[6] *See* Application at Comprehensive Exhibit, at 1.

[7] *See* 47 CFR § 73.3555(b).

[8] *2018 Quadrennial Order* at para. 104, n.335 ("All future transactions will be required to comply with the Commission's rules then in effect. Such grandfathered arrangements will not be transferable or assignable. Instead, proposed sales involving such grandfathered station arrangements in existence as of this Order's release date will be subject to Commission review upon application to transfer or assign the license or licenses of the station or stations

(continued….)

Commission approval for the transfer or assignment of the grandfathered arrangement. This entails "weigh[ing] potential harms and benefits of permitting the arrangement to continue, including any unique circumstances of the market and potential effects related to service disruption to viewers."[9]

4. In their case-by-case showing, the Applicants note that Gray currently provides over-the-air service throughout the Cheyenne-Scottsbluff DMA through KGWN, which primarily serves Cheyenne, Wyoming, and semi-satellite stations KSTF and KNEP, which serve the Scottsbluff, Nebraska, area. According to the Applicants, these stations provide 17 hours of local news per week, as well as CBS and NBC network programming.[10] The Applicants assert that Gray cannot sustain the current level of local service to Cheyenne-Scottsbluff viewers for the long term, and that Marquee can maintain and improve KGWN's local service only if the CBS and NBC affiliations remain intact.[11] The Applicants note that the Cheyenne-Scottsbluff DMA, with a total of 61,010 television households spread thinly over 5,665 square miles and ranking 196th of 210 DMAs in the country, is a "geographically large, but sparsely populated, market covering portions of Wyoming and Nebraska."[12] Specifically, the Applicants note that the viewers in the Cheyenne-Scottsbluff DMA are located in three population centers—Cheyenne, Scottsbluff, and Laramie—which are not near each other, and not within the radius of a single full-power television station.[13] Applicants provide that there are only four full-power television stations in the market, two of which are owned by Gray.[14] The Applicants state that Coastal Television LLC (Coastal) owns KLWY(TV) (KLWY), which operates as the DMA's FOX affiliate, but is a semi-satellite of Coastal's Casper, Wyoming Station KFNB-TV.[15] Coastal also operates a low power station owned by Vision Alaska Television Holdings, as an ABC affiliate, but the Applicants assert that the only reason the Cheyenne-Scottsbluff DMA has ABC and FOX network affiliates is because Coastal can run them from a neighboring market.[16] The other full-power station in the market is KQCK(TV), which is owned by Christian TV Network and broadcasts non-top-four affiliated programming.[17] Therefore, according to the Applicants, network-affiliation with four independent stations is not an option as Gray and Coastal both provide multiple network-affiliated streams in the market.[18]

5. Moreover, Applicants assert that not only does the Cheyenne-Scottsbluff DMA not support four independent stations, but it also does not even support one stand-alone NBC affiliated station.[19] The Applicants submit a statement from media broker Greg Guy, Founder of Tideline Partners, who observes that the "existing allocation of affiliations in the [Cheyenne-Scottsbluff] market demonstrates exactly why the sparse population spread over rural Wyoming and Nebraska cannot support

involved."). The rules adopted in the *2018 Quadrennial Order* took effect on March 18, 2024. *See Media Bureau Announces Effective Date of Quadrennial Review Report and Order*, Public Notice, DA 24-144 (MB Feb. 16, 2024). As a result, we evaluate the Applications under the Commission's rules currently in effect.

[9] *See supra* n.3.

[10] *See* Application at Amendment, at 1.

[11] *Id*.

[12] *Id*. at 2.

[13] *Id*.

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

[15] *Id*. at 3.

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

[17] *Id*. at 3.

[18] *Id*. at 4.

[19] *Id*. at 4 and Attachment 1, at 10.

four independent television station operators of the 'Big 4' affiliations."[20] He states that none of the "in-market stations is a more viable option for the NBC affiliation than KGWN-TV" as that station has the existing infrastructure to broadcast the over-the-air signal across the major population centers in the market.[21] Mr. Guy further submits that none of the other in-market broadcasters are a viable option for the NBC affiliation without "substantial losses" to the local community.[22] Specifically, Mr. Guy explains that KLWY is already affiliated with FOX and provides services for an ABC affiliate, other in-market options do not have the local production facilities needed to continue to air locally-produced programming or "sufficient local staff" to sell the local advertising for those newscasts, and the other stations could not serve the entire DMA.[23] Moreover, Mr. Guy suggests that a stand-alone NBC affiliate in Cheyenne is unlikely to be commercially successful, and if Gray were operating the NBC affiliate as a station-alone station, it would qualify as a "failing" station under the Commission's precedent.[24]

6. The Applicants conclude in their case-by-case showing that if KGWN could not be assigned with the two affiliations intact, the most likely result is that viewers in the Cheyenne-Scottsbluff DMA will lose over-the-air access to NBC programming, local news service, or both.[25] As a result, the Applicants assert that the public would not be better served if the two network affiliations are held by separate owners.[26]

B. Standard of Review

7. Section 310(d) of the Act provides that no station license shall be transferred or assigned unless the Commission, on application, determines that the public interest, convenience, and necessity will be served thereby. In making this assessment, the Commission must first determine whether the proposed transaction would comply with the specific provisions of the Act,[27] other applicable statutes, and the Commission's rules.[28] If the transaction would not violate a statute or rule, the Commission next considers whether it could result in public interest harms by substantially frustrating or impairing the objectives or implementation of the Act or related statutes.[29] If the Commission is unable to find that the proposed transaction serves the public interest, or if the record presents a substantial and material question of fact as to whether the transaction serves the public interest, section 309(e) of the Act requires that the applications be designated for hearing.[30]

III. DISCUSSION

[20] *Id*. at Attachment 1, at 10.

[21] *Id*. at 11.

[22] *Id*.

[23] *Id*.

[24] *Id*.

[25] Application at Amendment, at 4.

[26] *See id*.

[27] Section 310(d) requires that the Commission consider an application as if the proposed assignee/transferee were applying for the license directly. 47 U.S.C. § 310(d); *see also SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, Memorandum Opinion and Order, 20 FCC Rcd 18290, 18300, para. 16 (2005) (*SBC-AT&T Order*).

[28] *See, e.g.*, *SBC-AT&T Order*, 20 FCC Rcd at 18300, para. 16.

[29] *Id.*

[30] 47 U.S.C. § 309(e); *see also General Motors Corporation and Hughes Electronics Corporation, Transferors, and the News Corporation Limited, Transferee*, 19 FCC Rcd 473, 483, para. 15, n.49 (2004); *Application of EchoStar Communications Corporation, General Motors Corporation, and Hughes Electronics Corporation and EchoStar Communications Corporation*, Hearing Designation Order, 17 FCC Rcd 20559, 20574, para. 211 (2002).

8. As stated above, the Commission's Local Television Ownership Rule prohibits, among other things, the transfer or assignment of ownership of multiple top-four rated program streams serving a single DMA.[31] Upon request, however, we consider case-by-case showings that application of the Top-Four Prohibition is not in the public interest due to specific circumstances in a local market or with respect to a specific transaction.[32] Under this flexible approach, the Commission requires an applicant seeking approval to own a station with two top-four network affiliations to demonstrate that "the benefits of the proposed transaction would outweigh the harms."[33] When considering the proposed transfer or assignment of ownership of a station with two top-four network affiliations intact, the Commission has outlined several categories of information it would consider, including "unique circumstances of the market and potential effects related to service disruption to viewers" and particularly, in small markets, consideration of whether the result of applying the Top-Four Prohibition would be fewer programming streams in the market than there were before.[34] Based on information provided by the Applicants in support of their request for case-by-case consideration, including information demonstrating the unique market characteristics of the Cheyenne-Scottsbluff DMA, we conclude that the potential public interest benefits of permitting Marquee to own the station with the two top-four network affiliations intact outweigh the potential harms. Therefore, application of the Top-Four Prohibition is not warranted in this instance.

9. The record demonstrates that permitting Marquee to acquire KGWN with both top-four network affiliations intact makes it more likely that Marquee would preserve the service that Gray currently provides in the Cheyenne-Scottsbluff DMA, which would serve the public interest. KGWN, as the CBS and NBC affiliate in the market, provides the only locally produced television news programming in the market, and in 2023 and early 2024, Gray aired 17 hours of local news each week across the two network streams. The evidence in the record demonstrates that splitting up the top-four network affiliations currently on KGWN would likely lead to a reduction in network programming or local news in the Cheyenne-Scottsbluff DMA, which would not serve the public interest.

10. We conclude that the public interest harms of Marquee's proposed ownership of KGWN with the two top-four affiliations intact are outweighed by the unrebutted record evidence of the public interest benefits of this transaction. After consideration of the information submitted by the Applicants, and in the absence of evidence to the contrary, we find that unique characteristics of the Cheyenne-Scottsbluff DMA and the station at issue support relief from the Top-Four Prohibition. We make several observations about the unique structure of the Cheyenne-Scottsbluff local television market that we find relevant to our assessment. First, as a market with a relatively small population and large geographic area, Cheyenne-Scottsbluff is costly for a broadcaster to serve. Second, in addition to maintaining more than one full-power station, a broadcaster in the market needs multiple facilities to cover the dispersed population centers in the Cheyenne-Scottsbluff DMA. Given these geographic and population characteristics, we conclude that Cheyenne-Scottsbluff DMA likely would not support four independent network-affiliated stations. The evidence in the record also demonstrates that the market likely would not support one stand-alone NBC affiliated station. Notably, there does not appear to be any commercial station in the Cheyenne-Scottsbluff DMA that would viably take one of KGWN's top-four network affiliations and provide the same (or better) level of service to the community even if we determined that

[31] *See supra* n.3.

[32] *Id.* § 73.3555(b)(2).

[33] *2010/2014 Quadrennial Review Order on Reconsideration*, 32 FCC Rcd at 9838-39, para. 82.

[34] *2018 Quadrennial Order* at nn. 335 and 348.

the public interest would be better served with separately owned stations holding the two network affiliations.[35]

11. We therefore find that permitting Marquee to acquire KGWN with its two top-four network affiliations intact, along with the other television stations in the Applications, and permitting the assignment of the unbuilt construction permit from Marquee to Gray is in the public interest and would ensure the preservation of local news service and network-affiliated program distribution in the local markets.

IV. CONCLUSION

12. For the reasons described above, we find that the potential public interest benefits of Marquee's proposed ownership of KGWN with the two top-four affiliations intact outweigh the potential harms, and thus application of the Top-Four Prohibition would not be in the public interest in this case. In doing so, we emphasize that our decision herein is based on the specific facts and the record compiled in this proceeding.

13. After reviewing the record, we conclude that grant of the Applications will comply with section 310(d) of the Act. We conclude that the Applicants are fully qualified and that grant of the Applications will serve the public interest, convenience, and necessity.

V. ORDERING CLAUSES

14. **ACCORDINGLY, IT IS ORDERED** that the Applicants' request that Marquee be permitted to own a station with two top-four network affiliations in the same market under section 73.3555(b)(2) of the Commission's rules, 47 CFR § 73.3555(b)(2), **IS GRANTED**.

15. **IT IS FURTHER ORDERED** that, pursuant to section 73.3564(b) of the Commission's rules, 47 CFR § 73.3564(b), the above-captioned assignment applications (Lead LMS File Nos. 0000238010, 0000238009, and 0000238018) **ARE GRANTED**.

16. These actions are taken pursuant to Sections 0.61 and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.283, and Sections 4(i) and (j), and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 310(d).

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer
Chief, Media Bureau

[35] Application at Amendment, at 3-4.

APPENDIX[36]

Call Sign/Community of License	Fac. ID
KCBZ-LD, Casper, WY	185416
KGWN-TV, Cheyenne, WY	63166
K30GV-D, Shoshoni, WY	125349
K19FX-D, Laramie, WY	63183
KNEP, Sidney, NE	17683
K28HL-D, Riverton, WY	56592
KSTF, Scottsbluff, NE	63182
KCWY-DT, Casper, WY	68713
K16JI-D, Casper, WY	185414

[36] In the Applications, Marquee seeks to assign the unbuilt construction permit for KCBU(TV), Price, Utah (Facility ID No. 776213) to Gray.

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. 24-580

Report No. SCL-00467 **Thursday June 20, 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.

SCL-LIC-20230921-00026 E Telcosub USA LLC

Submarine Cable Landing License

Grant of Authority Date of Action: 06/18/2024

Telcosub USA LLC (Telcosub USA), Telconet S.A. (Telconet), and Telconet Submarine Networks, S.A. (Telcosub) (collectively, the Applicants) filed an application for a license to land and operate a non-common carrier fiber-optic submarine cable system connecting Florida, Colombia, Panama, and Ecuador. The Applicants filed a supplement on October 30, 2023. The cable system will be known as the Carnival Submarine Networks-1 cable system (CSN-1). See Non-Streamlined Submarine Cable Landing License Applications, Accepted for Filing, Report No. SCL-00438NS, Public Notice (OIA Nov. 3, 2023). No comments or oppositions were filed in response to the Public Notice.

The Application has been coordinated with the Department of State as required by Executive Order 10530, pursuant to section 1.767(b) of the Commission's rules, and consistent with the established Department of State procedures. Executive Order 10530, Section 5(a) reprinted as amended in 3 U.S.C. § 301; 47 CFR §1.767(b); 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); Commission Announces Department of State's Revised Procedures for its Consideration of Submarine Cable Landing License Applications, IB Docket No. 16-155, Public Notice, 37 FCC Rcd 5183 (2022). The U.S. Department of Justice, on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), filed a letter to defer action on November 7, 2023. The National Telecommunications and Information Administration (NTIA), on behalf of the Committee, filed a Petition to Adopt Conditions to Authorization and License on June 6, 2024. The Committee has no objection to the Commission granting the Application, provided that the Commission conditions its approval on the assurances of Telcosub USA LCC, Telconet Submarine Networks, S.A., and Telconet S.A., to abide by the commitments and undertakings set forth in the May 22, 2024 Letter of Agreement (LOA) to the U.S. Department of Homeland Security, the U.S. Department of Defense, and the U.S. Department of Justice.

Actions Taken: (1) Gant of Cable Landing License to Telcosub USA LLC, Telconet S.A. and Telconet Submarine Networks, S.A. for the purpose of landing and operating a non-common carrier fiber-optic submarine cable system, the CSN-1 submarine cable system, that connects Florida, Colombia, Panama, and Ecuador; and (2) Grant of the Petition to Adopt Conditions to Authorization and License filed by the NTIA on June 6, 2024.

Description of Cable System. CSN-1 will be a high-fiber-count system deploying space division multiplexing technology. CSN-1 will consist of a Main Trunk that includes two segments, one connecting Bonita Beach, Florida and Playa Diablillo, Panama (Florida-Panama Segment) and one connecting Costa Del Este, Panama and Anconcito, Ecuador (Panama-Ecuador Segment) with a land crossing in Panama connecting the two segments. The Main Trunk will be approximately 4,500 kilometers in length and will have between 12 and 17 fiber pairs on the Florida-Panama Segment and 8 fiber pairs on the Panama-Ecuador Segment, each having a design capacity of approximately 20 terabits per second (Tb/s) using current technology. CSN-1 will also have a branch from a branching unit on the Florida-Panama Segment that will connect to Salgar/Barranquilla, Colombia (Colombia Branch). The Colombia Branch will be approximately 525 kilometers in length and will have 4 fiber pairs, each having a design capacity of approximately 20 Tb/s using current technology.

The cable landing stations will be located in Bonita Beach, Florida; Playa Diablillo, Panama; Panama City, Panama; Anconcito, Ecuador; and Barranquilla, Colombia. All of the cable landing stations will be newly built.

Ownership of the Cable System. The Florida-Panama Segment will be owned as follows: (1) Telcosub USA will own 100% of the portion of the cable in the U.S. territory, and (2) Telconet and Telcosub will each own 50% of the portion of the cable in international waters and Panama territory. The Caribbean and Pacific coast cable landing stations in Panama will be connected via two terrestrial links owned by Telcosub, one fully ducted, and one partially ducted and partially aerial. The Panama-Ecuador Segment will be owned as follows: (1) Telcosub will own 94.73% and Cable Andino S.A. Corpandino (Cable Andino) will own 5.27% of the portion of the cable in Panama territory, (2) Telconet will own 100% of the cable in international waters, and (3) Telconet will own 86.15% and Cable Andino will own 13.85% of the portion of the cable in Ecuador territory. The Colombia Branch will be owned as follows: (1) Telconet will own 33.33% and Telcosub will own 66.66% of the branching unit, (2) Telcosub will own 100% of the portion of the cable in international waters, and (3) Telconet Colombia SAS (Telconet Colombia) will own 100% of the cable in Colombia territory. The Applicants state that Cable Adino and Telconet Colombia are not required to be applicants under the Commission's rules because they will not use the U.S. endpoints of CSN-1. See 47 CFR § 1.767(h)(2).

Telcosub USA will own and control the Bonita Beach, Florida cable landing station. Telconet and Telcosub will each own 50% of the Playa Diablillo, Panama and Costa Del Este, Panama cable landing stations with Telcosub as the controlling owner. Telconet will own 86.15% and Cable Andino will own 13.85% and control the Anconcito, Ecuador cable landing station. Lastly, Telconet Colombia will own and control the Barranquilla, Colombia cable landing station.

Regulatory Status of the Cable. The Applicants propose to operate CSN-1 on a non-common-carrier basis. The Applicants state that they will not sell capacity indifferently to the user public. The Applicants and their affiliates will use capacity on CSN-1 for their own internal business purposes and offer available capacity to third parties pursuant to individually-negotiated IRUs and capacity leases, the terms of which will vary depending on the characteristics and needs of the particular capacity purchaser. The Applicants expect CSN-1 to commence commercial service on a portion of the network in early 2025, with full service during the second half of 2025.

The Applicants state that CSN-1 will compete vigorously with other submarine cable systems on the U.S.-Panama, U.S.-Ecuador, U.S.-Colombia, and broader U.S.- Latin America routes: (1) on the U.S.-Panama route, CSN-1 will compete with the ARCOS-1, Curie, Maya-1, PCCS, Pan-American Crossing (PAC), and South America Crossing (SAC) systems and the planned Caribbean Express and Aurora systems; (2) on the U.S.-Ecuador route, CSN-1 will compete with the South America-1 (SAm-1) system, the Mistral system and the Pacific Caribbean Cable System (PCCS); and (3) on the U.S.-Colombia route, CSN-1 will compete with the ARCOS-1, AMX-1, CFX-1, GlobeNet, Maya-1, PCCS, and SAm-1 systems and the planned Caribbean Express and Aurora systems.

The Applicants have provided information and demonstrated that the proposed operation of the cable on a non-common carrier basis satisfies the requirements set forth in National Association of Regulatory Utility Commissioners v. FCC, 525 F.2d 630, 642 (D.C. Cir 1976) (NARUC I), cert. denied, 425 U.S. 992 (1976). See also Submarine Cable Landing License Report and Order, 16 FCC Rcd at 22202-22203, paras. 69-70; Review of Commission Consideration of Applications under the Cable Landing License Act, IB Docket No. 00-106, Notice of Proposed Rulemaking, 15 FCC Rcd 20789, 20815-20818, paras. 62-67.

Ownership of the Applicants/Licensees. The Applicants have the following 10% or greater direct or indirect interest holders: Telconet, an Ecuadoran corporation, holds 100% equity and voting interests in both Telcosub USA, a Delaware limited liability company, and Telcosub, a Panama corporation. Telconet is 100% owned by Marion Tomislav (Tommy) Topic, an Ecuadoran citizen.

Conditions. Telcosub USA LLC, Telconet S.A. and Telconet Submarine Networks, S.A. shall comply with the routine conditions specified in section 1.767(g) of the Commission's rules, 47 CFR § 1.767(g), and with the requirements of section 1.768 of the Commission's rules, 47 CFR § 1.768 (Notification by and prior approval for submarine cable landing licenses that are or propose to become affiliated with a foreign carrier).

We grant the Petition to Adopt Conditions to Authorization and License (Petition) filed in this proceeding by NTIA, on behalf of the Committee, on June 6, 2024. Accordingly, we condition grant of this Application on Telcosub USA LCC, Telconet Submarine Networks, S.A., and Telconet S.A. abiding by the commitments and undertakings set forth in the May 22, 2024 LOA to the Under Secretary for Strategy, Policy and Plans, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security; the Office of Foreign Investment Review, Director Undersecretary of Acquisition and Sustainment, U.S. Department of Defense; and Chief, Foreign Investment Review Section (FIRS) and Deputy Chief, Compliance and Enforcement FIRS, on behalf of the Assistant Attorney General for National Security, U.S. Department of Justice, National Security Division. The Petition and the LOA are publicly available and may be viewed on the FCC website through the International Communications Filing System (ICFS) by searching SCL-LIC-20230921-00026 and accessing "Other filings related to this application" from the Document Viewing area.

A failure to comply and/or remain in compliance with any of these commitments and undertakings shall constitute a failure to meet a condition of the cable landing license and thus grounds for declaring the license terminated without further action on the part of the Commission. Failure to meet a condition of the license may also result in monetary sanctions or other enforcement action by the Commission.

License Term. Under the Commission's rules, a cable landing license shall expire 25 years after the in-service date for the cable. The Licensee must notify the Commission within thirty (30) days of the date the cable is placed into service. See 47 CFR § 1.767(g)(15). The in-service notification must be filed in ICFS through the "Other filings related to this application" module for file number SCL-LIC-20230921-00026.

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 24-581
Released: June 18, 2024

NOTICE OF DOMESTIC SECTION 214 AUTHORIZATION GRANTED

WC Docket No. 24-129

The Wireline Competition Bureau (Bureau) grants the application listed in this Public Notice pursuant to the Commission's streamlined procedures for domestic section 214 transfer of control applications, 47 CFR § 63.03. The Bureau determined that a grant of this application serves the public interest.[1] For the purposes of computation of time when filing a petition for reconsideration or application for review, or for judicial review of the Commission's decision, the date of "public notice" shall be the release date of this Public Notice.[2] Should no petition for reconsideration, application for review, or petition for judicial review be timely filed, the proceeding listed in this Public Notice shall be terminated, and the docket will be closed.

Domestic Section 214 Application Filed for the Transfer of Control of
123.Net, Inc. to 123Net Holdings, LLC,
WC Docket No. 24-129, Public Notice, DA 24-129 (WCB 2024).

Effective Grant Date: June 16, 2024

For further information, please contact Tracey Wilson at (202) 418-1394 or Megan Danner at (202) 418-1151, Competition Policy Division, Wireline Competition Bureau.

-FCC-

[1] *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Report and Order, 17 FCC Rcd 5517, 5529, para. 22 (2002).

[2] *Id.*; *see* 47 CFR § 1.4 (Computation of time).

Federal Communications Commission
Washington, D.C. 20554

June 20, 2024

DA 24-582
In Reply Refer to:
1800B3-ARR
Released: June 20, 2024

All Nations New Testament
Church of God Fellowship, Inc.
c/o Edward A. Maldonado, Esq.
2850 Douglas Road, Suite 303
Coral Gables, FL 33134
eam@maldonado-group.com

Re: **All Nations New Testament Church of God Fellowship, Inc.**
New LPFM, Ft. Lauderdale, Florida
Facility ID No. 785385
Application File No. 0000233116

Petition for Reconsideration

Dear Applicant:

We have before us the Petition for Reconsideration (Petition)[1] filed by All Nations New Testament Church of God Fellowship, Inc. (Petitioner), seeking reconsideration of the Media Bureau's (Bureau) dismissal of Petitioner's application (Application) for a construction permit for a new low power FM (LPFM) station at Ft. Lauderdale, Florida.[2] For the reasons set forth below, we deny the Petition.

Background. Petitioner filed the Application during the 2023 LPFM Filing Window.[3] The Application included a "Second Adjacent Waiver Request" that stated, in its entirety, "Second Adjacent Waiver Requested. Location is short-spaced to WKIS, 64001, and WHYI-FM.41381. Special antenna antenna [sic] array will be utilized on a tall tower. No population will be subject to interference."[4] The Second Adjacent Waiver Request did not contain any technical exhibits in support of the waiver .

On April 29, 2024, Bureau staff dismissed the Application for failure to meet the minimum distance spacing requirements enumerated in section 73.807(a)[5] of the Commission's rules (Rules), with respect to the second-adjacent channel licenses of stations WKIS(FM), Boca Raton, Florida, and WHYI-FM, Fort Lauderdale, Florida, and noted that Petitioner's Second Adjacent Waiver Request lacked the

[1] Pleading File No. 0000245592 (filed May 31, 2024).

[2] Application File No. 0000233116 (filed Dec. 15, 2023).

[3] *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).

[4] Application at Attach. "Second Adjacent Waiver Request.pdf" (Second Adjacent Waiver Request).

[5] *See* 47 CFR § 73.807(a).

required engineering exhibit[6] demonstrating that the proposed station will not cause interference to any authorized radio service.[7]

On May 31, 2024, Petitioner filed the Petition, seeking *nunc pro tunc* reinstatement of the Application and a waiver of section 73.870(c) in order to amend its Second Adjacent Waiver Request to include an engineering exhibit. Specifically, Petitioner: 1) notes that the Application is a singleton; 2) argues that its acknowledgment of the short-spaced stations, submission of a timely second-adjacent waiver request statement, and certification that the proposed facility complies with the engineering requirements of sections 73.807(a) through (g) and section 73.825, constitutes submission of the engineering exhibit required by section 73.807(e);[8] 3) claims that had Commission staff notified Petitioner that the Application required additional information, it would have supplied the engineering exhibit; and 4) argues that the Commission has reinstated similarly dismissed applications on reconsideration.[9]

Discussion. The Commission will consider a petition for reconsideration only when the petitioner shows either a material error in the Commission's original determination, or raises additional facts not known or existing at the time of the petitioner's last opportunity to present such matters.[10] Petitioner has not demonstrated any legal error in the Bureau's dismissal of the Application, nor has it cited any precedent that warrants reinstatement.

Section 73.807 Violation. Bureau staff correctly dismissed the Application for failure to meet the second-adjacent channel spacing requirements, as outlined in section 73.807(a), and failure to include the required engineering study with the Second Adjacent Waiver Request, demonstrating the proposed station will not cause interference to any authorized radio service. Specifically, LPFM applicants must protect authorized FM stations, pending applications for new and existing FM stations filed prior to the release of the *Procedures Public Notice*, authorized LPFM stations, and vacant FM allotments, by meeting the minimum distance separation requirements specified in section 73.807 of the Commission's rules.[11] Pursuant to section 73.870(c), any application submitted during an LPFM filing window that fails to meet the spacing requirements of section 73.807 will be dismissed without opportunity to amend.[12] Moreover, the *Procedures Public Notice* warned LPFM applicants that, "[c]onsistent with established processing rules, an LPFM application that fails to protect these authorizations, applications, and vacant FM allotments will be *dismissed with no opportunity to correct the deficiency*."[13]

Additionally, although section 3(b)(2)(A) of the Local Community Radio Act of 2010 (LCRA) authorizes the Commission to waive second-adjacent channel spacing requirements, an LPFM applicant must specifically request the waiver *and demonstrate* that its proposed LPFM facilities "will not result in

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[6] *See* 47 CFR § 73.807(e).

[7] *See Broadcast Actions*, Public Notice, Report No. PN-2-240501-01 (MB May 1, 2024) (citing *Procedures Public Notice*). *See also* Application File Nos. BLH-20140805ACK and BXLH-20121220AAH (license applications for WKIS(FM) and WHYI-FM).

[8] Petition at 1-2.

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

[10] *See* 47 CFR § 1.106(c), (d); *see also WWIZ, Inc.,* Memorandum Opinion and Order, 37 FCC 685, 686 (1964).

[11] *See* 47 CFR § 73.807(a)(1).

[12] *See* 47 CFR § 73.870(c).

[13] *See Procedures Public Notice* at 3 and n.14 (emphasis in original) (citing *Low Power FM Filing Window*, Public Notice, 15 FCC Rcd 24817, 24818 (MB 2000); *Media Bureau Announces Availability of the Revised FCC Form 318 and the Filing Procedures for October 15-October 29, 2013 Low Power FM Filing Window*, Public Notice, 28 FCC Rcd 8854, 8855 (MB 2013); 47 CFR §73.870(c)).

interference to any authorized radio service."[14] Applicants "must establish, using methods of predicting interference taking into account all relevant factors, including terrain-sensitive propagation models, that its proposed operations will not result in interference to any authorized radio service."[15] The Bureau explicitly cautioned LPFM applicants that it will dismiss any application that fails to comply with the second-adjacent channel spacing requirements without requesting a waiver, *supported by the requisite engineering exhibit*, and that a dismissed applicant will *not* be permitted to seek *nunc pro tunc* reinstatement of its application.[16]

Here, the Bureau correctly dismissed the Application because Petitioner failed to meet the minimum spacing requirements of section 73.807(a)(1) with respect to second-adjacent channel stations WKIS(FM) and WHYI-FM, and failed to submit a waiver request with supporting engineering exhibit demonstrating that the proposed station will not cause interference to any authorized radio service, as required by section 73.807(e). The Second Adjacent Waiver Request lacks any exhibit containing engineering data, studies, or other comparable showing, demonstrating that the proposed station will not cause interference to any existing radio service. Instead, the Second Adjacent Waiver Request claims, without any supporting documentation, that "[n]o population will be subject to interference."[17] Petitioner's cursory statement does not constitute a second-adjacent waiver request, as outlined by the LCRA or the Rules. The Commission has previously held that the Bureau may properly prohibit dismissed LPFM applicants that failed to submit waiver requests of the second-adjacent channel spacing rules in the filing window from filing amendments to correct violations of section 73.807.[18] Petitioner has not demonstrated any basis to contravene the rules and established precedent and reinstate the Application.

Section 73.870(c) Waiver Request. We reject Petitioner's request of a waiver of section 73.870(c) to allow it to amend the Application to add an engineering exhibit to its Second Adjacent Waiver Request. The Commission's Rules may be waived only for good cause shown.[19] The Commission must give waiver requests "a hard look," but an applicant for waiver "faces a high hurdle even at the starting gate"[20] and must support its waiver request with a compelling showing.[21] Waiver is appropriate only if both (1) special circumstances warrant a deviation from the general rule, and (2) such deviation better serves the public interest.[22]

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[14] Pub. L. No. 111-371, 124 Stat. 4072 (2011); *see also* 47 CFR § 73.807(e) (emphasis added) (outlining LPFM applicant requirements for a second-adjacent channel spacing waiver).

[15] 47 CFR § 73.807(e)(1).

[16] *See Procedures Public Notice* at 4; *see also Clifford Brown Jazz Foundation*, Memorandum Opinion and Order, 29 FCC Rcd 13258 (2014) (*Clifford Brown*) (affirming dismissal of application, without ability to amend and seek reinstatement, where applicant failed to comply with second-adjacent spacing rules and failed to include a waiver request with its application) (citing 47 CFR § 73.870(c)).

[17] Application Attach. "Second Adjacent Waiver Request.pdf".

[18] *See Christian Charities Deliverance Church*, Memorandum Opinion and Order, 30 FCC Rcd 10548, 10549, para. 5 (2015) (finding *nunc pro tunc* reinstatement inapplicable because it is superseded by section 73.870(c)) (citing *People of Progress*, Memorandum Opinion and Order, 29 FCC Rcd 15065 (2014); *Clifford Brown*, 29 FCC Rcd 13258).

[19] 47 CFR § 1.3.

[20] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (subsequent history omitted).

[21] *Greater Media Radio Co., Inc*., Memorandum Opinion and Order, 15 FCC Rcd 7090 (1999) (citing *Stoner Broadcasting System, Inc.*, Memorandum Opinion and Order, 49 FCC 2d 1011, 1012 (1974)).

[22] *NetworkIP, LLC v. FCC*, 548 F.3d 116, 125-128 (D.C. Cir. 2008); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

Petitioner fails to meet this burden. Petitioner states generally that a waiver "is justified and aligns with the public interest,"[23] but offers no other justification, circumstance, or precedent warranting grant of the request. Petitioner likewise fails to assert a "special circumstance" warranting the waiver. Additionally, the Commission has held that a singleton application is not a special circumstance that justifies a waiver of the Rules.[24] Moreover, permitting applicants to amend applications to add second-adjacent waiver engineering exhibits after the close of the filing window and the dismissal of their application would frustrate the processing efficiencies which sections 73.807 and 73.870(c) were designed to promote, be unfair to the many applicants who fully complied with the rules and filing requirements, and is therefore, contrary to the public interest.[25] Accordingly, we find Petitioner fails to show that special circumstances warrant a deviation from our rules or that such deviation would serve the public interest.

Finally, we reject Petitioner's claim that the Commission staff should have requested additional information in support of the Second Adjacent Waiver Request, rather than dismiss the Application. Applicants are required to comply with the Commission's rules and procedures, which were clearly outlined by the *Procedures Public Notice*.[26] Although the Bureau's practice is to contact applicants whose applications contain *correctable* errors, in this case, the failure to include a technical showing in support of the Second Adjacent Waiver Request was an incurable defect.[27] The Bureau, therefore, correctly dismissed the Application without affording Petitioner an opportunity to amend.

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[23] Petition at 4.

[24] *See NCE MX Group 543*, Memorandum Opinion and Order, 31 FCC Rcd 1358, 1360-61, para. 6 (2016).

[25] *See Creation of a Low Power Radio Service*, Report and Order, 15 FCC Rcd 2205, 2257 (2000) ("In accordance with our window filing procedure for commercial broadcast applications, after the LPFM window closes, the staff initially will screen applications for the purpose of identifying those that are mutually exclusive and those that fail to protect existing broadcast stations in accordance with the standards adopted herein. Applications that fail to properly protect these existing stations will be dismissed without the applicant being afforded an opportunity to amend. This will increase the speed and efficiency with which LPFM applications can be processed by the staff.").

[26] *See Procedures Public Notice* at 3 (explaining that an application that fails to comply with the second-adjacent channel spacing requirements, without requesting a waiver, will be dismissed with no opportunity to amend); *see also Marketing Strategy Leaders, Inc*., Forfeiture Order, 33 FCC Rcd 4663, 4674, para. 32 & n.79 (2018) ("[O]ne may not "claim ignorance of the law as a defense") (internal cites omitted); *PTT Phone Cards, Inc*., Forfeiture Order, 30 FCC Rcd 14701, 14704, para. 10 (2015) ("PTT's purported ignorance of the law certainly does not excuse the fact that it . . . [was] out of compliance with all of the provisions of the Act and the [Commission's] [r]ules to which it was subject."); *Southern California Broadcasting Co*., Memorandum Opinion and Order, 6 FCC Rcd 4387, para 3 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (stating that "inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance").

[27] *See Procedures Public Notice* at 4. We note that Petitioner alleges that the Commission has reinstated similar applications, which were dismissed due to defective second-adjacent channel waiver requests. Petitioner, however, cites no cases to support its unfounded claim.

Conclusion. For the reasons set forth above, **IT IS ORDERED** that the Petition for Reconsideration filed by All Nations New Testament Church of God Fellowship, Inc., on May 31, 2024 (Pleading File No. 0000245592), IS DENIED.

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
TTY: 888-835-5322

DA 24-583
Released: June 20, 2024

MEDIA BUREAU SEEKS COMMENT ON PETITION FOR RULEMAKING TO CREATE A NEW FM BROADCAST STATION CLASS

MB Docket No. 24-183

Comment Date: July 22, 2024
Reply Comment Date: August 21, 2024

By this Public Notice, the Media Bureau (Bureau) seeks comment on the Petition for Rulemaking (Petition) submitted by Commander Communication Corporation (Commander) on June 13, 2024. In the Petition, Commander requests that the Commission create a new FM station class "A10."[1] Commander proposes specific operating parameters for the new Class A10 stations of a maximum of 10,000 watts effective radiated power (ERP) and 100 meters height above average terrain (HAAT),[2] as well as amendments to the existing facilities requirements and minimum distance separation requirements to accommodate a new FM station class.[3] This proposal is intended to supersede an earlier proposal for a new "Class C4" category of FM station.[4]

The Petition is available electronically through the Commission's Electronic Comment Filing System (ECFS) at https://www.fcc.gov/ecfs/search/search-filings under the above-referenced docket number.

Filing Requirements. 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 ECFS.[5]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs/filings/standard/. Parties that choose to file electronically only need to submit one copy of each filing so long as the submission conforms to all procedural and filing requirements. Online filing is optional.
- 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.

[1] Petition at 1.

[2] *Id*.

[3] *Id*. at 2-4.

[4] *See Ex Parte Notice* filed on June 5, 2024, by Commander and SSR Communications, Inc. in MB Docket 18-184; *see generally*, *Proposals for a New FM Radio Broadcast Class C4 and to Modify the Requirements for Designating Short-Spaced Assignments*, Notice of Inquiry, 33 FCC Rcd 5495 (2018).

[5] *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11322, 11324-25, para. 4 (1998).

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 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.

- 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).

Ex Parte Rules. 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.[7] 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 rules. In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For additional information, contact Albert Shuldiner, Albert.Shuldiner@fcc.gov, (202) 418-2721, or James Bradshaw, James.Bradshaw@fcc.gov, (202) 418-2739, of the Media Bureau, Audio Division. Direct press inquiries to Nancy Murphy at (202) 418-1043.

[6] 47 CFR §§ 1.1200 *et seq.*

[7] *Id.* § 1.1206(b). Memoranda must contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *Id.* § 1.1206(b)(1).

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 24-584
June 20, 2024

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES REGION 21 (MICHIGAN) REGIONAL PLANNING COMMITTEES TO HOLD 700 MHZ AND 800 MHZ MEETINGS

PS Docket No. 23-237 and WT Docket No. 02-378

The Region 21 (Michigan)[1] 700 MHz and 800 MHz Regional Planning Committees (RPCs) will hold two consecutive planning meetings on Thursday, July 18, 2024. Beginning at 10:00 am, the Region 21 800 MHz RPC meeting will convene at the Roscommon County Road Commission, 820 E. West Branch Rd, Prudenville, MI 4865.

The agenda for the 800 MHz RPC meeting includes:

- Call to Order/Roll Call
- Approval of Agenda
- Approval of Minutes – May 16, 2024 meeting
- Correspondence
- Review of Applications
  - Old Applications
    - State of MI – Isabella County; Approved at last meeting pending new contours provided by the MPSCS
  - New Applications
- 800 MHz Subcommittee Reports
  - Interoperable Communication Subcommittee
  - Engineering/Technical Subcommittee
  - Ongoing Plan Revision Standing Committee
- Old Business
  - Website
  - 4.9 GHz
- New Business
  - EWA petition to rewrite Part 90 Rules
- Next meeting: September 12, 2024 – Monitor Township Fire Department, Bay City
- Adjourn

Immediately following the 800 MHz RPC meeting, the 700 MHz RPC meeting will convene.

The agenda for the 700 MHz meeting includes:

- Call to Order/Roll Call
- Approval of Agenda

[1] The Region 21 (Michigan) 700 MHz regional planning area includes all eighty-three counties in the Upper and Lower Peninsulas in the state of Michigan. The Region 21 800 MHz regional planning area consists of all the Upper Peninsula and all counties in the Lower Peninsula except the counties of Allegan, Barrien, Barry, Cass, Kalamazoo, Ottawa, St. Joseph, and Van Buren, which are part of Region 54 (Great Lakes Area).

- Approval of Minutes – May 16, 2024 meeting
- Correspondence
- Public Hearing on 700 MHz Plan
- Review of Applications
  - Old Applications
    - State of MI – Berrien Simulcast (adjacent region notification)
  - New Applications
- 700 MHz Subcommittee Reports
  - Interoperable Communications Subcommittee
  - Engineering/Technical Subcommittee
  - Ongoing Plan Revision Standing Subcommittee
- Old Business
  - 700 MHz IO Channels Encryption
    - FCC Response
    - Letter to SWIC
- New Business
- Next meeting: September 12, 2024 – Monitor Township Fire Department, Bay City
- Adjourn

The Region 21 RPC meetings are open to the public. All public safety providers in Region 21 may utilize these 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 21 should plan to attend. For more information, please contact:

Keith M. Bradshaw
Chair, Region 21 700 MHz and 800 MHz RPCs
Oakland County Radio Communications Supervisor
1200 N. telegraph Rd, building 16E
Pontiac, MI 48341
Ph: 248-452-9769
bradshawkm@oakgov.com

- FCC -

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 24-585
Released: June 20, 2024

COMMENTS INVITED ON SECTION 214 APPLICATION(S) TO DISCONTINUE DOMESTIC NON-DOMINANT CARRIER TELECOMMUNICATIONS SERVICES

WC Docket No(s). 24-160

Comments Due: July 5, 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 **July 21, 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 action, as

[1] 47 CFR § 63.71.

[2] 47 U.S.C. § 214.

[3] 47 CFR § 63.71.

[4] *See* 47 CFR § 63.71(f) (stating, in relevant part, that an application filed by a non-dominant carrier "shall be automatically granted on the 31st day… unless the Commission has notified the applicant that the grant will not be automatically effective.").

applicable. Should no petitions for reconsideration, applications for review, or petitions for judicial review be timely filed, the proceeding(s) listed in this Public Notice shall be terminated, and the docket(s) will be closed.

Comments objecting to any of the applications listed in the Appendix must be filed with the Commission on or before **July 5, 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*.

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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): Millennium Telcom, L.L.C. d/b/a OneSource Communications**
WC Docket No. 24-160, Comp. Pol. File No. 1916
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2224-160%22))
Affected Service(s) – TDM-based local and long distance voice telecommunications and T1 services
Service Area(s) – Fort Worth**,** Texas
Authorized Date(s) – on or after July 21, 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

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Internet: www.fcc.gov
TTY: 888-835-5322

DA 24-586
Released: June 20, 2024

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON GOGO'S PETITION FOR RULEMAKING TO ENABLE MORE FLEXIBLE USE OF THE 800 MHZ COMMERCIAL AIR-GROUND SERVICE

WT Docket No. 24-184
RM-11985

Comments Due: July 22, 2024
Reply Comments Due: August 6, 2024

On July 21, 2022, Gogo Business Aviation LLC (Gogo) filed a petition for rulemaking asking the Commission to revise the rules for the 800 MHz Commercial Air-Ground Service to enable more flexible use of the bands.[1] In this *Public Notice*, the Wireless Telecommunications Bureau seeks comment on the Petition.

Background. Gogo is the sole nationwide licensee in the commercial air-ground service bands. On May 26, 2021, Gogo filed a request for waiver of section 22.867 of the Commission's rules governing the effective radiated power (ERP) limits for commercial air-ground operations in the 849–851 MHz and 894–896 MHz bands.[2] In particular, Gogo sought a waiver to permit an average power measurement for the current ERP limits, rather than the current peak power measurement specified by the rule.[3] After seeking comment on the request,[4] on June 21, 2022, the Commission granted Gogo's request for a waiver of section 22.867, subject to several conditions.[5] One condition of the grant required Gogo to file a petition for rulemaking seeking rule changes that would allow more flexible use of the band, including, at minimum, a request for any and all rule changes necessary for Gogo's services to be provided over this spectrum.[6] The Association of Public-Safety Communications Officials International (APCO) opposed

[1] Gogo Business Aviation LLC Petition for Rulemaking, WT Docket No. 21-282 (filed July 21, 2022), https://www.fcc.gov/ecfs/document/10722724123897/1 (Gogo Petition).

[2] Gogo Business Aviation LLC Request for Waiver, WT Docket No. 21-282 (filed May 26, 2021), https://www.fcc.gov/ecfs/document/10713999829548/1 (Gogo Waiver Request); 47 CFR § 22.867 (restricting peak ERP for airborne mobile station transmitters to 12 watts ERP and ground station transmitters to 500 watts ERP for entities operating commercial aviation systems in these bands per section 22.857).

[3] Gogo Waiver Request at 1.

[4] *Wireless Telecommunications Bureau Seeks Comment on Request by Gogo Business Aviation LLC for Waiver of 800 MHz Air-Ground Service Power Measurement Rule*, WT Docket No. 21-282, Public Notice, 36 FCC Rcd 10395 (WTB 2021).

[5] *Gogo Business Aviation LLC Request for Waiver of 47 CFR 22.857 Applicable to 849-851 MHz and 894-896 MHz Bands*, WT Docket No. 21-282, Order, 37 FCC Rcd 7437, 7437, para. 1 (WTB-MD 2022).

[6] *Id.* at 7444, para. 14.

Gogo's waiver request and filed a petition for reconsideration of the waiver grant.[7]

Petition for Rulemaking. On July 21, 2022, Gogo filed its Petition for Rulemaking. In the Petition, Gogo urges the Commission to initiate a rulemaking to allow more flexible use of the 849–851 MHz and 894–896 MHz bands, which are governed by part 22 of the Commission's rules.[8] Specifically, Gogo proposes amending the power rule requiring ERP limits to be measured by peak power to instead be measured by average power with an appropriate peak-to-average ratio (PAR) limit.[9] In seeking this change, Gogo states that it requests relief similar to that given to other legacy services, including the Personal Communications Service, Advanced Wireless Service, and Cellular Service.[10] Finally, in accordance with the waiver grant, Gogo proposes removing sections 22.853, 22.859, and 1.929(e)(2) and amending sections 22.165(f), 22.313, 22.861, and 22.863 of the Commission's rules.[11] Gogo asserts that revising these rules will serve the public interest, and allow it to deploy its next generation technology "to deliver high capacity, higher quality broadband connectivity to several thousand aircraft operating throughout the United States and Canada."[12]

We seek comment generally on the Petition and its request that the Commission revise the 800 MHz Commercial Air-Ground Service rules to enable more flexible use of the bands. In particular, we seek comment on Gogo's proposal that the Commission regulate ERP by average power with an appropriate PAR limit, instead of peak power as section 22.867 of the Commission's rules currently specifies.[13] Furthermore, we seek comment on the three rules that Gogo proposes to remove and the four rules that Gogo proposes to amend. We seek comment from all interested parties, including public safety stakeholders.

Procedural Matters

To develop a complete record on the issues presented by the Petition, the proceeding will be treated, for *ex parte* purposes, as a "permit-but-disclose" proceeding in accordance with section 1.1200(a) of the Commission's rules,[14] subject to the requirements under section 1.1206(b).[15] For this proceeding,

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[7] APCO International's Petition for Reconsideration of Gogo's Waiver, WT Docket No. 21-282 (filed July 22, 2022), https://www.fcc.gov/ecfs/document/10722515321505/1; *see also* Letter from Jeffrey S. Cohen, Chief Counsel, APCO, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 21-282 (filed July 5, 2022).

[8] Gogo Petition at 1; 47 CFR §§ 22.853–22.882.

[9] Gogo Petition at 4–9. The ratio of a radiated emission's peak power to its average power is referred to as the PAR, and it guards against interference by restricting the magnitude of power spikes. *Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services*, WT Docket No. 03-264, Report and Order and Further Notice of Proposed Rulemaking, 20 FCC Rcd 13900, 13931, para. 69 (2005); *Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services*, WT Docket No. 03-264, Third Report and Order, 23 FCC Rcd 5319, 5334, 5337, paras. 35, 40 (2008).

[10] Gogo Petition at 5–8.

[11] *Id.* at 9–14; 47 CFR §§ 1.929(e)(2) (classification of filings as major or minor), 22.165(f) (additional transmitters for existing systems), 22.313 (station identification), 22.853 (eligibility to hold interest in licenses limited to 3 MHz of spectrum), 22.859 (incumbent commercial aviation air-ground systems), 22.861 (emission limitations), 22.863 (frequency stability).

[12] Gogo Petition at 14.

[13] *See* 47 CFR § 22.867.

[14] 47 CFR § 1.1200(a).

[15] 47 CFR § 1.1206(b).

we open a new docket, **WT Docket No. 24-184** and assign a rulemaking number to facilitate consideration of the Petition and we have moved Gogo's Petition to this docket. Interested parties may file comments on or before the dates indicated on the first page of this document.

Filing Requirements. Pursuant to sections 1.403 and 1.405 of the Commission's rules,[16] interested parties may file comments and reply comments on or before the dates indicated above and must reference **WT Docket No. 24-184**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[17]

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: https://www.fcc.gov/ecfs/.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
    - 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.
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Ex Parte Rules. As stated above, the proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[18] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or

[16] 47 CFR §§ 1.403, 1.405.

[17] See Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998); 63 FR 24121 (1998).

[18] 47 CFR §§ 1.1200 *et seq.*

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.

Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Additional Information. For further information regarding this *Public Notice*, please contact Christine Parola, Mobility Division, Wireless Telecommunications Bureau, at Christine.Parola@fcc.gov.

-FCC-

PUBLIC NOTICE

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DA-24-587
Released: June 20, 2024

THE PUBLIC SAFETY AND HOMELAND SECURITY BUREAU, IN COORDINATION WITH MULTIPLE OTHER BUREAUS, ISSUES PROCEDURES FOR PROVIDING EMERGENCY COMMUNICATIONS IN AREAS IMPACTED BY THE WILDFIRES IN NEW MEXICO

The Public Safety and Homeland Security Bureau, in coordination with the Media Bureau, Office of International Affairs, Space Bureau, Wireless Telecommunications Bureau, and Wireline Competition Bureau, announces procedures to help communications service providers initiate, resume, and maintain operations in response to the wildfires impacting New Mexico. Bureau-specific guidance is provided below. For additional information, applicants should contact the appropriate Bureau-specific staff identified below.

Those seeking special temporary authority (STA) are reminded of the need to conform to the requirements of section 1.2002 of our rules implementing the Anti-Drug Abuse Act of 1988.[1] Specifically, requests must include the following certification: "Neither the applicant nor any party to this application is subject to a denial of federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862." Presentations that directly relate to the emergency posed by the New Mexico wildfires are exempt from the restrictions of the Commission's *ex parte* rules, subject to the provisions of section 1.1204(a)(3) of those rules.[2]

- **Media Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for STA prompted by the effects of the New Mexico wildfires and filed pursuant to section 73.1635 of the Commission's rules[3] may be submitted by informal letter or email or, if necessary, by telephone. Licensees of AM & FM radio stations and TV stations may file requests electronically through the Licensing Management System (LMS). All requests must provide the technical parameters of the proposed operation and a point of contact. These requests will be handled as expeditiously as possible. To file STA requests via email or fax, or to receive an oral STA during regular business hours, licensees may contact the following personnel:
  - **Media Bureau Contact During Business Hours:**
    - **Part 73 (Radio Broadcast Services) Subparts A-H; J (as applicable):**
      - For Television Services, Kevin Harding, 202-418-7077, Kevin.Harding@fcc.gov
      - For FM Radio Services, Dale Bickel, 202-418-2706, Dale.Bickel@fcc.gov
      - For AM Radio Services, Jerome Manarchuck, 202-418-7226, Jerome.Manarchuck@fcc.gov

[1] 47 CFR § 1.2002.

[2] 47 CFR § 1.1204(a)(3).

[3] 47 CFR § 73.1365.

- **Part 76 (Multichannel Video and Cable Television Service):**
  - Sean Mirzadegan, 202-418-7111, Sean.Mirzadegan@fcc.gov
- **Part 78 (Cable Television Relay Service):**
  - Jeffrey Neumann, 202-418-2046, Jeffrey.Neumann@fcc.gov

- **Media Bureau Contact During Non-Business Hours:**
  - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov
- Licensees are reminded that the Commission's rules address operations during periods of emergency for licensees authorized under each of the rule parts for Broadcast Television Services, Broadcast Radio Services, and Multichannel Video and Cable Services. These service-specific rules allow licensees to provide emergency communications during a period of emergency in a manner or configuration not specified in the station authorization or in the rules governing such stations.[4]

- **Office of International Affairs Guidance**
  - **Special Temporary Authority (Submarine Cables, International 214s, and International High Frequency Broadcast Station):** Emergency requests for STA related to this event may be submitted by e-mail or, if necessary, by telephone. Applicants also may file requests electronically through the ICFS at http://licensing.fcc.gov/myibfs. The Office will handle all STA requests as expeditiously as possible.
  - To ensure the Office has a complete record of the action, applicants who do not file through the ICFS should follow-up the initial request with an electronic version submitted through the ICFS as soon as possible. In this filing, operators shall note in the first description field on the electronic STA form that this is a New Mexico wildfire request and the date the initial request was granted.
  - **Office of International Affairs Contact During Business Hours:**
    - **Submarine Cables and International 214s**:
      - Stacey Wise-Ashton, 202-418-2214, Stacey.Ashton@fcc.gov
      - Gabrielle Kim, 202-418-0730, Gabrielle.Kim@fcc.gov
      - Karen Johnson, 202-418-7706, Karen.Johnson@fcc.gov
    - **International High Frequency Broadcast Station**:
      - James McLuckie, 202-418-2149, James.McLuckie@fcc.gov
      - Shawna Prebble, 202-418-0740, Shawna.Prebble@fcc.gov
  - **Office of International Affairs Contact During Non-Business Hours:**
    - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Public Safety and Homeland Security Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for STA prompted by the effects of the New Mexico wildfires and filed pursuant to section 1.931 of the Commission's rules may be submitted by email or, if necessary, by telephone. Licensees may file requests electronically through the Universal Licensing System (ULS). All requests shall provide the technical parameters of the proposed operation and a point of contact. These requests will be handled as expeditiously as possible. To file STA requests via email or to receive an oral STA during regular business hours, licensees may contact the following personnel: After business hours,

[4] 47 CFR §§ 73.1250, 73.1680, 73.3542.

contact the FCC Operations Center, below.

- **Public Safety and Homeland Security Bureau Contact During Business Hours:**
  - **Parts 90 (Public Safety only) and 101 (Public Safety only):**
    - Tracy Simmons, 717-338-2657 or 202-391-2363, Tracy.Simmons@fcc.gov
    - Troy Sieg, 717-338-2567, Troy.Sieg@fcc.gov
- **Public Safety and Homeland Security Bureau Contact During Non-Business Hours:**
  - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Space Bureau Guidance**
  - **Special Temporary Authority (Satellite Earth and Space Stations):** Emergency requests for STA related to this event may be submitted by letter, e-mail or, if necessary, by telephone. Applicants also may file requests electronically through the International Communications Filing System (ICFS) at https://licensing.fcc.gov/myibfs. All requests shall provide the technical parameters of the proposed operation and a point of contact. The Bureau will handle all STA requests on an expedited basis. Consistent with section 309(c)(2)(G) of the Communications Act, as amended, the Bureau may grant STA requests for up to 30 days.[5]
  - **Space Bureau Contact During Business Hours:**
    - **Satellite Space Stations and Earth Stations**:
      - Kathyrn Medley, 202-418-1211, Kathyrn.Medley@fcc.gov
      - Merissa Velez, 202-418-0751, Merissa.Velez@fcc.gov
      - Franco Hinojosa, 202-418-7274, Franco.Hinojosa@fcc.gov
  - **Space Bureau Contact During Non-Business Hours:**
    - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Wireline Competition Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for relief, including STA, prompted by the effects of the New Mexico wildfires may be submitted by email or, if necessary, by telephone. Providers may file requests electronically through the Electronic Comment Filing System (ECFS) but should also provide copies of any submissions simultaneously via email to the appropriate FCC staff identified below. Requests shall include supporting details concerning the relief requested, including any technical parameters and contact information.
  - **Wireline Competition Bureau Contact During Business Hours:**
    - **Emergency Requests Pertaining to Discontinuance Under Section 214 of the Communications Act, or to Network Change Notification Requirements:**
      - Rodney McDonald, 202-418-7513, Rodney.McDonald@fcc.gov
    - **Emergency Requests Pertaining to Transfer of Control Under Section 214 of the Communications Act:**
      - Michele Berlove, 202-418-1477, Michele.Berlove@fcc.gov
    - **Emergency Requests Pertaining to Numbering Resources:**
      - Michelle Sclater, 202-418-0388, Michelle.Sclater@fcc.gov

[5] 47 USC § 309(c)(2)(G).

- **All Other Wireline Provider Requests:**
  - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov
- **Wireline Bureau Contact During Non-Business Hours:**
  - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Wireless Telecommunications Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for STA prompted by the effects of the New Mexico wildfires filed pursuant to section 1.931 of the Commission's rules may be submitted by informal letter or email or, if necessary, by telephone. Licensees may file requests electronically through the Universal Licensing System (ULS). All requests shall provide the technical parameters of the proposed operation and a point of contact. These requests will be handled as expeditiously as possible. To file STA requests via email or fax, or to receive an oral STA during regular business hours, licensees may contact the following personnel:
  - **Wireless Telecommunications Bureau Contact During Business Hours:**
    - **Parts 22, 24, and 27 (excluding the Broadband Radio Service and Educational Broadband Service):**
      - Keith Harper, 202-418-2759, Keith.Harper@fcc.gov
    - **Parts 27 (Broadband Radio Service and Educational Broadband Service only), 74, and 101 (excluding Public Safety):**
      - Paul Malmud, 202-418-0006, Paul.Malmud@fcc.gov
    - **Parts 80, 87, 90 (excluding Public Safety), 95, and 97:**
      - Joshua Smith, 717-338-2502 or 202-436-6222, Joshua.Smith@fcc.gov
    - **Parts 90 (Public Safety only) and 101 (Public Safety only):**
      - Tracy Simmons, 717-338-2657 or 202-391-2363, Tracy.Simmons@fcc.gov
      - Troy Sieg, 717-338-2567, Troy.Sieg@fcc.gov
  - **Wireless Telecommunications Bureau Contact During Non-Business Hours:**
    - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

Licensees are reminded that sections 22.307, 90.407, and 101.205 of the Commission's rules address operations during periods of emergency for licensees authorized under these rule parts. These rules allow licensees to provide emergency communications during a period of emergency in a manner or configuration not specified in the station authorization or in the rules governing such stations.

In addition, during evening hours, weekends, and holidays, licensees needing FCC emergency assistance or STA requests can call the FCC's Operations Center, which is open 24 hours a day, 7 days a week, at 202-418-1122 or by email at FCCOPS@fcc.gov. 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).

Questions and information requests may be directed to the Commission's main telephone numbers:

- Voice (toll-free): 1-888-225-5322 (1-888-CALL-FCC)
- American Sign Language Videophone (toll-free): 1-844-432-2275

-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-24-588
Released: June 20, 2024

THE FEDERAL COMMUNICATIONS COMMISSION PROVIDES 24/7 EMERGENCY CONTACT INFORMATION RELATED TO THE WILDFIRES IN NEW MEXICO

The Federal Communications Commission (FCC) is available to address emergency communications needs 24 hours a day, including throughout the weekend, especially relating to the effects of the wildfires in New Mexico.

In light of the coming weekend, the Public Safety and Homeland Security Bureau reminds emergency communications providers, including broadcasters, cable service providers, wireless and wireline service providers, satellite service providers, emergency response managers and first responders, and others needing assistance to initiate, resume, or maintain communications operations to contact the FCC Operations Center for assistance at 202-418-1122 or by e-mail at FCCOPS@fcc.gov.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA-24-589
Released: June 20, 2024

THE PUBLIC SAFETY AND HOMELAND SECURITY BUREAU REMINDS ENROLLED USERS ABOUT THE AVAILABILITY OF PRIORITY SERVICES IN AREAS IMPACTED BY THE WILDFIRES IN NEW MEXICO

The Public Safety and Homeland Security Bureau (PSHSB) reminds enrolled users about the availability of priority services, which help support communications and continuity of operations. Current users should understand how to activate the priority treatment so they are prepared to use the services, if necessary, during emergency response activities related to the wildfires in New Mexico.

The Department of Homeland Security's Cybersecurity and Infrastructure Security Agency manages three programs that enable National Security and Emergency Preparedness (NSEP) personnel to effectively communicate when networks are damaged, degraded, or congested. These programs include:

- Government Emergency Telecommunications Service (GETS) for wireline voice communications;
- Wireless Priority Service (WPS) for wireless communications; and
- Telecommunications Service Priority (TSP) for prioritized restoration and provisioning of communications facilities.

PSHSB reminds current users of the following information and best practices, which will increase the effectiveness of the programs:

- Make regular practice/test calls for GETS and WPS.
- Preprogram *272 for key numbers in your phone's contact list.
- Download the GETS/WPS dialer application for smartphones.
- Do *not* use GETS or WPS to dial 911.
- Test WPS after all phone changes.
- Keep your GETS card with you at all times.
- You may experience silence after entering your destination number.
- Using WPS and GETS together may help in certain circumstances.

For other helpful information, please see CISA's Helpful Tips for Users of WPS and GETS.

PSHSB also encourages other entities and organizations that are not currently enrolled, but that may qualify, to consider participating in the priority services programs. These programs are available to qualified personnel from both the public and private sectors that perform NSEP functions. Entities from the following categories may qualify to participate:

- All levels of government (federal, state, local, tribal, territorial);

- Non-governmental organizations; and
- Organizations within critical infrastructure sectors, including certain private sector entities.

For more information about the priority services programs, please visit: https://www.fcc.gov/general/public-safety-homeland-security-policy-areas-priority-services and https://www.cisa.gov/priority-telecommunications-services.

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-24-590
Released: June 20, 2024

THE FEDERAL COMMUNICATIONS COMMISSION ENCOURAGES DEBRIS REMOVAL AND UTILITY REPAIR TEAMS TO AVOID DAMAGING COMMUNICATIONS INFRASTRUCTURE IN AREAS AFFECTED BY THE WILDFIRES IN NEW MEXICO

The Public Safety and Homeland Security Bureau (PSHSB) encourages all entities involved with debris clearing operations and utility repairs related to the effects of the wildfires in New Mexico to take all steps necessary to avoid damaging critical communications facilities and infrastructure.

The wildfires have caused widespread damage and significant impacts to communications services and infrastructure in New Mexico. Wildfires and other natural disasters present numerous challenges for those working to restore essential phone and Internet services. For example, debris clearing operations to remove trees, replace damaged utility poles, and open roadways often result in significant, non-disaster related damage to critical communications infrastructure. Such damage can disrupt communications that support the safety and life and property, including 911 calls and first responder communications.

PSHSB encourages those entities working to clear debris, repair utility lines, and restore services to ensure their activities do not damage critical communications. Crews clearing debris should exercise caution to not cut or damage telephone or television cables that may be entangled in the debris. Similarly, entities conducting debris and restoration efforts that require digging (including trenching) are reminded to coordinate with appropriate authorities to ensure buried utilities can be located to avoid damage. Teams on the ground should take proactive steps to preserve and maintain critical communications and take immediate action, if necessary, to mitigate the effects of any damage that may occur to facilities or infrastructure.

For assistance, please contact the FCC Operations Center at 202-418-1122 or by e-mail at FCCOPS@fcc.gov.

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. 24-591

Report No. TEL-02371 **Friday June 21, 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).

ISP-PDR-20230807-00007 E @Link Services, LLC

Petition for Declaratory Ruling

Grant of Authority Date of Action: 06/20/2024

On August 4, 2023, AtLink Services, LLC (AtLink a/k/a @Link) and Element8 Technology Investment Group Inc. (Element8) (together, Petitioners) filed a petition for a declaratory ruling pursuant to section 310(b)(4) of the Communications Act of 1934 (Act), as amended, 47 U.S.C. § 310(b)(4), and section 1.5000(a)(1) of the Commission's rules, 47 CFR § 1.5000(a)(1), requesting that the Commission find that it would serve the public interest to approve foreign equity and voting interests in Element8, the proposed controlling U.S. parent of AtLink, in excess of the 25% statutory benchmarks in section 310(b)(4) of the Act. On August 30, 2023, the Petitioners filed an amended and restated petition for declaratory ruling (Restated Petition). On September 8, 2023, we released a Public Notice seeking comment on the Restated Petition. Non-Streamlined International Applications, Accepted For Filing, Report No. TEL-02300NS, Public Notice (OIA rel. Sept. 8, 2023). We received no comments on the Public Notice.

According to the Restated Petition, AtLink is a limited liability company organized under the laws of Oklahoma. AtLink holds common carrier Citizens Broadband Radio Service (CBRS) Priority Access Licenses (PALs) in the 3.5 GHz band as well as private wireless licenses in the Microwave Industrial/Business Pool service and a de facto (long-term) lease in the Educational Broadband service. AtLink is a "Designated Entity" under the Commission's rules and received a 15% bidding credit in Auction 105 in 2020 for its PALs. AtLink is an Eligible Telecommunications Carrier (ETC) under the Commission's rules and is authorized to receive Connect America Fund Phase II (CAF) support in Oklahoma, and as a result of this service, is deemed to hold a domestic section 214 authorization. The Petitioners state that AtLink does not hold an international section 214 authorization. See ULS File Nos. 0010638598 and 0010638655; WC Docket No. 23-268.

The Petitioners state that pursuant to a Membership Equity Purchase Agreement between Element8 and AtLink, Element8 will acquire control of AtLink. The Petitioners state that any CAF funding and obligations, as well as any assets built using CAF funding prior to consummation of the transaction, will remain with AtLink after the transaction and will be used for the provision of service.

According to the Restated Petition, upon consummation of the proposed transaction, AtLink will be a direct wholly owned subsidiary of Element8. Element8, a Delaware corporation, is wholly owned by E8 Midco, LLC, a Delaware limited liability company, which in turn is wholly owned by E8 Topco Inc. (E8 Topco), a Delaware corporation. E8 Aggregator, LP (E8 Aggregator), a Delaware limited partnership, holds 70.34% equity interest and 84.32% voting interest in E8 Topco. Sky City Holdings, LLC (Sky City), a Texas limited liability company, will hold a 26.53% equity interest and 11.93% voting interest in E8 Topco. The Petitioners state that the remaining direct interests in E8 Topco will be held by U.S. citizens with less than 10% equity and/or voting interests.

The Petitioners state that the equity interests in E8 Aggregator are held by Digital Alpha Fund II, LP (35.94% equity, 0% voting) and Digital Alpha Fund II-A, LP (64.06% equity, 0% voting), both Delaware limited partnerships. According to the Petitioners, Digital Alpha Fund II, LP and Digital Alpha Fund II-A, LP are both insulated pursuant to section 1.5003 of the Commission's rules. 47 CFR § 1.5003. The general partner of E8 Aggregator is Digital Alpha GP II, LP (0% equity, 100% voting), a Delaware limited partnership. Digital Alpha GP II, LP is managed by Digital Alpha UGP II, LLC, a Delaware limited liability company, which in turn is managed by Rick Shrotri, a U.S. citizen.

According to the Petitioners, all of the limited partner interests of Digital Alpha Fund II, LP are held by numerous U.S. and foreign investors, none of which holds a 10% or greater limited partnership interest.

Platinum Makdor B 2006 RSC Limited (Platinum Makdor), an insulated restricted scope company organized under the laws of Abu Dhabi, United Arab Emirates, holds 11.84% limited partnership interests (11.84% equity, 0% voting) in Digital Alpha Fund II-A, LP. The Abu Dhabi Investment Authority, a public institution of the Government of Abu Dabi, holds 100% equity and voting interests in Platinum Makdor. The remaining limited partnership interests in Digital Alpha Fund II-A, LP are held by numerous U.S. and foreign investors, none of which holds a 10% or greater limited partnership interest.

Agile Management Enterprises, LLC (Agile Management), a Texas limited liability company, holds 37.5% equity and 100% voting interests in Sky City. According to the Petitioners, the remaining equity interests in Sky City are held by U.S. citizens, none of whom holds a 10% or greater interest. Agile Management is managed by Kevin Grace, a U.S. citizen, who holds a 39.15% equity and voting interest in Agile Management. According to the Petitioners, the remaining interests in Agile Management are held by U.S. citizens, none of whom holds a 10% or greater interest.

The Petitioners request that the Commission approve up to an aggregate 100% foreign ownership equity and voting interest in Element8. Pursuant to section 1.5001(i) of the Commission's rules, 47 CFR § 1.5001(i), the Petitioners request that the Commission specifically approve direct and indirect foreign equity and voting interests in AtLink's controlling U.S. parent, Element8, by the following foreign-organized entities:

Platinum Makdor B 2006 RSC Limited (5.39% equity and voting) (United Arab Emirates);
Abu Dhabi Investment Authority (5.39% equity and voting) (United Arab Emirates); and
Government of Abu Dhabi (5.39% equity and voting) (United Arab Emirates).

Petitioners also request advance approval, pursuant to section 1.5001(k) of the Commission's rules, 47 CFR § 1.5001(k), for Platinum Makdor B 2006 RSC Limited, Abu Dhabi Investment Authority, and the Government of Abu Dhabi to increase their indirect interests in Element8 up to a non-controlling 49.99% equity and voting interest. 47 CFR § 1.5001(k).

The Petitioners assert that the public interest would be served by granting the Restated Petition.

Pursuant to Commission practice, the Restated Petition and the associated domestic application for transfer of control of section 214 authority (WC Docket No. 23-268) were referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Petitioners. On May 22, 2024, the National Telecommunications and Information Administration (NTIA), on behalf of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee), filed a Petition to Adopt Conditions to Authorizations and Licenses (Committee Petition). The Committee advises that it has no objection to a grant of the Restated Petition, provided that the Commission conditions its approval on the assurances of Element8 Technology Investment Group Inc. and AtLink Services, LLC to abide by the commitments and undertakings set forth in the May 2, 2024, Letter of Agreement from Kevin Grace, Chief Executive Officer, Element8 Technology Investment Group Inc., and Samual T. Curtis, Chief Executive Officer, @Link Services, LLC (a/k/a AtLink Services, LLC), to Chief, Foreign Investment Review Section (FIRS) and Deputy Chief, Compliance and Enforcement (FIRS), on behalf of the Assistant Attorney General for National Security, United States Department of Justice National Security Division (LOA). The Committee Petition and the LOA are publicly available and may be viewed on the FCC website through the International Communications Filing System (ICFS) by searching for ISP-PDR-20230807-00007 and accessing "Other filings related to this application" from the Document Viewing area.

Foreign Ownership Declaratory Ruling.

We find that the public interest would not be served by prohibiting foreign ownership of Element8 in excess of the 25% benchmarks in section 310(b)(4) of the Act. We, therefore, grant the Restated Petition subject to the conditions set out herein.

This declaratory ruling authorizes 100% aggregate foreign ownership of Element8, as the proposed controlling U.S. parent of AtLink, subject to the terms and conditions set forth in section 1.5004 of the Commission's rules, including the requirement to obtain Commission approval before foreign ownership of Element8 exceeds the terms and conditions of this declaratory ruling. 47 CFR § 1.5004. Specifically, pursuant to section 1.5001(i) of the Commission's rules, we grant the Petitioners' request for specific approval to permit the above-listed foreign individual and foreign-organized entities to hold, directly and/or indirectly, equity and/or voting interests in Element8, the proposed controlling U.S. parent of AtLink, in the amounts specified above.

We also grant, pursuant to section 1.5001(k)(2) of the Commission's rules, the Petitioners' advance approval request to permit the above-listed foreign-organized entities to acquire up to a non-controlling 49.99% indirect equity and/or voting interest in Element8, the proposed controlling U.S. parent of AtLink.

We grant the Committee Petition and condition grant of the Restated Petition on compliance by Element8 and AtLink with the commitments and undertakings set forth in the LOA.

Element8 has an affirmative duty to monitor its foreign equity and voting interests, calculate these interests consistent with the principles enunciated by the Commission, including the standards and criteria set forth in sections 1.5002 through 1.5003 of the Commission's rules, and otherwise ensure continuing compliance with the provisions of section 310(b) of the Act. 47 CFR §§ 1.5002-1.5003; 47 CFR § 1.5004, Note to paragraph (a).

A failure to comply with and/or remain in compliance with any of these requirements shall constitute a failure to meet a condition of this declaratory ruling and the underlying licenses and thus grounds for declaring them terminated without further action on the part of the Commission. Failure to meet a condition of this declaratory ruling may also result in monetary sanctions or other enforcement action by the Commission.

Grant of this declaratory ruling is without prejudice to the Commission's action on any other related pending application(s).

ITC-214-20240517-00088 E TREK CELLULAR, LLC

International Telecommunications Certificate

Service(s): Global or Limited Global Facilities-Based Service, Global or Limited Global Resale Service

Grant of Authority Date of Action: 06/14/2024

Trek Cellular, LLC (Trek Cellular) filed an application for authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules and resale service in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(1), (2).

Trek Cellular, a Maryland limited liability company, is owned by two U.S. citizens: Allen Raub (50%) and Kristin Raub (50%).

ITC-214-20240517-00089 E PHREELI COMPANY

International Telecommunications Certificate

Service(s): Global or Limited Global Facilities-Based Service, Global or Limited Global Resale Service

Grant of Authority Date of Action: 06/14/2024

Phreeli Company (Phreeli) filed an application for authority to provide facilities-based service in accordance with section 63.18(e)(1) of the Commission's rules and resale service in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(1), (2).

Phreeli, a Delaware company, is majority owned by Nicholas Merrill (64.865%), a U.S. citizen. The Applicant states that no other individuals or entities have a 10% or greater ownership interest in Phreeli.

INFORMATIVE

ITC-214-20000717-00403 ANPI Business, LLC

By letter dated June 14, 2024, ANPI Business, LLC notified the Commission that it plans to discontinue the provision of certain international switchless long distance and toll free-services that it provides to certain business end user customers on August 31, 2024 in all states except Arizona, which will be discontinued on September 7, 2024.

ITC-214-20231101-00137 Sequoia Wireless, LLC

By letter dated June 10, 2024, the Commission was notified that LifeLine, LLC has changed its name to Sequoia Wireless, LLC.

SURRENDER

ITC-214-19971022-00651 Knology of Montgomery, Inc.

Knology of Montgomery, Inc. notified the Commission of the surrender of its international section 214 authorization.

ITC-214-19971103-00676 Globe Telecommunications, Inc.

Globe Telecommunications, Inc. notified the Commission of the surrender of its international section 214 authorization.

ITC-214-19971113-00701 KNOLOGY of Columbus, Inc.

KNOLOGY of Columbus, Inc. notified the Commission of the surrender of its international section 214 authorization.

ITC-214-19980527-00350 Knology of Florida, LLC

Knology of Florida, LLC notified the Commission of the surrender of its international section 214 authorization.

ITC-214-20000214-00080 Knology of Kentucky, Inc.

Knology of Kentucky, Inc. notified the Commission of the surrender of its international section 214 authorization.

ITC-214-20131217-00329 JAGAT INTERNATIONAL LLC

JAGAT 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.

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. 24-592

Report No. SCL-00469 **Friday June 21, 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-MOD-20130227-00002 Verizon Business Global LLC dba Verizon Business

By letter dated June 17, 2024, Verizon Business Global LLC dba Verizon Business (Verizon), of behalf the licensees of the Japan-United States (JUS) cable system (SCL-LIC-19981117-00025, SCL-MOD-20130227-00002), notified the Commission that, with the exception of Segment 1 (S-1) of the cable system, the JUS cable system was retired from service as of October 30, 2023. The S-1 segment, connecting Makaha, Hawaii to Morro Bay, California, continues to be operated by Verizon until further notice.

SCL-MOD-20180905-00032 Telxius Cable USA, Inc.

By letter dated June 19, 2024, Telxius Cable USA, Inc., Telxius Cable Puerto Rico, Inc., and Telxius Cable America, S.A. notified the Commission that the Dominican Republic Spur (Spur) of the South America-1 submarine cable system (SAm-1 Cable) (SCL-LIC-20000204-00003, SCL-MOD-20180905-00032), entered commercial service on June 14, 2024. The Spur lands at Punta Cana, Dominican Republic.

INFORMATIVE

SCL-STA-20240610-00025 Unicom, Inc.

On June 20, 2024, we granted the request for special temporary authority (STA) filed by Unicom, Inc. (Unicom) to construct, connect, and test at their own risk the Quinhagak and Togiak segments of the Airraq submarine cable system (Airraq) in Alaska prior to the Commission's grant of Unicom's pending application to modify the Airraq System cable landing license (SCL-MOD-20240515-00013). The Commission granted Unicom a cable landing license to land and operate a non-common carrier fiber-optic submarine cable system connecting Dillingham, Platinum, and Eek, Alaska on April 11, 2024. SCL-LIC-20230718-00023, Actions Taken Under Cable Landing License Act, Report No. SCL-00459, Public Notice, DA No. 24-349 (OIA Apr. 12, 2024). On May 15, 2024 Unicom filed an application to modify the license to add landings at Quinhagak and Togiak, Alaska (SCL-MOD-20240515-00013).

The Applicant 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 without a hearing.

The STA expires on December 17, 2024.

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 24-593
Released: June 21, 2024

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

WC Docket No(s). 24-177

Comments Due: July 8, 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 **July 22, 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

[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.").

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 **July 8, 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): AT&T Services, Inc., on behalf of its affiliate, AT&T Enterprises, LLC (AT&T)**
WC Docket No. 24-177, Comp. Pol. File No. 1922
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2224-177%22))
Affected Service(s) – POTS in a Box, an interconnected VOIP service
Service Area(s) – throughout the United States
Authorized Date(s) – on or after July 22, 2024
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau
Note: On or after July 22, 2024, AT&T plans to grandfather the Affected Service(s) as follows: the Affected Service(s) will no longer be available for purchase by new customers and AT&T will not allow existing customers to place new orders or move or make changes to existing service, except as provided for in existing contracts. Following the expiration of any term agreements, existing customers may retain their service on a month-to-month basis. AT&T plans to discontinue the Affected Service(s) on or after December 15, 2025.

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. 24-594

Report No. SAT-01831 **Friday June 21, 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-20230424-00095 E S3017 Hughes Network Systems, LLC
Modification
Withdrawn Effective Date: 06/14/2024

Nature of Service: Fixed Satellite Service

SAT-MOD-20230516-00109 E S3133 Spaceflight Federal, LLC
Modification
Withdrawn Effective Date: 06/18/2024

Nature of Service: Other

SAT-MOD-20240403-00073 E S3042 HawkEye 360, Inc.
Modification
Withdrawn Effective Date: 06/19/2024

Nature of Service: Earth Exploration Satellite Service, Other

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SAT-STA-20240422-00088 E S3087 Lynk Global, Inc.
Special Temporary Authority
Grant of Authority Effective Date: 06/20/2024

Nature of Service: Mobile Satellite Service

On June 20, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Lynk Global, Inc., for a period of up to 60 days, to operate Lynk's Tower 1, 3, and 4 satellites, with orbital parameters for Lynk Tower 1 at altitudes between 479 km and 490 km and a 97.4 degrees inclination; for Lynk Tower 3 at altitudes between 513 km and 532 km and a 97.5 degrees inclination; and for Lynk Tower 4 at altitudes between 514 km and 532 km and a 97.5 degrees inclination.

SAT-STA-20240517-00105 E S3182 Spire Global, Inc.

Special Temporary Authority

Grant of Authority Effective Date: 06/17/2024

On June 17, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Spire Global Inc., for a period of up to 30 days, to permit the Hubble 1 and Hubble 2 satellites to receive transmissions in the 2482.710675-2483.424 MHz frequency band from an alternative earth station than specified in its license. See also Experimental Licensing System File No. 0933-EX-ST-2024.

SAT-STA-20240617-00137 E S3066 Intelsat License LLC

Special Temporary Authority

Grant of Authority Effective Date: 06/20/2024

Nature of Service: Fixed Satellite Service

On June 20, 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.

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 24-595
Released: June 21, 2024

NOTICE OF REQUEST FOR ACCESS TO CARRIER DATA FILED IN THE NUMBERING RESOURCE UTILIZATION AND FORECAST (NRUF) REPORTS

PLEADING CYCLE ESTABLISHED

CC Docket No. 99-200
CC Docket No. 95-116

Comment Date: July 01, 2024

The United States Department of Justice, Antitrust Division (the Department), "is investigating the proposed acquisition by T-Mobile USA of UScellular's mobile wireless operations."[1] For the purpose of assisting in that investigation, the Department has requested access to information contained in the Numbering Resource Utilization and Forecast (NRUF) reports (and any updates that become available during the pendency of the investigation) filed by wireless telecommunications carriers, by carrier and by rate center, and to disaggregated, carrier-specific local number portability (LNP) data related to wireless telecommunications carriers, by carrier and by rate center, from June 2019 forward. Affected parties have 10 days from the date of this Notice to oppose disclosure of NRUF and LNP data to the Department.

Section 251 of the Communications Act, 47 U.S.C. § 251, gives the Commission jurisdiction over the North American Numbering Plan (NANP) and related telephone numbering issues. In order to better monitor the way numbering resources are used within the NANP and efficiently allocate NANP resources, the Commission requires telecommunications carriers to provide the Commission with utilization reports of their current inventory of telephone numbers and a five-year forecast of their numbering resource requirements.[2] LNP data is collected by the LNP Administrator, and provided to the Commission. The Commission has recognized that disaggregated, carrier-specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).[3]

In general, the Commission may share information it has collected with another government agency under 44 U.S.C. § 3510. Section 3510 further provides that all provisions of law that relate to the unlawful disclosure of information apply to the employees of the agency to which the information is released. Although the Commission's regulations provide that proprietary and commercially sensitive

[1] Letter from Yvette Tarlov, Chief, Media, Entertainment and Communications Section, Antitrust Division, U.S. Department of Justice, to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, at 1 (filed June 14, 2024).

[2] *See Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7578-79, para. 5 (2000).

[3] *Id*. at 7607, para. 78.

information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act and implementing regulations, 5 U.S.C. § 552, 47 CFR § 0.457(d), 0.459(d), the Commission may disclose to other federal agencies records that have been submitted to the Commission in confidence upon another agency's request pursuant to 47 CFR § 0.442(d).

The Department states in its request that its policy is to protect the confidentiality of sensitive information and to prevent competitively sensitive information from being shared among competitors. As stated in the request, sensitive information includes "confidential business information," which means trade secrets or other commercial or financial information (a) in which the company has a proprietary interest or which the company received from another entity under an obligation to maintain the confidentiality of such information, and (b) which the company has in good faith designated as confidential. The Department represents that it will use sensitive information only for a legitimate law enforcement purpose and that it is the Department's policy not to disclose sensitive information unless it is required by law or is necessary to further a legitimate law enforcement purpose. In its request, the Department states that in its experience, the need to disclose sensitive material occurs rarely. The Department maintains that, although its policy is not to use sensitive information in complaints or accompanying court papers unnecessarily, it cannot provide an absolute assurance that sensitive information will not be included in such documents. If a complaint is filed, it is the Department's policy to notify the concerned party as soon as is reasonably practicable of any decision by the Department to use confidential business information in its complaint. After a complaint is filed, it is the Department's policy to use its best efforts to prevent further disclosure of confidential business information until a protective order has been entered and the concerned party has had a reasonable opportunity to appear before the court. Furthermore, the Department's policy is not to oppose a court appearance by concerned parties for this purpose. Finally, if a request is made under the Freedom of Information Act or any other provision of law for the disclosure of confidential business information, it is the Department's policy to assert all applicable exemptions from disclosure, including those exemptions set forth in 5 U.S.C. §§ 552(b)(4), (b)(7)(A), and (b)(7)(D) (to the extent applicable).[4]

Pursuant to the Commission's regulations, 47 CFR § 0.442, affected parties have 10 days from the date of this notice to oppose disclosure of NRUF and LNP data to the Department of Justice. If the Commission receives no opposition from affected parties within 10 days of this notice, the Commission will disclose the information requested above to the Department. If disclosure is opposed, the procedures set forth in 47 CFR § 0.442 shall apply.

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 date specified above. 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

[4] *See also Critical Mass Energy Project v. NRC*, 975 F.2d 871, 880 (D.C. Cir.), *cert. denied*, 113 S. Ct. 1579 (1992) (protection of voluntarily provided information).

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).

Parties must also send a courtesy copy of their filing to Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C143, Washington, D.C. 2055 or via e-mail at tracey.wilson@fcc.gov.

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[5] 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.

For further information, please contact Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov, (202) 418-1394.

- FCC -

[5] 47 CFR §§ 1.1200 *et seq.*

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

In the Matter of	)	
	)	
American Electric Power Service Corporation's	)	WT Docket No. 23-390
Request for Waiver of Section 90.621(b)	)	

ORDER

Adopted: June 21, 2024 **Released: June 21, 2024**

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this *Order*, we address the request filed by American Electric Power Service Corporation (AEP)[1] for a waiver of section 90.621(b) of the Federal Communications Commission's (Commission) rules for the operation of 800 MHz low-power temporary repeaters and mobile talk-around in remote areas throughout its multi-state service territory that are outside the range of its existing 800 MHz network.[2] For the reasons set forth below, we grant AEP's waiver request, subject to the conditions described herein.

II. BACKGROUND

2. *Section 90.621(b).* Part 90 of the Commission's rules governs private land mobile radio services.[3] Section 90.621(b) requires separation distances for fixed stations operating on frequencies in the 806/851–824/869 MHz band.[4] This rule mandates at least 113 kilometers (70.21 miles) of separation between stations to protect against interference.[5] The underlying purpose is to ensure licensees can maintain interference-free operations.

3. *AEP's Waiver Request.* AEP is one of the largest providers of electric service in the United States and serves almost 5.6 million customers across 11 states.[6] AEP operates its own 800 MHz network, which covers at least 90% of its service territory, and the fixed facilities in its network were assigned in accordance with section 90.621(b)'s requirements.[7] On June 8, 2023, AEP filed an application seeking waiver of section 90.621(b) of the Commission's rules to operate low-power temporary fixed facilities and mobile-to-mobile talk-around on twelve 800 MHz frequencies for use only

[1] American Electric Power Service Corporation, ULS File No. 0010577631 (filed June 8, 2023) (AEP Waiver Application), https://wireless2.fcc.gov/UlsApp/ApplicationSearch/applMain.jsp?applID=14102475; Attachment to Application labeled "Waiver Request for Service Area Operations" at 1 (filed June 8, 2023) (AEP Waiver Request).

[2] AEP Waiver Request at 1. AEP's service territory includes Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia, and West Virginia. *Id.*

[3] 47 CFR pt. 90.

[4] 47 CFR § 90.621(b).

[5] *See id.*

[6] AEP Waiver Request at 1, 4.

[7] *Id.* at 2.

in remote areas outside the range of its fixed network across its 11-state service territory, and without conforming to the 113-kilometer distance separation specified in section 90.621(b).[8]

4. In its waiver request, AEP asserts that some of its most critical work, such as maintaining the transmission and distribution networks, depends on its private 800 MHz network.[9] While it has significantly invested in the network's deployment, AEP contends that it is not operationally, fiscally, or environmentally feasible to establish fixed facilities in more remote locations where its personnel must operate.[10] AEP argues that the areas without coverage are not frequently visited, yet it is vital for wireless communications to be reliable for the field crews working there due to the hazardous tasks performed and strenuous working conditions.[11] Therefore, AEP states it is critical for these field crew members to have the ability to communicate regardless of their location.[12] This need would be addressed by permitting AEP's personnel to speak directly to each other without having to pass through a repeater and, when required, to employ a temporary repeater with a short antenna affixed to the roof of a vehicle that would provide a range of no greater than six miles.[13] AEP explained that it considered alternative wireless options, but the alternatives were not viable.[14] Finally, AEP states that it understands that any use must occur on a secondary, non-interference basis and proposes a set of detailed conditions designed to ensure that its temporary operations do not cause interference to co-channel licensees.[15]

5. On November 21, 2023, the Commission released a Public Notice seeking comment on AEP's waiver request application.[16] Three parties submitted comments in this proceeding.[17] The Government Wireless Technology & Communications Association (GWTCA) filed in opposition to this waiver request, expressing concern with the lack of notice to affected parties, insufficient detail about how AEP would operate, and inadequate discussion of reasonable alternatives pursued.[18] The other two commenters filed to raise specific situational concerns pertaining to cities in Tennessee.[19]

III. DISCUSSION

6. *Waiver Standard.* Pursuant to section 1.925 of the Commission's rules, to be granted a waiver, an applicant must show that either (i) "[t]he underlying purpose of the rule(s) would not be served

[8] *Id.* at 1, 2; AEP Waiver Application, ULS File No. 0010577631.

[9] AEP Waiver Request at 1.

[10] *Id.* at 1.

[11] *Id.*

[12] *Id.*

[13] *Id.* at 1–2.

[14] *Id.* at 2.

[15] *Id.* at 2–4.

[16] *Wireless Telecommunications Bureau Seeks Comment on American Electric Power Service Corporation's Request for Waiver of Section 90.621(b)*, WT Docket No. 23-390, Public Notice, DA 23-1084, 2023 WL 8614340, at *1 (WTB Nov. 21, 2023). On January 3, 2024, AEP filed a Motion for Extension of Time to extend the comment deadline by seven days for additional time to respond to GWTCA's opposition. Motion of American Electric Power Service Corporation for Extension of Time, WT Docket No. 23-390, at 1 (filed Jan. 3, 2024, amended Jan. 4, 2024), https://www.fcc.gov/ecfs/search/search-filings/filing/10103587929l9. The Wireless Telecommunications Bureau granted AEP's Motion on January 5, 2024, extending the reply comment deadline by seven days to January 12, 2024. *Order Granting Extension of Time*, WT Docket No. 23-390, Order, DA 24-16, 2024 WL 123606, at *1–2 (WTB Jan. 5, 2024).

[17] Government Wireless Technology & Communications Association Comments (GWTCA Comments); Patrick Rollins Comments; Allen Lark, City of Johnson City, TN Comments (Allen Lark Comments).

[18] GWTCA Comments at 2–4.

[19] Patrick Rollins Comments; Allen Lark Comments.

or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest;" or (ii) "[i]n view of unique and unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."[20] An applicant seeking waiver must meet a high bar and "must plead with particularity the facts and circumstances which warrant such action."[21]

7. We find that AEP has demonstrated that a waiver is warranted because, in light of the unique and unusual factual circumstances of the instant case, application of the distance separation requirement in section 90.621(b) would be contrary to the public interest. Section 90.621(b) typically governs fixed facilities that are high power and on high sites, which are distinct from AEP's proposed operations.[22] AEP indicates that it will operate at low power, specifically a maximum of 50 watts effective radiated power, and with an antenna height of no greater than five feet from the roof of a vehicle, which significantly limits the range and minimizes the potential for interference.[23] Moreover, AEP has devoted significant resources to provide coverage to about 90% of its 11-state service territory, and it has established fixed facilities in all viable areas.[24] Therefore, this waiver will only be utilized when AEP is working in uncovered remote areas, and, when operating, the coverage range will extend a maximum of five to six miles.[25] AEP asserts that it will operate infrequently on these channels, anticipating operations will only occur a few times per month.[26] We disagree with GWTCA's argument that AEP does not show that its circumstances are unique, as AEP has demonstrated that use will be restricted to operations that are very unlikely to interfere with other licensees due to being infrequent, low power, in remote locations, and close to the ground, all of which are unique features of AEP's operations pursuant to the requested waiver.[27]

8. Furthermore, application of section 90.621(b) in this instance would be contrary to the public interest. This waiver focuses on the safety of AEP's field crews while working in uncovered areas.[28] Providing electric service is a complex endeavor, and maintenance requires these field crews to work in remote areas with difficult terrain where it is not feasible to construct fixed facilities.[29] While working in areas that lack network coverage, field crews may be exposed to unsafe conditions that can result in injuries or fatalities.[30] It is in the public interest to ensure that AEP's personnel are able to directly and immediately speak with one another, especially if difficult situations arise.[31] Waiving the distance separation requirement will facilitate these critical communications and promote worker safety. Additionally, we agree with AEP that it would be contrary to the public interest to instead have its personnel learn procedures for alternative radios and then carry those radios with them.[32] Incorporating more radios would raise financial costs, cause unnecessary complexity, and increase confusion, and

[20] 47 CFR § 1.925(b)(3).

[21] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) (quoting *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664, 666 (D.C. Cir. 1968)).

[22] 47 CFR § 90.621(b).

[23] AEP Waiver Request at 1, 3.

[24] *Id.* at 4.

[25] *Id.* at 2, 3.

[26] *Id.* at 1, 3.

[27] AEP Waiver Request at 3; GWTCA Comments at 5.

[28] AEP Reply at 2.

[29] *See id.*; AEP Waiver Request 1, 3.

[30] AEP Waiver Request at 1; AEP Reply at 2.

[31] *See* AEP Waiver Request at 1–2; AEP Reply at 2.

[32] AEP Waiver Request at 2.

AEP's field crews are already trained on and operate 800 MHz radios.[33] A grant of this waiver is in the public interest, as it will ensure reliable communications for AEP's field crews working in remote areas on challenging tasks.

9. We are not persuaded by the other arguments in the record opposing the waiver request. For example, we disagree with GWTCA's arguments that AEP did not narrowly tailor its waiver request and has not provided substantial detail with respect to how it plans to implement its waiver.[34] AEP's reply to GWTCA sufficiently addressed the limited scope of its request, and it is highly unlikely that AEP's infrequent usage will result in interference or affect co-channel licensees.[35] Moreover, the conditions we impose below address any such interference concerns should they occur. We also are not persuaded by GWTCA's argument that there will be potential interference to public safety entities, as AEP intentionally proposed frequencies not allocated to public safety.[36] While we understand there are non-public safety frequencies that have been assigned to public safety entities, GWTCA's suggestion related to safeguarding these entities is not practical for AEP to implement.[37] Furthermore, GWTCA indicates that AEP failed to notify potentially affected co-channel licensees prior to grant of the waiver; however, there is no obligation requiring AEP to provide notice prior to grant.[38] Finally, we are unconvinced by GWTCA's argument that AEP has not considered a reasonable alternative, as AEP explained the difficulty of training its personnel on additional complex radios operating on another spectrum band and of constructing fixed facilities in remote locations.[39] We find that these options are not logistically or financially feasible for AEP to implement.[40]

10. GWTCA filed the only comment opposing this waiver request, but there were two other comments filed expressing concern about the waiver's potential impact on cities in Tennessee.[41] Patrick Rollins' comment highlights the fact that it is unlikely an issue will occur unless Tennessee were to "ask for power restoration mutual aid after an ice storm or earthquake" because interference would hinder communication.[42] Allen Lark's comment focused on the frequency 854.0125 MHz and requested that if this frequency is granted that the separation requirement be followed to prevent interference because this frequency is used in Johnson City, Tennessee.[43] We find that the conditions imposed in this *Order* adequately address these commenters' concerns by requiring AEP to take specific steps to protect co-channel licensees from interference.

11. Accordingly, we grant AEP's waiver request to assign twelve 800 MHz channels for temporary fixed use without reference to the co-channel distance separation in section 90.621(b) and authority to operate on these 800 MHz channels on a mobile-to-mobile talk-around basis throughout its multi-state service territory, subject to the conditions described below.

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[33] *Id.*

[34] GWTCA Comments at 2, 3.

[35] AEP Reply at 3. AEP included information in its waiver request and its reply about how it would address potential interference. AEP Waiver Request at 2–4; AEP Reply, Attach. A.

[36] GWTCA Comments at 6; AEP Reply at 3 n.4.

[37] AEP Reply at 3 & n.3, n.4; *see* GWTCA Comments at 4.

[38] GWTCA Comments at 2; AEP Reply at 4–5; *see also* AEP Waiver Request at 3–4.

[39] GWTCA Comments at 4–5; AEP Waiver Request at 2; AEP Reply at 2.

[40] AEP Waiver Request at 1, 2; AEP Reply at 2.

[41] Patrick Rollins Comments (filing to highlight several Tennessee cities, specifically Memphis, Bartlett, Chattanooga, and Johnson City); Allen Lark Comments (filing to advocate for Johnson City, Tennessee).

[42] Patrick Rollins Comments. This commenter also stated, "[w]e would be able to assist American Electric Power Services with communication within the state if they should require interoperability." *Id.*

[43] Allen Lark Comments.

12. *Conditions*. This waiver grant is conditioned on the following, which largely reflects the steps that AEP specified in its waiver request:

(1) AEP's use must be on a secondary, non-interference basis.

(2) AEP's operation is limited to areas outside of the coverage of its licensed, fixed facilities but within AEP's current service territory, including any modifications to AEP's service territory in the future. If AEP modifies its service territory, it must update the record in this proceeding with information specifying the new boundaries of its service territory.

(3) AEP's power is limited to a maximum of 50 watts effective radiated power (ERP) for temporary fixed stations, except in rare instances where it is necessary to exceed that power; and a maximum of 35 watts ERP for mobiles.

(4) Whenever AEP operates pursuant to this waiver, the temporary fixed stations are limited to an antenna height of no more than five feet above the vehicle roof.

(5) AEP's transmitter operators must monitor for a reasonable amount of time before operating and only operate on a channel that is not in use.

(6) When using a channel, AEP must cease operations if a licensed user is observed unless AEP is able to obtain the consent of the co-channel licensee.

(7) At least 10 days prior to operating, AEP must notify all co-channel licensees within 113 kilometers (70.21 miles) of those areas in its service territory where use of the waiver may be required. The notification must, at a minimum, include a description of AEP's operations, indicate that AEP's operations are secondary to co-channel licensees, and provide contact information for co-channel licensees experiencing interference to call or email. This condition applies with respect to co-channel licenses at the time of grant, as well as licenses granted in the future. AEP must constantly monitor for new licenses to remain in compliance.

(8) Upon receiving a report of interference from a co-channel or adjacent channel licensee, AEP must immediately cease using the channel and not use it again until the matter is resolved to the satisfaction of the affected licensee.

IV. ORDERING CLAUSES

13. 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 section 1.925 of the Commission's rules, 47 CFR § 1.925, the waiver request filed by American Electric Power Service Corporation in connection with application FCC File No. 0010577631 IS GRANTED ON THE CONDITIONS SET FORTH ABOVE, and the application SHALL BE PROCESSED in accordance with this *Order* and the Commission's rules.

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

FEDERAL COMMUNICATIONS COMMISSION

Roger S. Noel
Chief
Mobility Division
Wireless Telecommunications 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 24-598
Released: June 21, 2024

MEDIA BUREAU SEEKS COMMENT ON TBS AND TNT'S PETITION FOR LIMITED WAIVER OF AUDIO DESCRIPTION REQUIREMENTS

MB Docket No. 11-43

Comments Due: June 28, 2024
Reply Comments Due: July 5, 2024

Warner Bros. Discovery, Inc. (WBD), on behalf of its wholly-owned, nonbroadcast programming networks, TBS and TNT, has filed a petition[1] requesting that the Media Bureau grant a limited waiver of the Commission's requirement that covered entities provide a certain amount of audio described programming per calendar quarter. Specifically, WBD requests a limited waiver of section 79.3(b)(4) of the Commission's rules covering the period July 1, 2024, through June 30, 2027, for multichannel video programming distributor (MVPD) systems that carry TBS and TNT.

Audio description makes video programming[2] more accessible to individuals who are blind or visually impaired through "[t]he insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue."[3] The Commission's audio description rules, adopted pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA),[4] require MVPDs that serve 50,000 or more subscribers to provide 87.5 hours of audio description per calendar quarter on channels carrying each of the top five national nonbroadcast networks.[5] To meet the quarterly requirement, covered entities may count each program they air with audio description no more than twice on a given channel (commonly referred to as the "repeat rule").[6]

The top five national nonbroadcast networks are defined by an average of the national audience share during prime time among nonbroadcast networks that reach 50 percent or more of MVPD households and have at least 50 hours per quarter of prime time programming that is not live or near-live

[1] Request of Warner Bros. Discovery, Inc. for Limited Waiver, MB Docket No. 11-43 (filed June 14, 2024) (Petition).

[2] "Video programming" refers to programming provided by, or generally considered comparable to programming provided by, a television broadcast station but does not include consumer-generated media. 47 U.S.C. § 613(h)(2); 47 CFR § 79.3(a)(4).

[3] 47 CFR § 79.3(a)(3).

[4] Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010); Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

[5] 47 CFR § 79.3(b)(4). The rule requires that 50 hours per calendar quarter be provided in prime time or during children's programming, while the additional 37.5 hours may be provided at any time between 6 a.m. and 11:59 p.m. local time. *Id*.

[6] 47 CFR § 79.3(c)(2).

or otherwise exempt under the audio description rules.[7] The Bureau updates the list of top five national nonbroadcast networks every three years to account for changes in ratings, and the fourth triennial update will occur on July 1, 2024, based on the 2022 to 2023 ratings year.[8] TBS is currently in the top five national nonbroadcast networks subject to the audio description rules, and TNT will join TBS in the top five nonbroadcast networks during the next triennial period beginning July 1, 2024.[9]

WBD requests a waiver for TNT and TBS similar to the limited waiver granted to TBS during the current triennial period,[10] because it contends that the repeat rule makes it "extremely difficult, and sometimes impossible" for its networks to comply with the Commission's rules.[11] Specifically, WBD requests a waiver of section 79.3(b)(4) of the audio description rules for MVPDs carrying TBS and TNT programming that are unable to provide 87.5 hours of described programming in any calendar quarter from July 1, 2024, through June 30, 2027.[12] WBD requests this waiver subject to the conditions that TBS would: (1) air at least 1,000 hours of described programming each quarter (and more than 1,400 hours of described programming on average per quarter over the waiver period) without regard to the number of repeats; and (2) describe 100 percent of newly produced, non-live programming aired between 6:00 a.m. and midnight ET within three business days of its receipt from a production company.[13] Additionally, if granted the limited waiver, WBD commits that it would describe 100 percent of newly produced, non-live programming aired between 6:00 a.m. and midnight ET within seven business days of receipt on TBS's

[7] 47 CFR § 79.3(b)(4). *See also Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Report and Order, 26 FCC Rcd at 11854-55, paras. 12-15 (2011) (*2011 Audio Description Order*). "Live or near-live programming" is defined as programming performed either simultaneously with, or recorded no more than 24 hours prior to, its first transmission by a video programming distributor. 47 CFR § 79.3(a)(7).

[8] 47 CFR § 79.3(b)(4); *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Order and Public Notice, MB Docket No. 11-43, DA 24-184, para. 1 (MB 2024) (*2024 Triennial Nonbroadcast Order and Public Notice*).

[9] *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Order and Public Notice, DA 21-281, para. 1 (MB 2021); *2024 Triennial Nonbroadcast Order and Public Notice* (announcing that, beginning July 1, 2024, the top five national nonbroadcast networks will be HGTV, Hallmark, TLC, TNT, and TBS).

[10] In 2021, the Bureau previously granted TBS a limited waiver of the rules through the end of the current triennial period on June 30, 2024 based on the "unique challenge[s]" it faced as a nonbroadcast network airing "substantial repeat, live, or near-live programming." *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, Memorandum Opinion and Order, DA 21-1013, para. 9 (MB 2021) (*2021 TBS Order*). The TBS limited waiver was granted subject to the conditions that the network (1) air at least 1,000 hours of described programming each quarter (and more than 1,400 hours of audio described programming on average per quarter over the entire waiver period) without regard to the number of repeats, and (2) audio describe all newly produced, non-live programming aired between 6:00 a.m. and 11:59 p.m. local time within three business days of its receipt from a production company. *Id*. at 4, para. 8. Additionally, TBS's then-owner, WarnerMedia (now WBD), agreed to provide audio description for 100 percent of its newly-produced, non-live programming on commonly-owned networks, TNT and TruTV, aired between 6:00 a.m. and 11:59 p.m. local time within three business days of receipt. *Id*.

[11] Petition at 2. WBD claims that video programmers have learned over time that airing repeat programming attracts and retains the greatest number of subscribers possible. *Id*. According to WBD, because TNT and TBS carry a "significant amount" of live or near-live programming, the repeat rule "makes it difficult or nearly impossible to meet the hours threshold in the remaining time, particularly because many of those hours are required to be scheduled in prime time slots." *Id*.

[12] Petition at 2, 11.

[13] *Id*. at 12.

sister network, TruTV.[14] With regard to TNT, WBD requests this waiver subject to the conditions that TNT would: (1) air at least 2,500 hours of audio described programming each year, without regard to the number of repeats; and (2) describe 100 percent of newly produced, non-live programming aired between 6:00 a.m. and midnight ET within three business days of receipt for scripted programming, and seven business days for non-scripted programming.[15]

WBD argues that the requested waiver would support the public interest by providing thousands of hours more of audio described programming than would normally be required, including "the newest original programming offered on several of the most popular programming networks."[16] Second, WBD contends that the waiver is consistent with precedent, as the Bureau previously found in the *2021 TBS Order* that the repeat rule poses "unique challenges" to TBS, and by extension TNT, based on their programming models.[17] WBD also notes that its request was developed collaboratively and supported by the American Council for the Blind and the National Federation for the Blind.[18] We seek comment on WBD's request.

Filing Requirements. All filings responsive to this Public Notice must reference MB Docket No. 11-43. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: 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 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.

[14] *Id*. In its 2021 request, WarnerMedia committed TruTV to describe programming within three business days of receipt for both scripted and non-scripted programming. WBD now argues that this commitment is untenable given the increase in unscripted programming on TNT and TBS and the "additional operational challenges" of audio describing unscripted programming within a three-day time frame. *Id*.

[15] Petition at 13. WBD notes that TNT airs a greater amount of repeat, live, and near-live programming than TBS, and therefore requests that compliance be measured on a calendar year basis, rather than a quarterly basis, to account for seasonal demand of sports schedules. *Id*. at 12-13.

[16] *Id*. at 13-14.

[17] *Id*. at 14.

[18] *Id*. at 1.

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Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Additional Information. For additional information, contact Diana Sokolow (202-418-0588; Diana.Sokolow@fcc.gov).

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PUBLIC NOTICE

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

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

DA 24-599
Released: June 24, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF IMPACT TELECOM, LLC TO 46 LABS, LLC

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-88

Comments Due: July 8, 2024
Reply Comment Due: July 15, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Lingo Management, LLC (Lingo or Transferor), Impact Telecom, LLC (Impact), and 46 Labs, LLC (46 Labs or Transferee) (Transferor and Transferee collectively, 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 transfer of control of Impact to 46 Labs, LLC.[2]

Impact, a Nevada limited liability company and domestic 214 authority holder, provides wholesale interstate interexchange service to other carriers throughout the United States.[3] Impact currently has or is pursuing licenses from state regulatory authorities to provide wholesale domestic, intrastate interexchange services, where such licenses are required.[4] Impact intends to provide such services in all 50 states upon receipt of all required licenses.[5]

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

[2] Application for Consent to Transfer Control of Impact Telecom, LLC to 46 Labs LLC, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-88 (filed Mar. 14, 2024) (Application). Applicants filed supplements to the Application on March 27, 2024 and June 23, 2024. Supplement to Application to Transfer Control of Impact Telecom LLC to 46 Labs LLC, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-88 (filed Mar. 27, 2024) (Supplement); Supplement to Application to Transfer Control of Impact Telecom LLC to 46 Labs LLC, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-88 (filed June 23, 2024). Applicants also filed an application for the transfer of authorizations associated with international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[3] Application at 2, 5, 7.

[4] *Id*. at 7.

[5] *Id*.

Lingo, a Delaware limited liability company, is the 100% direct parent of Impact.[6] Although several of its subsidiaries provide telecommunications services, Lingo does not provide any telecommunications services.[7] Lingo is 100% directly owned by B. Riley Principal Investments, LLC (BRPI), a financial-services holding company.[8] BRPI is 100% owned by B. Riley Financial, Inc., a publicly traded Delaware corporation (NASDAQ: RILY), a diversified financial services company.[9] Bryant R. Riley, a U.S. citizen, beneficially owns approximately 23% of the outstanding shares of B. Riley.[10] No other individual or entity, directly or indirectly, holds 10% or more equity or voting interest in Lingo or Impact.[11]

46 Labs, an Oklahoma limited liability company, provides voice, data, and messaging services to organizations in the healthcare, finance, retail, transportation, manufacturing, government, and education sectors. 46 Labs' wholly-owned subsidiary, Versatel, provides VoIP services.[12] The 10% or greater direct or indirect owners of 46 Labs are: Trevor Francis, a U.S. citizen, who is the Chief Executive Officer and Founder of 46 Labs (55.096%); VPH Interests LTD LLC, an investment vehicle (28.059%); and Daniel Howard, a U.S. Citizen, who is General Counsel of 46 Labs (8.42%).[13] No other individual or entity, directly or indirectly, holds 10% or more equity or voting interest in 46 Labs.[14]

Pursuant to the terms of the proposed transaction, 46 Labs will acquire control of Impact. Applicants state the transaction entails a change in the ultimate equity ownership of Impact, but there will be no sale of operating assets, account receivables, or other assets of Impact. Applicants assert, after consummation of the proposed transaction, Impact will continue to exist and operate under the same name and will continue to provide service pursuant to then-existing rates, terms, and conditions for the near term. Applicants further assert that any future changes to the rates, terms, and conditions of service will be undertaken pursuant to customers' contracts, tariffs, and applicable law. Applicants also note that no carrier change charges will result from the proposed transaction, and no customer service or billing contact information will change as a result of the proposed transaction. Finally, Applicants assert that Impact and 46 Labs both provide services throughout the United States; however, while the entities overlap in terms of geographic area, they do not overlap in terms of services provided.[15]

Applicants request streamlined treatment of the proposed transaction under the Commission's rules and assert that a grant of the application would serve the public interest, convenience, and

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[6] *Id*. at 2-4.

[7] *Id*. at 4. Aside from Impact, Lingo's other subsidiaries that provide telecommunications services are: Lingo Telecom, LLC (f/k/a Matrix Telecom, LLC); Lingo Telecom of Virginia, LLC (f/k/a Matrix Telecom of Virginia, LLC); Lingo Telecom of the West, LLC; Lingo Communications of Kentucky, LLC; and BullsEye Telecom, LLC. Supplement at 1-3. Tempo Telecom, LLC, another subsidiary of Lingo, provides wireless services. *Id*.

[8] Application at 3, 5. Lingo's affiliates based on BRPI's ownership interests include: United Online, Inc.; YMax Communications Corp.; and magicJack SMB, Inc. Supplement at 1-3.

[9] Application at 3, 5.

[10] *Id*.

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

[12] Supplement at 5.

[13] Application at 6.

[14] *Id.* at 4.

[15] Supplement at 2.

necessity.[16] Because the proposed transaction is more complex than those accepted for streamlined treatment, and in order to 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 Transfer of Control of
Impact Telecom, LLC to 46 Labs, LLC
WC Docket No. 24-88 (filed Mar. 14, 2024).

GENERAL INFORMATION

The transfer of assets 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).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: 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: 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, e-mail one copy of each pleading to each of the following:

1) Myrva Charles, Competition Policy Division, Wireline Competition Bureau, myrva.charles@fcc.gov;
2) Megan Danner, Competition Policy Division, Wireline Competition Bureau, megan.danner@gov;
3) David Krech, Office of Internal Affairs, david.krech@fcc.gov; and

[16] Application at 7.

[17] 47 CFR § 63.03(c)(1)(v).

4) 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 Megan Danner at (202) 418-1151.

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[18] *See* 47 CFR § 1.45(c).

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

In the Matter of	)	
	)	
Evergy Kansas Central, Inc., Evergy Metro, Inc., and Evergy Missouri, Inc., Request for Waiver of 900 MHz Application Freeze	)))	WT Docket 23-307, Lead ULS File No. 0009055095

ORDER

Adopted: June 24, 2024 **Released: June 24, 2024**

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order, we address a request for waiver of the 900 MHz application freeze, filed by Evergy Kansas Central, Inc., Evergy Metro, Inc., and Evergy Missouri West, Inc. (collectively "Evergy") to allow Evergy to upgrade and expand its network by obtaining new licenses for certain narrowband frequencies in the 896-901/935-940 MHz band.[1] For the reasons set forth below, we find it in the public interest to grant the Request, subject to certain conditions.

II. BACKGROUND

2. Evergy is comprised of three electric utilities and wholly owned direct subsidiaries of Evergy, Inc. that collectively provide electric generation, transmission and distribution services to more than 1.6 million customers in Kansas and Missouri.[2] Evergy operates two multi-site Land Mobile Radio (LMR) systems in two distinct spectrum bands (150 MHz and 900 MHz) to address a wide variety of communications needs. To increase efficiency, Evergy seeks to integrate its two systems by consolidating operations into a single spectrum band, while deploying a new digital MOTOTRBO system, particularly given that some current facilities are "more than 20 years old and in 'Manufacturer Discontinued' status, with very limited support of spare part availability."[3]

3. *The 900 MHz Broadband Proceeding*. In 2017, the Commission released a Notice of

[1] *See* ULS File Nos. 0009055095, 0009055096, 0009055097, 0009055100, 000905177, 0009055218, 0009055219, 0009055220, 0009055221, 0009055865, 0009059019, 0009059070 (originally filed Apr. 4, 2020, amended Apr. 5, 2021, Mar. 16, 2022, and supplemented Aug. 8, 2023), Evergy Kansas Central, Inc., Evergy Metro, Inc., And Evergy Missouri West, Inc. Revised Request For Waiver, filed Mar. 16, 2022 (Revised Waiver Request Mar. 2022). We note that on February 20, 2024, Evergy Metro, Inc. filed an application with a request for waiver seeking authorization to operate on four 900 MHz narrowband frequencies at a single transmitter site in Paola, Kansas. *See* ULS File No. 0010927292. On the same date, Evergy Kansas Central, Inc. filed an application with a request for waiver seeking authorization to operate on four 900 MHz narrowband frequencies at a single transmitter site in Emporia, KS. *See* ULS File No. 0010927295 (collectively, the February 2024 applications). Each of these two applications presents substantially identical arguments as those provided in the 12 applications identified herein seeking waiver to provide needed system upgrades and expansion. For administrative efficiency, we will address in this *Order* ULS File Nos. 0010927292 and 0010927295 and Evergy's accompanying requests for waiver of the 900 MHz freeze.

[2] Revised Waiver Request Mar. 2022 at 1.

[3] *Id.*

Inquiry to examine whether rule changes may be appropriate to increase access to spectrum, improve spectrum efficiency, and expand flexibility in the 900 MHz band to serve users' current and future communications needs.[4] In September 2018, the Wireless Telecommunications Bureau (Bureau) suspended the acceptance of applications for new or expanded 900 MHz operations to maintain a stable spectral landscape while the Commission determined how to proceed with respect to that spectrum.[5] The *900 MHz Freeze Public Notice* noted that licensees have recourse through the Commission's waiver provisions to request an exception to the freeze.[6]

4. In March 2019, the Commission released a Notice of Proposed Rulemaking proposing to realign the 900 MHz band to create a 3/3 megahertz broadband segment, while reserving the remaining 2/2 megahertz for narrowband operations.[7] In October 2019, the Bureau modified the 900 MHz freeze to provide greater flexibility for 900 MHz band incumbents to relocate out of the broadband segment. Specifically, the modified freeze permitted incumbents to exchange frequencies at the same location (i.e., acquire proposed narrowband segment frequencies to replace proposed vacated broadband segment frequencies) provided the modification did not increase that incumbent's net number of licensed frequencies.[8] The 900 MHz Freeze Modification also clarified that the 900 MHz freeze did not apply to applications to assign, transfer, or lease existing licenses, and that this exception not only applied to assignments of entire call signs, but included applications to merely assign specific frequencies.[9]

5. In May 2020, the Commission adopted a Report and Order that established a 3/3 megahertz broadband segment, two narrowband segments of 1.5/1.5 megahertz and .5/.5 megahertz, respectively, and a transition mechanism based primarily on negotiations between prospective broadband licensees and existing narrowband incumbent licensees.[10] In the Report and Order, the Commission also partially lifted the 900 MHz freeze to allow for the filing of applications seeking relocation of incumbents to the 900 MHz narrowband segment, provided the application is described in a transition plan of a 900 MHz broadband applicant or is related to an agreement with a 900 MHz broadband licensee after license grant.[11]

6. *Evergy's Request for Waiver*. In April 2020, prior to the Commission's adoption of the

[4] *See Review of the Commission's Rules Governing the 896-901/935-940 MHz Band; Realignment of the 896-901/935-940 MHz Band to Create a Private Enterprise Broadband Allocation; Amendment of the Commission's Rules to Allow for Specialized Mobile Radio Services Over 900 MHz Business/Industrial Land Transportation Frequencies*, WT Docket No. 17-200, Notice of Inquiry, 32 FCC Rcd 6421, 6421, para. 1 (2017).

[5] *See Wireless Telecommunications Bureau Announces Temporary Filing Freeze on the Acceptance of Certain Part 90 Applications for 896-901/935-940 MHz (900 MHz Band) Spectrum*, WT Docket No. 17-200, Public Notice, 33 FCC Rcd 8735 (WTB 2018) (*900 MHz Freeze Public Notice*). In this *Order*, we refer to the freeze on the filing of applications in the 900 MHz band as the "900 MHz freeze."

[6] *900 MHz Freeze Public Notice*, 33 FCC Rcd at 8736, n.4.

[7] *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band*, WT Docket No. 17-200, Notice of Proposed Rulemaking, 34 FCC Rcd 1550, 1555, para. 15 (2019) (*900 MHz NPRM*).

[8] *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band; pdv Wireless, Inc. d/b/a Anterix, Request for Modification of 900 MHz Temporary Filing Freeze*, WT Docket No. 17-200, Order, 34 FCC Rcd 9369 (WTB 2019) (*900 MHz Freeze Modification*). To facilitate incumbent transitions without significant service interruption, the 900 MHz Freeze Modification provided that licensees granted a modified license were permitted to continue operating on both the proposed narrowband and to be vacated broadband segment frequencies for no longer than 180 days after grant, after which the incumbent licensee was required to cancel the proposed broadband segment frequencies. *Id*.

[9] *Id*.

[10] *Review of the Commission's Rules Governing the 896-901/935-940 MHz Band*, WT Docket No. 17-200, Report and Order, Order of Proposed Modification, and Orders, 35 FCC Rcd 5183, paras. 27-95 (2020) (*900 MHz R&O*).

[11] *Id*. at 5251, paras. 175-76.

900 MHz Report and Order, and pursuant to an agreement with PDV Spectrum Holding Company, LLC, a/k/a Anterix (Anterix),[12] Evergy filed 21 applications and a request for waiver of the 900 MHz freeze to: (1) obtain new licenses for certain frequencies in the 896-901/935-940 MHz band; and (2) modify certain existing licenses in the 896-901/935-940 MHz band to change the location or change the technical parameters in a manner that expands its geographic footprint.[13] The agreement also provided for the parties to subsequently file applications for: (1) Anterix to partition and assign to Evergy licenses for certain frequencies in the 896-897.5/935-936.5 MHz and 900.5-901/939.5-940 MHz bands; and (2) Evergy to cancel or assign to Anterix frequencies in the broadband segment.[14]

7. In April 2021, Evergy amended certain applications of the 21 originally filed in 2020 to reflect the existence of an agreement with Anterix to clear the broadband segment, so as to facilitate an expedited grant of those applications that no longer required a waiver because of the Commission's modification of, and subsequent partial lifting of, the 900 MHz freeze.[15] After Bureau grant of amended Evergy applications no longer requiring a waiver,[16] and with the addition of two Evergy applications filed in February 2024,[17] we now have before us for consideration fourteen pending applications seeking a waiver of the 900 MHz freeze to operate on 900 MHz narrowband frequencies.

8. Evergy explains that the replacement and upgrade of a multi-site LMR system "requires a seamless transition" involving construction of the "replacement system utilizing frequencies other than those currently in use, thereby making the cut-over process as uncomplicated as possible."[18] Further, to ensure safe, reliable communications during the transition period, "functionality must be ensured for both the old and new systems."[19] Accordingly, Evergy seeks authority to not only operate on frequencies specified in pending applications for which waiver of the 900 MHz freeze is sought, but also to continue operating on certain existing channels that will be needed in the near term until completion of the network transition and system upgrade. As part of completing its transition, Evergy indicates that "152

[12] Anterix is currently the only 900 MHz broadband radio service licensee (although it leases spectrum in the band to other users, primarily utilities), authorized for operation in 19 states, with its largest concentration of licenses in Kansas and Missouri. *See* ULS database search (last visited May 2, 2024).

[13] Revised Waiver Request Mar. 2022 at 1.

[14] *Id*.

[15] *Id.* at 2, n.3. Pursuant to the 900 MHz Report and Order, an incumbent modification application that is described in a transition plan submitted in conjunction with an application for a 900 MHz broadband license, or is related to an agreement with a broadband licensee after grant (e.g., as part of mandatory relocation), does not require a waiver of the 900 MHz freeze. *See 900 MHz R&O*, 35 FCC Rcd 5183 at 5251, paras. 175-76.

[16] *See* ULS File Nos. 0009820512, 0009820513, 0009820514, 0009820516, 0009820518, 0009820519, 0009820522, 0009820523, 0009820524, 0009820525, 0009820527, 0009820528, 0009820532, 0009820534, 0009820535, 0009820536, 0009820537, 0009820538, 0009820539, 0009820540, 0009820541, 0009820542, 0009820543, 0009820544, 0009820545, 0009820546, 0009820548, 0009820549, 0009821421, 0009821435, 0009821588, 0009821589, 0009821592, 0009821595, 0009821600, 0009821602, 0009821603, 0009821604, 0009821605, 0009821749, 0009821750, 0009821751, 0009821756, 0009821760, 0009821764, 0009821765, 0009821767 (each granted Dec. 6, 2021), 0010611077 (granted July 10, 2023), 0010615712 (granted July 12, 2023), and 0010683928 (granted Sept. 6, 2023). In addition, Evergy withdrew certain previously filed applications for business reasons. *See* ULS File Nos. 0009055101, 0009055242, 0009055243, 0009055244, 0009055245, 0009055246, 0009055247, 0009055886, 0009056466 (each withdrawn Apr. 2, 2022).

[17] *See supra* note 1.

[18] Request For Waiver of Evergy Metro, Inc. And Evergy Missouri West, Inc., at 3, filed Apr. 4, 2021, entered in ULS Apr. 5, 2021 (Request for Waiver Apr. 2021).

[19] Request for Waiver Apr. 2021 at 3, n.16 (*citing Flint Hills Resources Corpus Cristi, LLC*, Order, 34 FCC Rcd 8071 (WTB 2019)).

channels will be relinquished upon grant of the subject applications and associated waiver."[20]

9. Evergy asserts that good cause exists to grant waiver relief, as its LMR systems is the "critical communications link to Evergy's field staff both for work efficiency and for the safety of that staff and the public."[21] Evergy argues that it would be unduly burdensome and contrary to the public interest for it to delay implementation of an urgently needed system upgrade while waiting for the freeze to be lifted.[22] Evergy submits that grant of its request is consistent with the purpose of the 900 MHz freeze,[23] which was to preserve the current landscape of authorized operations in the band while the Commission considered potential rule changes.[24]

10. Evergy states that a waiver grant will allow for the immediate overhaul of its outdated and increasingly unreliable analog communications system[25] and will also allow for the necessary expansion of its system and private land mobile radio (PLMR) network to support the operation of its electricity utility business in two states.[26] Evergy notes that it undertook this project because of the urgent need for a replacement LMR system and, importantly, purchased the base station and subscriber equipment in 2018, prior to the imposition of the 900 MHz Freeze, and that the required equipment has been delivered.[27] Evergy also argues that a waiver is warranted, even had it not already purchased new, digital 900 MHz equipment prior to the 900 MHz freeze, as it has no reasonable alternative, because there is "no alternative spectrum that can provide the combination of channel exclusivity, propagation and building penetration needed to address [its] operational needs."[28] Evergy further explains that although grant of its application for new frequencies at new locations will expand its network footprint, it is not requesting new discrete frequencies, but is seeking to reuse existing frequencies at multiple sites where technically and operationally feasible to increase system efficiency and reduce intra-system interference potential.[29]

11. Evergy claims that grant of its request will not impact the ability of any party to obtain a county-based, 900 MHz broadband license and that Anterix already either holds or is eligible to hold a 900 MHz broadband license in each of the 23 counties overlapped by Evergy's proposed operations (Overlap Counties).[30] Specifically, Evergy states that Anterix is the 900 MHz broadband segment licensee in 15 of the 23 overlapping counties, and is the only party eligible under the Commission's rules to file for and obtain a broadband segment broadband license in the remaining eight counties (Remainder Counties).[31] Evergy also argues that grant of the waiver request will not complicate Anterix's efforts to

[20] Revised Waiver Request Mar. 2022 at 4 and n.11, Exh. 4.

[21] Request For Waiver Evergy Kansas Central, Inc., Evergy Metro, Inc., And Evergy Missouri West, Inc, at 2 (filed Apr. 24, 2020) (Request for Waiver Apr. 2020).

[22] *Id*. at 4.

[23] Revised Waiver Request Mar. 2022 at 3.

[24] *See id.* at 3-4.

[25] *Id*. at 1.

[26] Supplemental Information in Support of Waiver Request, at 1, filed Aug. 8, 2023 (Supplemental Information Aug. 2023).

[27] Revised Waiver Request Mar. 2022 at 2.

[28] Request for Waiver Apr. 2020 at 4.

[29] Revised Waiver Request Mar. 2022 at 2-4, n.10.

[30] Supplemental Information Aug. 2023 at 1.

[31] *Id*. at 1. With respect to its the February 2024 applications, Evergy indicates that Anterix holds a 900 MHz Broadband license in each of the seven counties overlapped by its proposed Paola, KS site contour, and that Anterix holds a 900 MHz Broadband license in each of the eight counties overlapped by its proposed Emporia, KS site contour. *See* ULS File Nos. 0010927292, 0010927295.

deploy 900 MHz broadband service in any county, nor increase its incumbent relocation costs.[32] Specifically, Evergy submits that "not only is Anterix the only incumbent narrowband 900 MHz licensee within the band segment potentially available for 900 MHz broadband service in the Remainder Counties, it is also the only incumbent licensee in the potential broadband segment within the entire states of Kansas, Missouri, and Nebraska."[33] As such, Evergy submits that favorable action on the applications and its waiver request is warranted, as a grant will not undermine the purpose of the 900 MHz freeze and will facilitate Evergy's long-standing efforts to upgrade, modernize and expand its network used to support provision of public utilities in two states without impacting Anterix's 900 MHz broadband efforts.[34]

12. On September 12, 2023, Evergy's Request was placed on Public Notice,[35] and we received no comments or reply comments.

III. DISCUSSION

13. To obtain a waiver under Commission rule 1.925, a petitioner must demonstrate either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the present case and that a grant of the waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.[36]

14. Based on our review of the record and under the specific facts of this case, we find that a waiver is warranted under the first prong of the standard. First, the underlying purpose of the 900 MHz freeze would not be served where there has been significant progress towards a complete transition to 900 MHz broadband in those counties in which Evergy seeks operational authority. Specifically, we find it persuasive that in fifteen of the overlapping counties, a transition to 900 MHz broadband is complete and Anterix holds a 900 MHz broadband license. Further, in the eight remaining overlapping counties, all incumbent 900 MHz licensees previously licensed on broadband segment spectrum (other than Evergy) have been transitioned to narrowband segment frequencies, and a single entity, Anterix, is eligible to seek a broadband license.[37] As such, no other incumbent licensee requires access to narrowband spectrum from the Commission's inventory to facilitate a transition to broadband in these areas.[38] We also note that Anterix did not object to Evergy's Request.

15. Second, we find that grant of a waiver is in the public interest, as Evergy has demonstrated a long-standing need to upgrade and expand a complex multi-state communications system that is critical to its extensive utility operations and the safety of its personnel, and thereby replace significantly older, no longer supported network equipment. In addition, we find it significant that Evergy initiated substantial steps towards this end prior to the Commission's imposition of the 900 MHz freeze, including: (1) ordering upgraded equipment; and (2) entering into discussions with Anterix

[32] *Id.* at 2.

[33] *Id.*

[34] *Id*.

[35] *Wireless Telecommunications Bureau Seeks Comment on Evergy Kansas Central, Inc., Evergy Metro, Inc., and Evergy Missouri, Inc., Request for Waiver*, WT Docket No. 23-307, Public Notice, DA 23-838 (WTB 2023).

[36] 47 CFR § 1.925(b)(3).

[37] Supplemental Information Aug. 2023 at 1. Regarding Evergy's February, 2024 applications, as indicated previously, Anterix holds a 900 MHz broadband license in each of the seven counties overlapped by Evergy's proposed Paola, KS site contour, and Anterix holds a 900 MHz Broadband license in each of the eight counties overlapped by Evergy's proposed Emporia, KS site contour. *See supra* note 31.

[38] We note that in each of the fourteen pending applications before us, Evergy requests frequencies at sites located at least 113 km from any existing co-channel narrowband segment licensee, thereby complying with the Commission's co-channel separation requirements to protect against interference. *See* 47 CFR § 90.621(b).

regarding a potential frequency exchange to minimize the potential for having to subsequently modify their channel plan at a later date, adding cost and delay to the necessary system upgrade.

16. We find that a grant of relief is consistent with our prior decision in *Flint Hills* to the extent the Mobility Division determined in that case that a waiver of the 900 MHz freeze was warranted in the public interest to permit the upgrade of obsolete equipment in a legacy narrowband system that would ensure safe, reliable communications, including emergency communications for fire protection services.[39] Further, we distinguish the instant grant of relief from three prior Mobility Division actions denying a waiver of the 900 MHz freeze, specifically: *Lower Colorado River Authority*, *Florida Power & Light Company*, and *Rohm and Haas Texas Inc*.[40] In each of these cases, the licensee sought authorization to significantly expand network operations into areas that did not have a fully cleared 900 MHz broadband segment, and the Division thus found it appropriate to maintain the 900 MHz freeze and preserve narrowband channels that might be required to effectuate a transition to 900 MHz broadband.[41]

17. *Conditions*. This grant of a waiver of the 900 MHz freeze is conditioned on the following: (i) Evergy must operate the frequencies associated with a grant of file nos. 0009055095, 0009055096, 0009055097, 0009055100, 000905177, 0009055218, 0009055219, 0009055220, 0009055221, 0009055865, 0009059019, 0009059070, 0010927292 and 0010927295 as part of an upgraded network (e.g., a digital MOTOTRBO system or successor upgraded system); (ii) Evergy must file applications requesting, as applicable, the cancellation or deletion of 152 frequencies specified in Appendix A no later than thirteen months[42] after the grant of file nos. 0009055095, 0009055096, 0009055097, 0009055100, 000905177, 0009055218, 0009055219, 0009055220, 0009055221, 0009055865, 0009059019, 0009059070, 0010927292 and 0010927295; and (iii) Evergy must immediately cease any and all operation on the 152 frequencies specified in Appendix A, as applicable, upon either Commission grant of an application seeking license cancellation, or Commission grant of a modification application seeking deletion of frequencies. Failure to meet any of the above conditions may result in imposition of monetary sanctions or other enforcement action by the Commission.

IV. ORDERING CLAUSES

18. Accordingly, IT IS HEREBY ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and section 1.925 of the Commission's Rules, 47 CFR § 1.925, the Request for Waiver of the 900 MHz Application Freeze filed by Evergy Kansas Central, Inc., Evergy Metro, Inc., and Evergy Missouri West, Inc. on April 4, 2020, as amended on April 5, 2021, March 16, 2022, and August 8, 2023, is GRANTED, SUBJECT TO THE CONDITIONS described herein.

19. IT IS FURTHER ORDERED that the Mobility Division licensing staff shall process, consistent with Commission rules, FCC File Nos. 0009055095, 0009055096, 0009055097, 0009055100,

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[39] *See Flint Hills Resources Corpus Christi, LLC*, Order, 34 FCC Rcd 8071 (WTB 2019). Our action today is also consistent with our decision in *Long Island Power Authority* to the extent we found relief warranted where actions to transition that system began as early as 2017, prior to the imposition of the 900 MHz freeze. *See Long Island Power Authority – Request for Waiver*, Letter Order, 35 FCC Rcd 5406 (WTB May 22, 2020).

[40] *See Lower Colorado River Authority*, Order, 35 FCC Rcd 6359 (WTB 2020) (seeking to expand 75, 102, and 110 miles, respectively, from the nearest site in its 900 MHz network); *Florida City Power & Light Company*, Order, 35 FCC Rcd 6380 (WTB 2020) (seeking to operate 24 new transmitter sites, the nearest of which was 160 miles from its nearest service area); *Rohm and Haas Texas Inc.*, Order, 34 FCC Rcd 10436 (WTB 2019) (seeking to expand 26 miles from its nearest site into a significantly larger market).

[41] *Id*.

[42] Evergy is required, pursuant to Commission rule 90.155(a), 47 CFR § 90.155(a), to place into operation any frequencies granted under this *Order* no later than one year after the date of application grant. In the event Evergy requires the full one year period to comply with its build-out obligations, the above condition provides administrative flexibility by affording Evergy an additional thirty days to comply with the frequency cancellation/deletion requirement.

000905177, 0009055218, 0009055219, 0009055220, 0009055221, 0009055865, 0009059019, 0009059070, 0010927292 and 0010927295.

20. These actions are 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

APPENDIX A

Call Sign	Licensee	Evergy Site Name	Lat	Long	Frequency
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.2500
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.3875
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.4000
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.4125
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.4250
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.4375
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.4500
KNNQ316	Evergy Kansas Central	Abilene	38 52 50 N	97 12 41 W	935.4625
KNNQ317	Evergy Kansas Central	Beaumont	37 37 55 N	96 32 15 W	935.3875
KNNQ317	Evergy Kansas Central	Beaumont	37 37 55 N	96 32 15 W	935.4625
KNNQ317	Evergy Kansas Central	Beaumont	37 37 55 N	96 32 15 W	935.4750
KNNQ317	Evergy Kansas Central	Beaumont	37 37 55 N	96 32 15 W	935.4875
KNNQ318	Evergy Kansas Central	Wolf Creek MET Evergy	38 14 43 N	95 41 07 W	935.2000
KNNQ318	Evergy Kansas Central	Wolf Creek MET Evergy	38 14 43 N	95 41 07 W	935.3875
KNNQ318	Evergy Kansas Central	Wolf Creek MET Evergy	38 14 43 N	95 41 07 W	935.4000
KNNQ318	Evergy Kansas Central	Wolf Creek MET Evergy	38 14 43 N	95 41 07 W	935.4125
KNNQ318	Evergy Kansas Central	Wolf Creek MET Evergy	38 14 43 N	95 41 07 W	935.4250
KNNQ318	Evergy Kansas Central	Wolf Creek MET Evergy	38 14 43 N	95 41 07 W	935.4375
KNNQ319	Evergy Kansas Central	Cherryvale	37 15 03 N	95 31 07 W	935.7375
KNNQ319	Evergy Kansas Central	Cherryvale	37 15 03 N	95 31 07 W	935.9750
KNNQ319	Evergy Kansas Central	Cherryvale	37 15 03 N	95 31 07 W	936.0000
KNNQ319	Evergy Kansas Central	Cherryvale	37 15 03 N	95 31 07 W	936.3875
KNNQ319	Evergy Kansas Central	Cherryvale	37 15 03 N	95 31 07 W	936.4000
KNNQ320	Evergy Kansas Central	Clay Center	39 21 53 N	97 05 33 W	935.4875
KNNQ320	Evergy Kansas Central	Clay Center	39 21 53 N	97 05 33 W	935.9125
KNNQ320	Evergy Kansas Central	Clay Center	39 21 53 N	97 05 33 W	935.9250

KNNQ320	Evergy Kansas Central	Clay Center	39 21 53 N	97 05 33 W	935.9500
KNNQ320	Evergy Kansas Central	Clay Center	39 21 53 N	97 05 33 W	935.9625
KNNQ322	Evergy Kansas Central	Council Grove	38 40 15 N	96 27 55 W	935.6625
KNNQ322	Evergy Kansas Central	Council Grove	38 40 15 N	96 27 55 W	936.4125
KNNQ322	Evergy Kansas Central	Council Grove	38 40 15 N	96 27 55 W	936.4250
KNNQ322	Evergy Kansas Central	Council Grove	38 40 15 N	96 27 55 W	936.4375
KNNQ324	Evergy Kansas Central	Marmaton	37 49 40 N	95 09 45 W	935.4625
KNNQ324	Evergy Kansas Central	Marmaton	37 49 40 N	95 09 45 W	935.4750
KNNQ325	Evergy Kansas Central	Fort Scott	37 47 02 N	94 42 06 W	935.7500
KNNQ325	Evergy Kansas Central	Fort Scott	37 47 02 N	94 42 06 W	936.0000
KNNQ325	Evergy Kansas Central	Fort Scott	37 47 02 N	94 42 06 W	936.4500
KNNQ325	Evergy Kansas Central	Fort Scott	37 47 02 N	94 42 06 W	936.4625
KNNQ325	Evergy Kansas Central	Fort Scott	37 47 02 N	94 42 06 W	936.4750
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	935.3875
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	935.4000
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	935.4125
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	935.4250
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	935.4500
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	936.2500
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	936.4000
KNNQ327	Evergy Kansas Central	Hutchinson	38 03 27 N	98 01 27.2 W	936.4125
KNNQ331	Evergy Kansas Central	Stagg Hill	39 09 35 N	96 36 18 W	935.2000
KNNQ331	Evergy Kansas Central	Stagg Hill	39 09 35 N	96 36 18 W	936.3875
KNNQ332	Evergy Kansas Central	Hilton	38 28 17 N	97 38 51.1 W	935.5000
KNNQ332	Evergy Kansas Central	Hilton	38 28 17 N	97 38 51.1 W	936.1750
KNNQ334	Evergy Kansas Central	Moline	37 20 20 N	96 19 33 W	935.2125
KNNQ334	Evergy Kansas Central	Moline	37 20 20 N	96 19 33 W	935.9500
KNNQ335	Evergy Kansas Central	Murdock	37 37 04 N	97 56 11 W	935.2000

KNNQ336	Evergy Kansas Central	Newton	38 02 35 N	97 20 59.1 W	935.2500
KNNQ336	Evergy Kansas Central	Newton	38 02 35 N	97 20 59.1 W	935.9750
KNNQ336	Evergy Kansas Central	Newton	38 02 35 N	97 20 59.1 W	936.0000
KNNQ336	Evergy Kansas Central	Newton	38 02 35 N	97 20 59.1 W	936.3875
KNNQ336	Evergy Kansas Central	Newton	38 02 35 N	97 20 59.1 W	936.4125
KNNQ336	Evergy Kansas Central	Newton	38 02 35 N	97 20 59.1 W	936.4875
KNNQ336	Evergy Kansas Central	0.70 NM N of I-135, Newton, KS	38 06 39.4 N	97 22 07 W	935.9750
KNNQ336	Evergy Kansas Central	0.70 NM N of I-135, Newton, KS	38 06 39.4 N	97 22 07 W	936.0000
KNNQ336	Evergy Kansas Central	0.70 NM N of I-135, Newton, KS	38 06 39.4 N	97 22 07 W	936.3875
KNNQ336	Evergy Kansas Central	0.70 NM N of I-135, Newton, KS	38 06 39.4 N	97 22 07 W	936.4875
KNNQ337	Evergy Kansas Central	2373 Old Hwy 50, Ottawa, KS	38 33 50.8 N	95 17 56.9 W	936.3875
KNNQ339	Evergy Kansas Central	Pittsburg	37 23 10 N	94 42 31 W	935.1750
KNNQ339	Evergy Kansas Central	Pittsburg	37 23 10 N	94 42 31 W	935.4500
KNNQ339	Evergy Kansas Central	Pittsburg	37 23 10 N	94 42 31 W	935.6875
KNNQ339	Evergy Kansas Central	Pittsburg	37 23 10 N	94 42 31 W	935.9500
KNNQ342	Evergy Kansas Central	Salina	38 55 54.6 N	97 35 28.5 W	935.6625
KNNQ343	Evergy Kansas Central	Neosho	37 18 34 N	95 06 45 W	935.4875
KNNQ343	Evergy Kansas Central	Neosho	37 18 34 N	95 06 45 W	936.2125
KNNQ344	Evergy Kansas Central	Jeffery	39 17 07 N	96 06 57 W	935.6375
KNNQ344	Evergy Kansas Central	Jeffery	39 17 07 N	96 06 57 W	936.2500
KNNQ344	Evergy Kansas Central	Eskridge	38 52 15.3 N	96 08 11.5 W	935.4750
KNNQ344	Evergy Kansas Central	Eskridge	38 52 15.3 N	96 08 11.5 W	935.4875
KNNQ344	Evergy Kansas Central	Eskridge	38 52 15.3 N	96 08 11.5 W	935.5000
KNNQ346	Evergy Kansas Central	Wellington	37 15 29 N	97 27 38 W	935.5000
KNNQ346	Evergy Kansas Central	Wellington	37 15 29 N	97 27 38 W	936.1625
KNNQ347	Evergy Kansas Central	Ripley	37 45 55.1 N	97 21 18.1 W	935.1375
KNNQ347	Evergy Kansas Central	Ripley	37 45 55.1 N	97 21 18.1 W	935.4250
KNNQ347	Evergy Kansas Central	Ripley	37 45 55.1 N	97 21 18.1 W	935.7500

KNNQ347	Evergy Kansas Central	Ripley	37 45 55.1 N	97 21 18.1 W	936.2000
KNNQ348	Evergy Kansas Central	Yates Center	37 51 02 N	95 43 54 W	935.4375
KNNQ348	Evergy Kansas Central	Yates Center	37 51 02 N	95 43 54 W	936.1750
KNNQ349	Evergy Kansas Central	Derby	37 30 29.5 N	97 11 19 W	935.2500
KNNQ349	Evergy Kansas Central	Derby	37 30 29.5 N	97 11 19 W	936.4125
KNNQ349	Evergy Kansas Central	Derby	37 30 29.5 N	97 11 19 W	939.9625
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	935.5000
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	935.9000
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	935.9125
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	935.9250
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	935.9500
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	935.9625
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	935.9750
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	936.0000
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	936.3875
KNNQ350	Evergy Kansas Central	Kansas City	39 06 32 N	94 47 02 W	936.4000
KNNQ351	Evergy Kansas Central	Hunter	39 16 48 N	98 23 41 W	935.1750
KNNQ351	Evergy Kansas Central	Hunter	39 16 48 N	98 23 41 W	935.6875
KNNQ351	Evergy Kansas Central	Hunter	39 16 48 N	98 23 41 W	936.4750
KNNQ351	Evergy Kansas Central	Hunter	39 16 48 N	98 23 41 W	936.4875
KNNQ352	Evergy Kansas Central	Lang	38 26 42 N	96 03 44 W	935.1750
KNNQ352	Evergy Kansas Central	Lang	38 26 42 N	96 03 44 W	935.9125
KNNQ352	Evergy Kansas Central	Lang	38 26 42 N	96 03 44 W	935.9750
KNNQ352	Evergy Kansas Central	Lang	38 26 42 N	96 03 44 W	936.0000
KNNQ352	Evergy Kansas Central	Lang	38 26 42 N	96 03 44 W	936.3875
KNNQ353	Evergy Kansas Central	Florence	38 14 41 N	97 00 18 W	935.9500
KNNQ353	Evergy Kansas Central	Florence	38 14 41 N	97 00 18 W	935.9625
KNNQ353	Evergy Kansas Central	Florence	38 14 41 N	97 00 18 W	936.0000

KNNT493	Evergy Kansas Central	Silverdale	37 04 51 N	96 55 59 W	935.3875
KNNT493	Evergy Kansas Central	Silverdale	37 04 51 N	96 55 59 W	935.4000
KNNT493	Evergy Kansas Central	Silverdale	37 04 51 N	96 55 59 W	935.4125
KNNT493	Evergy Kansas Central	Silverdale	37 04 51 N	96 55 59 W	935.4250
KNNT494	Evergy Kansas Central	Topeka Go	39 02 53 N	95 40 28 W	939.9500
KNNT494	Evergy Kansas Central	Topeka Go	39 02 53 N	95 40 28 W	939.9625
WPJK959	Evergy Kansas Central	Knob Hill	39 49 16 N	96 38 32 W	935.4375
WPJK959	Evergy Kansas Central	Knob Hill	39 49 16 N	96 38 32 W	935.4750
WPJK959	Evergy Kansas Central	Knob Hill	39 49 16 N	96 38 32 W	935.6875
WPJK976	Evergy Kansas Central	Brown County	39 49 14 N	95 32 43 W	935.4250
WPJK976	Evergy Kansas Central	Brown County	39 49 14 N	95 32 43 W	935.4500
WPJK976	Evergy Kansas Central	Brown County	39 49 14 N	95 32 43 W	935.7125
WPJK984	Evergy Kansas Central	Kelly	39 44 20 N	95 55 43 W	935.2500
WPJK984	Evergy Kansas Central	Kelly	39 44 20 N	95 55 43 W	935.5000
WPJK984	Evergy Kansas Central	Kelly	39 44 20 N	95 55 43 W	936.4375
WPJT249	Evergy Kansas Central	Atchison	39 33 47 N	95 15 18.9 W	935.6625
WPJT249	Evergy Kansas Central	Atchison	39 33 47 N	95 15 18.9 W	936.3875
WPKY597	Evergy Kansas Central	Midian	37 49 27.1 N	96 55 33.1 W	935.6375
WPKY597	Evergy Kansas Central	Midian	37 49 27.1 N	96 55 33.1 W	936.2500
WPPE298	Evergy Kansas Central	Atlanta	37 28 57.1 N	96 46 15.1 W	936.0000
WPSH521	Evergy Kansas Central	Blue Rapids	39 42 24 N	96 33 23 W	935.2250
WPSR722	Evergy Kansas Central	Pilot Knob	39 17 50 N	94 56 14.9 W	935.9000
WPSR722	Evergy Kansas Central	Pilot Knob	39 17 50 N	94 56 14.9 W	936.4125
WPSX441	Evergy Kansas Central	Shawnee	38 58 21.7 N	94 51 42.9 W	935.5000
WPSX441	Evergy Kansas Central	Shawnee	38 58 21.7 N	94 51 42.9 W	936.2500
WPSX441	Evergy Kansas Central	Shawnee	38 58 21.7 N	94 51 42.9 W	939.9250
WPVR388	Evergy Kansas Central	Caney	37 2 12.8 N	95 53 35.6 W	935.2375
WPWW292	Evergy Kansas Central	Eureka	37 55 39.1 N	96 14 42 W	935.7000

WQWY859	Evergy Kansas Central	Wichita Central	37 41 53 N	97 19 11 W	935.1500
WQWY859	Evergy Kansas Central	Wichita Central	37 41 53 N	97 19 11 W	935.1750
WQWY859	Evergy Kansas Central	Wichita Central	37 41 53 N	97 19 11 W	935.6875
WQWY859	Evergy Kansas Central	Wichita Central	37 41 53 N	97 19 11 W	935.9750
WQWY859	Evergy Kansas Central	Wichita Central	37 41 53 N	97 19 11 W	936.1875
WQWY859	Evergy Kansas Central	Wichita Central	37 41 53 N	97 19 11 W	936.4375
WPIT599	Evergy Metro	Swope Park	39 00 55.0N	094 30 35.8W	935.3875
WPIT599	Evergy Metro	8700 Hawthorn Rd, Kansas City, KS	39 07 50 N	94 28 40.8 W	935.4750
WPIT599	Evergy Metro	8700 Hawthorn Rd, Kansas City, KS	39 07 50 N	94 28 40.8 W	935.4875
WPIT599	Evergy Metro	8700 Hawthorn Rd, Kansas City, KS	39 07 50 N	94 28 40.8 W	936.4500
WPIT599	Evergy Metro	8700 Hawthorn Rd, Kansas City, KS	39 07 50 N	94 28 40.8 W	936.4625
WPIT599	Evergy Metro	8700 Hawthorn Rd, Kansas City, KS	39 07 50 N	94 28 40.8 W	936.4750
WPIT599	Evergy Metro	8700 Hawthorn Rd, Kansas City, KS	39 07 50 N	94 28 40.8 W	936.4875
WPIT622	Evergy Metro	2.7 mi E of 169 & 152 Hwys, La Cygne, KS	38 20 53.1 N	94 38 44.8 W	936.4500

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

In the Matter of	)	
	)	
DAIJ MEDIA, LLC	)	Facility ID No. 181615
	)	NAL/Acct. No. 202441420009
Low Power Television Station	)	FRN: 0019055854
K30QR-D, Bryan, Texas	)	LMS File Nos. 0000226645 and 0000230602

MEMORANDUM OPINION AND ORDER AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: June 24, 2024 **Released: June 24, 2024**

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it DAIJ Media, LLC (DAIJ or Licensee), licensee of low power television (LPTV) station K30QR-D, Bryan, Texas (K30QR-D or Station). In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* (*NAL*), we find that DAIJ apparently willfully and repeatedly violated section 73.1745(a) of the Rules[1] and section 301 of the Act,[2] by engaging in unauthorized operation. Based upon our review of the facts and circumstances before us, we conclude that DAIJ is apparently liable for a monetary forfeiture in the amount of two thousand five hundred dollars ($2,500).

II. BACKGROUND

2. K30QR-D is an LPTV station licensed on channel 30 at Bryan, Texas. In its most recent license application, granted August 7, 2023,[3] the Station specified that it was operating with a non-directional antenna, Model PSILPD12OI and antenna ID 95294. In response to a January 25, 2024 letter of inquiry from the Media Bureau's Video Division (Bureau),[4] however, the Licensee stated that it began operating on August 2, 2023, with a Kathrein K723147 antenna.[5] The Station otherwise commenced operations with parameters consistent with its license (i.e., correct location, antenna height, and effective radiated power). The Station went silent on December 1, 2023, due to what it describes as "vandalism" at its transmitter site and has remained silent.[6]

[1] 47 CFR § 73.1745(a).

[2] *See* 47 U.S.C. § 301.

[3] *See* LMS File No. 0000218839.

[4] *See* Letter to DAIJ Media, LLC from Barbara A. Kreisman, Chief, Video Division (Jan. 25, 2024), a copy of which is available at LMS File No. 0000226645.

[5] *See* DAIJ's Response to Letter Of Inquiry Revised (Feb. 27, 2024), a copy of which is available at LMS File No. 0000226645.

[6] *See* LMS File No. 0000230602 (Silent STA). Because of the vandalism at its transmitter site, the Station subsequently filed an application for minor modification to relocate to a new transmitter site. *See* LMS File No. 0000226645 (Minor Mod App). The Minor Mod App remains pending, subject to the outcome of the instant forfeiture proceeding. *See infra* para. 7.

III. DISCUSSION

3. This *NAL* is issued pursuant to section 503(b)(1)(B) of the Act.[7] 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.[8] 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.[9] 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,[10] and the Commission has so interpreted the term in the section 503(b) context.[11] 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."[12]

4. *Apparent Violation*. The record demonstrates and DAIJ has admitted that, for a period of four months from August 2, 2023 to December 1, 2023, the Station engaged in unauthorized operation, in violation of section 73.1745(a) of the Rules and section 301 of the Act, by operating utilizing an incorrect antenna and as a result an incorrect antenna pattern.[13] We therefore find that DAIJ has apparently violated the Rules and the Act and is apparently liable for forfeiture.

5. *Proposed Forfeiture Amount*. The Commission's *Forfeiture Policy Statement* and section 1.80(b)(10) of the Rules establish a base forfeiture amount of $10,000 per violation for construction and operation without an instrument of authorization for the service.[14] 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."[15]

6. In this case, DAIJ apparently engaged in unauthorized operation of the Station for four months with an unauthorized antenna. Taking into consideration all of the factors required by section 503(b)(2)(E) of the Act and the *Forfeiture Policy Statement*, we will reduce the forfeiture from the base amount to $2,500 because, as an LPTV station, the Station is providing a secondary service.[16] Stations

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[7] 47 U.S.C. § 503(b)(1)(B).

[8] *Id. See also* 47 CFR § 1.80(a)(1).

[9] 47 U.S.C. § 312(f)(1).

[10] *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

[11] *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).

[12] 47 U.S.C. § 312(f)(2).

[13] *See* 47 CFR § 73.1745(a) and 47 U.S.C. § 301. The Station otherwise commenced operations with parameters consistent with its license (i.e., correct location, antenna height, and effective radiated power). Because the Station went silent December 1, 2023, we will not consider the period of time since it went silent as a period of unauthorized operation.

[14] A broadcast station requires an authorization from the Commission to operate. *See* 47 U.S.C. § 301.

[15] 47 U.S.C. § 503(b)(2)(E); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100; 47 CFR § 1.80(b)(10).

[16] *See, e.g.*, *Southwest Colorado TV Translator Association*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-1616 (rel. Dec. 21, 2021) (proposing $3,500 forfeiture for late-filed application for license to cover and four months unauthorized operations) (paid Jan. 20, 2022); *KAZT, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability, DA 21-1386 (rel. Nov. 5, 2021) (proposing $3,500 forfeiture for late-filed application for license to cover and six months unauthorized operations) (paid Nov. 30, 2021). *Cf. The Estate of Ettie Clark*, Memorandum Opinion and Order and Notice of Apparent Liability, DA

(continued….)

are only permitted to commence operation pursuant to a valid instrument of authorization and we find that DAIJ's failure to seek to modify the Station's license and seek special temporary authority to operate with a different antenna and antenna pattern represents disregard, or at best ignorance, of Commission's licensing processes and the Act itself.

7. In light of the facts and circumstances discussed above and our findings that forfeiture is a sufficient sanction for DAIJ's apparent violation, we will act upon the pending Minor Mod App and Silent STA upon the conclusion of this forfeiture proceeding if there are no issues other than those set forth in this *NAL* that would preclude grant.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Act, and sections 0.61, 0.204, 0.283 and 1.80 of the Rules,[17] DAIJ Media, LLC is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of two thousand five hundred dollars ($2,500) for its apparent willful and repeated violation of section 73.1745(a) of the Rules and section 301 of the Act.[18]

9. **IT IS FURTHER ORDERED**, pursuant to section 1.80 of the Commission's rules,[19] that, within thirty (30) days of the release date of this *NAL*, DAIJ Media, LLC **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payments shall be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),[20] 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:[21]

- 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).[22] 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

22-327 (rel. Mar. 28, 2022) (finding that although the station is secondary, a forfeiture in the amount of $6,500 was warranted given the lengthy period of time the station engaged in unauthorized operation) (paid Apr. 19, 2022).

[17] 47 U.S.C. § 503(b); 47 CFR §§ 0.61, 0.204, 0.283 and 1.80.

[18] 47 CFR § 73.3598(a); 73.1635(a); 73.1745(a); 47 U.S.C. § 301.

[19] 47 CFR § 1.80.

[20] *See* 47 CFR § 1.80(i). Payments made using CORES do not require the submission of an FCC Form 159.

[21] 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.

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

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.

11. 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 and in the manner specified below.[23] A copy of the request must also be sent to **Shaun.Maher@fcc.gov and VideoNAL@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.

12. 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.[24] The response **MUST INCLUDE** the NAL/Acct. No. referenced above. The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, DC 20554, Attention: Chief, Video Division, Media Bureau, and in the manner specified below. **A copy must also be emailed to Shaun.Maher@fcc.gov and VideoNAL@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.[25]
    - 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.

[23] *See* 47 CFR § 1.1914.

[24] 47 CFR §§ 1.16 and 1.80(g)(3)

[25] Hand-delivered or messenger delivered paper filings continue to NOT be accepted at FCC Headquarters.

13. 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 that result.[26]

14. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent by First Class and Certified Mail, Return Receipt Requested, to DAIJ Media, LLC, 1024 Wafer St., Pasadena, TX 77506 as well as by e-mail rubenv75@gmail.com; and to DAIJ's counsel, Dan J. Alpert, Esq. 2120 N. 21st Rd., Arlington, VA 22201, as well as by e-mail to dja@commlaw.tv.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[26] 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).

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 24-602

Released: June 24, 2024

MEDIA BUREAU AND OFFICE OF ECONOMICS AND ANALYTICS ACTION

FIRST QUARTER 2024 INFLATION ADJUSTMENT FIGURES FOR CABLE OPERATORS USING FCC RATE REGULATION FORM 1240 NOW AVAILABLE

This Public Notice is applicable to rate-regulated cable operators that use FCC Forms to justify their cable rates.[1] Cable operators adjusting the non-external cost portion of their rates for inflation should follow the instructions provided with the applicable FCC Form. All inflation adjustment figures are based on changes in the Gross National Product Price Index (GNP-PI) published by the United States Department of Commerce, Bureau of Economic Analysis (BEA). The chain-type price indexes were obtained from the BEA Table 1.7.4 (Price Indexes for Gross Domestic Product, Gross National Product, and Net National Product) Line 4 (Gross National Product) on June 21, 2024.[2]

Operators filing FCC Form 1240 may make an adjustment based on quarterly figures. The first quarter 2024 inflation factor for operators using FCC Form 1240 is 3.05%. The adjustment factor of 3.05% is a measure of the annualized change in prices occurring over the period from January 1, 2024 to March 31, 2024. The inflation adjustment factor is calculated by dividing the GNP-PI for the first quarter of 2024 (124.124) by the GNP-PI for the fourth quarter of 2023 (123.196). The result of this calculation is converted from a quarterly change measurement factor to an annual change measurement factor by raising it to the fourth power. We then convert the calculation to an inflation adjustment factor by subtracting one.

Operators calculating the Inflation Factor for a True-Up Period that includes some portion of the first quarter of 2024 should enter the inflation factor on the appropriate lines of Worksheet 1 of FCC Form 1240 as "0.0305." Operators using this factor for calculating the Projected Period Inflation Segment of FCC Form 1240 should enter this number on Line C3 (January 1996 version), or Line C5 (July 1996 version) as "1.0305".

Each quarter the Commission releases a quarterly inflation factor for use with FCC Form 1240. The following table lists these factors beginning in 2018.[3]

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[1] Pursuant to 47 CFR § 76.922(d)(2) and § 76.922(e)(2) of the Commission's rules, cable operators may adjust the non-external cost portion of their rates for inflation.

[2] Table 1.7.4 can be found at this link: https://apps.bea.gov/iTable/?reqid=19&step=2&isuri=1&categories=survey#eyJhcHBpZCI6MTksInN0ZXBzIjpbMSwyLDNdLCJkYXRhIjpbWyJjYXRlZ29yaWVzIiwiU3VydmV5Il0sWyJOSVBBX1RhYmxlX0xpc3QiLCI0MiJdXX0=.

[3] For pre-2017 inflation figures see DA 17-646, 32 FCC Rcd 5479 (rel. Jul. 5, 2017), *available at* https://www.fcc.gov/general/inflation-updates-forms-1210-and-1240.

Year	Quarter	Dates Covered	Inflation Factor
2018	First	Jan. 1, 2018 – Mar. 31, 2018	2.20%
2018	Second	Apr. 1, 2018 – Jun. 30, 2018	3.04%
2018	Third	Jul. 1, 2018 – Sep. 30, 2018	1.81%
2018	Fourth	Oct. 1, 2018 – Dec. 31, 2018	1.68%
2019	First	Jan. 1, 2019 – Mar. 31, 2019	0.90%
2019	Second	Apr. 1, 2019 – Jun. 30, 2019	2.42%
2019	Third	Jul. 1, 2019 – Sep. 30, 2019	1.81%
2019	Fourth	Oct. 1, 2019 – Dec. 31, 2019	1.28%
2020	First	Jan. 1, 2020 – Mar. 31, 2020	1.41%
2020	Second	Apr. 1, 2020 – Jun. 30, 2020	-1.82%
2020	Third	Jul. 1, 2020 – Sep. 30, 2020	3.51%
2020	Fourth	Oct. 1, 2020 – Dec. 31, 2020	2.04%
2021	First	Jan. 1, 2021 – Mar. 31, 2021	4.32%
2021	Second	Apr. 1, 2021 – Jun. 30, 2021	6.07%
2021	Third	Jul. 1, 2021 – Sep. 30, 2021	5.95%
2021	Fourth	Oct. 1, 2021 – Dec. 31, 2021	7.13%
2022	First	Jan. 1, 2022 – Mar. 31, 2022	8.19%
2022	Second	Apr. 1, 2022 – Jun. 30, 2022	9.00%
2022	Third	Jul. 1, 2022 – Sep. 30, 2022	4.37%
2022	Fourth	Oct. 1, 2022 – Dec. 31, 2022	3.88%
2023	First	Jan. 1, 2023 – Mar. 31, 2023	4.14%
2023	Second	Apr. 1, 2023 – Jun. 30, 2023	1.74%
2023	Third	Jul. 1, 2023 – Sep. 30, 2023	3.33%
2023	Fourth	Oct. 1, 2023 – Dec. 31, 2023	1.63%
2024	First	Jan. 1, 2024 – Mar. 31, 2024	3.05%

The Commission releases a new quarterly inflation factor for operators using FCC Form 1240 four times each year. The inflation factor for a given quarter is usually released between three and four months after the end of the quarter, depending on the schedule of the Department of Commerce. The release of a new factor is posted on the Commission's Internet site at: https://www.fcc.gov/general/inflation-updates-forms-1210-and-1240.

For additional information, contact Jake Riehm, jake.riehm@fcc.gov, (202) 418-2166 or Zaira Gonzalez, zaira.gonzalez@fcc.gov, (202) 418-2743.

TTY: (202) 418-0432 or 1 (888) 835-5322

–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 24-603
Released: June 25, 2024

BROADBAND DATA TASK FORCE ANNOUNCES OPENING OF FIFTH BROADBAND DATA COLLECTION FILING WINDOW AND RELEASE OF UPDATED BROADBAND SERVICEABLE LOCATION FABRIC

WC Docket Nos. 11-10, 19-195

By this Public Notice, the Broadband Data Task Force announces that the fifth Broadband Data Collection (BDC) filing window for submitting broadband availability and other data as of June 30, 2024, will open on July 1, 2024. In addition, the June 2024 update (Version 5) of the Broadband Serviceable Location Fabric (Fabric) is being made available to existing Fabric licensees in advance of the opening of the window.

Beginning July 1, 2024, facilities-based broadband service providers may submit data into the BDC system specifying where they made mass-market broadband Internet access service available as of June 30, 2024.[1] Such entities, as well as providers of fixed and mobile voice services, must also submit their June 30, 2024, subscription data required under Form 477 into the BDC system (https://bdc.fcc.gov/bdc).[2] All availability and subscription data must be submitted no later than **September 1, 2024**.

A recorded webinar demonstrating how to use the BDC system is available at the "Education" tab at https://www.fcc.gov/BroadbandData/resources. More information on how to log in, navigate the BDC system and submit data can be found in the BDC System User Guide. Related video tutorials and help articles are available in the BDC Help Center at https://www.fcc.gov/BroadbandData/Help. Information about the categories of broadband providers that must file availability data, the types of entities that may submit verified availability data, and what data must be filed, can be found at https://www.fcc.gov/BroadbandData/filers.

The Fabric serves as the foundation for the collection of fixed broadband availability data in the BDC. The updated version is being made available to Fabric licensees prior to July 1, 2024, and must be used by filers of fixed broadband availability for their availability data as of June 30, 2024. Providers who are already licensees of the Fabric and all other Fabric licensees (including state, local, and Tribal

[1] *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, 1130-31, 33-34, paras. 10-11 & n.42, 16-17 (2021). Facilities-based broadband providers must have one or more end-user connections in service. The Broadband DATA Act requires the Commission to collect broadband Internet access service data from each "provider of fixed or mobile broadband Internet access service." Broadband Deployment Accuracy and Technological Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) § 641(11). *See Broadband Data Task Force and Office of Economics and Analytics Announce Inaugural Broadband Data Collection Filing Dates*, Public Notice, DA 22-182 (BDTF/OEA Feb. 22, 2022) (*BDC Filing Window Public Notice*).

[2] While broadband providers are no longer required to file broadband deployment information using FCC Form 477, we remind them that they must also continue to file Form 477 subscribership and voice service availability data in the BDC system at http://bdc.fcc.gov.

government and other third party entities) will receive an email from CostQuest, the FCC's Fabric contractor, providing them with links to access to the June 2024 Fabric data. Entities that have not yet entered into a license agreement with CostQuest for Fabric data (including Internet service providers, state, local or Tribal governmental entities, or other entities wishing to use the Fabric data for purposes of participating in the BDC or non-commercial academic/public policy broadband research) may do so by following the instructions for obtaining access to the Fabric at the BDC Help Center.[3]

The new version of the Fabric incorporates data from updated data sources and other improvement efforts conducted by the FCC and CostQuest, and the results of Fabric challenges submitted by state, Tribal, and local governments, broadband service providers, and the public through the National Broadband Map. Changes from previous versions of the Fabric include additional Broadband Serviceable Locations and corrections to addresses, unit counts, building types, land use, and geographic coordinates.[4]

We encourage filers to submit their availability data as of June 30, 2024, as early as possible in the filing window. This will give filers an opportunity to address any problems with their data identified by the BDC system in time to make any necessary corrections in advance of the September 1, 2024, deadline. Failure to timely file required data in the new BDC system may lead to enforcement action and/or penalties as set forth in the Communications Act and other applicable laws.[5]

For additional information and questions regarding the Broadband Data Collection, please visit the BDC website at https://www.fcc.gov/BroadbandData.

– FCC –

[3] Information about the Fabric and how service providers, governmental entities, and third parties can access it may be found in the BDC Help Center at https://www.fcc.gov/broadbanddata/fabrichelp.

[4] Reference document explaining the Fabric and methodology can be found at: https://www.fcc.gov/BroadbandData/resources under the "Key Reference Documents" tab.

[5] *See All Facilities-Based Broadband Internet Access Service Providers Must File Complete and Accurate Data in the Broadband Data Collection*, WC Docket Nos. 19-195, 11-10, Enforcement Advisory, DA 22-639, at 2-3 (EB June 15, 2022).

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

In the Matter of	)	
	)	
Consolidated Radio, Inc.	)	Facility ID 6429
Licensee of KVOZ(AM),	)	
Del Mar Hills, Texas	)	FRN: 0004355210

ORDER TO PAY OR TO SHOW CAUSE

Adopted: June 25, 2024 **Released: June 25, 2024**

By the Chief, Media Bureau and the Managing Director, Office of Managing Director:

I. INTRODUCTION

1. By this Order to Pay or to Show Cause, we initiate a proceeding to revoke the license held by Consolidated Radio, Inc. (Licensee) for KVOZ(AM), Del Mar Hills, Texas (Station) for failure to pay delinquent regulatory fees and associated interest, administrative costs, and penalties owed to the Federal Communications Commission (Commission). For the reasons set forth below, we direct Licensee to pay the overdue regulatory fees, including any associated interest, penalties, and administrative costs, or show cause why the payment demanded is inapplicable or should otherwise be waived or deferred.

II. DISCUSSION

2. Under section 9 of the Communications Act of 1934, as amended (Act), and section 1.1151 of the Commission's rules (Rules), the Commission is required to "assess and collect regulatory fees" to recover the cost of carrying out the functions of the Commission."[1] When the required payment is received late or is incomplete, the Commission must assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."[2]

3. For fiscal year (FY) 2022, the deadline for paying regulatory fees was September 30, 2022.[3] When Licensee failed to pay or only partially paid its regulatory fee by this deadline, the Commission assessed charges that included the statutory late payment penalty required by section 9A(c)(1) of the Act[4] and section 1.1164 of the Rules,[5] and interest and administrative costs set forth in section 3717 of the Debt Collection Improvement Act of 1996 (the DCIA) and section 1.1940 of the Rules.[6]

4. The Commission's records show that Licensee currently has unpaid regulatory fee debt of $3,303.84 for FY 2022. Additional interest and other charges will continue to accrue on this debt until it is paid in full. The Commission sent Licensee a demand letter in accordance with the requirements of the

[1] 47 U.S.C. § 159(a)(1); 47 CFR § 1.1151.

[2] 47 U.S.C. § 159A(c)(1); 47 CFR § 1.1164.

[3] *Fiscal Year 2022 Regulatory Fee Filing Deadline Extended to Friday, September 30, 2022, for All Regulatory Fee Payors*, Public Notice, DA 22-1023, 2022 WL 4597483 (OMD September 28, 2022).

[4] 47 U.S.C. § 159A(c)(1).

[5] 47 CFR § 1.1164.

[6] 31 U.S.C. § 3717; 47 CFR § 1.1940.

DCIA demanding payment of Licensee's delinquent regulatory fees.[7] When Licensee did not pay its regulatory fee debt, the Commission transferred the debt to the United States Department of Treasury for collection.[8] At the Commission's request, the United States Department of Treasury has returned the FY 2022 regulatory fee debt to the Commission for further collection.

5. The Commission has authority under section 9A(c)(4) of the Act to revoke licenses and authorizations for failure to pay regulatory fees (or related interest and penalties) in a timely fashion. Accordingly, we require Licensee to file with the Media Bureau documented evidence within sixty (60) calendar days of the date of this Order that full payment of all outstanding regulatory fee debt has been made or show cause why the payment is inapplicable or should be waived or deferred.[9] Licensee is hereby notified that failure to provide such evidence of payment or to show cause within the time specified may result in revocation of Licensee's license for the Station.

6. Under section 9A(c)(4)(C)(i) of the Act and section 1.1164(f)(1) of the Rules,[10] an adjudicatory hearing will not be designated unless Licensee presents a substantial and material question of fact. Further, disposition of any adjudicatory hearing will be based upon written evidence only, and Licensee will bear the burden to introduce evidence and to provide proof in any such hearing.[11] Unless the Licensee substantially prevails in the hearing, the Commission may assess the Licensee for the costs of such hearing.[12]

7. To the extent that Licensee is a respondent in other administrative proceedings, both before this agency and other federal agencies, action in this proceeding is without prejudice to action in those proceedings. Further, the existence of any such proceedings and matters raised therein are not considered in this proceeding.

III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to section 9A(c)(4) of the Act and sections 0.11, 0.61, 0.231, 0.283 and 1.1164(f) of the Rules, Consolidated Radio, Inc., is hereby **ORDERED TO PAY TO THE FEDERAL COMMUNICATIONS COMMISSION** within sixty (60) calendar days of the date of this Order the outstanding FY 2022 regulatory fee debt it owes, **OR SHOW CAUSE** to the Commission within sixty (60) calendar days of the date of this Order why the FY 2022 regulatory fee debt is not owed or should otherwise be waived or deferred.

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[7] *See* 31 U.S.C. § 3711; 31 CFR § 901.2. In addition to the demand letter, the Media Bureau notified Licensee of its delinquency in paying the Station's regulatory fees. Email from Robin Lott, Audio Division, FCC Media Bureau, to Josue Saravia, Consolidated Radio, Inc. (Apr. 6, 2023, 11:01 PM EDT).

[8] *See* 31 U.S.C. § 3711(g); 31 CFR §§ 285.12(c), 901.1; 47 CFR § 1.1917.

[9] The Commission may waive, reduce, or defer payment of fee debt where good cause is shown and where waiver, reduction or deferral would promote the public interest. The Commission interprets this provision narrowly, granting relief only when a requesting party has shown extraordinary circumstances outweighing the public interest in recovering the cost of the Commission's regulatory services. A party seeking a waiver for financial hardship must conclusively prove financial hardship, providing copies of all such financial documents as are necessary to show that it lacks sufficient funds to pay its regulatory fees and maintain its service to the public. *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, MD Docket 19-105, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8207-08, paras. 49-51 (2019).

[10] 47 U.S.C. § 159A(c)(4)(C)(i); 47 CFR § 1.1164(f)(1).

[11] 47 U.S.C. § 159A(c)(4)(C)(ii); 47 CFR § 1.1164(f)(2).

[12] 47 U.S.C. § 159A(c)(4)(C)(ii)(iii) ; 47 CFR § 1.1164(f)(3).

9. **IT IS FURTHER ORDERED** that payment of the delinquent regulatory fee debt must be made through the Commission's Registration System (CORES)[13] or by wire transfer, and must include the FRNs referenced above. Additional wire transfer instructions are as follows:

ABA Routing Number 021030004

Receiving Bank:
TREAS NYC
33 Liberty St.
New York, NY 10045

(BNF) Beneficiary: FCC
Account #: 27000001
OBI Field (skip one space between each information item)

Consolidated Radio, Inc., must provide the Payer FRN (if different than the FRN referenced above) and a contact phone number.

Consolidated Radio, Inc., must fax a copy of the wire transfer confirmation to the FCC at (202) 418-2843 or send the wire transfer confirmation copy to the FCC via email to RROGWireFaxes@fcc.gov on the same day the wire transfer is initiated.

10. **IT IS FURTHER ORDERED** that Consolidated Radio, Inc., must submit a completed FCC Form 159 (Remittance Advice) at the time of payment. The FCC Form 159 must be faxed to the FCC at (202) 418-2843. An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www/fcc.gov/Forms/Forms 159/159.pdf. When completing the FCC Form 159, Consolidated Radio, Inc. must enter its FRN in block number 23A (call sign/other ID) and enter the following payment code for the fiscal year involved in block number 24A (payment type code): 2226 (for FY 2022).

11. Any written response must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to section 1.16 of the Commission's rules.[14] The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington DC 20554, ATTN: Albert Shuldiner, Chief, Audio Division, Media Bureau. A copy must be emailed to Alexander.Sanjenis@fcc.gov and Olivia.Hill@fcc.gov.

- 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.[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.

[13] https://apps.fcc.gov/cores/userLogin.do

[14] 47 CFR § 1.16.

[15] Hand-delivered or messenger delivered paper filings continue to NOT be accepted at FCC Headquarters.

12. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by registered mail, return receipt requested, to Consolidated Radio, Inc., c/o Josue Saravia, P.O. Box 252, McAllen, TX 78505, and to its counsel, Dan J. Alpert, The Law Office of Dan J. Alpert, 21210 21st Road North, Arlington, VA 22201

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer
Chief, Media Bureau

Mark Stephens,
Managing Director, Office of Managing Director

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 24-605
June 25, 2024

GRANT OF APPLICATIONS FILED FOR THE TRANSFER OF CONTROL OF TRUPHONE INC. AND ITS SUBSIDIARIES TO TP GLOBAL OPERATIONS LIMITED AND TP US OPERATIONS, INC. AND ASSOCIATED PETITIONS FOR DECLARATORY RULING

IA Docket No. 23-344

By this Public Notice, the Office of International Affairs (OIA) grants the applications and petitions for declaratory ruling filed by Truphone Inc. (TI) and its subsidiaries to satisfy certain requirements of the *Consent Decree*[1] entered into between TI and the Commission's Enforcement Bureau (EB). Through these applications[2] and petitions,[3] TI seeks to correct the ownership information that TI filed with the Commission regarding a 2012 transaction and foreign investment in TI, and to divest certain ownership interests in TI as required by the *Consent Decree*.[4]

In particular, on February 27, 2023, TI, Geoffrey Paul Rowley and Philip Lewis Armstrong (together, Administrators of Truphone Limited), and TP Global Operations Limited (TP Global) (collectively, the Applicants), filed a transfer of control application (TP Global Application) regarding a transaction through which TP Global will indirectly obtain 100% of the voting and equity interest in TI and its subsidiaries. The TP Global Application requests Commission consent under section 214 of the Communications Act of 1934, as amended (the Act),[5] and section 63.24 of the Commission's rules[6] for

[1] *Truphone, Inc.,* File No. EB-IHD-20-00031626, Order, 37 FCC Rcd 12051, 12058, para. 22 (EB 2022) (*Consent Decree*).

[2] File No. ITC-T/C-20230227-00022 (TP Global Application). On June 20, 2023 and July 21, 2023, the Applicants filed supplements. Letter from Todd Slamowitz, Lukas, LaFuria, Lantor & Sachs, LLP, counsel for TP Global Operations Limited and TP US Operations, Inc., to Marlene Dortch, Secretary, FCC (Jun. 20, 2023) (on file in ITC-T/C-20230227-00022); Letter from Todd Slamowitz, Lukas, LaFuria, Lantor & Sachs, LLP, counsel for TP Global Operations Limited and TP US Operations, Inc., to Marlene Dortch, Secretary, FCC (Jul. 21, 2023) (on file in ITC-T/C-20230227-00022). The Applicants also filed an application for the transfer of control of wireless licenses. File No. 0010421504. Any action on the applications and petitions identified in this public notice is without prejudice to Commission action on other related, pending applications.

[3] Petition of TP Global Operations Limited and TP US Operations, Inc. for Declaratory Ruling Under Section 310(b)(4) of the Communications Act of 1934, as amended, File No. ISP-PDR-20230223-00002 (filed Feb. 23, 2023) (TP Global Petition). On June 15, 2023 and July 21, 2023, TP Global Operations Limited and TP US Operations, Inc. filed supplements to the TP Global Petition. Letter from Todd Slamowitz, Lukas, LaFuria, Lantor & Sachs, LLP, counsel for TP Global Operations Limited and TP US Operations, Inc., to Marlene Dortch, Secretary, FCC (Jun. 15, 2023) (on file in ISP-PDR-20230223-00002) (TP Global June 15 Petition Supplement); Letter from Todd Slamowitz, Lukas, LaFuria, Lantor & Sachs, LLP, counsel for TP Global Operations Limited and TP US Operations, Inc., to Marlene Dortch, Secretary, FCC (Jul. 21, 2023) (on file in ISP-PDR-20230223-00002) (TP Global July 21 Petition Supplement).

[4] *Consent Decree*, 37 FCC Rcd at 12058, para. 22.

[5] 47 U.S.C. § 214.

[6] 47 CFR § 63.24.

the transfer of control of TI and its wholly owned subsidiaries, SmartCall, LLC (SmartCall) and iSmart Mobile, LLC (iSmart), from the Administrators to TP Global.[7] On February 23, 2023, TP US Operations, Inc. (TP US) and TP Global (together, Petitioners) filed an associated petition for a declaratory ruling (TP Global Petition) pursuant to section 310(b)(4) of the Act[8] and section 1.5000(a)(1) of the Commission's rules[9] to permit foreign ownership of SmartCall, the controlling U.S. parent of iSmart, a common carrier wireless licensee, to exceed the 25% benchmarks specified in section 310(b)(4) of the Act.[10]

We also grant a transfer of control application TI filed on November 4, 2022 that corrects the information that TI provided to the Commission when Vollin Holdings Limited (Vollin) acquired control of TI from Truphone Limited (Truphone) in 2012.[11] Additionally, we grant a restated petition for declaratory ruling filed by TI, SmartCall, iSmart, and Truphone on November 4, 2022,[12] which corrects the ownership structure information that they previously provided to the Commission in two section 310(b)(4) petitions for declaratory ruling filed on October 20, 2011 and September 13, 2012[13] that the Commission granted in 2012.[14]

On October 13, 2023, OIA released a Public Notice accepting the applications and petitions for filing and establishing a pleading cycle for public comments.[15] No comments were filed.

Pursuant to Commission practice, we referred the TP Global Application and TP Global Petition to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of TP Global.[16] On October 19, 2023, the U.S. Department of Justice (DOJ) informed the Commission that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) was reviewing the application and petition for any national security and law enforcement

[7] TP Global Application.

[8] 47 U.S.C. § 310(b)(4).

[9] 47 CFR § 1.5000(a)(1).

[10] TP Global Petition; TP Global June 15 Petition Supplement; TP Global July 21 Petition Supplement.

[11] File No. ITC-T/C-20221104-00132 (2022 Application).

[12] Restated Petition of Truphone, Inc., SmartCall, LLC, iSmart Mobile and Truphone Limited for Declaratory Ruling, File No. ISP-PDR-20221104-00010 (filed Nov. 4, 2022) (2022 Restated Petition).

[13] Petition for a Declaratory Ruling Under Section 310(b)(4) filed by Software Cellular Network (North America) Ltd. and Truphone Limited (f/k/a Software Cellular Ltd.) to correct Declaratory Ruling ISP-PDR-20091001-0009, File No. ISP-PDR-20111020-00011 (filed Oct. 20, 2011) (2011 Petition); Petition for a Declaratory Ruling Under Section 310(b)(4) filed by Truphone, Inc. and Truphone Limited to correct Declaratory Ruling ISP-PDR-2011020-00011, File No. ISP-PDR-20120913-00005 (filed Sept. 13, 2012) (2012 Petition).

[14] *International Authorizations Granted, Section 214 Applications (47 C.F.R. § 63.18); Section 310(b)(4) Requests*, Report No. TEL-01576, Public Notice, 27 FCC Rcd 10884, 10885 (IB 2012) (Sept. 6, 2012 Grant Public Notice) (granting the 2011 Petition); File No. ISP-PDR-20120913-00005, *International Authorizations Granted, Section 214 Applications (47 C.F.R. § 63.18); Section 310(b)(4) Requests,* Report No. TEL-01596, Public Notice, 27 FCC Rcd 16050, 16051 (IB 2012) (Dec. 27, 2012 Grant Public Notice) (granting the 2012 Petition).

[15] *Applications Filed For The Transfer Of Control Of Truphone Inc. and Its Subsidiaries To TP Global Operations Limited And TP Us Operations, Inc. And Associated Petitions For Declaratory Ruling*, IA Docket No. 23-344, Public Notice, DA 23-950 (OIA 2023) (*2023 Public Notice*).

[16] *Id.* at 7.

concerns.[17] On February 1, 2024, DOJ notified the Commission that the Committee had initiated its 120-day initial review of the application and petition.[18] On May 24, 2024, the National Telecommunications and Information Administration (NTIA) filed a Petition to Adopt Conditions to Authorizations and Licenses on behalf of the Committee (Committee Petition).[19] The Committee advises that it has no objection to the Commission approving the TP Global Application and TP Global Petition, provided that the Commission conditions its approval on the assurance of TI and its wholly owned subsidiaries, SmartCall and iSmart, and TP Global, including TP US, to abide by the commitments and undertakings set forth in the May 10, 2024, Letter of Agreement (LOA), which NTIA filed with the Committee Petition.[20] We grant the Committee Petition and condition grant of the TP Global Application and TP Global Petition on compliance with the LOA.

Background

TI, a Delaware corporation, is a direct wholly owned subsidiary of Truphone, a United Kingdom entity. TI is the sole owner of SmartCall which, in turn, is the sole owner of iSmart, both Delaware entities. iSmart holds a PCS broadband license in Butte, Montana.[21] TI holds an international section 214 authorization.[22]

Vollin Acquisition of Truphone. On October 20, 2011, TI (then known as Software Cellular Network (North America) Ltd.)[23] and Truphone filed the 2011 Petition requesting a declaratory ruling to allow Vollin, a British Virgin Islands entity, to acquire a 58% ownership interest in Truphone in a funding transaction scheduled to conclude on October 25, 2011.[24] On November 2, 2011, without prior

[17] Letter from Makenzie B. Skopowski, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, IA Docket No. 23-344, File Nos. ISP-PDR-20230223-00002, and ITC-T/C-20230227-00022 (filed Oct. 19, 2023).

[18] Letter from Makenzie B. Skopowski, National Security Division, DOJ, to Marlene H. Dortch, Secretary, FCC, IA Docket No. 23-344, File Nos. ISP-PDR-20230223-00002, and ITC-T/C-20230227-00022 (filed Feb. 1, 2024).

[19] National Telecommunications and Information Administration, Petition to Adopt Conditions to Authorizations and Licenses, IA Docket No. 23-344, File Nos. ITC-T/C-20230227-00022 and ISP-PDR-20230223-00002 (filed May 24, 2024) (Committee Petition).

[20] Committee Petition; Letter of Agreement from Richard Stupansky Jr., President and Director of Truphone, Inc., Managing Member of SmartCall, LLC, and Managing Member of iSmart Mobile, LLC, and Pyrros Koussios, Director of TP Global Operations Limited and TP US Operations, to Chief, Foreign Investment Review Section (FIRS) and Deputy Chief, Compliance and Enforcement (FIRS), on behalf of the Assistant Attorney General for National Security, United States Department of Justice National Security Division (dated May 10, 2024) (LOA). The LOA and Committee Petition are publicly available and may be viewed on the FCC website through the International Communications Filing System (ICFS) by searching for ISP-PDR-20230223-00002 and accessing "Other filings related to this application" from the Document Viewing area.

[21] Call Sign WPSJ976. In addition, iSmart holds two fixed microwave industrial business pool licenses (Call Signs WRDX252 and WRDX253) that are not common carrier radio licenses and thus not subject to the requirements of section 310(b) of the Act. 47 U.S.C. § 310(b).

[22] File No. ITC-214-20081112-00494, *International Authorizations Granted, Section 214 Applications (47 C.F.R. § 63.18); Section 310(b)(4) Requests*, Report No. TEL-01351, Public Notice, 24 FCC Rcd 3644, 3645 (IB 2009).

[23] Prior to July 23, 2012, TI was known as Software Cellular Network (North America) Ltd. *See* Letter from Thomas F. Bardo, Nelson Mullins, Riley & Scarborough, LLP, Counsel for Truphone Inc, to Marlene Dortch, Secretary, FCC (Aug. 22, 2012) (on file in ISP-PDR-20111020-00011 and ITC-T/C-20111107-00349).

[24] 2011 Petition at 2.

Commission consent, Vollin acquired a controlling 58.81% equity and voting interest in Truphone.[25] On November 7, 2011, TI filed an application for the transfer of control of TI from Truphone to Vollin (2011 Application).[26] While the 2011 Petition and 2011 Application were pending, Vollin increased its ownership in Truphone to 75.39%.[27] The Commission granted the 2011 Application and 2011 Petition on September 2, 2012.[28] On September 13, 2012, TI and Truphone filed the 2012 Petition requesting a ruling to allow Vollin to increase its ownership in Truphone to 82.66%.[29] On September 14, 2012, without Commission approval, Vollin increased its ownership interest in Truphone to 80.59%.[30] The Commission granted the 2012 Petition on December 26, 2012.[31]

At the time the Commission granted the 2012 Petition, TI and Truphone stated that Vollin was wholly owned by Whiteclif Enterprises Limited (Whiteclif), a British Virgin Islands entity.[32] TI and Truphone also stated that Whiteclif was wholly owned by two Russian citizens, Alexander Abramov (greater than 50% interest) and Alexander Frolov (less than 50% interest).[33]

Minden Investment. On February 12, 2013, TI notified the Commission that Minden Worldwide Limited, a British Virgin Islands entity, had acquired a 23.97% interest in Truphone.[34] This investment reduced Vollin's ownership interest in Truphone to 60.90%.[35]

2019 Petition. On December 26, 2019, TI, SmartCall, iSmart and Truphone (collectively, the 2019 Petitioners) filed a petition under section 310(b)(4) of the Act to request approval to insert Aldon Investments Limited, a British Virgin Islands entity, into the ownership chain in place of Vollin and Whiteclif.[36] At that time, the 2019 Petitioners also informed the Commission that during their preparation of the petition for declaratory ruling, they discovered that the ownership information regarding Vollin that was provided to the Commission when Vollin acquired a controlling interest in Truphone in 2012 was inaccurate. Specifically, Alexander Abramov and Alexander Frolov did not have a direct ownership in Whiteclif, the sole owner of Vollin. Rather, Whiteclif was wholly owned by Redrock Group Ltd. (Redrock), a British Virgin Islands entity. Redrock, in turn, was owned by two entities, Dapore Holding Ltd. (Dapore) (66.7%) and Elpins Co. Ltd. (Elpins) (33.3%), both Cyprus entities. Dapore was owned by the Dapore Trust, a Cyprus irrevocable investment trust for the benefit of Alexander Abramov and his family members. Elpins was owned and controlled by the Elpins Trust, a Cyprus irrevocable investment

[25] *See* File No. ITC-T/C-20111107-00349 (2011 Application); *see also* Sept. 6, 2012 Grant Public Notice, 27 FCC Rcd at 10887.

[26] File No. ITC-T/C-20111107-00349.

[27] *See* Sept. 6, 2012 Grant Public Notice, 27 FCC Rcd at 10885, 10887.

[28] *Id.*

[29] 2012 Petition; *see* Dec. 27, 2012 Grant Public Notice, 27 FCC Rcd at 1051.

[30] *See* Dec. 27, 2012 Grant Public Notice, 27 FCC Rcd at 1051.

[31] *Id.*

[32] *See* 2011 Application; 2011 Petition; Sept. 6, 2012 Grant Public Notice, 27 FCC Rcd at 10885, 10887.

[33] *Id.*

[34] Letter from Thomas F. Bardo, Esq., Nelson Mullins Riley & Scarborough LLP, Counsel for Truphone, Inc. to Marlene H. Dortch, Secretary, FCC (Feb. 12, 2013) (on file in ISP-PDR-20120913-00005).

[35] *See* Petition of Truphone, Inc., SmartCall, LLC, iSmart Mobile and Truphone Limited for Declaratory Ruling, File No. ISP-PDR-20191226-00010 (filed Dec 26, 2019) (2019 Petition).

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

trust for the benefit of Alexander Frolov and his family members.[37]

Notice of Apparent Liability for Forfeiture and Consent Decree. Based on TI's admissions in the 2019 Petition, the International Bureau[38] referred the matter to the Enforcement Bureau (EB), and EB undertook an investigation of TI and its ownership.[39] In response to EB's March 25, 2021 Letter of Inquiry (LOI), TI stated that both the Dapore and Elpins trusts (together, Trusts) existed at the time TI filed the 2011 Application, the 2011 Petition, and the 2012 Petition. In addition, the voting rights associated with both Trusts were held by Imperium Trustees Ltd. (ITL), a Cyprus entity, as trustee for the Trusts. Imperium Nominees Limited (INL), a Cyprus entity, is the director and sole shareholder of ITL. The shareholders of INL, in turn, are Stathis Lemis, Theophanis Philippou, Elsa Anastasiades, and Theano Anastasiades, all of whom are citizens of Cyprus.[40]

On March 16, 2022, TI notified EB that the Trusts were amended to remove certain beneficiaries.[41] In addition, TI stated that the ownership of Minden had been transferred from Norma Investments Holding Limited to Greenleas Holdings Limited, a British Virgin Islands entity, on March 15, 2022.[42] TI also disclosed that Greenleas Holdings Limited is wholly owned by Grano Trust, which was established for the benefit of Roman Abramovich, who is a citizen of Israel, Portugal, and Russia, and his five children.[43]

On April 21, 2022, the Commission issued a *Notice of Apparent Liability for Forfeiture* finding that TI apparently violated section 310(b)(4) of the Act, by willfully or repeatedly failing to obtain Commission approval prior to exceeding the Act's statutory limits on foreign ownership of equity and/or voting interests in the U.S. controlling parent of a U.S. common carrier radio station licensee.[44] In addition, the Commission found that TI also apparently violated sections 214 and 310(d) of the Act and sections 1.948 and 63.24 of the Commission's rules by filing applications in 2011 that misreported TI's ownership structure.[45] On October 20, 2022, TI entered into a *Consent Decree* with EB under which it agreed to divest all of the ownership interests held by Alexander Abramov, his immediate family members, or any entities under his control; Alexander Frolov, his immediate family members, or any entities under his control; and Roman Abramovich, his immediate family members, or any entities under his control.[46]

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[37] *Id.*

[38] On April 11, 2023, the Commission reorganized the International Bureau into the Space Bureau and the Office of International Affairs. *See* News Release, FCC, FCC Space Bureau & Office of International Affairs to Launch Next Week; Public Kickoff Event to Take Place on April 11 at FCC Headquarters (Apr. 7, 2023), https://www fcc.gov/document/fcc-space-bureau-office-international-affairs-launches-april-11; *see also 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 23-12, Order, 38 FCC Rcd 608 (2023).

[39] *Truphone, Inc,* File No. EB-IHD-20-00031626, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 5393, 5393, para. 1, n.3 (2022) (*Notice of Apparent Liability for Forfeiture*).

[40] *Id.* at 5396-98 , paras. 7-11.

[41] *Id.* at 5398- 99 , para. 12.

[42] *Id.* at 5398- 99 , para 12.

[43] *Id.*

[44] *Id.* at 5393, para 1.

[45] *Id.*

[46] *Consent Decree*, 37 FCC Rcd at 12058, para. 22.

2022 Restated Petition. Pursuant to the *Consent Decree*,[47] on November 4, 2022, TI filed a transfer of control application to correct the ownership information for Vollin in 2012 when it acquired control of TI.[48] On the same day, TI, SmartCall, iSmart, and Truphone (collectively, the 2022 Petitioners) filed the 2022 Restated Petition to correct the ownership information regarding Vollin when it acquired an indirect ownership interest in SmartCall and iSmart.[49]

At the time the 2022 Restated Petition was filed, Truphone was directly owned by Vollin (72.46% voting and equity) and Minden (22.80% equity and voting), with the remaining 4.74% held by other minority owners.[50] Vollin is wholly owned by Whiteclif, which in turn is wholly owned by Redrock.[51] Redrock is owned by Dapore Holdings Ltd. (66.7% equity and voting) and Elpins Co. Ltd. (33.30% equity and voting).[52] Dapore Holdings Ltd. is wholly owned by the Dapore Trust, an irrevocable discretionary trust organized in Cyprus for the benefit of certain family members of Alexander Abramov, who are citizens of Russia and Cyprus.[53] Elpins Co. Ltd. is wholly owned by the Elpins Trust, an irrevocable discretionary trust organized in Cyprus for the benefit of certain family members of Alexander Frolov, who are citizens of Russia and Cyprus.[54] The trustee of both the Dapore Trust and the Elpins Trust is ITL.[55]

The 2022 Restated Petition states that Minden is wholly owned by Greenleas Holdings Limited, a British Virgin Islands entity.[56] Greenleas Holdings Limited, in turn, is wholly owned by the Grano Trust, which is a Cyprus irrevocable discretionary trust for the benefit of certain family members of Roman Abramovich.[57]

U.K. Administration. On July 29, 2022, TI, SmartCall, iSmart, and Truphone filed a section 310(b)(4) petition (2022 Administration Petition) requesting approval for Geoffrey Rowley and Philip Armstrong, both U.K. citizens, to act as the Administrators of Truphone, and indirectly control SmartCall and iSmart, pursuant to an anticipated action by the United Kingdom's High Court of Justice, the Business Property Courts of England and Wales (the U.K. Court) to issue an order placing Truphone into administration under the Insolvency Act of 1986.[58] The Commission granted the 2022 Administration

[47] *Id.*

[48] 2022 Application.

[49] 2022 Restated Petition.

[50] 2022 Restated Petition at 7, Exh. 1.

[51] *Id*. at 2, Exh. 1.

[52] *Id*. at 6, Exh. 1.

[53] *Id*. at 5-6, Exh. 1.

[54] *Id*. at 5-6, Exh. 1.

[55] *Id*. at 6, 9-10.

[56] *Id*. at 7, Exh. 1.

[57] *Id*.

[58] Petition of Truphone, Inc., SmartCall, LLC, iSmart Mobile, LLC, and Truphone Limited for Declaratory Ruling, ISP-PDR-20220729-00008 (filed July 29, 2022) (2022 Administration Petition). The U.K. Administrative Process is similar to the bankruptcy process in the United States. *See id*. at 1-3; File No. ISP-PDR-20220729-00008, *International Authorizations Granted, Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b)(4) Petitions (47 CFR § 1.5000)*, Report No. TEL-02214, Public Notice, 37 FCC Rcd 10144, 10145 (IB 2022) (U.K. (continued….)

Petition on August 31, 2022.[59]

On January 24, 2023, the U.K. Court issued an order placing Truphone into administration under the Insolvency Act of 1986.[60] On February 17, 2023, TI filed a notification of the involuntary transfer of control of TI from Truphone to Geoffrey Rowley and Philip Armstrong, as Administrators, which the Commission granted on March 14, 2023.[61]

Proposed Acquisition of TI, SmartCall, and iSmart by TP Global. On January 24, 2023, TP Global and Truphone entered into a definitive transaction agreement pursuant to which TP Global will acquire and control TI, SmartCall, and iSmart. Specifically, TP Global will directly own 100% of the equity and voting interest in TP US, a Delaware entity, which in turn, will directly own 100% of the equity and voting interests in TI.[62] iSmart will continue to be wholly owned by SmartCall which, in turn, will continue to be wholly owned by TI.

On February 23, 2023, TP Global and TP US filed the TP Global Petition pursuant to section 310(b)(4) of the Act requesting approval for the indirect foreign ownership in SmartCall, the direct U.S. parent of iSmart, by TP Global and its owners.[63] On February 27, 2023, Geoffrey Rowley and Philip Armstrong, as the Administrators of Truphone, filed the TP Global Application for the transfer of control of TI from Truphone to TP Global.[64]

TP Global, an England and Wales entity, is wholly owned by TP Global Finance Limited,[65] which in turn is wholly owned by TP Global Holdings Limited, both private limited companies organized in Jersey.[66] TP Global Holdings Limited is wholly owned by TP Global Limited, a Jersey private limited company.[67] TP Global Limited is 90% owned by HMFK Capital Limited, a Jersey private limited company, and 10% owned by Pyrros Koussios, a citizen of Greece and Switzerland.[68] HMFK Capital Limited is wholly owned by Hakan Koç a citizen of Germany and Turkey.[69]

Administration Grant) (stating "[w]e find that it is in the public interest to grant this Petition that would allow Truphone to enter into the U.K. Administrative Process. The U.K. Administrative Process is similar to the bankruptcy process in the United States. It is the Commission's policy to recognize the bankruptcy laws, and where possible, to accommodate them in a manner that is consistent with the Communications Act.").

[59] U.K. Administration Grant.

[60] *See* TP Global Petition at 2, Attach. A.

[61] File No. ITC-T/C-20230217-00019, *International Authorizations Granted, Section 214 Applications (47 CFR §§ 63.18, 63.24); Section 310(b)(4) Petitions (47 CFR § 1.5000)*, Report No. TEL-02259, Public Notice, 38 FCC Rcd 1969, 1972 (IB 2023).

[62] After consummation, Truphone will become a separate and distinct entity and will no longer have any connection with TI or its subsidiaries. TP Global Application at 4, n.3; TP Global Petition at 3, n.2.

[63] File No. ISP-PDR-20230223-00002.

[64] File No. ITC-T/C-20230227-00022.

[65] TP Global Petition at 6, Exh. 1; TP Global June 15 Petition Supplement at 6.

[66] TP Global Petition at 7, Exh. 1; TP Global June 15 Petition Supplement at 6-7.

[67] TP Global Petition at 7, Exh. 1; TP Global June 15 Petition Supplement at 7.

[68] TP Global Petition at 3,7, Exh. 1; TP Global June 15 Petition Supplement at 7.

[69] TP Global Petition at 3,7, Exh. 1; TP Global June 15 Petition Supplement at 7.

TP Global Petition For A Declaratory Ruling

Pursuant to section 1.5001(i) of the Commission's rules,[70] the Petitioners request that the Commission specifically approve the equity and/or voting interests that, upon completion of the transaction, would be held in SmartCall, the controlling U.S. parent of iSmart, by the following foreign entities and foreign individuals at the percentages specified below:[71]

TP Global Operations Limited (100% equity; 100% voting) (England and Wales);
TP Global Finance Limited (100% equity; 100% voting) (Jersey);
TP Global Holdings Limited (100% equity; 100% voting) (Jersey);
TP Global Limited (100% equity; 100% voting) (Jersey);
HMFK Capital Limited (90% equity; 100% voting) (Jersey);
Hakan Koç (90% equity; 100% voting) (Germany and Turkey); and
Pyrros Koussios (10% equity; 10% voting) (Greece and Switzerland).

Pursuant to section 1.5001(k) of the Commission's rules,[72] the Petitioners also request advance approval for Hakan Koç and HMFK Capital Limited to acquire up to a controlling 100% equity interest and for Pyrros Koussios to acquire up to a non-controlling 49.99% equity and/or voting interest.[73] Further, the Petitioners ask that the Commission approve 100% aggregate equity and voting foreign interests in SmartCall.[74] The Petitioners assert that the public interest would be served by granting the Petition.

National Security, Law Enforcement, Foreign Policy, and Trade Policy Concerns

When analyzing petitions for declaratory ruling and applications with reportable foreign ownership, we also consider public interest issues related to national security, law enforcement, foreign policy, or trade policy. As part of our public interest analysis, the Commission coordinates with the relevant Executive Branch agencies that have expertise in these particular issues. The Commission accords deference to the expertise of these Executive Branch agencies in identifying issues related to national security, law enforcement, foreign policy, or trade policy. The Commission, however, ultimately makes an independent decision on the petitions and applications based on the record in the proceedings.

Pursuant to Commission practice, the TP Global Application and the TP Global Petition were referred to the relevant Executive Branch agencies (including the Committee agencies) for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Petitioners. Because TI filed the TP Global Application and TP Global Petition to effectuate the divestiture of certain ownership interests as required by the Consent Decree, we did not refer the 2019 Petition, the 2022 Restated Petition, and the 2022 Application to the relevant Executive Branch agencies.[75]

[70] 47 CFR § 1.5001(i).

[71] TP Global Petition at 8; TP Global June 15 Petition Supplement at 4; TP Global July 21 Petition Supplement at 1. The Petitioners state that equity and voting interests held in TP US have been calculated in accordance with section 1.5002 of the Commission's rules. 47 CFR § 1.5002.

[72] 47 CFR § 1.5001(k).

[73] TP Global June 15 Petition Supplement at 5-6; TP Global July 21 Petition Supplement at 1.

[74] TP Global Petition at 8.

[75] *2023 Public Notice* at 7.

On October 19, 2023, DOJ notified the Commission that the Committee was reviewing the TP Global Petition and associated applications for any national security and law enforcement concerns that may be raised by foreign participation in the U. S. telecommunications services sector and requested that the Commission defer action on the TP Global Application and TP Global Petition.[76] We deferred action on the TP Global Petition and associated applications in response to the Committee's request. On February 1, 2023, the Committee notified the Commission that the Petitioners had provided complete responses to initial questions posed by the Committee and that the Committee was conducting an initial review to assess whether granting the TP Global Petition and associated applications would pose a risk to the national security or law enforcement interests of the United States.[77]

In its petition to adopt conditions filed on May 24, 2024, the Committee advised the Commission that it has no objection to the Commission granting the TP Global Petition and associated applications "provided that the Commission conditions its approval on the assurances of Truphone, Inc. ("TI"), and its wholly owned subsidiaries, SmartCall, LLC and iSmart Mobile, LLC (collectively, "Truphone"), and TP Global Operations Limited, including its U.S. subsidiary TP US Operations (collectively, "TP Global"), (together with Truphone, "the Companies,") to abide by the commitments and undertakings" set forth in the LOA.[78]

In accordance with the request of the Committee, we grant the Committee Petition, and condition the grant of the TP Global Application and TP Global Petition and associated applications on compliance by TI and its subsidiaries with the commitments and undertakings set out in the LOA.[79]

Grant of Petition for Declaratory Ruling

Based on our review of the record, under section 310(b)(4) of the Act and the Commission's foreign ownership rules and policies, we find that the public interest would not be served by prohibiting foreign ownership of SmartCall, the controlling U.S. parent of iSmart, in excess of the 25% benchmarks in section 310(b)(4) of the Act. We, therefore, grant the TP Global Petition, subject to the conditions set out herein. This declaratory ruling authorizes 100% aggregate foreign ownership of SmartCall, as the controlling U.S. parent of the common carrier licensees, subject to the terms and conditions set forth in section 1.5004 of the Commission's rules,[80] as well as additional conditions set forth herein.

[76] *See* note 14 *supra.*

[77] *See* note 15 *supra.*

[78] Committee Petition at 1-2; LOA.

[79] *See* LOA.

[80] 47 CFR § 1.5004. While all of the terms and conditions set forth in section 1.5004 of the Commission's rules apply, we highlight the following provisions: (1) where a previously unapproved foreign-organized entity is inserted into the vertical ownership chain of a licensee, or its controlling U.S.-organized parent, without prior Commission approval, the licensee shall file a letter to the attention of the Chief, Office of International Affairs, within 30 days after the insertion of the new, foreign-organized entity; (2) a licensee that has received a foreign ownership ruling, including a U.S.-organized successor-in-interest to such licensee as part of reorganization, or any subsidiary or affiliate relying on such licensee's ruling, shall file a new petition for declaratory ruling under §1.5000 to obtain Commission approval before its foreign ownership exceeds the routine terms and conditions of this section, and/or any specific terms of conditions of its rulings; and (3) if at any time the licensee, including any successor-in interest and any subsidiary or affiliate knows, or has reason to know, that it is no longer in compliance with its foreign ownership rulings or the Commission's rules relating to foreign ownership, it shall file a statement with the Commission explaining the circumstances within 30 days of the date it knew, or had reason to know, that it was no longer in compliance.

In addition, pursuant to section 1.5001(i) of the Commission's rules, and subject to the conditions set forth herein, we approve the foreign equity and voting interests that would be held in SmartCall by each of the above-listed foreign entities and individuals in the amounts specified. We also approve the Petitioners' request for advance approval, pursuant to section 1.5001(k), permitting the above-listed foreign entities and individuals to increase their equity and voting interests in SmartCall up to the amounts specified above.

Pursuant to sections 4(i)-(j), 5(c), 303(r) and 310(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)-(j), 155(c), 303(r), 310(b), and sections 1.5001-04, and 1.4001-04 of the Commission's rules, 47 CFR §§ 1.5001-04, 1.4001-04, and pursuant to the authority delegated under sections 0.19 and 0.351of the Commission's rules, 47 CFR §§ 0.19 and 0.351, we grant the TP Global Petition, as conditioned in this Public Notice.

Finally, under this declaratory ruling, the Petitioners have an affirmative duty to monitor their foreign equity and voting interests, calculate their interests consistent with the principles enunciated by the Commission, including the standards and criteria set forth in sections 1.5002 through 1.5003 of the Commission's rules,[81] and otherwise ensure continuing compliance with the provisions of section 310(b) of the Act.[82]

Conditions of Grants

Grant of the TP Global Petition is conditioned on compliance with the terms and conditions set forth in section 1.5004 of the Commission's rules.[83]

Grant of the TP Global Application and TP Global Petition is further conditioned on compliance with the May 10, 2024 Letter of Agreement executed by Richard Stupansky Jr., President and Director of Truphone, Inc., Managing Member of SmartCall, LLC, and Managing Member of iSmart Mobile, LLC; and Pyrros Koussios, Director of TP Global Operations Limited and TP US Operations Inc. to Chief, Foreign Investment Review Section (FIRS) and Deputy Chief, Compliance and Enforcement (FIRS), on behalf of the Assistant Attorney General for National Security, United States Department of Justice National Security Division.[84]

A failure to comply and/or remain in compliance with any of the conditions of the grant of the TP Global Application and TP Global Petition shall constitute a failure to meet a condition of this authorization and declaratory ruling and the underlying authorizations and licenses and thus grounds for declaring the authorizations and licenses terminated without further action on the part of the Commission. A failure to meet a condition of this authorization and declaratory ruling may also result in monetary sanctions or other enforcement action by the Commission.

Grant of the TP Global Application and TP Global Petition is without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules.

Pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, the consent granted herein

[81] 47 CFR §§ 1.5002-1.5003.

[82] 47 CFR § 1.5004, note to paragraph (a).

[83] 47 CFR § 1.5004.

[84] LOA.

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

For further information, please contact Fara Mohsenikolour, Telecommunications and Analysis Division, Office of International Affairs at (202) 418-1429.

-FCC-

ATTACHMENT

A. The Office of International Affairs grants the following applications for transfers of control of international section 214 authorizations:

File Number	Authorization Holder	Authorization Number
ITC-T/C-20221104-00132	Truphone, Inc.	ITC-214-20081112-00494
ITC-T/C-20230227-00022	Truphone, Inc.	ITC-214-20081112-00494

B. The Office of International Affairs grants the following petitions for declaratory ruling under section 310(b) of the Communications Act of 1934:

File Number	Petitioners
ISP-PDR-20191226-00010	Truphone, Inc., SmartCall, LLC, iSmart Mobile, LLC, and Truphone Limited
ISP-PDR-20221104-00010	Truphone, Inc., SmartCall, LLC, iSmart Mobile, LLC, and Truphone Limited
ISP-PDR-20230223-00002	TP Global Operations Limited and TP US Operations, Inc.

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 24-606
Released: June 26, 2024

WIRELESS TELECOMMUNICATIONS BUREAU GRANTS 900 MHZ BROADBAND SEGMENT APPLICATION

WT Docket No. 17-200

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) announces the grant of one 900 MHz broadband segment license application (see Appendix). On May 13, 2020, the Commission realigned the 900 MHz band to make available six megahertz of low-band spectrum for the development of critical wireless broadband technologies and services, while reserving the remaining four megahertz of spectrum for continued narrowband operations.[1] In accordance with the *900 MHz Report and Order*,[2] the Bureau announced that the opening date for acceptance of 900 MHz broadband segment applications began on May 27, 2021.[3]

The Bureau finds the 900 MHz broadband segment application listed in the Appendix to be complete and in conformance with the Commission's rules. No petitions to deny this application were filed and the application sufficiently demonstrates conformance with the eligibility conditions (Eligibility Certification) and requirements for transitioning the 900 MHz band in the particular county requested (Transition Plan).[4] Furthermore, the Commission has received full anti-windfall payment for the license listed in the Appendix, as required by section 27.1503(c)(2). Therefore, the Bureau finds that granting the application for the 900 MHz broadband segment license listed in the Appendix serves the public interest, convenience, and necessity.

Accordingly, by this Public Notice, we announce the grant of the license listed in the Appendix. We grant this license pursuant to section 309(a) of the Communications Act, 47 U.S.C. § 309(a), and sections 0.131 and 0.331 of the Commission's rules, 47 CFR §§ 0.131, 0.331. This new 900 MHz broadband licensee may begin operation in the applicable counties, subject to protection of covered incumbents.[5]

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[1] *Review of the Commission's Rules Governing the 896–901/935–940 MHz Band*, WT Docket No. 17-200, Report and Order, Order of Proposed Modification, and Order, 35 FCC Rcd 5183 (2020) (*900 MHz Report and Order*).

[2] *Id.* at 5229 para. 113.

[3] *See Wireless Telecommunications Bureau to Accept 900 MHz Broadband Segment Applications Beginning May 27, 2021*, WTB Docket No. 17-200, Public Notice, 36 FCC Rcd 7377 (WTB 2021) (*900 MHZ Broadband Segment Applications Public Notice*).

[4] 47 CFR § 27.1503; *see also 900 MHz Broadband Segment Applications Public Notice, Attachment A*.

[5] A Covered Incumbent is any 900 MHz site-based licensee in the broadband segment that is required under section 90.621(b) to be protected by a broadband licensee with a base station at any location within the county, or any 900 MHz geographic-based SMR licensee in the broadband segment whose license area completely or partially overlaps the county. 47 CFR § 27.1501(g).

We remind licensees that they should review the Commission's part 27 rules and all Commission orders and public notices establishing rules and policies for the 900 MHz band.[6] Each licensee is solely responsible for complying with all FCC rules and regulations associated with these licenses.

This Public Notice includes one appendix, which is included at the end of this document:

Appendix – 900 MHz Broadband Segment Licenses Granted – Sorted by Licensee

Applicants who have questions concerning this Public Notice may contact Morgan Mendenhall of the Wireless Telecommunications Bureau, Mobility Division, (202) 418-0154, morgan.mendenhall@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).

[6] *See* 47 CFR pt. 27; *see also 900 MHz Report and Order*, 35 FCC Rcd 5183; *900 MHz Broadband Segment Applications Public Notice*.

APPENDIX

900 MHZ BROADBAND SEGMENT LICENSES

APPLICATIONS GRANTED

SORTED BY LICENSEE

Licensee Name	File Number	FRN	Market/County Number (FIPS)	Market Description	Mandatory Relocation[1]
PDV Spectrum Holding Company, LLC	0010951947	0023948573	D01095	Marshall County, AL	N/A

[1] Section 27.1504 permits a broadband licensee to relocate mandatorily certain incumbents from the 900 MHz broadband section. Incumbent licensees identified for mandatory relocation by new licensees will appear in this column. When there are no incumbent licensees identified for mandatory relocation, N/A will appear.

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 24-607
Released: June 26, 2024

NOTICE OF PROHIBITED PRESENTATION IN THE MATTER OF POLITICAL PROGRAMMING AND ONLINE PUBLIC FILE REQUIREMENTS FOR LOW POWER TELEVISION STATIONS (MB DOCKET NO. 24-147); AMENDMENT OF THE COMMISSION'S RULES TO ADVANCE THE LOW POWER TELEVISION, TV TRANSLATOR AND CLASS A TELEVISION SERVICE (MB DOCKET NO. 24-148)

Notice is hereby given that the Commission received during the Sunshine Agenda Period a prohibited written presentation by Karlo Maalouf on May 31, 2024, in MB Docket Nos. 24-147 and 24-148.

With specified exceptions not applicable here, section 1.1203 of the Commission's Rules, 47 CFR § 1.1203, prohibits the making of any presentation, whether *ex parte* or not, to decision-making personnel concerning any matter listed on the Commission's Sunshine Agenda, from the day after the Sunshine Agenda is released until the Commission releases the text of a decision or order relating to that matter or removes the item from the Sunshine Agenda. The instant presentation addressed the merits of the above-referenced proceeding, which was included on the Commission's Sunshine Agenda by Public Notice released May 30, 2024, for consideration at the June 6, 2024 open Commission meeting. The Commission removed the item from the Sunshine Agenda on June 6, 2024, terminating the Sunshine Period. Press Release, FCC, Deletion of Item From June 6, 2024 Open Meeting (June 6, 2024), https://docs.fcc.gov/public/attachments/DOC-403041A1.pdf.

Under section 1.1212(d) of the Commission's Rules, 47 CFR § 1.1212(d), presentations that are received during the Sunshine Period and neither meet an exception provided by section 1.1204(a) of the Commission's Rules, 47 CFR § 1.1204(a), nor are covered by a Commission waiver, shall be associated with, but not made a part of, the record in the relevant proceeding. In accordance with the rule, this presentation will be associated with, but not made part of, the record in the above-referenced proceeding.

The Commission's Reference Information Center remains closed to the public. When it reopens, the full text of this presentation will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, 45 L Street, NE, Washington, DC 20554. This filing may also be viewed in the Commission's Electronic Comment Filing System (ECFS) at https://www.fcc.gov/ecfs/search/search-filings.

Action by the Office of General Counsel, Administrative Law Division.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-608
Released: July 1, 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 Nos. 08-71, 10-90, 18-143
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]

HMS School for Children with Cerebral Palsy, PA, Application No. 241039945, Petition for Reconsideration, CC Docket No. 02-6 (filed May 28, 2024)

[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).

St. Francis Prep School, NY, Application No. 241040017, Petition for Reconsideration, CC Docket No. 02-6 (filed June 4, 2024)

Granted[4]

Allowing Service Delivery Extension[5]

Archbishop Molloy High School, NY, Application No. 221028889, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Cost-Effectiveness[6]

Mary Queen of Peace, OH, Application Nos. 734493, 766542, Request for Review, CC Docket No. 02-6 (filed Nov. 18, 2010)

Granting on Reconsideration – Late-Filed FCC Form 471[7]

Yukon Independent School District 27, OK, Application No. 241028548, Petition for Reconsideration, CC Docket No. 02-6 (filed May 20, 2024)

Inadvertent Cancellation of FCC Form 471[8]

[4] 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).

[5] *See, e.g., Requests for Review/Waiver of the Decision of the Universal Service Administrator by Accelerated Charter et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 29 FCC Rcd 13652, 13652-53, nn.3, 4 (WCB 2014) (*Accelerated Charter Order*) (noting that extensions of the implementation deadline will be granted to applicants that timely request an extension to USAC on or before the implementation deadline provided the applicant's service provider is unable to complete implementation for reasons beyond the service provider's control); *see* 47 CFR § 54.507(d).

[6] *Requests for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109, 6115, para. 10 (WCB 2011) (*Allendale County School District Order*) (finding that where there is only one bid responsive to the FCC Form 470, the responsive bid necessarily offered the lowest price).

[7] *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 Abbotsford School District et al.; Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Order, 27 FCC Rcd 15299, 15300, para. 2 (WCB 2012) (*Abbotsford School District Order*) (finding that the applicant filed its FCC Form 471 application beyond 14 days of the FCC Form 471 filing deadline due to delays beyond their control).

[8] Kenosha Public Library seeks a waiver of Application No. 241040048, which was filed after the close of the application filing window because the school district inadvertently cancelled the initial FCC Form 471. On remand, USAC should reinstate the cancelled FCC Form 471. *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Joseph Jingoli & Son, Inc., et al.; Schools and Libraries Universal Service*

(continued….)

Kenosha Public Library, WI, Application No. 241001920, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2024)

Late-Filed FCC Form 471 Applications – Filed More than 30 Days Late Due to Serious Illness[9]

Community Library Of The Shenango Valley, PA, Application No. 241040179, Request for Waiver, CC Docket No. 02-6 (filed May 23, 2024)

Stey-Nevant Public Library, PA, Application No. 241040180, Request for Waiver, CC Docket No. 02-6 (filed May 23, 2024)

Late-Filed FCC Form 471 Applications – Filed Within 14 Days of the Close of the Window[10]

Agate School District 300, CO, Application No. 241039916, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2024)

Caring and Sharing Learning School, FL, Application No. 241019272, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2024)

Commonwealth Elementary Academy, MI, Application No. 241039685, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2024)

Cypress Hills Child Care Corp, NY, Application No. 241039747, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2024)

Indian River Charter High School, FL, Application No. 241039093, Request for Waiver, CC Docket No. 02-6 (filed May 21, 2024)

Islamic School Of Rhode Island, RI, Application Nos. 241039895, 241039899, Request for Waiver, CC Docket No. 02-6 (filed May 30, 2024)

Melvin J. Berman Hebrew Academy, MD, Application Nos. 241039885, 241039903, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

St. Croix Christian Academy, VI, Application Nos. 241039053, 241039108, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2024)

Valiant Cross Academy, AL, Application Nos. 241039466, 241039465, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2024)

(Continued from previous page)
Support Mechanism, CC Docket No. 02-6, Order, 22 FCC Rcd 19227, 19228-29, paras. 3-4 (WCB 2007) (granting petitioners' requests to restore mistakenly cancelled funding requests)

[9] *See, e.g., Requests for Waiver and Review of Decisions of the Universal Service Administrator by Archdiocese of San Antonio et al.; Schools and Libraries Universal Service Support Mechanism, Establishing Emergency Connectivity Fund to Close the Homework Gap*, CC Docket No. 02-6, WC Docket No. 21-93, Order, 37 FCC Rcd. 4879, 4882-83, paras. 7-8 (2022) (*Archdiocese of San Antonio Order*) (granting waiver requests for applications filed more than 30 days after the close of the filing window due to serious medical conditions).

[10] *See, e.g.*, *Academy of Math and Science Order*, 25 FCC Rcd at 9259, para. 8 (finding special circumstances existed to justify granting waiver requests for petitioners who filed their FCC Form 471 applications within 14 days of the filing window deadline).

Washougal School District 112-6, WA, Application No. 241039158, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2024)

Washougal School District 112-6, WA, Application No. 241039203, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2024)

Washougal School District 112-6, WA, Application No. 241039157, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2024)

Late-Filed FCC Form 486[11]

Porterville Unified School District, CA, Application No. 221038093, Request for Waiver, CC Docket No. 02-6 (filed May 17, 2024)

Ministerial and/or Clerical Errors[12]

Auburn-Washburn School District 437, KS, Application No. 241037605, Request for Waiver, CC Docket No. 02-6 (filed May 30, 2024)

Lyons Unified School District 405, KS, Application No. 241007953, Request for Waiver, CC Docket No. 02-6 (filed May 23, 2024, supplemented Jun. 6, 2024)

Ministerial and/or Clerical Errors — FRN Omitted from FCC Form 471 Application[13]

Assumption Parish Library (Lenora Carter), LA, Application No. 241026624, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Reconsidering Bureau Decision and Granting the Waiver[14]

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[11] *See, e.g.*, *Requests for Waiver of Decisions of the Universal Service Administrator by Archdiocese of New Orleans et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd 11747, 11750, para. 10 (WCB 2016) (*Archdiocese of New Orleans Order*) (granting relief for late-filed FCC Forms 486 that were filed no later than 120 days after the last day to receive service for the funding request at issue and where the applicant demonstrated good cause for the late filing).

[12] *See*, *e.g.*, *Requests for Review of Decisions of the Universal Service Administrator by Ann Arbor Public Schools,* CC Docket No. 02-6, Order, 25 FCC Rcd at 17319, 17319-20, para. 2, nn.9, 17 (WCB 2010) (*Ann Arbor Public Schools Order*) (granting waivers where the applicant entered the wrong service start date or omitted service from source documents onto its FCC Form 471).

[13] *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 add a request omitted from its FCC Form 471, but included on its source list). This entity did not realize a funding request was omitted until the FY 2024 application filing window had closed and it was too late to submit a Receipt Acknowledgment Letter (RAL) correction. We direct USAC to add this funding request to the petitioner's timely-filed FY 2024 FCC Form 471 application.

[14] In the *June 2024 USF Streamlined Resolution PN*, we denied a waiver filed by Clinton Public School District, finding that its FCC Form 471 was late-filed. *See Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 02-60 and 21-93, Public Notice, DA 24-482 (WCB June 3, 2024) (*June 2024 USF Streamlined Resolution PN*). We now reconsider on our own motion the denial of that appeal. *See* 47 CFR § 1.113(a) (allowing reconsideration of Bureau decisions within 30 days of public notice of the action). We now find that this was a situation where there was a

(continued….)

Clinton Public School District, MS, Application No. 241040051, Request for Waiver, CC Docket No. 02-6 (filed May 7, 2024)

USAC Decision Issued After Invoice Deadline[15]

Community Independent School District, TX, Application No. 201017622, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Sheridan AllPrep Academy, OR, Application Nos. 221031374, 221031374, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Waiver of Special Construction Service Delivery Deadline[16]

Aurora Public Schools and Unite Private Networks, LLC, CO, Application No. 221033852, Request for Waiver, CC Docket No. 02-6 (filed Feb. 2, 2024)

Central Consolidated School District 22 and Sacred Wind Communications, Inc., NM, Application No. 211002700, Request for Waiver, CC Docket No. 02-6 (filed May 9, 2024)

Gallup McKinley County Schools and Sacred Wind Communications, Inc., NM, Application No. 191001103, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2024)

Navajo Nation Tribal Consortium, AZ, Application No. 211028854, Request for Waiver, CC Docket No. 02-6 (filed June 14, 2024)

(Continued from previous page)
ministerial and/or clerical error and that Clinton Public School District omitted a funding request from its timely-filed FCC Form 471 application. Because the school district did not realize its funding request was omitted until the FY 2024 application filing window had closed and it was too late to submit a Receipt Acknowledgment Letter (RAL), we direct USAC to add these funding requests to the petitioner's timely-filed FY 2024 FCC Form 471 application. *See, e.g., Archer Public Library Order*, 23 FCC Rcd at 15521, n.19 (permitting applicant to add a request omitted from its FCC Form 471, but included on its source list).

[15] *See Modernizing the E-rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, FCC 20-178, para. 15 (rel. Dec. 10, 2020) (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).

[16] *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 all the petitioners listed above were unable to complete implementation for reasons beyond their control and made good faith efforts to comply with Commission rules and procedures. For Aurora Public Schools, we waive the special construction service delivery deadlines for the funding request numbers that were left off its original timely-filed extension. For Gallup McKinley County Schools, Navajo Nation Tribal Consortium and Newark City (Ohio) School District, we waive the special construction service delivery deadline and direct USAC to provide the applicants until June 30, 2025 to complete their special construction projects. Although Central Consolidated School District 22 and Utah Education and Telehealth Network do not propose specific deadlines for completing implementation of their special construction projects, we extend their deadlines until June 30, 2025.

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 supra* note 4.

Navajo Nation Tribal Consortium, AZ, Application No. 201040969, Request for Waiver, CC Docket No. 02-6 (filed June 14, 2024)

Navajo Nation Tribal Consortium, AZ, Application No. 201042013, Request for Waiver, CC Docket No. 02-6 (filed June 14, 2024)

Navajo Nation Tribal Consortium, AZ, Application No. 211019879, Request for Waiver, CC Docket No. 02-6 (filed June 14, 2024)

SWC Telesolutions, Inc. (Navajo Nation Tribal Consortium), AZ, Application Nos. 201042013, 211019879, Request for Waiver, CC Docket No. 02-6 (filed May 20, 2024)

Utah Education and Telehealth Network, UT, Application No. 191032022, Request for Waiver, CC Docket No. 02-6 (filed May 29, 2024)

WANRack, LLC (Newark City (Ohio) School District), OH, Application No. 221036946, Request for Waiver, CC Docket No. 02-6 (filed Apr. 10, 2024)

Denied

Late-Filed FCC Form 471 Applications[17]

Ada Public Library, OK, Application No. 241040186, Request for Waiver, CC Docket No. 02-6 (filed May 24, 2024)

Altenburg School District 48, MO, Application No. 241040191, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Butner Independent School District I015, OK, Application No. 241040181, Request for Waiver, CC Docket No. 02-6 (filed May 23, 2024)

Christian Brothers High School, CA, Application No. 241040155, Request for Waiver, CC Docket No. 02-6 (filed May 14, 2024)

Department of Management Services, FL, Application No. 241039932, Request for Waiver, CC Docket No. 02-6 (filed June 1, 2024)

Earlimart Elementary School District, CA, Application No. 241040174, Request for Waiver, CC Docket No. 02-6 (filed May 21, 2024)

Emma Jewel Charter Academy, FL, Application No. 241040192, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Holy Family High School, CO, Application No. 241040187, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

[17] *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).

Holy Family High School, CO, Application No. 241040188, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Notre Dame De La Baie Academy, WI, Application No. 241040196, Request for Waiver, CC Docket No. 02-6 (filed May 29, 2024)

Okaloosa Academy, FL, Application No. 241040083, Request for Waiver, CC Docket No. 02-6 (filed May 22, 2024)

River's Edge Academy Charter School, OR, Application No. 241040175, Request for Waiver, CC Docket No. 02-6 (filed May 22, 2024)

Salisbury Christian School, MD, Application No. 241022565, Request for Waiver, CC Docket No. 02-6 (filed May 29, 2024)

Sioux Falls Christian School, SD, Application No. 241040203, Request for Waiver, CC Docket No. 02-6 (filed May 30, 2024)

St. Helen School, NY, Application No. 241040202, Request for Waiver, CC Docket No. 02-6 (filed June 4, 2024)

St. Mary's Central, OH, Application No. 241040195, Request for Waiver, CC Docket No. 02-6 (filed May 29, 2024)

St. Patrick's Catholic School, IA, Application No. 241040206, Request for Waiver, CC Docket No. 02-6 (filed May 31, 2024)

Walton Academy, Inc., Application No. 241040091, Request for Waiver, CC Docket No. 02-6 (filed May 22, 2024)

Late-Filed Invoice or Invoice Deadline Extension[18]

Lamoille North Modified Unified Union School District, VT, Application No. 211034159, Request for Waiver, CC Docket No. 02-6 (filed Feb. 22, 2024)

Our Lady of the Holy Rosary St. Richard Catholic School, FL, Application No. 221036222, Request for Waiver, CC Docket No. 02-6 (filed Apr. 23, 2024)

Prosser Public Library (System), CT, Application No. 241040046, Request for Waiver, CC Docket No. 02-6 (filed May 16, 2024)

Wirestar, Inc. (College Station Independent School District), TX, Application No. 221013527, Request for Waiver, CC Docket No. 02-6 (filed Mar. 5, 2024)

Ministerial and/or Clerical Errors[19]

[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).

Mandan School District 1, ND, Application No. 241024593, Request for Waiver, CC Docket No. 02-6 (filed May 30, 2024)

Service Implementation Delay[20]

St. Francis De Sales Deaf School, NY, Application No. 211031627, Request for Waiver, CC Docket No. 02-6 (filed May 28, 2024)

Untimely Filed Appeals or Waiver Requests[21]

American Internet Group, Inc. (Detroit Edison Public School Academy), MI, Application No. 231033515, Request for Waiver, CC Docket No. 02-6 (filed May 10, 2024)

Bet Yaakov Of The Jersey Shore, NJ, Application No. 221033637, Request for Waiver, CC Docket No. 02-6 (filed May 15, 2024)

Butner Independent School District I015, OK, Application No. 231039571, Request for Waiver, CC Docket No. 02-6 (filed May 23, 2024)

Congregation Machzikei Hadas, NJ, Application No. 221039590, Request for Waiver, CC Docket No. 02-6 (filed June 3, 2024)

Department of Youth Services SD 210, AL, Application Nos. 869548, 781611, Request for Review, CC Docket No. 02-6 (filed Sept. 24, 2013)

Waiver Request of FCC Form 470 and FCC Form 471 Deadline[22]

(Continued from previous page)

[19] *See, e.g.*, *Requests for Waiver and Review of Decisions of the Universal Service Administrator by Assabet Valley Regional Vocational District; Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Order, 27 FCC Rcd 1924, 1925, para. 1 (WCB 2012) (*Assabet Valley Order*) (finding that the petitioners did not demonstrate good cause to justify waivers of the Commission's rules permitting changes to the applicants' E-Rate applications after the filing window deadline).

[20] *See, e.g., Accelerated Charter Order,* 29 FCC Rcd at 13653, para. 3 (denying late-filed extensions of the deadline for service implementation when applicants failed to demonstrate they were unable to complete implementation on time for reasons beyond the service providers' control and failed to make significant efforts to secure the necessary extensions in a timely manner).

[21] *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).

[22] Because there is no deadline for the FCC Form 470, Mandan School District 1 does not need a waiver a to file a new FCC Form 470. *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."). We deny, however, Mandan School District 1's request for a waiver of the FCC Form 471. *See, e.g., Academy of Math and Science Order*, 25 FCC Rcd at 9261-62, para. 13 (denying

(continued….)

Mandan School District 1, ND, No Application Filed, Request for Waiver, CC Docket No. 02-6 (filed May 30, 2024)

Rural Health Care Program
WC Docket No. 02-60

Dismissed as Moot – Request Withdrawn[23]

Alaska Communications Systems Holdings, Inc., AK, Request for Review and Contingent Petition for Waiver, WC Docket No. 02-60, Funding Request Nos. 1581804, 1581719, 1581724, 1581780, 1581801, 1697911, 1697908, 1697913, 1697914, 1697896 (filed Oct. 13, 2020)

Alaska Communications Systems Holdings, Inc., AK, Request for Review and Contingent Petition for Waiver, WC Docket No. 02-60, Funding Request Nos. 1698407, 1698416, 1698664, 1698668, 1698670, 1698674, 1698855 (filed Oct. 13, 2020)

Alaska Communications Systems Holdings, Inc., AK, Request for Review and Provisional Petition for Waiver, WC Docket No. 02-60, Funding Request No. 18464381 (filed Oct. 21, 2019)

Dismissed as Moot – Request Resolved by USAC[24]

Sanity Solutions, Inc. (CHA Broadband Services), CO, Request for Waiver, WC Docket 02-60, Funding Request No. RHC20220012487 (filed Jan. 31, 2024)

Granted

Late-Filed FCC Form 462 or 466 Applications – Filed Within 14 Days of the Close of the Window[25]

(Continued from previous page)
requests for waiver of the FCC Form 471 application filing deadline where petitioners failed to present special circumstances justifying waiver of our rules).

[23] *See, e.g., Requests for Review of Decision of the Universal Service Administrator by Integrity Communications (Brooks Consolidated Independent School District) et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 27 FCC Rcd 7994, 7995, para. 1 (WCB 2012) (dismissing appeals as moot where the petitioner subsequently withdrew its funding requests). Pursuant to its Consent Decree with the Enforcement Bureau, Alaska Communications Systems Holding, Inc. (ACS) withdrew these dismissed appeals. *See In the Matter of Alaska Communications Systems, Inc.,* Order and Consent Decree, DA 24-383, 2024 WL 21098868, at *7 (EB, May 8, 2024) (requiring ACS's withdrawal of its pending appeals concerning the funding requests listed in Appendix E of the Consent Decree in exchange for a withdrawal credit) (*ACS Consent Decree*). *See also* Letter from Bennett L. Ross, Counsel to Alaska Communications Systems Holding, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 02-60 (June 4, 2024) (withdrawing and releasing all existing and future claims associated with the dismissed requests for review).

[24] *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) (*Al Noor High School Order*) (dismissing as moot requests for review where USAC had taken the action the petitioner requested). Sanity Solutions, Inc. (Sanity) requested an extension of time to complete a funding year 2022 invoice because it was unable to access RHC Connect. USAC subsequently resolved the access issue affecting Sanity. Sanity then completed the invoice form in RHC Connect prior to the invoice deadline, thereby negating the need for an extension of time.

[25] *See In the Matter of Requests for Waiver by Bartlett Regional Hospital et al.*, WC Docket No. 02-60, Order, DA-24-366, para. 8 (WCB 2024) (granting a waiver of the application filing deadline when the application was filed within 14 days of the deadline and administration of the RHC Program was minimally affected). For entries for which no funding request number is listed, the health care provider filed its request for waiver within 14 days of the
(continued….)

Central Michigan District Health Department, MI, WC Docket No. 02-60, No Funding Request Number (filed May 7, 2024)

Colorado Hospital Association Broadband Services, CO, WC Docket No. 02-60, No Funding Request Number (filed May 1, 2024)

Northern Lakes Community Mental Health, MI, WC Docket No. 02-60, No Funding Request Number (filed May 7, 2024)

Pioneers Medical Center and Meeker Family Health Center, CO, WC Docket No. 02-60, No Funding Request Numbers RHC202040016240, RHC20240016241(filed May 17, 2024)

Service Provider Identification Number Change Request[26]

Cumberland Memorial Hospital, WI, Request for Waiver, WC Docket No. 02-60, Request for Waiver, Funding Request No. RHC20220010577 (filed Sept. 20, 2023)

Waiver of the 60-Day Appeal Deadline[27]

Eastern Nebraska Healthcare Communications Consortium, NE, Request for Waiver, WC Docket No. 02-60, Funding Request Nos. 18454951, 18440531 (filed May 15, 2024)

Waiver of the Invoice Filing Deadline[28]

Adventist Health, CA, Request for Waiver, WC Docket No. 02-60, Funding Request No. 18202441 (filed Dec. 15, 2022)

Cebridge Telecom TX, LP (St. Francis Health System Consortium), OK, Request for Waiver, WC Docket No. 02-60, Funding Request No. 20826531 (filed Mar. 7, 2022)

(Continued from previous page)
filing deadline but was unable to complete the filing of its funding request because its selected service provider had not completed a required FCC Form 498 update. In these cases, we direct with USAC to coordinate with the health care providers on the filing of their funding requests. We remand all funding requests to USAC and direct USAC to complete its review of the applications and issue a funding decision based on a complete review and analysis. In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners' applications.

[26] *See Requests for Review of Decisions of the Universal Service Administrator by Bay Shore Union Free School District, et al., Schools and Libraries Universal Service Support Mechanism, et al.*, CC Docket No. 02-6, Order, 23 FCC Rcd 15537, 15543, para. 11 (WCB 2008) (waiving the service provider identification number (SPIN) change deadline when applicants were unaware of the need for a SPIN change until after the deadline). We direct USAC to coordinate with the applicants on filing SPIN change requests and make no finding as to the merits of the request.

[27] *See, e.g.*, *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by ABC Unified School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 11019, 11019, para. 2 (WCB 2011) (granting waivers of filing deadline for appeals because the petitioners submitted their appeals or waiver requests only a few days late or within a reasonable period of time after receiving actual notice of USAC's adverse decision, or the reasons were due "the result of clerical, ministerial, or procedural errors, or were due to circumstances beyond their control").

[28] *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, 12342, para. 4 (WCB 2018) (granting a waiver of the invoice filing deadline when the petitioner missed the deadline due to technical issues outside of its control) (*Indiana Telehealth Network Order*). We waive the petitioners' invoice filing deadlines and allow them 120 days from the release of this Public Notice to file invoices.

New England Telehealth Consortium, ME, Request for Waiver, WC Docket No. 02-60, Funding Request No. 20854071 (filed July 10, 2023)

SCL Health, CO, Request for Waiver, CC Docket No. 02-60, Funding Request No. 19636511 (filed Dec. 28, 2021)

Western New York Rural Area Health Education Center, NY, Request for Waiver, WC Docket No. 02-60, Funding Request No. 19195421 (filed Jan. 6, 2022)[29]

Denied

Waiver of the 60-Day Appeal Deadline[30]

Pathways Community Mental Health – Marquette, MI, Request for Waiver, WC Docket No. 02-60, Funding Request No. 1722489 (filed June 23, 2020)

High-Cost Program (Connect America Fund)
WC Docket Nos. 08-71, 10-90, 18-143

Granted, in part

Performance Measures Pre-testing Requirements[31]

Liberty Communications of Puerto Rico, LLC Petition for Waiver, WC Docket Nos. 08-71, 10-90, 18-143 (June 20, 2024).

[29] *See Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 35 FCC Rcd 1986, 1994 (WCB 2020) (*Funding Year 2018 Invoice Waiver Order*); *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 32 FCC Rcd 5065, 5065-66, paras. 2, 4 (WCB 2017) (*Funding Year 2016 Invoice Waiver Order*) (granting a waiver of the invoice filing deadline when the deadline had already passed at the time that health care providers received USAC's decision, which made compliance with program rules impossible). Program rules have subsequently been amended to allow for revised funding commitment letters issued after an appeal decision to reset the invoice deadline. *See* 47 CFR § 54.514 (a)(3).

[30] *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 at all and its deadline to do so had long passed, and did not articulate special circumstances for waiving the 60-day appeal deadline in its request for waiver); *Streamlined Resolution of Requests Related to Actions by the Universal Service Administrative Company*, CC Docket No. 02-6, WC Docket Nos. 02-60, 06-122, 08-71, Public Notice, 35 FCC Rcd 4490, 4496, n.20 (WCB 2020); *Requests for Review of Decisions of the Universal Service Administrator by Agra Public Schools I-134 et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 25 FCC Rcd 5684 (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). This request for waiver of the appeal filing deadline was filed two and a half years after the deadline to file an appeal with no reason given for the delay.

[31] Liberty Communications was unable to download its subscriber locations for performance measures pre-testing due to technical issues with the Performance Measures Module, which have lasted through May 16, 2024. Therefore, Liberty was unable to complete pre-testing for its full sample by the end of the second quarter and certify testing results by July 8, 2024. *See Wireline Competition Bureau Further Extends HUBB Certification Deadline for Deployed Fixed Locations for Alaska Plan Carriers, et, al.*, Public Notice, DA 22-846 (WCB 2022) (granting an extension of the HUBB filing deadline due to technical issues with HUBB system modifications). A limited waiver is granted for Liberty to submit any completed performance measures pre-testing results by the second quarter reporting deadline of July 8, 2024, and we waive the sample size requirement for second quarter performance measures pre-testing.

Contribution Methodology
WC Docket No. 06-122

Denied

Request for Waiver of FCC Form 499-A Revision Deadline[32]

Global VoIP, LLC, Letter of Appeal (2021), WC Docket No. 06-122 (filed Apr. 23, 2024)

Global VoIP, LLC, Letter of Appeal (2022), WC Docket No. 06-122 (filed Apr. 23, 2024)

Dismissed Without Prejudice

Request for Waiver of Form 499-Q Revision Deadline[33]

Galaxy Distribution, LLC, Request for Waiver, WC Docket No. 06-122 (filed May 23, 2024)

Torch Wireless, Request for Waiver, WC Docket No. 06-122 (filed May 23, 2024)

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 -

[32] Global VoIP, LLC sought waiver of the one year downward revision deadline of the FCC Form 499-A for both 2021 and 2022. *See, e.g.*, *Universal Service Contribution Methodology; Petition for Waiver of Universal Service Fund Rules by Outfitter Satellite, Inc.*, WC Docket No. 06-122, Order, 28 FCC Rcd 13358 (WCB 2013) (finding that alleged mistakes by Outfitter's accounting firm and internal accounting staff were not adequate grounds for waiver); *Universal Service Contribution Methodology; Request for Review of a Decision of the Universal Service Administrator by IP Telecom Group, Inc.*, WC Docket No. 06-122, Order, 26 FCC Rcd 11213 (WCB 2011); *Universal Service Contribution Methodology; Federal-State Joint Board on Universal Service; Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc., et al.*, WC Docket No. 06-122, CC Docket No. 96-45, Order, 25 FCC Rcd 10861 (WCB 2010) (denying requests for deadline waivers where claims of good cause amounted to no more than simple negligence, errors by the petitioner, or circumstances squarely within the petitioner's control). To the extent Global VoIP, LLC's financial situation makes it difficult to pay the invoice in full, it may set up a payment plan with USAC to satisfy the obligation. *See https://www.usac.org/service-providers/making-payments/how-to-pay/payment-plans/.*

[33] 47 CFR § 1.1910(b). *See, e.g., Requests for Review of Decisions of the Universal Service Administrator by Net56, Inc., Wheeling School District 21, Schools and Libraries Support Mechanism*, CC Docket No. 02-6, Order, 28 FCC Rcd 13122, 13126, para. 6 (WCB 2013) (dismissing E-Rate applicant's funding year 2010 request pursuant to the Commission's "red light rules").

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 24-609

Released: June 28, 2024

ENFORCEMENT BUREAU REMINDS MVPDS OF 2024 FCC FORM 396-C DEADLINE

Pursuant to section 76.77 of the Commission's rules, 47 CFR § 76.77, a multichannel video program distributor (MVPD) employment unit with six or more full-time employees must file an FCC Form 396-C, Multichannel Video Programming Distributor EEO Program Annual Report, by September 30 each year. By this Notice, we remind MVPDs of this recurring obligation. The Form 396-C must be submitted via the EEO filing portal in the Cable Operations and Licensing System (COALS), which can be accessed at https://fccprod.servicenowservices.com/coals.[1]

Additionally, we identify in the following pages those employment units that must complete the Supplemental Investigation Sheet (SIS) of the Form 396-C this year. Moreover, Section I of the COALS Form 396-C, labeled "Supplemental Investigation Sheet", automatically displays a check mark for those filers who are required to submit the SIS. SIS filers should also take note of the following requirements:

- Part I: One job description must be provided for this category: Officials & Managers.
- Part II: Only questions 1, 4 and 7 must be answered.
- Part III: The employment unit's 2024 EEO Public File Report covering the previous 12 months must be attached.

Questions concerning the Form 396-C can be directed to EEO staff at EB-EEO@fcc.gov or (202) 418-1450. For technical assistance with COALS, please contact coals_help@fcc.gov and for help with CORES matters, direct questions to COREShelp@fcc.gov.

- FCC -

[1] Please note that COALS requires a Commission Registration System (CORES) username and password to which authority for one or more Federal Registration Numbers (FRNs) has been delegated. To manage CORES usernames and passwords, please visit https://apps.fcc.gov/cores/userLogin.do. For additional information regarding FRNs and the CORES system, please visit https://www.fcc.gov/licensing-databases/commission-registration-system-fcc.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

We have estimated that each response to this collection of information will take from 0.166 to 2.5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this burden estimate, or on how we can improve the collection and reduce the burden it causes you, please e-mail them to pra@fcc.gov or send them to the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-1033), Washington, DC 20554. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-1033.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

2024 Form 396-C
MVPD EMPLOYMENT UNITS SUBJECT TO SUPPLEMENTAL INVESTIGATION

#	EMP. UNIT ID	MSO/OPERATOR NAME	COUNTY	STATE
1.	0001	GIGGLE FIBER	Los Angeles	CA
2.	010329	EASTON CABLE	Talbot	MD
3.	012853	WABASH INDEPENDENT NETWORKS, INC.	Clay	IL
4.	022201	BLUEPEAK FIBER	Lyon	MN
5.	0263	NORTHLAND CABLE TELEVISION, INC.	Houston	TX
6.	02983	VYVE BROADBAND J, LLC	Converse	WY
7.	05491	VYVE BROADBAND J, LLC	Claiborne	TN
8.	10347	COMCAST CABLE COMMUNICATIONS, LLC.	Wayne	MI
9.	10686	CAPROCK-SPUR.COM	Dickens	TX
10.	10697	MUNICIPAL COMMUNICATIONS UTILITY CITY OF CEDAR FALLS IOWA	Black Hawk	IA
11.	11218	HIAWATHA BROADBAND COMMUNICATIONS, INC.	Winona	MN
12.	11221	DECCA DIGITAL SOLUTIONS	Marion	FL
13.	11303	MEDIACOM COMMUNICATIONS CORPORATION	Baldwin	AL
14.	11304	MEDIACOM COMMUNICATIONS CORPORATION	Madison	AL
15.	11308	MEDIACOM COMMUNICATIONS CORPORATION	Monroe	AL
16.	11312	MEDIACOM COMMUNICATIONS CORPORATION	Mobile	AL
17.	11322	MEDIACOM COMMUNICATIONS CORPORATION	Santa Cruz	AZ
18.	11330	MEDIACOM COMMUNICATIONS CORPORATION	Riverside	CA
19.	11332	MEDIACOM COMMUNICATIONS CORPORATION	Sussex	DE
20.	11348	MEDIACOM COMMUNICATIONS CORPORATION	La Salle	IL
21.	11350	MEDIACOM COMMUNICATIONS CORPORATION	Champaign	IL
22.	11351	MEDIACOM COMMUNICATIONS CORPORATION	Woodford	IL
23.	11355	MEDIACOM COMMUNICATIONS CORPORATION	Iroquois	IL
24.	11358	MEDIACOM COMMUNICATIONS CORPORATION	Rock Island	IL
25.	11362	MEDIACOM COMMUNICATIONS CORPORATION	Effingham	IL
26.	11373	MEDIACOM COMMUNICATIONS CORPORATION	Christian	IL
27.	11431	MEDIACOM COMMUNICATIONS CORPORATION	Linn	IA
28.	11512	COMCAST CABLE COMMUNICATIONS, LLC	Denver	CO
29.	11799	COGECO US (PENN), LLC D/B/A BREEZELINE	Blair	PA
30.	11800	COGECO US (PENN), LLC D/B/A BREEZELINE	McKean	PA

2024 FORM 396-C
MVPD EMPLOYMENT UNITS SUBJECT TO SUPPLEMENTAL INVESTIGATION

#	EMP. UNIT ID	MSO/OPERATOR NAME	COUNTY	STATE
31.	11801	COGECO US (PENN), LLC D/B/A BREEZELINE	Clearfield	PA
32.	11802	COGECO US (PENN), LLC D/B/A BREEZELINE	Cambria	PA
33.	11803	COGECO US (PENN), LLC D/B/A BREEZELINE	Blair	PA
34.	11804	COGECO US (PENN), LLC D/B/A BREEZELINE	Fayette	PA
35.	11805	COGECO US (PENN), LLC D/B/A BREEZELINE	Warren	PA
36.	11806	COGECO US (PENN), LLC D/B/A BREEZELINE	Allegany	MD
37.	11807	COGECO US (PENN), LLC D/B/A BREEZELINE	Preston	WV
38.	11808	COGECO US (DELMAR), LLC D/B/A BREEZELINE	Queen Anne's	MD
39.	11809	COGECO US (DELMAR), LLC D/B/A BREEZELINE	New Castle	DE
40.	11810	COGECO US (MIAMI), LLC D/B/A BREEZELINE	Dade	FL
41.	11811	COGECO US FINANCE, LLC	Norfolk	MA
42.	11843	MID-RIVERS TELEPHONE COOPERATIVE, INC.	McCone	MT
43.	11881	COGECO US (CT), LLC D/B/A BREEZELINE	New London	CT
44.	11950	HUNTEL CABLEVISION	Washington	NE
45.	11981	SUDDENLINK COMMUNICATIONS	Williamson	TX
46.	1201	NORTHLAND CABLE TELEVISION, INC.	Navarro	TX
47.	12074	SUDDENLINK COMMUNICATIONS	Upshur	WV
48.	12131	ASTOUND BROADBAND	Placer	CA
49.	12134	ASTOUND BROADBAND	Yolo	CA
50.	12196	SUDDENLINK COMMUNICATIONS	Clearwater	ID
51.	12218	SUDDENLINK COMMUNICATIONS	Polk	TX
52.	12230	LAFAYETTE CITY PARISH CONSOLIDATED GOVERNMENT	Lafayette	LA
53.	12273	COGECO US (CT), LLC D/B/A BREEZELINE	Windham	CT
54.	12296	GRANDE COMMUNICATIONS NETWORKS, LLC	Bexar	TX
55.	12298	GRANDE COMMUNICATIONS NETWORKS, LLC	Denton	TX
56.	12300	GRANDE COMMUNICATIONS NETWORKS, LLC	McLennan	TX
57.	12301	GRANDE COMMUNICATIONS, LLC	Nueces	TX
58.	12709	SUDDENLINK COMMUNICATIONS	Woods	OK
59.	12723	CABLE ONE, INC.	Vermilion	IL
60.	12726	CABLE ONE, INC.	Knox	IN
61.	12773	TWIN LAKES COMMUNICATIONS, INC.	Putnam	TN

2024 FORM 396-C
MVPD EMPLOYMENT UNITS SUBJECT TO SUPPLEMENTAL INVESTIGATION

#	EMP. UNIT ID	MSO/OPERATOR NAME	COUNTY	STATE
62.	12792	SUDDENLINK COMMUNICATIONS	Clark	NV
63.	12814	COX COMMUNICATIONS, INC.	Lafayette	LA
64.	12837	CO MO COMM, INC.	Moniteau	MO
65.	12851	WEHCO VIDEO, INC.	Pulaski	AR
66.	1334	NORTHLAND CABLE TELEVISION, INC.	Burnet	TX
67.	1357	COX COMMUNICATIONS, INC.	Hartford	CT
68.	1367	CABLE SERVICES, INC.	Stutsman	ND
69.	1400	SJOBERG'S, INC.	Pennington	MN
70.	1495	SUDDENLINK COMMUNICATIONS	Lubbock	TX
71.	1587	BLOCK COMMUNICATIONS	Erie	OH
72.	1690	CABLE ONE, INC.	Pontotoc	OK
73.	1774	MIDCONTINENT COMMUNICATIONS	Douglas	KS
74.	1802	COX COMMUNICATIONS, INC.	Sedgwick	KS
75.	1847	CABLE ONE, INC.	Labette	KS
76.	1976	MIDCONTINENT COMMUNICATIONS	Pennington	SD
77.	20574	CONSOLIDATED TELEPHONE COMPANY (CTC)	Crow Wing	MN
78.	2071	CABLE ONE, INC.	Kay	OK
79.	2493	NORTHLAND CABLE TELEVISION, INC.	Grant	WA
80.	2511	COGECO US (SC), LLC D/B/A BREEZELINE	Aiken	SC
81.	2567	WAVE BROADBAND	Kitsap	WA
82.	265	NORTHLAND CABLE TELEVISION, INC.	Limestone	TX
83.	3025	CONWAY CORPORATION	Arkansas	AR
84.	305	COMCAST CABLE COMMUNICATIONS, LLC	Palm Beach	FL
85.	3448	COX COMMUNICATIONS, INC.	Oklahoma	OK
86.	3455	CABLE ONE, INC.	Grayson	TX
87.	3457	CABLE ONE, INC.	San Patricio	TX
88.	388792	KNOLOGY, INC.	Knox	TN
89.	3914	CABLE ONE, INC.	Hutchinson	TX
90.	394	CABLE TV OF EAST ALABAMA	Russell	AL
91.	396	MEDIACOM COMMUNICATIONS CORPORATION	Covington	AL
92.	4091	NORTHLAND CABLE TELEVISION, INC.	Bulloch	GA

2024 FORM 396-C
MVPD EMPLOYMENT UNITS SUBJECT TO SUPPLEMENTAL INVESTIGATION

#	EMP. UNIT ID	MSO/OPERATOR NAME	COUNTY	STATE
93.	4242	T.V. SERVICE, INC.	Knott	KY
94.	4313	CABLE ONE, INC.	Jasper	MO
95.	4439	NORTHLAND CABLE TELEVISION, INC.	Siskiyou	CA
96.	4628	SUDDENLINK COMMUNICATIONS	Humboldt	CA
97.	4642	COX COMMUNICATIONS, INC.	Orange	CA
98.	4860	SERVICE ELECTRIC CABLE TV, INC.	Lehigh	PA
99.	4912	COX COMMUNICATIONS, INC.	Chesapeake City	VA
100.	5271	COGECO US (PENN), LLC D/B/A BREEZELINE	Columbia	PA
101.	5604	NORTHLAND CABLE TELEVISION, INC.	Bonner	ID
102.	5611	COX COMMUNICATIONS, INC.	Clark	NV
103.	5641	NORTHLAND CABLE TELEVISION, INC.	Rutherford	NC
104.	6089	VENTURE VISION, INC.	Hyde	SD
105.	6117	WAVE BROADBAND	Skagit	WA
106.	6282	COX COMMUNICATIONS, INC.	Douglas	NE
107.	640	CABLEVISION SYSTEMS CORP.	Suffolk	NY
108.	6445	COX COMMUNICATIONS, INC.	Kent	RI
109.	6922	COX COMMUNICATIONS, INC.	Pima	AZ
110.	7584	COMMUNICATIONS 1 CABLEVISION, INC.	Hancock	IA
111.	7604	LIBERTY CABLEVISION OF PUERTO RICO, LLC	San Juan	PR
112.	7994	CITY OF WYANDOTTE DEPT. OF MUNICIPAL SERVICE	Wayne	MI
113.	841845	SUDDENLINK COMMUNICATIONS	Coconino	AZ
114.	841872	SUDDENLINK COMMUNICATIONS	Gila	AZ
115.	862	CABLE ONE, INC.	Stephens	OK
116.	8701	COMCAST CABLE COMMUNICATIONS, LLC	Bucks	PA
117.	990023	COMCAST CABLE COMMUNICATIONS, LLC	Philadelphia	PA
118.	990030	COX COMMUNICATIONS, INC.	Fulton	GA
119.	990100	CABLE ONE, INC.	Maricopa	AZ
120.	EUID00052	INDIANOLA MUNICIPAL UTILITIES	Warren	IA
121.	EUID00063	KING STARLIANA PRODUCTION	District of Columbia	DC
122.	EUID99053	OMNI FIBER	Warren	OH
123.	EUID99054	BREDA TELEPHONE CORP.	Carroll	IA

2024 FORM 396-C
MVPD EMPLOYMENT UNITS SUBJECT TO SUPPLEMENTAL INVESTIGATION

#	EMP. UNIT ID	MSO/OPERATOR NAME	COUNTY	STATE
124.	EUID99058	COMMUNITY ANTENNA SERVICE, INC.	Wood	WV
125.	EUID99059	MTC CABLE	Delaware	NY
126.	EUID99060	BACK 2 ROOTS, LLC	Sumner	KS
127.	HQ454	SHENANDOAH CABLE TELEVISION, LLC	Shenandoah	VA
128.	NY0342	MID-HUDSON CABLEVISION, INC.	Greene	NY

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 No. 24-610
Released: June 26, 2024

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

With this Public Notice, the Wireless Telecommunications Bureau (WTB) and the Office of Engineering and Technology (OET) of the Federal Communications Commission (Commission or FCC) extend the temporary arrangement with the National Telecommunications and Information Administration (NTIA), Department of Defense (DoD), and the Department of the Navy (Navy) that has allowed Citizens Broadband Radio Service (CBRS) users to operate in the 3550-3650 MHz band in Hawaii before Environmental Sensing Capability (ESC) sensors are locally deployed through **December 31, 2024**.

As described in NTIA's September 2023 letter to the FCC and the subsequent Public Notice released by WTB and OET, Navy has been utilizing the TARDyS3 portal to schedule and protect its operations in and around Hawaii.[1] This temporary arrangement was set to expire June 30, 2024.[2] On May 29, 2024, Federated Wireless, Inc. (Federated) submitted a letter to the Commission requesting that the arrangement be extended through December 31, 2024.[3] Federated explained that the extension is necessary to allow "sufficient time to complete construction of its ESC network in Hawaii, which, […] is taking longer than anticipated due to circumstances beyond the company's control."[4] NTIA, DoD, and Navy support the extension request.[5]

Accordingly, we direct all certified Spectrum Access System administrators to continue using the TARDyS3 portal to coordinate CBRS operations in the 3550-3650 MHz band—consistent with the terms described in the September 21, 2023 NTIA Letter and September 22, 2023 Public Notice[6]—in and around

[1] Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, NTIA to Ronald T. Repasi, Chief, OET, FCC and Joel Taubenblatt, Chief, WTB, FCC (September 21, 2023) https://www.fcc.gov/ecfs/document/1092117317824/1 (September 21, 2023 NTIA Letter); *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) https://docs.fcc.gov/public/attachments/DA-23-894A1.pdf (September 22, 2023 Public Notice).

[2] September 22, 2023 Public Notice at 2.

[3] Letter from Jennifer N. McCarthy, Vice President, Legal Advocacy, Federated Wireless, Inc., to Ronald T. Repasi, Chief, OET, FCC and Joel Taubenblatt, Chief, WTB, FCC (May 29, 2024) https://www.fcc.gov/ecfs/document/1052946414064/1 (Federated Wireless Letter).

[4] Federated Wireless Letter at 1.

[5] Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, NTIA to Ronald T. Repasi, Chief, OET, FCC and Joel Taubenblatt, Chief, WTB, FCC (June 25, 2024) https://www.fcc.gov/ecfs/document/10625258290466/1.

Hawaii until December 31, 2024. After that time, federal operations near Hawaii will be protected by certified ESCs.

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 Paul Powell, Associate Division Chief, Wireless Telecommunications Bureau, Mobility Division at paul.powell@fcc.gov or 202-418-1613.

By the Chief, Wireless Telecommunications Bureau and the Chief, Office of Engineering and Technology.

(Continued from previous page)

[6] *See* September 21, 2023 NTIA Letter; September 22, 2023 Public Notice.

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 24-611
Released: June 27, 2024

BROADCAST AUXILIARY SERVICE FREQUENCY COORDINATOR DESIGNATED FOR THE 2024 NATIONAL POLITICAL CONVENTIONS AND THE 2025 PRESIDENTIAL INAUGURATION

By this Public Notice, the Wireless Telecommunications Bureau (WTB) and the Media Bureau (MB) respond to a request from the Chair of the ad hoc RF Spectrum and Frequency Coordinating Committee (Election Wireless 2025 or *EW2025*), formed by the Network News Pool Organization,[1] to be designated as the single point of contact for coordinating Broadcast Auxiliary Service (BAS) operations during the upcoming 2024 Republican National Convention (RNC), the 2024 Democratic National Convention (DNC), and the 2025 Presidential Inauguration.[2] In addition, we grant a waiver requested by *EW2025* to permit low-power auxiliary operators[3] to exceed the distance-separation requirement, as well as the related maximum power level, when operating at these events. This action is consistent with our actions ahead of the 2020 National Political Conventions and 2021 Presidential Inauguration.[4]

[1] On June 6, 2024, EW2025 requested that Louis Libin, EW2025's Chair, be designated as a special frequency coordinator and RF spectrum manager for the 2024 National Political Conventions. *See* Letter from Louis Libin, President, Broad Comm, Inc. (Chair, *EW2025*), Bryan Boughton, Senior Vice President and Washington, DC Bureau Chief, Fox News Network, LLC (Network Pool Producer DNC 2024), and Jay Blackman, Senior Producer (Network Pool Producer RNC 2024), to Marlene H. Dortch, Secretary, Federal Communications Commission (filed June 6, 2024) (*EW2025* Request). On June 20, 2024, *EW2025* amended the request to add coverage for the 2025 Presidential Inauguration. *See* Letter from Louis Libin, President, Broad Comm, Inc. (Chair, *EW2025*), Bryan Boughton, Senior Vice President and Washington, DC Bureau Chief, Fox News Network, LLC (Network Pool Producer DNC 2024), and Jay Blackman, Senior Producer (Network Pool Producer RNC 2024), to Marlene H. Dortch, Secretary, Federal Communications Commission (filed June 20, 2024) (*EW2025* Updated Request). The Network News Pool Organization that sponsors *EW2025* includes ABC, CBS, Fox, NBC, CNN, PBS and others. *See EW2025* Updated Request at 1, n.1.

[2] *EW2025* also asks for approval of applications for Special Temporary Authority (STAs) that have or will be submitted to use various spectrum bands to facilitate full coverage of the political conventions. *See EW2025* Updated Request at 1 (& n.2 citing, e.g., ELS File Nos. 1020-EX-ST-2024 and 0983-EX-ST-2024). According to the updated request, "[a]n STA request for the 2025 Presidential Inauguration will be filed adjacent to this amended letter." *Id*. These requests, and others related to these 2024 National Political Conventions and 2025 Presidential Inauguration, will be addressed separately on a case-by-case basis.

[3] Low-power auxiliary operations are a subset of BAS operations.

[4] *See Auxiliary Broadcast Frequency Coordinator Designated for the 2020 National Political Conventions and the 2021 Presidential Inauguration*, Public Notice, 35 FCC Rcd 6988, https://www.fcc.gov/document/broadcast-auxiliary-service-coordinator-named-upcoming-conventions (WTB & MB July 13, 2020) (2020 BAS Coordinator Public Notice). *EW2025* notes that its amended request does not deviate from the 2020 request, other than the coordinates for the respective conventions. *See EW2025* Updated Request at 4, n.7.

Political conventions and inaugurations attract extensive broadcast coverage and consequently require extensive use of wireless equipment.[5] The broadcast networks and other major content distributors require major wireless communications infrastructure, along with spectrum, to support their video and audio transmissions.[6] For these events of major public importance, no one broadcaster holds the exclusive rights to broadcast or otherwise distribute this content.[7] *EW2025* states that its request is being filed with the consent of all domestic broadcasters, as well as the leadership of the Democratic and Republican parties.[8] Under these circumstances, we find that appointment of Louis Libin as a special frequency coordinator would facilitate full coverage of these important events and would serve the public interest.

BAS stations, which are licensed under Part 74 of the Commission's rules, make it possible for television and radio stations as well as networks to transmit program material between various locations (e.g., from remote sites of breaking news stories or other live events to television studios, from studios to broadcasting transmitters for delivery to consumers, and between broadcast stations).[9] In addition to licensed BAS stations, section 74.24 of the Commission's rules allows eligible broadcasters to operate BAS stations on a short-term basis, not to exceed 720 hours annually, without prior Commission authorization.[10]

In connection with major events such as the 2020 National Political Conventions and 2021 Presidential Inauguration, WTB and MB have designated a BAS frequency coordinator and required prior coordination of all BAS operations, including operations pursuant to section 74.24 of the Commission's rules.[11] We took these actions pursuant to our authority under section 74.24(g)(2) [12] and in response to our concern that uncoordinated use of BAS stations on a special temporary authority basis could result in spectrum congestion and harmful interference, which could result in less complete broadcast coverage.[13] We believe that the potential for a similar situation exists during the 2024 National Political Conventions and the 2025 Presidential Inauguration.

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[5] *See EW2025* Updated Request at 2.

[6] *Id*. *EW2025* notes that government officials and public safety agencies also have extensive wireless communications needs during these special events and states that it will "cross-coordinate and participate with local, state, and federal government agencies to help assure protection of vital communications infrastructure necessary for the safety and security of event participants and attendees." *Id.*

[7] *Id.*

[8] *Id.* at 3.

[9] *See* 47 CFR § 74.531(a), 47 CFR § 74.631(a).

[10] *See* 47 CFR § 74.24(d).

[11] *See generally* 2020 BAS Coordinator Public Notice, 35 FCC Rcd 6988; *see also Auxiliary Broadcast Frequency Coordinator Designated for the Republican National Convention in Cleveland, Ohio, the Democratic National Convention in Philadelphia, Pennsylvania, and the Presidential Inauguration in Washington, DC; Grant of Waiver of Separation Requirements of 47 C.F.R. § 74.802 and Special Temporary Authorizations*, Public Notice, 31 FCC Rcd 7305 https://www.fcc.gov/document/bas-frequency-coordinator-designated-political-conventions (WTB & MB July 5, 2016).

[12] "The Commission may designate a frequency coordinator as the single point of contact for short-term operation under section 74.24 for advance coordination of major national and international events. Once designated, all short-term auxiliary broadcast use under section 74.24 must be coordinated in advance through the designated coordinator." 47 CFR § 74.24(g)(2). All coordination must be done on a non-discriminatory basis, and all licensees must abide by the decision of the coordinator. The Commission will be the final arbiter of any disputes. *Id*.

[13] *Id.*, 35 FCC Rcd at 6989.

Accordingly, we designate Election Wireless 2025's Chair, Louis Libin, as the single point of contact for coordinating operations under section 74.24 of the rules during the following time periods at the following locations: June 28–July 19, 2024 in Milwaukee, Wisconsin for the Republican National Convention; August 2–23, 2024 in Chicago, Illinois for the Democratic National Convention; and January 10–21, 2024 in Washington, D.C. for the Presidential Inauguration.[14] This designation will allow for advance coordination of terrestrial BAS frequency usage within a 100 kilometer radius, and within a 150 kilometer radius for any mobile operations aboard aircraft, around the following locations:[15]

- Fiserv Forum in Milwaukee, WI;[16]
- United Center in Chicago, IL;[17]
- The United States Capitol in Washington, D.C.;[18] and
- The White House in Washington, D.C.[19]

All use of Part 74 frequencies for the 2024 National Political Conventions and the 2025 Presidential Inauguration, without exception, shall be coordinated in advance through the *EW2025* coordinator, Louis Libin.[20] Mr. Libin can be reached for the purposes of frequency coordination by phone at (516) 374-6700 or by email at louislibin@broad-comm.com. Mr. Libin will provide assistance and database access to all local and non-local Part 74 licensees, as well as Part 78 and 101 licensees authorized to share spectrum available under Part 74 in the designated areas, for temporary fixed, mobile, and portable installations.

In addition to the operations discussed above, we note the potential use of unlicensed next-generation devices operating in TV white spaces. The Commission established a White Spaces (WS) database to provide licensed BAS, and other protected spectrum users, a means for protection from interference caused by the operation of these unlicensed devices. The WS database has been operational since March 1, 2013, so parties that desire to employ licensed, low-power auxiliary devices could register their operations with the WS database to ensure protection.[21] Registration in the WS database is only for protection from white space devices; the WS database does not provide coordination among BAS operations and is not a substitute for coordination through *EW2025*.

EW2025 also requests that the Commission grant a waiver of the distance-separation requirement of section 74.802 of the Commission's rules, "to permit the use of low power auxiliary stations, not to exceed 2 watts of power – with most operations using power levels of 200 milliwatts or lower - on channels allocated for TV broadcasting where the nearest operating station is located at least 40

[14] This Public Notice will apply to any rescheduled dates and/or locations for these conventions.

[15] We remind licensees to consult Federal Aviation Administration flight advisories for national special security events for airspace restrictions or other requirements.

[16] The center coordinates of the Fiserv Forum in Milwaukee, WI are 43-02-42N, 87-55-02W referenced to NAD83.

[17] The center coordinates of the United Center in Chicago, IL are 41-52-51N, 87-40-27W referenced to NAD83.

[18] The center coordinates of the U.S. Capitol in Washington, D.C. are 38-53-22N, 77-00-39W referenced to NAD83.

[19] The center coordinates of the White House in Washington, D.C. are 38-53-51N, 77-02-11W referenced to NAD83.

[20] This coordination requirement applies to BAS operators, as well as to providers of other radio services that are permitted to use Part 74 frequencies, who will be operating in the designated areas during the applicable time periods. The Commission's rules permit providers of cable television relay service and fixed microwave service to use Part 74 frequencies for temporary fixed, mobile, and portable installations. *See* 47 CFR § 78.18 and 47 CFR § 101.803(b).

[21] The only WS Database operator currently operational is Red Technologies – https://usa.wavedb.com/.

kilometers from the event locations . . . ."[22] *EW2025* states that it has worked cooperatively with the Network News Pool Organization and local broadcasters and that it has recently completed a detailed on-site RF spectrum analysis and related RF spectrum measurements at each venue.[23] In addition, EW2025 commits to performing additional measurements at each venue before and during operations to help assure interference-free operations by quickly identifying and eliminating any problems that arise.[24] Given these planning measures and commitments, we do not anticipate that grant of the requested relief will result in harmful interference between low power auxiliary operations at the event sites and TV broadcasting operations. In addition, grant of the requested relief will facilitate full coverage of these events of national interest. We note that WTB and MB granted similar relief for the 2020 National Political Conventions and the 2021 Presidential Inauguration.[25] Accordingly, we grant the requested relief.

For technical inquiries, please contact Chris Andes, Broadband Division, Wireless Telecommunications Bureau, at (202) 418-2487 or Kevin Harding, Video Division, Media Bureau, at (202) 418-7077. For press inquiries, please contact Will Wiquist of the Office of Media Relations at (202) 418-0509.

Action by Chiefs, Broadband Division, Wireless Telecommunications Bureau and Video Division, Media Bureau.

- FCC -

[22] *EW2025* Updated Request at 3. Section 74.802 of the Commission's rules limits operation of low power auxiliary stations to locations at least 4 kilometers outside the protected contours of co-channel TV stations. 47 CFR § 74.802(b)(1). By seeking to operate at a maximum power level of 2 watts, the filing by *EW2025* also implicitly requests a waiver of Section 74.861 of the Commission's rules, which limits the power of low power auxiliary stations to 250 milliwatts in the bands allocated for TV broadcasting. 47 CFR § 74.861(e)(1)(ii). The references in this Public Notice to the "requested relief" include waiver of section 74.802 and waiver of section 74.861.

[23] *EW2025* Updated Request at 4.

[24] *Id.*

[25] *See* 2020 BAS Coordinator Public Notice, 35 FCC Rcd 6991.

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 24-612
Released: June 27, 2024

WIRELESS TELECOMMUNICATIONS BUREAU ESTABLISHES WT DOCKET NO. 24-186

WT Docket No. 24-186

By this Public Notice, the Wireless Telecommunications Bureau establishes WT Docket No. 24-186, which is captioned, "Promoting Consumer Choice and Wireless Competition Through Handset Unlocking Requirements and Policies."

This commences a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[1] 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 presenters 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 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.

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

Action by Chief, Wireless Telecommunications Bureau.

-FCC-

[1] *See* 47 CFR §§ 1.1200 *et seq.*

PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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

DA 24-613
Released: June 27, 2024

MEDIA BUREAU ANNOUNCES COMMENT AND REPLY COMMENT DEADLINES FOR THE LOW POWER TELEVISION NPRM

MB Docket Nos. 24-147 and 24-148

Comment Date: July 29, 2024
Reply Comment Date: August 26, 2024

On June 10, 2024, the Commission released a *Notice of Proposed Rulemaking* (*NPRM*) seeking comment on revisions to our rules relating to the Low Power Television service (LPTV Service).[1] The Commission set deadlines for filing comments and reply comments in response to the *NPRM* at 30 and 60 days, respectively, after publication of the *NPRM* in the Federal Register.[2]

A summary of the *NPRM* was published in the Federal Register on June 27, 2024.[3] Accordingly, comments will be due on or before July 29, 2024, and reply comments on or before August 26, 2024. Commenters should follow the filing instructions provided in paragraph 87 of the *NPRM*.[4] The *NPRM* is available on the Commission's website.[5]

For additional information, contact Kim Matthews, Policy Division, Media Bureau, at Kim.Matthews@fcc.gov or (202) 418-2154; Shaun Maher, Video Division, Media Bureau at Shaun.Maher@fcc.gov or (202) 418-2324; or Mark Colombo, Video Division, Media Bureau at Mark.Colombo@fcc.gov or (202) 418-7611.

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[1] *Political Programming and Online Public File Requirements for Low Power Television Stations; Amendment of the Commission's Rules to Advance the Low Power Television, TV Translator and Class A Television Service*, Notice of Proposed Rulemaking, MB Docket Nos. 24-147 and 24-148, FCC 24-65 (rel. June 10, 2024).

[2] *Id*. at 1.

[3] Federal Communications Commission, Political Programming and Online Public File Requirements for Low Power Television Stations; Rules to Advance the Low Power Television, TV Translator and Class A Television Service, Proposed Rule, 89 FR 53537 (June 27, 2024).

[4] *See NPRM* at para. 87.

[5] *See* https://docs.fcc.gov/public/attachments/FCC-24-65A1.docx (Word); https://docs.fcc.gov/public/attachments/FCC-24-65A1.pdf (PDF).

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 24-193
Table of Allotments,	)	RM-11986
FM Broadcast Stations	)	
(Huntley, Montana)	)	
	)	

NOTICE OF PROPOSED RULEMAKING
AND ORDER TO SHOW CAUSE

Adopted: June 27, 2024 **Released: June 27, 2024**

Comment Date: August 19, 2024
Reply Comment Date: September 3, 2024

By the Assistant Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. We have before us a petition for rulemaking (Petition) filed by SSR Communications, Inc. (SSR) on April 12, 2024, proposing to amend the Table of FM Allotments by adding new Channel 284A at Huntley, Montana, as that community's first local radio service.[1] In compliance with the Commission's procedures,[2] SSR concurrently filed a construction permit application and paid the necessary filing fee.[3] The proposed Station is short-spaced to a reserved channel assignment for KYSX(FM), Billings, Montana (KSYX), on first-adjacent Channel 283C1.[4] For the reasons set forth below, we accept the Petition to the extent that we issue a notice of proposed rulemaking to create a new Class A FM station on Channel 284 at Huntley, Montana, as well as an order to show cause to the KYSX licensee, BMG Billings, LLC (BMG) to show why the KYSX license should not be modified to specify operation on Channel 286A in lieu of reserved Channel 283C1 at Billings, Montana.

II. BACKGROUND

2. On July 20, 2006, the then-licensee of KYSX (formerly KQBL), New Northwest Broadcasters LLC (New Northwest), filed a modification application to upgrade KYSX from a Class A facility on Channel 286 to a Class C1 facility on Channel 283 (First KYSX Application).[5] The First KYSX Application was granted on September 19, 2006. New Northwest did not construct on Channel 283 or file a license to cover prior to the First KYSX Application construction permit expiring on September 19, 2009. On July 22, 2009, New Northwest assigned KYSX to BMG.[6] On November 20, 2009, BMG filed a second, identical modification application (Second KYSX Application) to upgrade the

[1] *See* 47 CFR § 73.202(b).

[2] *See Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212, 14223, para. 18 (2006).

[3] Application File No. 243492

[4] *See* Application File No. BPH-20060720AAW (granted September 19, 2006).

[5] Application File No. BPH-20060720AAW.

[6] Application File No. BAL-20090427ADJ.

Station to Channel 283C1, which was granted on December 16, 2009.[7] The Second KYSX Application construction permit expired unbuilt on December 16, 2012. No subsequent modification applications were filed.

3. On April 12, 2024, SSR filed the Petition and Application, requesting the addition of Channel 284A at Huntley, Montana, as the community's first local service.[8] In the Petition, SSR argues that its proposal would represent a preferential arrangement of allotments because it would provide a first local service to Huntley.[9] SSR states that Huntley is a licensable community "deserving of its own FM radio service"—specifically, SSR describes Huntley as follows:

> Huntley is a U.S. Census Designated Place with a 2020 United States Census population of 411 persons. Huntley is a bona-fide community for allotment purposes. Huntley has its own unified K-12 public school district, the Huntley Project Schools. Huntley has also its own United States Post Office and Zip Code, 59037. Huntley is home to several churches, including a United Methodist Church and Valley Baptist Church, both having Huntley mailing addresses. Huntley has its own community park, the Barkemeyer Park. Huntley maintains its own water department. Huntley has its own newspaper, the Yellowstone County News. Further, Huntley is home to numerous businesses, including restaurants, accounting firms, service stations, et cetera, all within the Huntley central business district.

4. Although not addressed in the Petition or Application, a staff engineering analysis shows that the proposed Station is short-spaced to the unbuilt KYSX reserved assignment on Channel 283C1, in violation of section 73.207 of the rules.[10]

III. DISCUSSION

5. *Community Status.* We have consistently considered census designated places (CDPs) listed in the U.S. Census as licensable communities.[11] Therefore, we agree with SSR that, as a CDP, Huntley is a licensable community for allotment purposes.

6. *Minimum distance separation requirements.* SSR's petition must protect the KYSX reservation on Channel 284C1. When the Commission granted the First KYSX Application, it modified the KYSX license to specify Channel 283C1.[12] Although BMG failed to construct the facilities authorized by the First or Second KYSX Applications and continued to operate pursuant to an implied special temporary authority on Channel 286A, its reservation on Channel 283C1 remained licensed and protected by the Commission's minimum distance separation rules.[13] Nonetheless, we will consider the

[7] Application File No. BPH-20091120ABI.

[8] *See 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).

[9] Petition at 1; *see generally,* 47 U.S.C. § 307(b) (Section 307(b)).

[10] *See* 47 CFR § 73.207.

[11] *See Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC.2d 88, 101, paras. 33-34 (1982) (holding that no demographic showing is necessary and that it is sufficient for Section 307(b) purposes if a community is listed in the census reports as a community); *Spring Valley, Arizona*, Letter Decision, 28 FCC Rcd 148, 150 (MB 2013).

[12] *See generally, 1998 Biennial Regulatory Review – Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, Notice of Proposed Rulemaking and Order, 13 FCC Rcd 14849, 14855, para. 12, n.22 (1998) (*1998 Biennial NPRM*) (explaining that grant of a one-step FM commercial station application to change channel modifies that station's license to specify the new channel).

[13] *See, e.g., Entravision Holdings*, Memorandum Opinion and Order, 37 FCC Rcd 1343, 1354, para. 24 (2022); *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in*

(continued….)

Petition because, as discussed below, we are simultaneously issuing an order to show cause why the KYSX license should not be modified to re-assign it to Channel 286A, its current operating channel.

7. *New FM allotment.* We believe that the public interest would be served by proposing the allotment of a new FM station on Channel 284A at Huntley, Montana, because it would result in a first local service to that community and is therefore a preferential arrangement of allotments under FM allotment Priorities.[14] A staff engineering analysis reveals that Channel 284A can be allotted to Huntley, Montana, consistent with the minimum distance separation requirements of the Commission's rules with a site restriction of 13.9 km (8.6 miles) north of the community.[15] The reference coordinates are 46-01-30 NL and 108-18-00 WL (NAD83).[16]

8. *Order to Show Cause.* We find that SSR has cited sufficient public interest benefits to justify the issuance of a show cause order. Section 316(a) of the Act permits us to modify the license or construction permit if such action is in the public interest.[17] In this case, re-assigning KYSX to Channel 286A, Billings, Montana, would accommodate SSR's request to create a new allotment on Channel 284A at Huntley, Montana, as that community's first local service. Just as importantly, re-assigning KYSX would guard against the possibility of continued spectrum warehousing from BMG's long term failure to operate on its assigned Channel 283.[18] In these circumstances, we believe that the public interest would be served by issuing an order to show cause to BMG to show why the KYSX license should not be modified to specify operation on Channel 286A in lieu of Channel 283C1 at Billings, Montana.

9. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, BMG Billings, LLC (BMG), licensee of Station KYSX, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 286A in lieu of Channel 283C1 at Billings, Montana.

10. Section 316(a) of the Act requires that we notify the affected station of the proposed action, as well as the public interest reasons for the action, and afford the licensee at least 30 days to respond. This procedure is codified in section 1.87 of the Commission's rules.[19] Pursuant to Section 1.87, BMG may, no later than August 19, 2024, file a written statement showing with particularity why the KYSX license should not be modified as proposed in this *Notice of Proposed Rule Making and Order to Show Cause.* We may call upon BMG to furnish additional information. If BMG raises substantial and material questions of fact, a hearing may be required to resolve such questions of fact. Upon review of the statements and/or additional information furnished, the Commission may grant the modification(s), deny the modification(s), or set the matter of modification for hearing. If no written statement is filed by the date referred to above, BMG will be deemed to have consented to the proposed modification(s) and a final order will be issued if the modification(s) is (are) found to be in the public interest.

11. IT IS FURTHER ORDERED, That the Commission SHALL SEND a copy of this Notice of Proposed Rulemaking and Order to Show Cause by Certified Mail, Return Receipt Requested, to the following:

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the Radio Broadcast Services, Report and Order, 21 FCC Rcd 14212, 14222-22, para. 15 (2006); *1998 Biennial NPRM*, 13 FCC Rcd at 14855, para. 12, n.22); 47 CFR § 73.207.

[14] *See supra,* note 8.

[15] *See supra,* note 13.

[16] The Longley-Rice based 70 dBu "mean occurrence contour" covers 100% of Huntley, Montana.

[17] 47 U.S.C. § 316(a).

[18] The Commission's *Circleville* policy requiring an applicant to reimburse costs associated with a channel change is not applicable here, where we are re-assigning KYSX to its current operating channel. *See Circleville, Ohio*, Second Report and Order, 8 FCC 2d 159 (1967).

[19] 47 CFR § 1.87.

BMG Billings, LLC,
4915 S. Vine Street
Cherry Hills Village, CO 80113

Mark Walker
Kamlet Reichert, LLP
1515 Arapahoe St. Tower 1
Suite 1600
Denver, CO 80202

12. *Notice of Proposed Rulemaking.* We seek comment on the addition of a vacant allotment to the FM Table of Allotments, as follows:

	Channel No.	
City	Present	Proposed
Huntley, Montana	-----	284A

IV. PROCEDURAL MATTERS

13. *Showings Required*. Comments are invited on the proposal discussed in this Notice of Proposed Rulemaking (*NPRM*). Petitioner or any party that expresses interest in the allotment will be expected to answer whatever questions are presented in initial comments. The petitioner of a proposed allotment is required to file comments even if it only resubmits or incorporates by reference its former pleadings. The petitioner must restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request. Any requests by a proponent for withdrawal or dismissal of an allotment request must be filed with the Commission in accordance with section 1.420(j) of the Rules.[20]

14. *Cut-off Protection*. The following procedures will govern the consideration of the filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.[21]

(b) The filing of a counterproposal may lead the Commission to allot a different channel than was requested in the Petition and proposed in the *NPRM*.[22]

15. *Comments and Reply Comments*. Pursuant to sections 1.415, 1.419, and 1.420 of the Rules,[23] interested parties may file comments and reply comments on or before the dates indicated on the first page of this document.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs/filings/standard/. Parties that choose to file electronically only need to submit one copy of each filing so long as the submission conforms to all procedural and filing requirements. Online filing is optional.
- 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

[20] 47 CFR § 1.420(d).

[21] 47 CFR § 1.420(j).

[22] 47 CFR § 1.420(g)(2).

[23] 47 CFR §§ 1.415, 1.419, and 1.420.

proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

- Filings can be sent by hand or messenger delivery, by commercial 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 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.

16. *Service.* Pursuant section 4.120 of the Rules,[24] all submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments.[25] Additionally, a copy of such comments should be served on petitioner, as follows:

Matthew K. Wesolowski, CEO
SSR Communications, Inc.
740 Highway 49 North, Suite R
Flora, MS 39071
matt@wyab.com

17. *Ex Parte Notices– Restricted*. The proceeding this Notice initiates shall be treated as a "restricted" proceeding in accordance with the Commission's *ex parte* rules.[26] For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a notice of proposed rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court.[27] An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding.[28] However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement.[29] Any comment that has not been served on the petitioner constitutes an *ex*

[24] 47 CFR § 4.120.

[25] *See* 47 CFR §1.420(a), (b) and (c).

[26] 47 CFR §§ 1.1200 *et seq.*

[27] 47 CFR § 1.1208.

[28] 47 CFR § 1.1204(a)(10).

[29] 47 CFR § 1.1204(a)(10)(ii). In addition, an oral presentation in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay is permitted. A detailed summary of the presentation must be filed in the record and served by the person making the presentation on the other parties to the proceeding, who may respond in support or

(continued….)

parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

18. *Providing Accountability Through Transparency Act*. The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule.[30] Accordingly, the Commission will publish the required summary of this *NPRM* on https://www.fcc.gov/proposed-rulemakings.

19. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection via ECFS (https://www.fcc.gov/ecfs/search/search-filings). Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

20. *Paperwork Reduction and Regulatory Flexibility*. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,[31] do not apply to a rulemaking proceeding to amend the FM Table of Allotments, section 73.202(b) of the Rules.[32] This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995.[33] In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.[34]

21. *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.

22. *Additional Information*. For further information concerning this proceeding, contact Nazifa Sawez, Audio Division, Media Bureau, at (202) 418-7059, nazifa.sawez@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Nazifa Sawez
Assistant Chief, Audio Division
Media Bureau

opposition to the request for expedition, including by oral *ex parte* presentation, subject to the same service requirement. 47 CFR § 1.1204(a)(11).

[30] *See* 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act, Pub. L. No. 118-9 (2023), amended section 553(b) of the Administrative Procedure Act.

[31] *See* 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, 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). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

[32] 47 CFR § 73.602(b).

[33] *See* 44 U.S.C. §§ 3501–3520.

[34] *See* 44 U.S.C. § 3506(c)(4).

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 24-615
Released: June 27, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF REASNOR TELEPHONE COMPANY, LLC FROM GS IOWA VENTURES, LLC TO INTEGRATED PATH COMMUNICATIONS, LLC

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-164

Comments Due: July 11, 2024
Reply Comments Due: July 18, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by GS Iowa Ventures, LLC (GS Iowa Ventures), Reasnor Telephone Company, LLC (Reasnor), and Integrated Path Communications, LLC (Integrated Path) (together, 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 to transfer control of domestic 214 authorization holder Reasnor from GS Iowa Ventures to Integrated Path.[2]

Reasnor, a Nebraska limited liability company and rural incumbent local exchange carrier (LEC), provides local exchange services to customers located in the Reasnor, Iowa telephone exchange.[3] The Reasnor exchange includes the following communities in Iowa: Kellogg, Killduff, Galesburg, Lynnville, Searsboro, and Sully.[4] Reasnor, a designated Eligible Telecommunications Carrier (ETC), receives high-cost universal service support through the Enhanced Alternative Connect America Cost Model support mechanism.[5] Reasnor is 100% owned by GS Iowa Ventures, a holding

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

[2] Application for Consent to Transfer Control of Reasnor Telephone Company, LLC from GS Iowa Ventures, LLC to Integrated Path Communications, LLC, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-164 (filed May 28, 2024) (Application). Applicants filed a supplement to the application on June 25, 2024. Supplement to Application for Consent to Transfer Control of Reasnor Telephone Company, LLC from GS Iowa Ventures, LLC to Integrated Path Communications, LLC, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-164 (filed June 25, 2024) (Supplement). Applicants also filed an application for the transfer of authorizations associated with international services. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[3] Application at 2.

[4] *Id*.

[5] *Id*. at 12-13. Reasnor also participates in the Lifeline program and will continue to participate in that program post-consummation of the transaction. *Id*. at 14.

company that does not provide telecommunications services, which in turn is 100% owned by Thrift Communications, LLC (Thrift Communications), a holding company that does not offer telecommunications services.[6] Thrift Communications is 100% owned by Sue Harvison, a United States citizen.[7]

Integrated Path, a New York limited liability company, provides resold local exchange services as a competitive LEC and offers voice services utilizing VoIP technologies in New York, Vermont, Florida, Texas, Wisconsin, Oregon, California, Iowa, Kentucky, New Hampshire, Missouri, Montana, and West Virginia.[8] Integrated Path has an ETC designation in the states of New York, Texas, and Wisconsin.[9] Integrated Path is wholly owned and operated by Brian Shepard, a U.S. citizen.[10] Brian Shepard is also the 100% owner of the following telecommunications service providers, affiliates of Integrated Path through common ownership: Bluebird Communications, LLC, a New York limited liability company providing competitive local exchange services in the States of New York, New Jersey, and South Dakota; Right Call LLC, a Delaware limited liability company and an Administrative Operating Company Number, which has been granted access to update Telecom Routing Administration databases, specifically the Business Input Routing and Rating Database System, and holds CMRS licenses in California, Florida, Illinois, New York, Texas, and Vermont; and AXO Communications LLC, a Delaware limited liability company and competitive LEC providing resold and local and interstate exchange services in New York and Iowa.[11] Other than what is disclosed in the Application, neither Integrated Path nor any of its affiliates hold a ten percent (10%) or greater direct or indirect ownership of any other provider of domestic regulated telecommunications services.[12]

Pursuant to the terms of the proposed transaction, Integrated Path, GS Iowa Ventures, and Reasnor entered into a Membership Interest Purchase Agreement under which Integrated Path agreed to purchase from GS Iowa Ventures 100% of the equity interest in Reasnor.[13] Applicants state, after consummation of the proposed transaction, Reasnor will become a wholly-owned subsidiary of Integrated Path.[14] Applicants also state that no assignment of licenses, certificates of public convenience, assets, or customers will occur as a consequence of the proposed transaction.[15] Applicants assert that the proposed transaction will not trigger any change in the rate, terms, and conditions under which Reasnor provides service to existing customers.[16] Applicants explain that there will be no change in service provider as a result of the transaction.[17] Finally, Applicants state there is no overlap in the service territories of Integrated Path, its affiliates, and Reasnor.[18]

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

[7] *Id*. at 3.

[8] *Id*. at 4.

[9] *Id*.

[10] *Id*.

[11] *Id*.

[12] Supplement at 1.

[13] Application at 5.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id*.

Applicants assert that the proposed transaction would serve the public interest, convenience, and necessity.[19] Applicants do not request streamlined treatment of this application.[20] 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.[21]

Domestic Section 214 Application Filed for the Transfer of Control of Reasnor Telephone Company, LLC from GS Iowa Ventures, LLC to Integrated Path Communications, LLC, WC Docket No. 24-164 (filed May. 28, 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).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: 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: 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, e-mail one copy of each pleading to each of the following:

1) Megan Danner, Competition Policy Division, Wireline Competition Bureau,

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[18] Supplement at 1.

[19] Application at 6.

[20] *Id*. at 10.

[21] 47 CFR § 63.03(c)(1)(v).

megan.danner@fcc.gov;

2) David Krech, Office of International Affairs, david.krech@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.[22] 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 Megan Danner at megan.danner@fcc.gov.

-FCC-

[22] *See* 47 CFR § 1.45(c).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-616
Released: June 27, 2024

CLARIFICATION OF BROADBAND DATA COLLECTION FILING DEADLINE

WC Docket Nos. 11-10, 19-195

On June 25, 2024, the Broadband Data Task Force released a *Public Notice* announcing the opening of the fifth Broadband Data Collection (BDC) filing window for submitting broadband availability and other data as of June 30, 2024.[1] As provided in the Commission's rules,[2] the *Public Notice* stated that the deadline for data submissions is September 1, 2024.[3] In response to questions about the due date for filings, we clarify that consistent with Section 1.4(j) of the Commission's rules, the filing deadline for June 30, 2024, broadband availability and other data will be **September 3, 2024**, the first business day after September 1.[4]

For additional information and questions regarding the Broadband Data Collection, please visit the BDC website at https://www.fcc.gov/BroadbandData.

– FCC –

[1] *Broadband Data Task Force Announces Opening of Fifth Broadband Data Collection Filing Window and Release of Updated Broadband Serviceable Location Fabric*, Public Notice, DA 24-603 (BDTF June 25, 2024) (*Public Notice*).

[2] 47 CFR § 1.7004(b) (specifying that "Digital Opportunity Data Collection filings shall be made each year on or before March 1 (reporting data as of December 31 of the prior year) and September 1 (reporting data as of June 30 of the current year).").

[3] *Public Notice* at 2.

[4] 47 CFR § 1.4(j) (September 1 falls on a Sunday and September 2 is a federal holiday (Labor Day)).

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 24-617
Released: June 27, 2024

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU REQUESTS COMMENT ON IMPLEMENTATION OF THE CYBERSECURITY LABELING FOR INTERNET OF THINGS PROGRAM

PS Docket No. 23-239

Comment Date on Section II.B: (30 days after publication in Federal Register)
Comment Date for All Other Sections: (30 days after publication in the Federal Register)
Reply Comment Date for All Other Sections: (45 days after publication in the Federal Register)

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I. INTRODUCTION AND BACKGROUND

1. In March 2024, the Federal Communications Commission (FCC or Commission) adopted a *Report and Order and Further Notice of Proposed Rulemaking*[1] establishing the framework for the Commission's voluntary cybersecurity labeling program for consumer wireless Internet of Things (IoT) products (IoT Labeling Program). Recognizing the additional work that would need to be done to implement the framework, the Commission delegated authority to the Public Safety and Homeland Security Bureau (PSHSB or Bureau), in coordination with the Office of the Managing Director (OMD), to seek comment on certain additional items to further the efficient and timely rollout of the program.[2] Accordingly, with this *Public Notice*, the PSHSB and OMD request comment on: the format of Cybersecurity Label Administrator (CLA) and Lead Administrator applications; filing fees for CLA applications; criteria for selecting CLAs and the Lead Administrator; CLA sharing of Lead Administrator expenses; Lead Administrator neutrality; processes for withdrawal of CLA and Lead Administrator approvals; recognition of CyberLABs outside the United States; complaint processes; confidentiality and security requirements; and the IoT registry.[3]

II. DISCUSSION

A. Format of CLA and Lead Administrator Applications

2. The *IoT Labeling Order* provides that the Commission will accept applications for entities seeking to qualify as CLAs and those applicants seeking the position of Lead Administrator,[4] but did not specify the format these applications should take. The Bureau believes that CLA/Lead Administrator applications should be submitted in narrative format via email and seeks comment on this tentative determination and any alternative methods or formats for submission. While the Bureau recognizes the organizational value of a fillable form, the information to be submitted by entities seeking to be a CLA/Lead Administrator seemingly lends itself to a narrative discussion of the qualifications and strengths the applicant possesses to support the FCC's IoT Labeling Program. The Bureau still could re-evaluate the need for a fillable form after it has processed and reviewed the initial CLA/Lead Administrator applications and seek comment on a proposed format for such a form.[5] We seek comment on these issues.[6]

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[1] *Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-26, (March 15, 2024) (*IoT Labeling Order*).

[2] *IoT Labeling Order* at 9, para. 13. *See e.g.*, *id.* at 35, para. 61 (delegating authority to PSHSB, in consultation with OIA, to evaluate and establish qualification criteria for entities outside the U.S. to be approved to act as a CLA); *id.* at 36, para. 64 (delegating authority to PSHSB to open the filing window to receive applications for entities seeking recognition as CLA and delegating authority to PSHSB, in consultation with OMD, to take additional actions necessary to preserve the U.S. Cyber Trust Mark under trademark and additional laws). The Commission also delegated authority to the Office of General Counsel (OGC), to the extent necessary, in certain instances. *Id.* at 36, 62, paras. 64, 121.

[3] We note that this *Public Notice* is not meant to address all outstanding implementation issues in connection with the IoT Labeling Program; there are additional implementation matters and specific delegations of authority from the *IoT Labeling Order* that the Bureau will be addressing in subsequent public notices.

[4] *IoT Labeling Order* at 27, 32, 36, paras. 51, 59, 64.

[5] *See* Appendix B (Cyber Label Administrator Application Form).

[6] The Bureau will provide instructions for submission of the CLA/Lead Administrator applications when it issues the public notice to open the application filing window.

B. FCC Filing Fees for CLA and Lead Administrator Applications

3. The *IoT Labeling Order* directs the Bureau, in conjunction with OMD, to adopt procedures and take additional steps, including applicable fees (pursuant to any required public notice and comment), as necessary to ensure compliance with the Communications Act with respect to any rules adopted therein that contemplate the filing of applications directly with the Commission.[7] Section 8 of the Communications Act requires the Commission to assess and collect application fees to cover the costs of the Commission to process applications.[8] Although the Commission has assessed and collected application fees pursuant to section 8 of the Communications Act since 1986,[9] in 2018, Congress modified section 8 of the Communications Act to change the application fee program from a statutory schedule of application fees to a requirement that the Commission update and amend the existing schedule of application fees by rule to recover the costs of the Commission to process applications.[10] Section 8(c) of the Act also requires the Commission to, by rule, amend the application fee schedule if the Commission determines that the schedule requires amendment to ensure that: (1) such fees reflect increases or decreases in the costs of processing applications at the Commission or (2) such schedule reflects the consolidation or addition of new categories of applications.[11]

4. In the *2020 Application Fee Order*, the Commission explained that in accordance with the RAY BAUM'S Act, application fees are based on the "costs of the Commission to process

[7] *IoT Labeling Order* at 32, para. 59 & n.217. The *IoT Labeling Order* directs manufacturers to file applications directly with CLAs to use the U.S. Cyber Trust Mark and, as such, those fees are not contemplated in this inquiry. *See id.* at 45, para. 87. *See also id.* at 47, para. 93 (finding that CLAs may charge reasonable fees for their services and to cover the costs of performing administrative duties).

[8] 47 U.S.C. § 158.

[9] Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272, §§ 5002(e) and (f), 100 Stat. 82, 118-121 (1986). Before that, the Commission had worked to establish application fees, but encountered various challenges to its implementation. *See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Notice of Proposed Rulemaking, 51 Fed. Reg. 25792, paras. 9-20 (July 16, 1986) (brief history of the FCC's application fee program). While the 1986 schedule adopted by Congress was accurate at the time adopted because it was based on cost information provided by the Commission to Congress, the framework did not allow the fee schedule to change as a result of advancements in technology and corresponding changes in Commission procedures and rules. Notably, the Commission was constrained from adding, removing, or otherwise changing the structure or levels of application fees prior to the RAY BAUM'S Act, outside of a ministerial biannual order adopting without notice and comment changes to fees based on the Consumer Price Index.

[10] The Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, or the RAY BAUM'S Act of 2018, amended sections 8 and 9 and added section 9A to the Communications Act of 1934, as amended and provided that such provisions would become effective on October 1, 2018. Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, 132 Stat. 1084, Division P – RAY BAUM'S Act of 2018, Title I, § 103 (2018). 47 U.S.C. § 158. Congress provided, however, that application fees in effect prior to the effective date of the new section 8 would remain in effect until the Commission adjusts or amends such fee. RAY BAUM'S Act of 2018, Title I, § 103(d) (uncodified provisions entitled "Transitional Rules").

[11] 47 U.S.C. § 158(c); *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, Notice of Proposed Rulemaking, 36 FCC Rcd 1618 (2020) (*2020 Application Fee NPRM*); *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 20-270, Report and Order, 35 FCC Rcd 15089 (2020) (*2020 Application Fee Order*) (the *2020 NPRM* and the *2020 Application Fee Order* collectively explain the statutory changes and the methodology for adopting and maintaining the new schedule of application fees and discussing how it will be maintained) (collectively *2020 Application Fee Proceeding*).

applications."[12] Specifically, the Commission establishes an application fee based on direct labor costs of processing a particular application, which are calculated "by multiplying an estimate of the number of hours needed for each task, up through first-level supervisory tasks required to process the application, by an estimate of the labor cost per hour for the employee performing the task and by an estimate of the probability that the task needed to be performed."[13] In the *2020 Application Fee Order*, the Commission adopted five functional categories of fees: Wireless Licensing Fees, Media Licensing Fees, Equipment Approval Fees, Domestic Service Fees, and International Service Fees.[14]

5. The Bureau seeks comment on whether applications filed with the Commission by entities seeking qualification as a CLA or seeking the position of Lead Administrator constitute an application under section 8 of the Act.[15] If so, is there an existing fee category that would cover such applications? If there are no existing fee categories that are applicable, should new application fee categories, "Cybersecurity Label Administrator" and "Lead Administrator," be established? We seek comment on the legal and factual basis for assessing a fee pursuant to section 8 of the Communications Act on these applications.

6. If we conclude that a filing with the Commission seeking to be a CLA or to be the Lead Administrator constitutes an application under section 8 of the Act, then we must consider the cost of processing such a filing to inform what fee the Commission would charge in connection with such a filing. We note that the agency has narrowly construed the scope of what constitutes processing for applications subject to fees. Applying the Commission's framework for the costs of processing applications adopted in the *2020 Application Fee Order*, we believe that the processing of CLA applications, including the initial conditional approval and subsequent review required after the CLA notifies the Commission that it has obtained the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) 17065 accreditation, consists of engineer and engineer supervisory review, and attorney and attorney supervisory review.

7. As detailed below, the Bureau estimates that the time it will take to process each CLA application will be 15 hours and the time it will take to process each Lead Administrator application will be 8 hours. We estimate the labor cost per hour for the various 2024 general schedule pay grades of the employees that process applications based on the current pay table for Washington, DC, at the step 5 level, we estimate overhead costs as 20% of the salary level also per that rule, and we estimate each employee works 2,087 hours in one year. We also round the fee to the nearest $5.00 increment as required by section 8 as amended.[16] We seek comment on this approach.

8. The Bureau estimates that each CLA application will require 10 hours of engineering review at the GS-15 level, 2 hours of engineering supervisory review at the GS-15 level; 2 hours of attorney application review at the GS-12 level, and 1 hour of attorney supervisory review at the GS-15 level. The estimated total labor costs (including 20% overhead) for the engineering review (GS-15, step

[12] *2020 Application Fee Order* at 3, para. 5; 47 U.S.C. § 158(a).

[13] *2020 Application Fee Order* at 5, para. 12. The Commission explained why it viewed processing as a limited set of activities for purposes of establishing a fee under section 8 and how its conclusions are bolstered by limitations on review included in the statute. *2020 Application Fee NPRM* at 63, para. 230 & n.204.

[14] *2020 Application Fee Order* at 6-43, paras. 16-135.

[15] 47 U.S.C. § 158(c). Section 8(b)(1) of the Communications Act also requires the Commission, in every even-numbered year, to adjust the schedule of application fees to reflect increases or decreases in the Consumer Price Index (CPI).

[16] 47 CFR § 0.467(a)(2).

5) of each CLA application is $1,282.20 (12 engineering hours * 106.85 = 1,282.20).[17] The estimated labor costs (including 20% overhead) for the attorney application review (GS-12, step 5) for each CLA application is $129.28 (2 hours * $64.64 = $129.28).[18] The estimated total labor costs (including 20% overhead) for the attorney supervisory review (GS-15, step 5) for each CLA application is $106.85 (1 hour * 106.85 = 106.85).[19] The total labor costs per CLA application is $1,518.33 (1,282.20 + 129.28 + 106.85). Based on these hourly rates and the estimated time for processing each CLA application, the Bureau proposes that the filing fee for a CLA application is $1,520 and we seek comment on this proposal.

9. Some entities seeking to qualify as a CLA may include additional information in their application seeking the position of Lead Administrator, which will similarly require additional engineering and engineering supervisory review, and attorney application and attorney supervisory review. The Bureau estimates that each Lead Administrator application, which occurs after the CLA application has already been reviewed, will require 4 hours of engineering review at the GS-15 level, 1 hour of supervisory engineering review at the GS-15 level, 2 hours of attorney application review at the GS-12 level, and 1 hour of attorney supervisory review at the GS-15 level.

10. We propose that applications for Lead Administrator must include an additional fee of $770 to cover the FCC's costs of processing Lead Administrator applications. The Bureau seeks comment on this determination. The Bureau estimates that each Lead Administrator application will require 5 hours of engineering application review at the GS-15, step 5 level at an hourly rate of $106.85 (5 * 106.85 = 534.25), 2 hours of attorney application review at the GS-12, step 5 level at an hour rate of $64.64 (2 * 64.64 = 129.28) and 1 hour of attorney supervisor review at the GS-15, step 5 level at an hourly rate of $106.85 (1 * 106.85 = 106.85) for a total of $770.38 (534.25 + 129.28 + 106.85). The Bureau seeks comment on the estimation of time to process the Lead Administrator applications and the proposed fee for processing the application. Our proposals for processing fees are based on averages. Given that these are new categories of applications, at this time, we do not believe we have a factual basis to assess fees for administrative updates, minor changes or updates to a CLA application, or for entities seeking to withdraw as a CLA. We also do not believe we have a factual basis to assess fees for administrative updates, minor changes, or updates to a Lead Administrator application, or for an entity seeking to withdraw a Lead Administrator. Until we have experience with processing these new types of applications, it would be difficult to calculate identifiable direct costs beyond those included in the calculation of the initial application fee.[20] For both the CLA and Lead Administrator applications, we seek comment on whether we have included in our estimates the appropriate steps under the Commission's *2020 Application Fee Order* framework to determine processing costs. If commenters

[17] The annual pay for a GS-15, step 5 in the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA Locality Pay area is $185,824. Overhead costs are $37,164.80 (20% * 185,824 = 37,164.80). The hourly rate of a GS-15, Step 5 including overhead costs based on 2,087 annual hours is $106.85 (185,824 + 37,164.80 = 222,988.80; 222,988.80/ 2,087 hours = 106.85). The Bureau estimates that each CLA application will require 12 hours of engineering review at the GS-15, step 5 level.

[18] The annual pay for a GS-12, step 5 in the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA Locality Pay area is $112,425. Overhead costs are $22,485.00 (20% * 112,425 = 22,485). The hourly rate of a GS-12, step 5 including overhead costs based on 2,087 annual hours is $64.64 (112,425 + 22,485 = 134,910; 134,910/ 2,087 64.64). The Bureau estimates that each CLA application will require 2 hours of attorney review at the GS-12, step 5 level.

[19] The hourly rate of a GS-15, step 5 attorney is the same as the hourly rate of a GS-15, step 5 engineer, which is $106.85. The Bureau estimates that each CLA application will require 1 hour of attorney review at the GS-15, step 5 level.

[20] *See 2020 Application Fee Order* at 9, para. 25.

view our estimates to be over or under inclusive, to the extent practicable, commenters should explain their views by including reference to any application fees adopted in the 2020 proceeding that the commenter considers analogous to the CLA and/or Lead Administrator application.

C. Bureau Selection of Cybersecurity Label Administrators and the Lead Administrator

11. The *IoT Labeling Order* provides that the Bureau will release a public notice opening a filing window for the acceptance of CLA applications, which will include an option for CLA applicants to indicate they also seek the role of Lead Administrator.[21] The *IoT Labeling Order* specifies the expertise and qualifications each applicant for CLA[22] and Lead Administrator must demonstrate[23] and delegates to the Bureau the authority to adopt additional criteria and administrative procedures necessary to efficiently select one or more independent, non-governmental entities to act as CLA(s) and Lead Administrator.[24] The Bureau seeks comment on whether there are additional areas of expertise or specific requirements a CLA applicant should be required to demonstrate in addition to those listed in the Order.[25] The Bureau seeks comment on what additional criteria, if any, the Bureau should take into consideration during the Lead Administrator selection process. What additional criteria would help us ensure that CLA(s) and the Lead Administrator are able to advance the Commission's policy objective to raise consumer confidence with regard to the cybersecurity of consumer wireless IoT products while strengthening the nation's cybersecurity posture? How should the Bureau differentiate between Lead Administrator candidates for selection? Should all selection criteria be weighted the same? If not, which criteria should carry more?

D. Lead Administrator Expenses Shared Among CLAs

12. The *IoT Labeling Order* "expect[ed]" that the Lead Administrator's expenses "in performing its duties on behalf of the program as a whole" will be "shared among CLAs as a whole," but does not provide a mechanism or details for such sharing.[26] The Bureau seeks comment on the most effective mechanism for CLAs to share the Lead Administrator's expenses, including whether and how to distinguish costs associated with identified Lead Administrator responsibilities, potential changes in the Lead Administrator, and the timing of reimbursement for such expenses. Commenters should also consider whether and how any cost sharing mechanism might change after the initial rollout of the program, including any rationale for doing so. Alternatively, we seek comment on whether the Lead Administrator is in the best position to propose how costs should be shared among CLAs. To the extent commenters have estimates of the Lead Administrator's expenses, we invite them to share such estimates. In addition, we seek comment on the categories of expenses that should be attributable to the Lead Administrator's responsibilities under this program. What auditing requirements should be required of the Lead Administrator? Are there financial controls, or other controls, the Commission has adopted in the case of other program administrators that it relies on that would be appropriate in this context? We

[21] *IoT Labeling Order* at 36, para. 64. The Bureau, in coordination with OMD and OGC will review these applications and determine which applications meet the CLA requirements and which CLA applicant best meets the requirements of Lead Administrator. *See id.*

[22] *Id.* at 32, para. 59.

[23] *Id.* at 33, para. 59.

[24] *Id.* at 36, para. 64.

[25] The *IoT Labeling Order* contemplates the acceptance of applications for CLAs located outside the United States after appropriate international agreements or other appropriate prerequisites are in place. *See id.* at 35, para. 61 (delegating authority to the Bureau in consultation with the Office of International Affairs (OIA), to seek comment on additional qualification criteria for such CLAs at that time).

[26] *Id.* at 47, para. 93.

note that the *IoT Labeling Order* does not contemplate other funding sources for the Lead Administrator's expenses, beyond sharing "among CLAs as a whole."

E. Lead Administrator Neutrality

13. The Commission recognized the competitive implications of an entity being both the Lead Administrator and a CLA and, as such, delegated authority to the Bureau to review, seek public comment on, and approve/disapprove the Lead Administrator recommendations.[27] We seek comment on whether there are safeguards the Bureau might adopt to ensure the stakeholder process remains competitively neutral and the recommendations the Lead Administrator makes to the Commission (*e.g.*, standards and testing criteria and label design) are stakeholder consensus-based and competitively neutral. For example, are there additional or different safeguards the Commission has adopted in the case of other program administrators that it relies on that would be appropriate in this context?[28] We seek comment on whether the Bureau should adopt additional safeguards to ensure fulsome and broad stakeholder engagement in this process. Are there other safeguards the Bureau should adopt to ensure the Lead Administrator, who is potentially a competitor of other CLAs, does not have an unfair economic, or other, competitive advantage?

F. Withdrawal of CLA and Lead Administrator Approval

14. The *IoT Labeling Order* provides that the Commission will withdraw its approval of a CLA if the CLA's designation or accreditation is withdrawn, if there is just cause for withdrawing approval, or upon request of the CLA.[29] The Commission will notify a CLA in writing of its intention to withdraw or limit the scope of the CLA's approval and provide at least 60 days for the CLA to respond.[30] The Bureau will announce the withdrawal of a CLA approval by public notice. The *IoT Labeling Order* also delegates authority to the Bureau to "manage changes in the Lead Administrator."[31] We believe the same processes should be applied to the withdrawal of the Lead Administrator. We seek comment on this tentative determination. The Bureau also seeks comment on steps that should be taken to replace the Lead Administrator. Should a replacement Lead Administrator be chosen by the Bureau from among the remaining accredited and recognized CLAs based on the same criteria and procedures used to select the original Lead Administrator? Should the Commission open a new filing window for CLAs seeking to be Lead Administrator? What other procedures, if any, should the Commission adopt to ensure the efficient replacement of a Lead Administrator? Should the Bureau set a term for the Lead Administrator and at the end of this term open the position up to new applications? If yes, what term is appropriate? Commenters may provide any other additional information that is pertinent to this inquiry.

G. Recognition of CyberLABs by Lead Administrator Located Outside the United States

15. The *IoT Labeling Order* provides that CyberLABs may be located outside the United States provided they are accredited to ISO/IEC 17025 and the FCC's program scope and delegates

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[27] *See id.* at 32, 36, paras. 58, 64 & n.237 (delegating authority to the Bureau to review Lead Administrator recommendations and recognizing the potential for anticompetitive preferences in recommendations made to the Bureau if a CLA is chosen as Lead Administrator).

[28] *See, e.g.*, 47 CFR § 15.715 (white space database administrator); *id*., part 52, subpart B (numbering administrators); *id*., part 54, subpart H (universal service administrator); *id*. § 64.623 (TRS administrators); *id*. § 96.63 (spectrum access system administrators).

[29] *See* 47 CFR § 8.220(e)(2).

[30] *Id.*

[31] *IoT Labeling Order* at 27, para. 51.

authority to the Bureau to adopt any additional criteria or procedures necessary with respect to their use.[32] We seek comment on whether there are additional procedures or criteria that should be considered when the Lead Administrator recognizes labs located outside the United States. Are there existing international frameworks in other areas that might provide an appropriate model to allow for recognition of a lab located outside of the United States?

H. Complaints

16. The Commission is the ultimate arbiter of complaints submitted, whether directly to the Commission, CLAs, the Lead Administrator, CyberLABs, or any other third-party entity, alleging improper, nonconforming, and/or unauthorized use of the U.S. Cyber Trust Mark. The Commission will actively and diligently enforce the IoT Labeling Program's requirements to maintain the integrity of the FCC IoT Label, the U.S. Cyber Trust Mark, and the program. The *IoT Labeling Order* emphasized that deceptive or misleading use of the FCC IoT Label or U.S. Cyber Trust Mark are prohibited,[33] and set out a 20-day cure period for grantees to investigate complaints of non-compliance and report the results to the Bureau.[34] The *IoT Labeling Order* also determined that the Commission and CLAs will receive complaints of noncompliant displays of the Cyber Trust Mark and delegated authority to the Bureau, in coordination with the Consumer and Governmental Affairs Bureau, to determine the process for receiving and responding to complaints.[35] The Lead Administrator will receive complaints about the registry and coordinate with manufacturers to resolve any associated technical problems,[36] and the Lead Administrator is also responsible for interfacing with the Commission on behalf of CLAs, including as it relates to complaints.[37] We seek comment on the specific processes for receiving and responding to complaints associated with the IoT Labeling Program. Should entities file complaints with the Bureau, in addition to submitting them directly to a CLA, including the Lead Administrator? If complaints are filed with the Commission, should complaints associated with grantees that applied for authorization to use the FCC IoT Label be initially referred to the CLA that reviewed the original application for investigation and a determination of whether the application was approved or denied? Should these processes be different if the complaint involves a CyberLAB located outside of the United States? If so, what is the legal basis for these differences? In situations where there is no associated CLA, such as when a product displays the mark without permission, we believe that complaints of fraudulent or deceptive use of the Cyber Trust Mark by those entities that never applied for authorization (i.e., where there is no applicable CLA) should be filed directly with the Commission. We seek comment on this belief. The Commission determined in the *IoT Labeling Order* that a grant of authorization to use the FCC IoT Label is automatically terminated upon notice by the Bureau following submission of a complaint of non-compliance, if that non-compliance has not been adequately corrected or addressed in a report describing actions taken to correct the deficiencies within 20 days.[38] We seek comment on what requirements should follow from such a termination of authority.[39] Should the Commission adopt disqualification procedures similar to ENERGY

[32] *Id.* at 41, para. 78. *See also id.* at 41, para. 77 (noting that the Commission determined that the Lead Administrator will not recognize, for purposes of the IoT Labeling Program, any testing lab that is an entity, its affiliate, or subsidiary owned or controlled by a "foreign adversary" country, as defined by the Department of Commerce's rule, 15 CFR § 7.4).

[33] 47 CFR § 8.213(b).

[34] 47 CFR § 8.214.

[35] *IoT Labeling Order* at 64, para. 126.

[36] 47 CFR § 8.221(a)(8).

[37] 47 CFR § 8.221(a)(1).

[38] *IoT Labeling Order* at 65, para. 127.

[39] *See id.* at 66, para. 130.

STAR's, which include ceasing shipments of units displaying the label, ceasing the labeling of associated units, removing references to the label from marketing materials, covering or removing labels on noncompliant units within the brand owner's control, and conducting retail store level assessments to identify mislabeled products?[40]

I. Confidentiality and Security Requirements

17. The Bureau anticipates that the manufacturer applications submitted to CLAs will contain commercially sensitive and proprietary information that the manufacturers customarily treat as confidential, including, but not limited to, test reports. The Bureau proposes that these applications should be treated as presumptively confidential and CLAs should be required to maintain this confidentiality. The Bureau seeks comment on this tentative determination. We also seek comment on whether CLA applications submitted to the Commission will likewise contain commercially sensitive and proprietary information that is routinely treated as confidential and thus should be treated as presumptively confidential.[41] Are certain aspects of either of these applications not appropriately treated as presumptively confidential? Are there public interest and/or transparency reasons to make CLA applications and/or Lead Administrator applications publicly available? Should only those CLA applications that are approved be publicly available, while CLA applications that are denied be kept confidential?

18. Information submitted by manufacturers to CLAs, the Lead Administrator, or CyberLABs, in the course of seeking authority to use the FCC IoT Label, including but not limited to applications and test reports, and information submitted to the Lead Administrator by a lab seeking recognition as a CyberLAB (i.e., authorized to conduct conformance testing under the Commission's IoT Labeling Program) are not agency records of the Commission. Only information submitted to the Commission, such as submissions in furtherance of applications by entities seeking authority from the Commission to be a CLA and/or Lead Administrator, are records of the Commission.

19. The Federal Information Security Modernization Act of 2014 (FISMA)[42] requires, among other things, that each Federal agency provide protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of "information collected or maintained by or on behalf of the agency" and "information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency."[43] We tentatively conclude that these requirements attach to the Lead Administrator and CLAs, who both collect and maintain information and operate information systems on behalf of the FCC. We seek comment on this tentative conclusion. We note that in the *IoT Labeling Order*, the Commission described that each entity seeking authority to act as a CLA should demonstrate expertise in, among other things, "[f]ederal law and guidance governing the security and privacy of agency information systems,"[44] which we believe encompasses FISMA and related guidance from the Office of Management and Budget and publications from the National Institute of Standards and Technology (NIST). If these requirements

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[40] *See* ENERGY STAR, *Disqualification Procedures ENERGY STAR® Products* (Feb. 28, 2018), https://www.energystar.gov/sites/default/files/asset/document/Disqualification_Procedures_0.pdf.

[41] The Bureau has an obligation to publish data maintained by the Commission that would be subject to disclosure under the Freedom of Information Act (FOIA). *See IoT Labeling Order* at 84, para. 173, and the OPEN Government Data Act, Title II of the Foundations for Evidence-Based Policymaking Act of 2018, Pub. L. No. 115-435 (2019), §§ 201-202.

[42] Pub. L. No. 113-283, 128 Stat. 3073.

[43] 44 U.S.C. § 3554(a)(1)(A).

[44] *IoT Labeling Order* at 32, para. 59

are applicable to the Lead Administrator and CLAs, would they incur additional costs, and if so, what are they? What benefits would attach to FISMA compliance with respect to the confidentiality, integrity, and availability of information and information systems if FISMA and related requirements are applicable to the Lead Administrator and CLAs? Are there additional security requirements the Commission should require of the databases that are used in support of the IoT Labeling Program?

J. Registry

20. The Commission determined in the *IoT Labeling Order* that the FCC IoT Label must include the Cyber Trust Mark and a QR Code that links to a dynamic, decentralized, publicly available registry containing information supplied by entities authorized to use the FCC IoT Label (*e.g.*, manufacturers) through a common Application Programming Interface (API).[45] The Commission agreed that it should use a third-party to host and manage the registry due to the resources required to establish the registry; determined that the Lead Administrator is in the best position to interface with manufacturers to ensure the smooth operation of the registry; and directed the Lead Administrator to receive and address any technical issues that arise in connection with the registry's API and displaying information from the registry to the consumer when they present the QR Code. Further, as detailed below, the *IoT Labeling Order* envisioned a registry that supports different presentation options.[46]

21. We seek comment on what, if any, registry disclosure fields, in addition to those already required by the *IoT Labeling Order*, would be beneficial to consumers.[47] Should manufacturers be required to list the sensors contained in the complying product, such as cameras, microphones, and location tracking devices? Should manufacturers be required to disclose what data is collected by those sensors, and whether that data is shared with third parties?[48] The Commission also recognizes some products/product classes may benefit from additional data elements being disclosed in the registry.[49] For example, the Commission observed that "the information contained in the registry for a particular IoT product or product class may also depend on the standards and testing procedures adopted for each particular IoT product."[50] The Commission also recognized "that some of the information recommended by NIST in its consumer education recommendations… may be valuable for consumers to see in the registry."[51] Other possible candidates for inclusion identified in the *IoT Labeling Order* included, "manufacturer's access control protections (*e.g.*, information about passwords, multi-factor authentication), whether or not the data is encrypted while in motion and at rest (including in the home,

[45] *Id.* at 57, para. 111. The goal of the registry is to assist the public in understanding security-related information about the products that bear the Cyber Trust Mark. *Id*. at 57, para. 113.

[46] *Id*.

[47] *See id.* at 57-58, para. 113. The Commission delegated authority to the Bureau to seek comment on the need for additional data fields beyond the baseline of necessary information that must be displayed for an IoT product in the registry which includes: disclosure of product name, manufacturer name, date of authorization, contact information for the CLA and CyberLAB, instructions on how to change the default password, information on how to configure the device securely, information as to whether software updates are automatic and how to access updates if not, the minimum support period, and whether the manufacturer maintains a Hardware Bill of Materials (HBOM) and/or a Software Bill of Materials (SBOM). *Id*. at 61, para. 118.

[48] Regarding whether to disclose whether data is shared with third parties, commenters should consider security/privacy issues and if data should be replicated; and if the data should be replicated in multiple repositories – by the relevant CLA(s) or vendors, for example – and publicly accessible via a single query point? *See id.* at 62, para. 121.

[49] *Id.* at 61, para. 118.

[50] *Id.*

[51] *Id.*

app, and cloud), patch policies, and security or privacy information."[52] Are there particular registry data elements that would support the product's security features for those using assistive technologies? Are there additional registry disclosure fields that are necessary for specific products/product classes, based on those or other considerations and if so, what they should be?

22. The Commission also delegated authority to the Bureau to establish the structure of the registry; and identify the common API and how the API should be structured and used.[53] To this end, we seek comment generally on the structure, format, and maintenance of the registry, and how the queried registry data will be displayed to the consumer.[54] The Bureau believes that the manufacturer would be responsible for their own product data and keeping the data current. We also believe that the data would be hosted by the manufacturers or in partnership with their selected third party and made available through the common API that is secure by design[55] and seek comment on these tentative determinations. How should the API access be best secured to ensure its integrity and availability? What controls (*e.g.*, rate limits for use of the API) should be required or allowed, and where would those controls best be implemented? How should manufacturers maintain and implement interactions with their product's data in connection with the API? Should manufacturers be responsible for maintaining and implementing the API in connection with its interactions with the registry data, and if so, how? How should the Commission reduce burdens on manufacturers in supporting the decentralized registry? We seek comment on how often the registry data should be updated and on how costs involved in maintaining the registry should be handled. We invite commenters to provide any other technical information to be considered in establishing the registry.

23. The Bureau seeks comment on its tentative determination that at least three different registry display options may be supported:

- product specific data hosted by the manufacturer or their selected third party;
- vendor data provided for presentation by a commercial retailer; and
- aggregated data provided for presentation of multiple products.

Are these presentation options consistent with the goals of the *IoT Labeling Order* that the registry should enable the display to the consumer of required information about individual products, while providing the flexibility to support the envisioned use cases? Are there other presentation options that we should consider for the display or consumption of registry information in determining the structure and technical details involved with the operation of the registry? Should the registry meet certain performance metrics so that poor user experience does not discourage use? Who is in the best position to manage access to the distributed registry as well as access to the API and the level of access available?

24. The Bureau seeks comment on its tentative determination that there should be a specific aggregated data "landing page"[56] for the registry, which should be a ".gov" domain to bring the consumer additional trust and validity to the IoT Labeling Program.[57] The Bureau also seeks comment on the party

[52] *Id*.

[53] *Id*. at 62, para. 121.

[54] *Id*.

[55] *Id*.

[56] The "landing page" is envisioned to be a webpage/site that provides search capabilities to aggregate data pulled from the distributed registry and presents data for individual products or multiple products in a common format as prescribed by the *IoT Labeling Order*.

[57] *See also* OMB Memorandum M-23-10, *The Registration and Use of .gov Domains in the Federal Government* (Feb. 8, 2023).

that should be responsible for hosting this landing page. Is the Lead Administrator in the best position to host the landing page? What additional costs are involved with this responsibility? What security procedures must be adopted by that third party? Should the landing page meet certain performance metrics so that poor user experience does not discourage use? Are there additional security or privacy requirements arising from Federal law that are applicable to the registry? Should the registry operator(s), as appropriate, be required to implement adequate security, privacy, and availability controls to meet FISMA low/moderate standards, or a commercial equivalent?

III. PROCEDURAL MATTERS

25. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA),[58] 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."[59] Accordingly, we have prepared a Supplemental Regulatory Flexibility Analysis (Supplemental IRFA) concerning the possible impact of the rule and policy changes contained in this *Public Notice*. The Supplemental IRFA is set forth in Appendix A. Written public comments are requested on the Supplemental IRFA. Comments must have a separate and distinct heading designating them as responses to the Supplemental IRFA and must be filed by the deadlines for comments on the first page of this document.

26. *Paperwork Reduction Act.* The *Public Notice* may contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995.[60] All such new or modified information collection requirements will be submitted to OMB for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies are invited to comment on any new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002,[61] we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."[62]

27. *Providing Accountability Through Transparency Act.* Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of this document will be available on https://www.fcc.gov/proposed-rulemakings.

28. *Ex Parte Rules – Permit but Disclose.* This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[63] 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,

[58] *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).

[59] *Id.*

[60] Pub. L. No. 104-13.

[61] Pub. L. No. 107-198.

[62] 44 U.S.C. § 3506(c)(4).

[63] *Id.* §§ 1.1200 *et seq.*

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.

29. *Comment Period and 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 FCC's Electronic Comment Filing System (ECFS).

- Commenting parties may file comments in response to this Notice in PS Docket No. 23-239.
- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: https://www.fcc.gov/ecfs. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).
- 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.

30. *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), 202-418-0432 (TTY).

31. *Confidential Treatment*. Parties wishing to file materials with a claim of confidentiality should follow the procedures set forth in Section 0.459 of the FCC's rules. Casual claims of confidentiality are not accepted. Confidential submissions may not be filed via ECFS but rather should be filed with the Secretary's Office following the procedures set forth in 47 CFR § 0.459. Redacted versions of confidential submissions may be filed via ECFS. Parties are advised that the FCC looks with disfavor on claims of confidentiality for entire documents. When a claim of confidentiality is made, a public, redacted version of the document should also be filed.

32. *Digital Equity and Inclusion*. The Commission, as part of its continuing effort to advance digital equity for all,[64] including people of color, persons with disabilities, persons who live in rural or

[64] 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 (continued….)

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[65] and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

33. *Further Information*. For further information regarding this proceeding, please contact Tara B. Shostek, Attorney Advisor, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau at (202) 418-8130 or Tara.Shostek@fcc.gov.

IV. ORDERING CLAUSES

34. Accordingly, IT IS ORDERED, pursuant to sections 1, 2, 4(i), 4(n), 302, 303(r), 312, 333, and 503, of the Communications Act of 1934, as amended that this *Public Notice* IS HEREBY ADOPTED.

35. IT IS FURTHER ORDERED that the Commission's Office of the Secretary, SHALL SEND a copy of this *Public Notice*, including the Supplemental Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

(Continued from previous page)
sex." 47 U.S.C. § 151.

[65] 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 (January 20, 2021).

APPENDIX A

Supplemental Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] the Bureau has prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules discussed in the *Public Notice* to supplement the Commission's Initial and Final Regulatory Flexibility Analyses completed in the *IoT Labeling NPRM* released in August 2023,[2] and the *IoT Labeling Order* released in March 2024.[3] Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same deadline for comments specified on the first page of this *Public Notice*. The Bureau will send a copy of the *Public Notice*, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[4] In addition, the *Public Notice* and Supplemental IRFA (or summaries thereof) will be published in the *Federal Register*.[5]

2. *Need for, and Objectives of, the Proposed Rules.* The *IoT Labeling Order* adopted a voluntary cybersecurity labeling program for consumer Internet of Things (IoT) products that will provide consumers with an easy-to-understand indicator of a product's relative cybersecurity and improve consumer confidence and understanding of IoT product cybersecurity. The IoT Labeling Program will authorize qualifying IoT products to display the FCC IoT Label, which includes the U.S. Cyber Trust Mark and a QR Code that links to a registry with product-specific consumer-friendly information. The program will adopt standards and testing procedures based on the National Institute of Standards and Technology (NIST) Core Baseline for Consumer IoT Products,[6] and it will be supported by Cybersecurity Label Administrators (CLAs) and recognized Cybersecurity Testing Laboratories (CyberLABs). A Lead Administrator will be chosen by the Commission from among the CLAs and will be responsible for collaborating with stakeholders to make recommendations including technical cybersecurity standards and testing procedures with which IoT products must comply to be authorized to use the FCC IoT Label, the label design, and a consumer education campaign, to be reviewed by the Commission.

3. In the *IoT Labeling Order*, the Commission delegated authority to the Public Safety and Homeland Security Bureau (Bureau) to seek comment on certain additional items to further the efficient and timely rollout of the program.[7] This *Public Notice* seeks comment on a number of those items, including the format of CLA and Lead Administrator applications; filing fees for CLA applications; criteria for selecting CLAs and the Lead Administrator; CLA sharing of Lead Administrator expenses; extensions of time to become accredited; Lead Administrator neutrality; complaint processes; and the IoT registry. The proposals considered in this *Public Notice* will contribute to the voluntary IoT Labeling

[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, Pub. L. No. 104-121, 110 Stat. 857 (1996).

[2] *See Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Notice of Proposed Rulemaking, FCC 23-65, Appx. B at 35-42, paras. 1-27 (2023) (*IoT Labeling NPRM*).

[3] *See Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Report and Order and Further Notice of Proposed Rulemaking, FCC 24-26, Appx. B at 104-112, paras. 1-28 (2024) (*IoT Labeling Order).*

[4] *See* 5 U.S.C. § 603(a).

[5] *See id*.

[6] NIST, NISTIR 8425, Profile of the IoT Core Baseline for Consumer IoT Products (2022), https://nvlpubs.nist.gov/nistpubs/ir/2022/NIST.IR.8425.pdf.

[7] *See IoT Labeling Order* at 9, para. 13.

Program and further the Commission's objective to provide better information to consumers about the cybersecurity of the IoT products they use, and bolster the cybersecurity of the nationwide IoT ecosystem.

4. *Legal Basis*. The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(n), 302, 303(r), 312, 333, and 503, of the Communications Act of 1934, as amended.[8]

5. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, adopted.[9] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[10] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act."[11] A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[12]

6. As noted above, Regulatory Flexibility Analyses were incorporated into the *IoT Labeling NPRM* and the *IoT Labeling Order*. In those analyses, the Commission described in detail the small entities that might be significantly affected. Accordingly, in this *Public Notice*, for the Supplemental IRFA, we incorporate by reference the descriptions and estimates of the number of small entities from the previous Regulatory Flexibility Analyses in the *IoT Labeling NPRM* and the *IoT Labeling Order*.[13]

7. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities*. The IoT Labeling Program will be voluntary, so small entities who do not participate in the program will not be subject to any new or modified reporting, recordkeeping, or other compliance obligations. Small entities that choose to participate in the program will incur recordkeeping, reporting, and other compliance obligations necessary to test their IoT products to demonstrate compliance with the program requirements. Small entities that choose to participate by applying to be a CLA or CyberLAB will also incur recordkeeping, reporting, and other compliance obligations. We note that obligations for small entities and other applicants were detailed and adopted by the Commission in the *IoT Labeling Order*. The proposals and discussions in this *Public Notice* seek comment on additional details to the program, including application, selection, and replacement for CLAs and the Lead Administrator as needed, the complaints process, and the registry.

8. Small entities will need to keep the records necessary to demonstrate initial and continued compliance with program requirements, as an IoT product manufacturer or a CLA, including test reports, records related to potential complaint investigations, and data disclosures for the registry, among others. More specifically, small and other grantees of authority to use the FCC IOT Label may also be subject to additional reporting, recordkeeping, and/or other compliance requirements related to the IoT registry in

[8] 47 U.S.C. §§ 151, 152, 154(i), 154(n), 302a, 303(r), 312, 333, 503; the IoT Cybersecurity Improvement Act of 2020, 15 U.S.C. § 278g-3a to § 278g-3e.

[9] 5 U.S.C. § 603(b)(3).

[10] *Id.* § 601(6).

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

[12] 15 U.S.C. § 632.

[13] *See IoT Labeling NPRM*, Appx. B at 35-42, paras. 1-27; *IoT Labeling Order*, Appx. B at 104-112, paras. 1-28.

light of the our inquiry and request for comments in the *Public Notice* on (1) what, if any additional registry disclosure fields would benefit consumers, and (2) whether to require manufacturers to list the sensors contained a complying product, identify what data is collected by those sensors, and disclose whether that data is shared with third parties.

9. The *Public Notice* calculates and proposes that small and other CLA and Lead Administrator applicants be subject to an application filing fee of $1,520 for CLA Applicants and an additional $770 for CLA applicants that apply to be a Lead Administrator, to cover the Commission's costs of processing these applications. With regard to other costs that could result from this proceeding, at this time the record does not include sufficient cost information to allow the Bureau to quantify the costs of compliance for small entities, including whether it will be necessary for small entities to hire professionals to comply with the proposals and other matters upon which we seek comment, if adopted. To help the Bureau more fully evaluate the cost of compliance for small entities should its proposals be adopted, in this *Public Notice*, we request comments on the implications of our proposals and whether there are more efficient and less burdensome alternatives (including cost estimates) for the Bureau to consider. We expect the information we received in comments to help the Bureau identify and evaluate relevant matters for small entities, including compliance costs and other burdens that may result from the proposals and inquiries we make in the *Public Notice*.

10. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*. The RFA requires an agency to describe any significant, specifically small businesses, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."[14]

11. For the IoT Labeling Program to be meaningful to consumers, the requirements for an IoT product to be granted authority to use the FCC IoT Label must be uniform for small businesses and other entities. The Bureau maintains the view expressed in the *IoT Labeling Order* that the significance of mark integrity, and building confidence among consumers that devices and products bearing the FCC IoT Label can be trusted to be cyber secure, necessitates adherence by all entities participating in the program to the same rules, regardless of size.

12. In the *Public Notice*, steps taken by the Bureau which should minimize the economic impact for small entities include our decision not to assess fees for administrative updates, minor changes or updates to a CLA application, or for entities seeking to withdraw as a CLA. The Bureau sought comment on the format of CLA and Lead Administrator applications, as well as the fees associated with those applications, and additional areas of expertise or specific requirements a CLA applicant should be required to demonstrate. We also considered and sought comment on other aspects of the Lead Administrator's roles and responsibilities, including the most effective mechanism for CLAs to share in funding the Lead Administrator's expenses, safeguards the Bureau might adopt to ensure Lead Administrator neutrality, and steps to replace the Lead Administrator as needed. Following our conclusion that CLA and Lead Administrator applications are not covered by any existing Commission fee categories and therefore new categories should be established, we alternatively inquired and sought comment on whether, and which existing Commission fee category do CLA and Lead Administrator applications fall within, if any. Additionally, the Bureau considered whether there are additional procedures or criteria that should be considered when recognizing CyberLABs located outside the United

[14] 5 U.S.C. § 603(c)(1)-(4).

States. As stated in the *IoT Labeling Order*, declining to require CyberLABs to be physically located in the U.S. provides more testing lab options for small and other entities. In comments, small entities can identify other requirements or criteria that could minimize the economic impact as IoT product manufacturers submitting applications to a CLA or CyberLAB, or as a prospective CLA or CyberLAB themselves.

13. The Bureau also sought comment on the process for receiving and responding to complaints associated with the program, as well as what requirements should follow from a termination of authority to use the FCC IoT Label due to noncompliance. We asked whether complaints associated with grantees that applied for authorization to use the FCC IoT Label should be initially referred back to the CLA that reviewed the original application. We believe this would be less costly to small entities than going through a separate entity for investigation of complaints. Small entities can also address in comments whether the termination requirements presented would create significant economic impacts and identify alternatives that may reduce those costs.

14. Additionally, the Bureau considered and sought comment in the *Public Notice* on details related to the publicly accessible IoT registry, including additional data disclosure fields, structure and format of the registry, and the Bureau's determination that the registry landing page should be a ".gov" domain. We considered and asked what additional fields would be beneficial to consumers, such as information related to sensors contained in the product and elements that would support users of assistive technologies. We also considered and asked how the common application programming interface (API) that makes manufacturer data available to consumers should be funded and what responsibilities manufacturers should have for maintaining and implementing it. Small entities can specify in comments whether additional aspects of the registry would create significant economic impacts and identify alternatives that may reduce those costs. Regarding the landing page, we asked what additional costs would be associated with hosting such a page. While small entities choosing to participate in the program would have to make required registry data available through the common API, allowing grantees to report information through the API alleviates the need for additional notification requirements which would increase costs for small entities.

15. The Bureau also proposed in the *Public Notice* that manufacturer applications submitted to CLAs, including but not limited to test reports, are presumptively confidential which should benefit small manufacturers, and sought comment on this approach. We tentatively concluded the Lead Administrator and CLAs are required to comply with the Federal Information Security Management Act of 2002 (FISMA),[15] and we sought comment on whether there are additional costs associated with such compliance. In comments, small entities can identify which of these proposals raised in this *Public Notice* are particularly difficult or costly for them and how different, simplified, or consolidated requirements would address those burdens. They can also propose any modifications to the proposals that would their minimize anticipated economic impact. The Bureau expects to consider more fully the economic impact on small entities following its review of any comments filed in response to the *Public Notice*, including any costs and benefits information we receive. The Bureau's evaluation of the comments filed in this proceeding will shape the final alternatives we consider, the final conclusions we reach, and any final actions we ultimately take in this proceeding to minimize any significant economic impact that may occur on small entities.

16. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

[15] 44 U.S.C. §§ 3541, *et seq*.

APPENDIX B

FEDERAL COMMUNICATIONS COMMISSION

APPLICATION FOR CYBERSECURITY LABELING ADMINISTRATOR AND LEAD ADMINISTRATOR

CYBERSECURITY LABEL ADMINISTRATOR (CLA)

1. Applicant

Name:		Address		
		Street	City	Zip
Point of Contact:	Name	Title	Email	Phone Number

2. Describe Applicant's organization structure and how this structure supports the Commission's CLA requirements.

3. Describe the processes Applicant will use to review applications seeking authority to use the FCC IoT Label (based on type testing as identified in ISO/IEC 17065).

4. Describe the safeguards Applicant will implement (or already has in place) to avoid personal and organization conflict when processing applications.

5. Describe in detail Applicant's expertise in all of the following areas:

   a) Cybersecurity expertise and capabilities. Include a description of Applicant's knowledge of IoT and FCC IoT Labeling requirements.

   b) Expert knowledge of NIST's cybersecurity guidance, including but not limited to NIST's recommended criteria and labeling program approaches for cybersecurity labeling of consumer IoT products.

   c) Expert knowledge of FCC rules and procedures associated with product compliance testing and certification.

   d) Knowledge of Federal law and guidance governing the security and privacy of agency information systems.

e) Explain how Applicant will securely handle large volumes of information and include Applicant's related internal security practices.

f) Explain how Applicant will securely handle large volumes of information and include Applicant's related internal security practices.

g) Status of accreditation pursuant to all the requirements associated with ISO/IEC 17065 and the FCC scope.

h) Describe the controls Applicant has implemented to eliminate actual or potential conflicts of interests (both personal and organizational), particularly with regard to commercially sensitive information, to include but not limited to, remaining impartial and unbiased and prevent them from giving preferential treatment to certain applications (e.g., application line jumping) and from implementing heightened scrutiny of applications from entities not members or otherwise aligned with the CLA.

Check all that apply:

6. Applicant is not owned or controlled by or affiliated[1] with any entity identified on the Commission's Covered List. ☐

7. Applicant is not owned or controlled by or affiliated with any listed sources of prohibition under 47 CFR § 8.204. ☐

8. Applicant, its affiliate(s), or subsidiary(ies) are not owned or controlled by a foreign adversary country defined by the Department of Commerce in 15 CFR § 7.4. ☐

9. Applicant is not owned or controlled by or affiliated with any person or entity that has been suspended or debarred form receiving federal procurements or financial awards. ☐

10. Applicant is not otherwise prohibited from participating in the IoT Labeling Program. ☐

If any of the boxes in this section do not apply to Applicant, attach an exhibit explaining the circumstances and demonstrating why Applicant is qualified to be Lead Administrator.

LEAD ADMINISTRATOR

Applicants seeking the role of Lead Administrator must provide all of the information requested below. (Leave the following information blank if not applying for role of Lead Administrator.)
In the following section, provide a detailed description of how Applicant will execute the duties of the Lead Administrator and include all of the following:

1. Describe Applicant's previous experience in IoT cybersecurity.

2. Describe Applicant's previous roles, if any, in IoT labeling.

[1] For purposes of the Commission's IoT labeling program an "affiliate" is defined as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this part the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent." *See* 47 U.S.C. § 153(2).

3. Describe Applicant's capacity to execute the Lead Administrator duties.

4. Describe Applicant's plan/approach to interfacing with the Commission on the behalf of CLAs.

5. Describe in detail Applicant's plan for engaging and collaborating with stakeholders (including other CLAs) to identify or develop FCC recommendations as required by 47 CFR § 8.221.

6. Describe in detail Applicant's proposed consumer education campaign.

7. Any additional information Applicant believes demonstrates why they should be on how the applicant's qualifications align with the role of Lead Administrator.

Information Current and Complete

Information filed with the FCC must be kept current and complete. The Applicant must notify the FCC regarding any substantial and significant changes in the information furnished in the application(s). See 47 CFR § 1.65

Certification Statements

By signing this applicant, the Applicant certifies that all statements and information provided in this application and in any exhibits or attachments are part of this application and are true, complete, correct, and made in good faith.

The Applicant certifies that neither the Applicant nor any other party to the application is subject to a denial of Federal benefits pursuant to § 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. This certification does not apply to applications filed in services exempted under§ 1.2002(c) of the rules, 47 CFR § 1.2002(c). See 47 CFR § 1.2002(b) for the definition of "party to the application" as used in this certification.

The Applicant certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.

The Applicant certifies that the Applicant and all of the related individuals and entities required to be disclosed on this application are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from federal procurement.

Signature

Typed or printed name of Party Authorized to Sign

First Name:	MI:	Last Name	Suffix	Title

Signature	Date
FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.	

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. 24-618

Report No. SAT-01833 **Friday June 28, 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-AMD-20231128-00292 E S2704 Intelsat License LLC
Amendment
Withdrawn Effective Date: 06/27/2024

Nature of Service: Fixed Satellite Service

SAT-MOD-20230308-00050 E S2704 Intelsat License LLC
Modification
Withdrawn Effective Date: 06/27/2024

Nature of Service: Fixed Satellite Service

SAT-MOD-20240430-00091 E S2406 Intelsat License LLC
Modification 04/30/2024 - 02/28/2026
Grant of Authority Effective Date: 06/26/2024

Nature of Service: Fixed Satellite Service

On June 26, 2024, the Satellite Programs and Policy Division granted, with conditions, Intelsat License LLC's request for modification of Intelsat 902's license by: (1) extending Intelsat 902's license term through February 28, 2026; (2) changing the platform bias and resulting C-band coverage; and (3) expanding east/west station-keeping tolerance to +/- 0.10 degrees. Intelsat 902 operates in the 3625-4200 MHz, 10.95-11.2 GHz, and 11.45-11.7 GHz (space-to-Earth); and 5850-6425 MHz and 14.0-14.5 GHz (Earth-to-space) frequency bands. Intelsat 902 conducts telemetry, tracking and command (TT&C) using the following center frequencies: 3947.5 MHz, 3948.0 MHz, 3952.0 MHz, 3952.5 MHz (space-to-Earth); and 6173.7 MHz and 6176.3 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
Washington, DC 20554

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

DA 24-619
Released: June 28, 2024

360 DIRECT VIDEO APPROVED TO ACCESS THE TRS NUMBERING DIRECTORY AS A QUALIFIED DIRECT VIDEO ENTITY

CG Docket Nos. 03-123 & 10-51

The Consumer and Governmental Affairs Bureau (Bureau) approves the application of 360 Empower Consulting, LLC, doing business as 360 Direct Video (360 Direct Video) for access to the Telecommunications Relay Services (TRS) Numbering Directory as a Qualified Direct Video Entity.[1] This authorization is effective upon release of this Public Notice.[2] As discussed below, we find that 360 Direct Video demonstrates a legitimate need for access to the TRS Numbering Directory and an awareness of its regulatory obligations.[3]

Background. In 2019, to enable more effective direct video communication using American Sign Language (ASL) between consumers with hearing or speech disabilities and customer support call centers, the Federal Communications Commission (Commission) modified its rules to allow qualifying entities to seek certification for access to the TRS Numbering Directory.[4] Such access, which is available to a Qualified Direct Video Entity, facilitates the routing of direct video calls between sign language users and customer support call centers.[5]

On August 1, 2023, 360 Direct Video filed an application with the Bureau seeking access to the TRS Numbering Directory as a Qualified Direct Video Entity.[6]

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[1] A "Qualified Direct Video Entity" is an individual or entity that is approved by the Commission for access to the TRS Numbering Directory, that is engaged in direct video customer support, and that is the end-user customer that has been assigned a telephone number used for direct video customer support calls or is the designee of such entity. 47 CFR § 64.601(a)(35)(i). "Direct video customer support" is a "telephone customer support operation that enables callers with hearing or speech disabilities to engage in real-time direct video communication in [American Sign Language] with ASL speakers in a call center operation." *Id.* § 64.601(a)(16).

[2] *See id.* § 1.102(b) (providing that non-hearing actions taken pursuant to delegated authority be effective upon release of the document with the full text of such action).

[3] *See id.* § 64.613(c)(2). The TRS Numbering Directory contains routing information for North American Numbering Plan telephone numbers assigned to video relay service (VRS) users and certain other video communication users. *Id.* § 64.613(a)(1).

[4] *Structure and Practices of the Video Relay Service Program*; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 3396, 3403, para. 11 (2019) (*Direct Video Access Order*).

[5] *Direct Video Access Order*, 34 FCC Rcd at 3403, para. 11; *see also* 47 CFR § 64.613(c)(1).

[6] 360 Empower Consulting, LLC DBA 360 Direct Video Applies to Be Recognized as a Qualified Direct Video Entity with Access to the TRS Numbering Directory for Direct Video Communication as Outlined in 47 C.F.R. Sections 64.613(a)(1), 64.613(a)(2), 64.613(b)(2), 64.623(c) [as in original], 64.613(a)(4) of the Commission's

(continued….)

360 Direct Video's Qualifications. The Commission may approve an application for TRS Numbering Directory access if the applicant demonstrates a legitimate need for such access and an awareness of its regulatory obligations.[7] These obligations include compliance with the rules and regulations governing VRS providers' access to use of the TRS Numbering Directory, instructions of the TRS Numbering administrator, and applicable standards pertaining to privacy, security, reliability, and interoperability.[8]

We approve 360 Direct Video's application, as supplemented, for access to the TRS Numbering Directory. 360 Direct Video has provided the following information required by our rules: (1) the applicant's name, address, telephone number, and email address; (2) a description of the service to be provided; (3) an acknowledgment that TRS Numbering Directory access is conditional on compliance with applicable Commission rules, obligations, and standards; (4) contact information for personnel responsible for such compliance; and (5) certification that the applicant's description of service meets the definition of direct video customer support and that the information provided is accurate and complete.[9] This information and other material provided in the application sufficiently demonstrate 360 Direct Video's legitimate need to access the TRS Numbering Directory and its awareness of its regulatory obligations.[10] This authorization shall remain in effect until terminated pursuant to section 64.613(c)(3) of the Commission's rules.[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 Bureau at 202-418-0530 (voice).

Additional Information. For additional information regarding this Public Notice, please contact Joshua Mendelsohn, Disability Rights Office, Consumer and Governmental Affairs Bureau, at (202) 559-7304, or email at Joshua.Mendelsohn@fcc.gov.

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Regulations, CG Docket Nos. 10-51, 03-123, 10-191, and 05-196 (filed August 1, 2023) (360 Direct Video Application), https://www.fcc.gov/ecfs/document/108100912512133/1; *see also* Amendment No. 1 to Direct Video Numbering Directory Access Application for 360 Empower Consulting LLC DBA 360 Direct Video, CG Docket Nos. 03-123 and 10-51 (filed Feb. 16, 2024) (360 Direct Video Application Supplement), https://www.fcc.gov/ecfs/document/10215047293533/1.

[7] 47 CFR § 64.613(c)(2); *Direct Video Access Order*, 34 FCC Rcd at 3404, para. 13.

[8] 47 CFR § 64.613(c)(5); *Direct Video Access Order*, 34 FCC Rcd at 3405, para. 16 & n.58.

[9] 360 Direct Video Application at 5; 360 Direct Video Application Supplement at 1-3; 47 CFR § 64.613(c)(1).

[10] *See* 360 Direct Video Application at 5 (providing detail on the service to be provided); *see also* 360 Direct Video Application Supplement at 1-3 and Appendix 1 (listing applicable requirements, describing current and future operations for calls).

[11] 47 CFR § 64.613(c)(3).

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

In the Matter of	)	
	)	
Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities	)	CG Docket No. 03-123
	)	
Structure and Practices of the Video Relay Service Program	)	CG Docket No. 10-51
	)	

ORDER

Adopted: June 28, 2024 **Released: June 28, 2024**

By the Chief, Consumer and Governmental Affairs Bureau:

I. INTRODUCTION

1. In this Order, the Consumer and Governmental Affairs Bureau (CGB or Bureau) of the Federal Communications Commission (Commission) sets per-minute provider compensation for certain telecommunications relay services (TRS) supported by the Interstate TRS Fund (TRS Fund, or Fund) for the Fund Year beginning July 1, 2024, and ending June 30, 2025 (2024-25 Fund Year).[1] For Fund Year 2024-25, the per-minute compensation for interstate TRS provided through state programs shall be: (1) for traditional (TTY-based) TRS, $6.1229; (2) for speech-to-speech relay service (STS), $7.2539; and (3) for captioned telephone service (CTS), $2.7867. Per-minute compensation for Fund Year 2024-25 for IP Relay shall be $2.1252, and, for Video Relay Service (VRS), $8.06 for small providers, who provide 1 million monthly minutes or fewer; $6.51 for Tier 1, applicable to a provider's first 1 million monthly minutes; $4.07 for Tier II, applicable to a provider's monthly minutes in excess of 1 million; and a $0.20 additive rate for Video-Text service.

2. We also grant, on our own motion, a limited temporary waiver of the June 30, 2024, expiration of the current TRS Fund compensation formula for Internet Protocol Captioned Telephone Service (IP CTS). The current compensation formula for IP CTS is extended until July 31, 2024; the waiver is effective through that date unless a different expiration date is set by subsequent Commission action.

3. In addition, we determine the total TRS funding requirement and contribution factors that determine the amounts that telecommunications carriers and other covered service providers must contribute to the Fund. Based on the above compensation formulas, projected demand for each service, projected Fund administration expenses, and application of the projected surplus from the previous Fund year, the net funding requirement is $1,490,582,564. For support of TRS provided through state programs, we approve a carrier contribution factor of 0.00024, applied to contributors' interstate and international end-user revenues.[2] For support of Internet-based TRS—IP CTS, IP Relay, and VRS—we

[1] TRS enables an individual who is deaf, hard of hearing, or deafblind or who has a speech disability to communicate by telephone or other device through the telephone system. *See* 47 U.S.C. § 225(a)(3). TRS is provided in a variety of ways. Currently, interstate TRS calls and all Internet Protocol (IP) based TRS calls, both intrastate and interstate, are supported by the Fund. 47 CFR § 64.604(c)(5)(ii).

approve a carrier contribution factor of 0.01952, applied to contributors' intrastate, interstate, and international end-user revenues.[3]

II. BACKGROUND

4. *IP Relay*. On June 30, 2022, the Commission adopted a four-year compensation plan for IP Relay.[4] The Commission set a compensation amount of $1.9576 per minute, subject to annual adjustment by application of an inflation factor based on a cost index compiled by the U.S. Department of Labor.[5] In December 2023, the Commission adopted a technical amendment to clarify how the inflation adjustment factor should be calculated.[6]

5. *VRS Compensation*. On September 28, 2023, the Commission released a five-year compensation plan for VRS.[7] For VRS providers handling 1 million or fewer VRS minutes per month, the Commission set a compensation amount of $7.77 per minute for all minutes, and, for VRS providers handling more than 1 million VRS minutes per month, the Commission set a compensation amount of $6.27 per minute for the first 1 million minutes and $3.92 per minute for all additional monthly minutes.[8] Additionally, for Video-Text service, the Commission set a compensation additive of $0.19 per minute.[9] These amounts are subject to annual adjustment by application of an inflation factor based on a cost index compiled by the U.S. Department of Labor.[10]

6. *IP CTS Compensation*. The current compensation formula for IP CTS, established by the Commission in 2020, was initially set to expire on June 30, 2022.[11] In an Order adopted June 30, 2022, the Bureau found good cause to issue a limited waiver extending the IP CTS compensation formula through June 30, 2023.[12] In a Notice of Proposed Rulemaking adopted in December 2022, the Commission sought comment on setting IP CTS compensation for the next period.[13] Pending the

(Continued from previous page)

[2] *See* 47 CFR § 64.604(c)(5)(iii)(A)(i).

[3] *See id*. § 64.604(c)(5)(iii)(A)(ii).

[4] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Petition for Rulemaking of Sprint Corporation*, CG Docket No. 03-123 and RM-11820, Report and Order, 37 FCC Rcd 8009 (2022) (*2022 IP Relay Compensation Order*).

[5] *Id.* at 8013, para. 9.

[6] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*; *Petition for Rulemaking and Interim Waiver of Convo Communications, LLC*, CG Docket Nos. 03-123, and 10-51, Report and Order and Order, FCC 23-116, at 16-17, paras. 38-40 (Dec. 20, 2023).

[7] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-78 (Sept. 28, 2023) (*2023 VRS Compensation Order*).

[8] *Id.* at 3, para. 4.

[9] *Id.*

[10] *Id.*

[11] *Misuse of Internet Protocol (IP) Captioned Telephone Service*; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program,* CG Docket Nos. 13-24, 03-123, and 10-51, 35 FCC Rcd 10866, 10883, para. 33 (2020) (*2020 IP CTS Compensation Order*).

[12] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program,* CG Docket Nos. 03-123 and 10-51, Order, 37 FCC Rcd 7667 (CGB 2022) (*2022 TRS Funding Order*).

Commission's adoption of a revised compensation plan, the Bureau found good cause to further extend the IP CTS compensation formula through June 30, 2024.[14]

7. On May 1, 2024, the TRS Fund administrator, Rolka Loube Associates LLC (Rolka Loube), submitted to the Commission an annual report on the TRS Fund with recommendations for provider compensation, the TRS Fund budget, and contribution factors for the 2024-25 Fund Year.[15] On May 10, 2024, the Bureau sought comment on the administrator's recommendations.[16] The Commission received comments from ClearCaptions, LLC (ClearCaptions), Convo Communications, LLC (Convo), and Hamilton Relay, Inc. (Hamilton),[17] and reply comments from ClearCaptions.[18] On June 13, the administrator filed a supplement to the annual report, updating the recommended contribution factors.[19]

III. DISCUSSION

A. Compensation for Traditional TRS, STS, CTS, IP Relay, and VRS

8. *Traditional TRS, STS, and CTS*. For traditional TRS, STS, and CTS, we approve Rolka Loube's per-minute compensation recommendations for the 2024-25 Fund Year: $6.1229 for interstate traditional TRS; $7.2539 for interstate STS; and $2.7867 for interstate CTS. These compensation levels represent increases in per-minute compensation of approximately 7% for traditional TRS, 5.9% for STS, and 4.7% for CTS.[20] Under the Multi-State Average Rate Structure (MARS) methodology adopted by the Commission in 2007, per-minute compensation for interstate use of these relay services is determined by aggregating each state program's payments for intrastate use of the relay service in the previous Fund Year and dividing total state payments by total intrastate minutes.[21] The calculation of MARS support

(Continued from previous page)

[13] *Internet Protocol Captioned Telephone Service Compensation*; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Misuse of Internet Protocol (IP) Captioned Telephone Service*, CG Docket Nos. 22-408, 03-123, and 13-24, Notice of Proposed Rulemaking and Order on Reconsideration, 37 FCC Rcd 15243 (2022) (*2022 IP CTS Compensation Notice*).

[14] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 38 FCC Rcd 6058, 6063-64, paras. 14-17 (CGB 2023) (*2023 TRS Funding Order*).

[15] Rolka Loube Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123 and 10-51 (filed May 6, 2024), https://www.fcc.gov/ecfs/search/search-filings/filing/10506289045837 (2024 TRS Fund Report). Each May, the Fund administrator recommends TRS payment formulas and revenue requirements for the next Fund Year. 47 CFR § 64.604(c)(5)(iii)(E), (H).

[16] *Rolka Loube Associates Submits Payment Formulas and Funding Requirements for the Interstate Telecommunications Relay Services Fund*, CG Docket No. 03-123, Public Notice, DA 24-448 (CGB May 10, 2024) (*2024 TRS Report Public Notice*).

[17] Comments of ClearCaptions LLC (filed May 28, 2024) (ClearCaptions Comments); Comments of Convo Communications, LLC (filed May 28, 2024); Comments of Hamilton Relay, Inc. (filed May 28, 2024) (Hamilton Comments).

[18] Reply Comments of ClearCaptions, LLC (filed June 7, 2024) (ClearCaptions Reply).

[19] Rolka Loube, Interstate Telecommunications Relay Services Fund; Payment Formula and Fund Size Estimate; Supplemental Comment, CG Docket Nos. 03-123 and 10-51 (filed June 13, 2024), https://www.fcc.gov/ecfs/search/search-filings/filing/1061792927674 (2024 TRS Fund Report Supplement).

[20] 2024 TRS Fund Report at 6-8. Consistent with previous compensation determinations, the STS plan includes a supplemental per-minute amount ($1.1311) to be used for STS outreach. *Id.*; *see also Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling, 22 FCC Rcd 20140, 20170, para. 57 (2007) (*2007 TRS Compensation Methodology Order*).

[21] *See 2007 TRS Compensation Methodology Order*, 22 FCC Rcd at 20151-61, paras. 16-38.

levels for the current year is shown in Rolka Loube's report.[22] Hamilton supports the administrator's recommendations,[23] and no commenter opposes them. We conclude that Rolka Loube's recommended formulas correctly apply the MARS methodology.

9. *IP Relay*. Pursuant to the four-year compensation plan adopted by the Commission in 2022,[24] the per-minute compensation amount for Fund Year 2024-25 is the current year's compensation amount plus an inflation adjustment. The amount of this adjustment, 3.77%, is determined by the change in the Employment Cost Index for private industry workers in professional, scientific, and technical services (the Index), as compiled by the Bureau of Labor Statistics of the U.S. Department of Labor, between the fourth quarter of 2022 (4Q 2022) and the fourth quarter of 2023 (4Q 2023).[25] The IP Relay compensation amount for Fund Year 2024-25 is $2.1252 per minute.

10. *VRS*. Pursuant to the five-year compensation plan adopted by the Commission in 2023,[26] the per-minute compensation amounts for Fund Year 2024-25 are the current year's compensation amounts plus an inflation adjustment. The amount of this adjustment, 3.77%, is determined in the same manner as for IP Relay.[27] The VRS compensation amounts for Fund Year 2024-25 are $8.06 for small providers, who provide 1 million monthly minutes or fewer; $6.51 for Tier 1, applicable to a provider's first 1 million monthly minutes, $4.07 for Tier II, applicable to a provider's monthly minutes in excess of 1 million; and a $0.20 additive rate for Video-Text service.[28]

B. Compensation for IP CTS

11. Given the pendency of the Commission's rulemaking on a revised IP CTS compensation plan, we grant, on our own motion, a temporary waiver of the June 30, 2024, expiration of the current TRS Fund compensation formula for IP CTS. We extend the IP CTS compensation formula through July 31, 2024—unless a different expiration date is set by subsequent Commission action. This action will ensure that the continued provision of IP CTS is supported, without disruption.

12. *Waiver Standard*. A Commission rule may be waived for good cause shown.[29] In particular, waiver of a rule is appropriate where the particular facts make strict enforcement of a rule inconsistent with the public interest.[30] In addition, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[31] Waiver of a rule is

[22] 2024 TRS Fund Report at 6-8, Exh. 1-1.

[23] *See* Hamilton Comments at 2-4.

[24] *See 2022 IP Relay Compensation Order*, FCC 22-48.

[25] *See id.,* para. 43; 47 CFR § 64.640(c)-(d). This index is found at https://beta.bls.gov/dataViewer/view/timeseries/CIS20154000000000I. The formula also may be adjusted for recovery of exogenous costs. *See id.* § 64.640(e). T-Mobile, the only IP Relay provider, has not requested compensation for any exogenous costs.

[26] *See generally 2023 VRS Compensation Order*.

[27] *See id.* at 3, para. 4.

[28] Convo supports the administrator's recommendations for VRS, and no commenter opposes them. *See* Convo Comments at 1-3.

[29] 47 CFR § 1.3 (providing for suspension, amendment, or waiver of Commission rules, in whole or in part, for good cause shown).

[30] *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[31] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

appropriate if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest and will not undermine the policy underlying the rule.[32]

13. We find good cause to waive the expiration date of the current compensation formula for IP CTS. Establishing a methodology and compensation formula for Internet-based TRS is inherently complex,[33] and while the Commission has sought comment on a revised compensation plan for IP CTS, it has not yet completed consideration and adoption of such revised plan.[34] Continuing the current compensation level for IP CTS for a short period will provide certainty and stability to TRS providers pending final Commission action. If we were to let the current compensation plan expire without providing for interim payments, IP CTS would cease to be available to consumers with disabilities who rely on them for functionally equivalent communication.[35] Under such circumstances, it is administratively efficient and consistent with prior practice to extend the current compensation formula, pending resolution of Commission action.

14. Therefore, we direct the TRS Fund administrator to continue compensating providers of IP CTS under the current compensation formula through July 31, 2024, unless a different expiration date is set by subsequent Commission action.[36] This action does not preclude a true-up of compensation for one or both services, should the Commission deem that necessary after determining the compensation

[32] *Northeast Cellular*, 897 F.2d at 1166; *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127-128 (D.C. Cir. 2008).

[33] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 5469 (CGB 2020) (*2020 IP CTS Compensation Waiver Order*) (extending IP CTS compensation levels for three months to allow the submission of additional data for the Commission to reach an informed decision on IP CTS compensation); *see also Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 32 FCC Rcd 5142, 5147, para. 15 (CGB 2017) (extending the compensation period for VRS pending further action by Commission to establish a new compensation methodology); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 26 FCC Rcd 9972, 9980-81, paras. 22-23 (2011) (adopting interim VRS compensation levels pending Commission completion of a proceeding addressing VRS market structure and compensation methodology issues); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, Order, 21 FCC Rcd 7018, 7027, paras. 28-29 (CGB 2006) (extending the VRS compensation levels for one year or until the Commission adopts new VRS compensation levels pursuant to new cost recovery rules); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Order, 18 FCC Rcd 12823, 12832-33, paras. 24, 26, 28 (CGB 2003) (adopting interim cost recovery compensation levels for TRS providers subject to modification pending further analysis of relevant cost data).

[34] *See supra* para. 6.

[35] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Notice of Proposed Rulemaking and Order, 36 FCC Rcd 8802, 8818, para. 43 (2021) (*2021 VRS Compensation Notice*).

[36] Hamilton, in its comments, supports the temporary continuation of the $1.30-per-minute formula for IP CTS "[t]o the extent that the Commission has not adopted a new long-term IP CTS rate methodology by June 30, 2024." Hamilton Comments at 6. Hamilton and ClearCaptions both make recommendations regarding the IP CTS rate methodology, and ClearCaptions additionally raises concerns about the 2024 TRS Fund Report's presentation of aggregate IP CTS cost data. *See* Hamilton Comments at 5-6; ClearCaptions Comments at 1-7; ClearCaptions Reply at 1-3. However, the Commission will address compensation for IP CTS in a separate rulemaking proceeding. *See 2022 IP CTS Compensation Notice*, 37 FCC Rcd 15243 (proposing compensation plan for IP CTS).

formula.[37] Accordingly, until the expiration of this waiver, the current compensation formula for IP CTS remains effective. IP CTS providers shall be paid $1.30 per minute for all compensable minutes.[38]

C. Funding Requirement and Carrier Contribution Factors

15. To calculate the annual net funding requirement, the Fund administrator sums the projected payments to TRS providers for each form of TRS (determined by multiplying the proposed compensation plan formula for each service category by the projected minutes of use for that category), adds administrative overhead, other funding requirements, and a budgetary reserve, and subtracts the projected surplus from the previous Fund Year.[39]

16. *Demand Projections*. For traditional TRS, STS, and CTS, Rolka Loube projects demand using recent historical data, an approach that has provided reasonably accurate results for these services.[40] For VRS, IP Relay, and IP CTS, Rolka Loube takes as a starting point the providers' aggregate demand projections for 2024-25, which in recent years have generally produced reasonably accurate results.[41] We find that Rolka Loube's TRS demand projections are reasonable for budgeting purposes.

17. *Compensation Requirements*. We approve Rolka Loube's proposed provider compensation requirements for relay services that use the MARS methodology—traditional TRS, STS, and CTS—which total $7,563,082.[42] We also approve the proposed funding requirements for IP-based TRS services, totaling $1,407,499,285.[43]

18. *NDBEDP and Fund Administration*. In addition to projected payments for TRS, Rolka Loube includes in its proposed funding requirement a $10,000,000 funding allocation for the National Deaf-Blind Equipment Distribution Program (NDBEDP).[44] Rolka Loube recommends a total of $27,487,224 for Fund administrative costs, including ongoing TRS research and reforms, database administration, Fund administration, the data collection agent costs, the Interstate TRS Fund Advisory Council, service provider audits, bankruptcy representation, an independent financial audit of the Fund, the development and implementation of a Payment Integrity Information Act audit plan, and TRS user identity verification.[45] One commenter, Convo, expresses support for Rolka Loube's proposed allocation for administrative costs.[46] We find the recommendation to be fair and consistent with prior year Fund administrative expenses.[47]

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[37] *See 2020 IP CTS Compensation Waiver Order*, 35 FCC Rcd at 5473, para. 11.

[38] *See 2020 IP CTS Compensation Order*, 35 FCC Rcd at 10870, para. 10.

[39] *See* 2024 TRS Fund Report at 16-18; *see also* 47 CFR § 64.604(c)(5)(iii)(H).

[40] 2024 TRS Fund Report at 16.

[41] *Id*.

[42] 2024 TRS Fund Report, Exh. 2.

[43] *Id*., Exh. 2.

[44] 2024 TRS Fund Report at 17; *see also* 47 CFR §§ 64.6201-6219.

[45] 2024 TRS Fund Report, Exh. 2; *see also* 2024 TRS Fund Report at 17-18.

[46] Convo Comments at 3.

[47] *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program,* CG Docket Nos. 03-123 and 10-51, 36 FCC Rcd 10194, 10201, para. 19 (2021); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 35 FCC Rcd 6649, 6658, para. 23 (CGB 2020) (*2020 TRS Compensation Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order,, 34 FCC Rcd 5171, 5181-82, para. 24 (CGB 2019); *Telecommunications Relay Services and Speech-to-*

(continued….)

19. *Payment Reserve and Current Surplus*. In its report, in keeping with prior practice, Rolka Loube recommends that funding requirements include a two-month payment reserve, totaling $238,032,972.[48] Rolka Loube also anticipates that there will be a surplus from the current fund year, estimated at $200,000,000,[49] which it proposes to deduct from the funding requirement when determining the contribution factor.[50] We approve these proposals.

20. *Gross and Net Funding Requirements*. In summary, we conclude that Rolka Loube's demand projections are reasonable and with the adjustments discussed above, its recommended gross funding requirement of $1,690,582,564[51] is consistent with the Commission's rules on contribution computations.[52] We therefore adopt this funding requirement. Deducting the surplus of $200,000,000, as discussed above, the net funding requirement is $1,490,582,564.

21. *Contribution Factors*. In the report, Rolka Loube proposed contribution factors for the 2024-25 TRS Fund Year—0.01992 for Internet-based TRS and 0.00025 for non-Internet-based TRS—while noting that it anticipated submitting an updated contribution factor recommendation when new information became available.[53] In its supplemental filing, Rolka Loube proposed updated TRS Fund contribution factors of 0.01952 for Internet-based TRS and 0.00024 for non-Internet-based TRS, in light of revised estimates of the respective contribution bases for Internet-based and non-Internet-based TRS.[54] The contribution factor for Internet-based TRS, applicable to contributors' intrastate, interstate, and international end-user revenues, is the ratio of the estimated IP CTS, VRS, and IP Relay funding requirements to the total intrastate, interstate, and international end-user revenues for the prior calendar year.[55] The contribution factor for non-Internet-based TRS, which is applicable to interstate and

(Continued from previous page)
Speech Services for Individuals with Hearing and Speech Disabilities; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 33 FCC Rcd 6300, 6306-07, para. 18 (CGB 2018).

[48] 2024 TRS Fund Report at 17 & Exh. 2. This amount is the total of $1,219,843 for non-Internet Protocol (IP) services and $236,813,129 for IP-based services. *See id.* One commenter, Hamilton, supports this recommendation, Hamilton Comments at 7, and no commenters oppose it. A payment reserve is a precautionary measure to guard against the possibility of unanticipated demand for TRS that could unexpectedly increase the need for Fund payments in the course of a Fund Year. *See, e.g., Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*; *Structure and Practices of the Video Relay Service Program*, CG Docket Nos. 03-123 and 10-51, Order, 29 FCC Rcd 8044, 8053, para. 23 (CGB 2014); *see also Misuse of Internet Protocol (IP) Captioned Telephone Service*; *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 13-24 and 03-123, Order and Notice of Proposed Rulemaking, 28 FCC Rcd 703, 707 n.20 (2013) (noting that the Anti-Deficiency Act, 31 U.S.C. § 1341(a)(1)(A), provides that an officer or employee of the federal government may not make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation). To the extent that the reserve goes unused, it is not wasted but is turned over for use in the next Fund Year. *See* 47 CFR § 64.604(c)(5)(iii)(B).

[49] 2024 TRS Fund Report, Exh. 2.

[50] 2024 TRS Fund Report at 8.

[51] 2024 TRS Fund Report, Exh. 2.

[52] 47 CFR § 64.604(c)(5)(iii)(A), (B).

[53] 2024 TRS Fund Report at 18-19 & Exh. 2. Comments were due before the administrator filed its updated proposed contribution factors, but, in its comments, Hamilton expresses support for the administrator's initially proposed contribution factors. *See* Hamilton Comments at 6-7.

[54] 2024 TRS Fund Report Supplement at 1-2 & Exh. 2. The contribution base for Internet-based TRS is the total of contributors' intrastate, interstate, and international end-user revenues for the prior calendar year. The contribution base for non-Internet-based TRS is the total of contributors' interstate and international end-user revenues for the prior calendar year. *See* 47 CFR § 64.604(c)(5)(iii)(A), (B).

[55] 2023 TRS Fund Report at 15-17.

international end-user revenues, is the ratio of the estimated funding requirement for interstate, non-Internet-based TRS to total interstate and international end-user revenues for the prior calendar year. We find that Rolka Loube's recalculation of contribution factors is accurate and we therefore approve the contribution factors for Internet-based TRS and non-Internet-based TRS.

IV. PROCEDURAL MATTERS

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

V. ORDERING CLAUSES

23. Accordingly, IT IS ORDERED, pursuant to section 225 of the Communications Act of 1934, as amended, 47 U.S.C. § 225, and sections 0.141, 0.361, 1.3 and 64.604(c)(5)(iii) of the Commission's rules, 47 CFR §§ 0.141, 0.361, 1.3, 64.604(c)(5)(iii), that this ORDER IS hereby ADOPTED.

24. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate traditional TRS, for the period from July 1, 2024, through June 30, 2025, in the amount of $6.1229 per interstate conversation minute.

25. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate STS, for the period from July 1, 2024, through June 30, 2025, in the amount of $7.2539 per interstate conversation minute.

26. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of interstate CTS, for the period from July 1, 2024, through June 30, 2025, in the amount of $2.7867 per conversation minute.

27. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP Relay in the amount of $2.1252 per conversation minute, for the period from July 1, 2024, through June 30, 2025.

28. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of VRS in the amounts of $8.06 per compensation minute for small providers, who provide 1 million monthly minutes or fewer; $6.51 per compensation minute for Tier 1, applicable to a provider's first 1 million monthly minutes, $4.07 per compensation minute for Tier II, applicable to a provider's monthly minutes in excess of 1 million; and an additive $0.20 per compensation minute for Video-Text service, for the period from July 1, 2024, through June 30, 2025.

29. IT IS FURTHER ORDERED that the TRS Fund administrator shall compensate eligible providers of IP CTS in the amount of $1.30 per conversation minute, for the period from July 1, 2024, through July 31, 2024, unless a different expiration date is set by subsequent Commission action establishing a revised compensation formula for that service.

30. IT IS FURTHER ORDERED that the net TRS Fund revenue requirement for Fund Year 2024-25 shall be $1,490,582,564, and the TRS Fund contribution factors shall be 0.00024 for non-Internet-based TRS and 0.01952 for Internet-based TRS.

31. 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 is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Alejandro Roark, Chief
Consumer and Governmental Affairs Bureau

PUBLIC NOTICE

Federal Communications Commission
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DA 24-621
Released: June 28, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF SUBSIDIARIES OF THE LUMOS FIBER ENTITIES TO TRAILBLAZER HOLDCO, LLC

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-151

Comments Due: July 12, 2024
Reply Comments Due: July 19, 2024

By this Public Notice, the Wireline Competition Bureau (Bureau) seeks comment from interested parties on an application filed by MTN Infrastructure TopCo LP (MTN Infrastructure) and Trailblazer Holdco, LLC (Trailblazer Holdco) (together, 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 transfer of control of Lumos Telephone of Botetourt, LLC, Lumos Telephone LLC, Lumos Fiber of South Carolina, LLC, North State Telephone, LLC, North State Communications Long Distance, LLC, North State Communications Advanced Services, LLC, and North State Communications, LLC (together, Licensees) from MTN Infrastructure to Trailblazer Holdco.[2]

Licensees, together with Gridiron Fiber License, LLC (Gridiron Fiber) and Panther Parent Inc. (Panther Parent), collectively operate as Lumos Fiber and provide 100% fiber optic Internet, Wi-Fi, voice, and streaming services to more than 300,000 homes and businesses across Virginia, North Carolina, and South Carolina.[3] Lumos also operates two incumbent local exchange carriers (LECs) in rural communities in Virginia, and one incumbent LEC in North Carolina.[4] The Lumos operating

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

[2] Joint Application for Consent to Transfer Control of Domestic Authority Pursuant to Section 214, WC Docket No. 24-151 (filed May. 15, 2024) (Application). The Applicants also filed an application for the transfer of international authorizations, ITC-T/C-2024-0515-00085 and ITC-ASG-2024-0515-00086. Applicants filed a supplement to the Application on June 13, 2024. Letter from Ulises R. Pin, et. al., Counsel for MTN Infrastructure TopCo LP, Trailblazer Topco, Licensees and as Co-Counsel for Transferee Trailblazer Holdco and Nancy J. Victory, et. al., Counsel for T-Mobile Fiber, LLC and as Co-Counsel for Trailblazer Holdco to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-151, ITC-T/C-2024-0515-00085 (filed June 13, 2024). The Applicants also filed an application for the transfer of international authorizations. Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[3] Application at 5.

companies are subsidiaries of Gridiron Fiber License, LLC (Gridiron Fiber License), a Delaware limited liability company, which is an indirect subsidiary of MTN Infrastructure.[5] The North State entities are subsidiaries of Panther Parent In., a Delaware corporation, which is an indirect subsidiary of MTN Infrastructure.[6] MTN Infrastructure, a Delaware limited partnership, was created to aggregate the ownership of various investment funds ultimately managed by an affiliate of EQT in connection with the investment of the EQT Infrastructure III Fund (including co-investors) in Licensees.[7]

The subsidiaries of Gridiron Fiber License and Panther Parent that provide domestic telecommunications services are as follows:[8] Lumos Telephone of Botetourt, LLC (Lumos Botetourt), a Virginia limited liability company, is an Eligible Telecommunications Carrier (ETC) operating as an incumbent LEC in Virginia;[9] Lumos Telephone LLC (Lumos Telephone), a Virginia limited liability company, is an ETC operating as an incumbent LEC and interchange (IXC) provider in Virginia;[10] North State Telephone, LLC (North State Telephone), a North Carolina limited liability company, is an ETC that operates as an incumbent LEC in North Carolina;[11] North State Communications Long Distance, LLC (North State Long Distance), a North Carolina limited liability company, operates as a competitive local exchange carrier (CLEC) in North Carolina;[12] North State Communications Advanced Services, LLC (North State Advanced Services), a North Carolina limited liability company, operates as a competitive LEC and IXC in North Carolina;[13] North State Communications, LLC (North State Communications), a North Carolina limited liability company, operates as a cable franchisee in North Carolina;[14] and Lumos Fiber of South Carolina, LLC (Lumos Fiber SC), a South Carolina limited liability company, operates as a competitive LEC in South Carolina.[15]

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[4] *Id.* at 5. Lumos formed Lumos Fiber, LLC and Lumos Fiber of Ohio, LLC. *Id.* at 5 n.10. Lumos Fiber, LLC provides broadband Internet access services and VoIP services in Virginia, and Lumos Fiber of Ohio is expected to apply with the Ohio Public Utilities Commission for competitive LEC authorization in Ohio.

[5] *Id.* at 2-3, Exh. B (Pre- and Post Transaction Ownership Charts).

[6] *Id.* Applicants state that, prior to closing, Panther Parent Inc. will convert to a Delaware limited liability company and will be known as Panther Parent LLC. *Id*. at 5 n.13.

[7] *Id*. at 2.

[8] Application at Exh. C (Subsidiaries of Gridiron Fiber License and Panther Parent Inc. That Provide U.S. Domestic Telecommunications Services).

[9] Application at 6.

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id*. at 7.

[15] *Id.*

Trailblazer Holdco, a Delaware limited liability company, is a joint venture equally owned and operated by subsidiaries of the EQT Infrastructure VI Fund and T-Mobile US, Inc. (T-Mobile).[16] Trailblazer TopCo, a Delaware limited partnership, was created for the purposes of the proposed transaction to aggregate the ownership of various investment funds ultimately managed by an affiliate of EQT, a Swedish holding company, in connection with the investment of the EQT Infrastructure VI Fund (the Fund) (including co-investors) in Trailblazer Holdco and Licensees.[17] The Fund comprises a series of limited partnerships and other investment entities managed by affiliates of EQT and through which passive limited partners invest in the Fund.[18] Applicants state that "EQT Fund Management S.àr.l. has exclusive management and control of the fund partnerships."[19] The fund manager is a wholly-owned subsidiary of EQT.[20] Thus, EQT will ultimately control the Fund's 50% interest in Trailblazer Holdco.[21] EQT is ultimately held by Investor AB (14%), a publicly held Swedish holding company, Bark Partners AB (11%),[22] and a Swedish holding company, the "Ultimate Beneficial Owners of EQT AB" (75%).[23] T-Mobile, a Delaware corporation, offers nationwide voice, data, and fixed wireless broadband services to over 120.9 million subscribers.[24] T-Mobile is indirectly held by Deutsche Telecom AG, a German corporation, which, through wholly-owned subsidiaries, holds and votes the majority of T-Mobile shares.[25] Deutsche Telecom AG is indirectly held by the Federal Republic of Germany.[26]

The Applicants state that the proposed transaction involves the acquisition of Lumos Fiber by Trailblazer Holdco.[27] Pursuant to the terms of the proposed transaction, subsidiaries of EQT and T-

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[16] *Id.* at 3. Applicants state that the board of directors of Trailblazer Holdco (Board) will be comprised of five directors, with T-Mobile and EQT each appointing two directors and the Board will also have "one independent director designated by EQT after reasonable consultation with T-Mobile." Supplement at 2.

[17] Application at 3. Applicants state that the capital from approximately 327 limited partner (LP) investors that provide passive investments that have no control over EQT Infrastructure VI Funds or Trailblazer Holdco. *Id.* at 3-4.

[18] Supplement at 2.

[19] *Id*.

[20] *Id*.

[21] *Id*.

[22] Application at 9-10, Exh. B (Pre- and Post Transaction Ownership Charts, Chart 5: EQT AB OWNERSHIP STRUCTURE).

[23] Applicants state that none of the Ultimate Beneficial Owners of EQT hold a 10% or greater interest. *Id*. at Exh. B (Pre- and Post Transaction Ownership Charts, Chart 5: EQT AB OWNERSHIP STRUCTURE).

[24] *Id*. at 4.

[25] Supplement at 2.

[26] *Id*. at 2, Chart 6: T-MOBILE FIBER OWNERSHIP STRUCTURE; UPDATED EXCERPT OF EXHIBIT D.

[27] Application at 2. Applicants state that EQT Infrastructure VI Fund is affiliated, through funds managed by affiliates of EQT, with Zayo Group Holdings, Inc., which is co-owned by a separate EQT managed investment fund. Zayo, together with its subsidiaries, provides bandwidth infrastructure and interconnection services over regional and metropolitan fiber networks. *Id*. at 16.

Mobile entered into a series of agreements pursuant to which Trailblazer Holdco will acquire control of Lumos as well as other affiliates that collectively own and operate a fiber network and provide communications services to customers in North Carolina, South Carolina, and Virginia under the Lumos Fiber brand.[28] The proposed transaction includes two steps. First, the EQT Infrastructure III Fund, through MTN Infrastructure, will transfer ownership of Gridiron Holdco and its subsidiaries (Lumos Fiber) to the EQT Infrastructure VI Fund through Trailblazer TopCo, the indirect parent of Trailblazer Holdco.[29] Second, Applicants state, T-Mobile Fiber will invest in Trailblazer Holdco, acquiring a 50% stake and establishing the joint venture with the EQT Infrastructure VI Fund. As a result of the proposed transaction, T-Mobile and the EQT Infrastructure VI Fund, through wholly-owned subsidiaries, will be 50/50 owners of Trailblazer Holdco, which will indirectly own and control 100% of Lumos Fiber.[30]

Applicants contend that the proposed transaction would serve the public interest, convenience, and necessity.[31] Applicants assert that Trailblazer Holdco is managerially, technically, and financially qualified to assume control of Lumos Fiber.[32] Applicants state that the proposed transaction will "strengthen the financial position of Licensees by providing access to capital from new funding resources, enabling accelerated investment in the companies' networks and expansion of those fiber networks."[33] Applicants further assert that the proposed transaction will result in Licensees being "better able to meet the needs of their CLEC and ILEC customers, as well as to compete for new customers-driving growth that will enhance competition and make high-capacity fiber connections available to more customers in the Licensees' current operating areas in North Carolina, South Carolina, and Virginia."[34] Applicants also claim that the proposed transaction will "aid in the deployment of broadband to rural and underserved communities who do not have access to fiber today."[35]

Applicants do not request streamlined treatment for the domestic 214 application pursuant to section 63.03 of the Commission's rules.[36]

Referral to Executive Branch Agencies. Through this Public Notice, pursuant to Commission practice, the Application, and the associated application for international authorizations, ITC-T/C-2024-0515-00085 and ITC-ASG-2024-0515-00086, are being referred to the relevant Executive Branch agencies for their views on any national security, law enforcement, foreign policy, or trade policy concerns related to the foreign ownership of the Applicants.[37]

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[28] Application at 7.

[29] *Id.*

[30] *Id*. at 7-8.

[31] *Id*. at 8.

[32] *Id*.

[33] *Id*.

[34] *Id*. at 8.

[35] *Id*. at 10.

[36] 47 CFR § 63.03.

[37] 47 CFR § 1.40001. *See Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927 (2020),

Domestic Section 214 Application Filed for the Transfer Of Control of the Subsidiaries of MTN Infrastructure to Trailblazer Holdco, LLC, WC Docket No. 24-151 (filed May. 15, 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).

- Electronic Filers: Comments may be filed electronically using the Internet 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 deliver, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.**
  - 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).

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

1) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;
2) David Krech, Office International Affairs, david.krech@fcc.gov; and
3) Jim Bird, Office of General Counsel, jim.bird@fcc.gov.

Erratum (Appendix B — Final Rules), DA 20-1404 (OMD/IB rel. Nov. 27, 2020); *see also Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23918-19, paras. 61-63 (1997), recon. denied, 15 FCC Rcd 18158 (2000).

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.[38] 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 Dennis Johnson at dennis.johnson@fcc.gov.

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[38] *See* 47 CFR § 1.45(c).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-622
Released: June 28, 2024

WIRELINE COMPETITION BUREAU SEEKS COMMENT ON PROPOSED CHANGES TO THE 2025 FCC FORM 499-A, FCC FORM 499-Q, AND ACCOMPANYING INSTRUCTIONS

WC Docket No. 06-122

Comment Date: July 29, 2024

The Wireline Competition Bureau (Bureau) seeks comment on proposed revisions to the (1) 2025 annual Telecommunications Reporting Worksheet, FCC Form 499-A (Form 499-A) and accompanying instructions (Form 499-A Instructions) to report 2024 revenues,[1] and (2) 2025 quarterly Telecommunications Reporting Worksheet, FCC Form 499-Q (Form 499-Q) and accompanying instructions (Form 499-Q Instructions) to report projected 2025 collected revenues on a quarterly basis.[2]

The Bureau has delegated authority to revise these FCC forms and accompanying instructions to, among other things, ensure "sound and efficient administration of the universal service programs,"[3] and to promote clarity, transparency and predictability.

[1] The Communications Act of 1934 (Act), as amended, requires that the Commission establish mechanisms to fund universal service, interstate telecommunications relay services, the administration of the North American Numbering Plan, and the shared costs of local number portability administration. 47 U.S.C. §§ 151, 225, 251, 254. To accomplish these congressionally-directed objectives, the Commission requires telecommunications carriers and certain other providers of telecommunications (including Voice-over-Internet-Protocol (VoIP) service providers) to report each year on the Form 499-A the revenues they receive from offering service. *See* 47 CFR §§ 52.17(b), 52.32(b), 54.706, 54.708, 54.711, 64.604(b)(5)(iii)(B). The Form 499-A is due on April 1 of each year. *See* Universal Service Administrative Company Schedule of Filings http://usac.org/cont/about/when-to-file.aspx.

[2] Sections 54.706, 54.711, and 54.713 of the Commission's rules require all telecommunications carriers providing interstate telecommunications services, interconnected VoIP providers that provide interstate telecommunications, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to the universal service fund and file a Form 499-Q on February 1, May 1, August 1, and November 1 of each year. 47 CFR §§ 54.706, 54.711, 54.713.

[3] Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service, CC Docket Nos. 96-45, 97-21, Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400, 18442, para. 81 (1997) ("Because it is difficult to determine in advance precisely the information that will be needed to administer the new universal service programs, the [Common Carrier, now Wireline Competition] Bureau will have delegated authority to waive, reduce, or eliminate contributor reporting requirements that may prove unnecessary. The Bureau also will have delegated authority to require any additional contributor reporting requirements necessary to the sound and efficient administration of the universal service programs."). *See* 47 CFR § 54.711(c). Consistent with this authority, the Bureau annually revises the Telecommunications Reporting Worksheet Instructions to provide direction and guidance for complying with existing rules and requirements. The Form 499s and accompanying instructions are typically modified each year based on experience in administering the universal service program and explicit rulings by the Commission or the Bureau during the preceding reporting

(continued….)

Redlined versions of the forms and instructions showing proposed changes from the forms and instructions currently in effect are attached to this Public Notice. The proposed revisions to the 2025 Forms 499-A and 499-Q and the accompanying instructions, as applicable, are summarized below:

Changes to the 2025 FCC Form 499-A Instructions:

- **Clarifications:**
    - Page 14 is updated to clarify that USF statements will no longer be sent via mail, rather, carriers will receive an email notification that their USF statement is ready to be viewed in E-File.
    - Page 15 is updated to clarify that, in the case of an acquisition or merger during the prior calendar year, the successor company must submit the acquired entity's FCC Form 499-A Worksheet and report all pre-acquisition revenue for that calendar year.
    - Page 19 is updated to clarify that carriers must include an email address for their billing contact person on Line 208.
    - Page 20 is updated to clarify that an email address is required for the designated D.C. Agent for Service of Process.
    - Page 23 is updated to clarify that the successor company rather than the acquiring company is responsible for reporting total revenues for the reporting period for all predecessor operations.
    - Page 54 is updated to note that the circularity factor will be adjusted and updated in the Form 499-Q instructions based upon the quarterly contribution factors subsequent to the Fourth Quarter 2024 contribution factor announcement.[4]

Changes to the 2025 Form 499-Q Instructions:

- **Circularity Factor Update:** Page 5 is updated to note that the circularity factor will be adjusted and updated in the Form 499-Q instructions based upon the quarterly contribution factors subsequent to the Fourth Quarter 2024 contribution factor announcement.[5]
- **Clarifications:**
    - Page 19 is updated to make the certification language in the Form 499-Q instructions consistent with the language in the Form 499-A instructions.

Changes to both the 2025 Form 499-A and Form 499-Q, where applicable, and instructions:

- **Date Changes:** Dates are updated throughout the Form 499s and instructions. References to "2024" are changed to "2025" and references to "2023" are changed to "2024."
- **Clarifications and Stylistic Changes:**

(Continued from previous page)
period. *See, e.g., Universal Service Contribution Methodology et al.,* WC Docket No. 06-122 et al., Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7533-50, paras. 24-62 (2006).

[4] *See Federal-State Joint Board on Universal Service, et al.*, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24971, para. 35 (2002) (*2002 Second Contribution Methodology Order and FNPRM*).

[5] *See 2002 Second Contribution Methodology Order and FNPRM*, 17 FCC Rcd at 24971, para. 35.

- In a number of instances, additional non-substantive clarifications and minor stylistic changes, such as typos and spacing, are also made.

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Interested parties may file comments **on or before July 29, 2024.**

All pleadings are to reference **WC Docket No. 06-122**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[6]

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: http://fjallfoss.fcc.gov/ecfs2/.
- *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail.[7] All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.

- People with Disabilities: 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.

In addition, we request that one copy of each pleading be sent to each of the following:

(1) Conor O'Donovan, Telecommunications Access Policy Division, Wireline Competition Bureau, 45 L Street, NE, Washington, DC 20554; e-mail: conor.o'donovan@fcc.gov; and

(2) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 45 L Street, NE, Washington, DC 20554; e-mail: charles.tyler@fcc.gov.

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[8] 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

[6] *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1999).

[7] In response to the COVID-19 pandemic, the FCC has closed its current hand-delivery filing location at FCC Headquarters. We encourage outside parties to take full advantage of the Commission's electronic filing system. Any party that is unable to meet the filing deadline due to the building closure may request a waiver of the comment or reply comment deadline, to the extent permitted by law. *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (2020).

[8] 47 CFR §§ 1.1200 *et seq*.

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.

For further information, please contact Conor O'Donovan, Telecommunications Access Policy Division, Wireline Competition Bureau, at conor.o'donovan@fcc.gov or (202) 418-1639.

Attachments:
Attachment A: 2025 Form 499-A (Redline Copy)
Attachment B: 2025 Form 499-A Instructions (Redline Copy)
Attachment C: 2025 Form 499-Q (Redline Copy)
Attachment D: 2025 Form 499-Q Instructions (Redline Copy)

-FCC-

~~2024~~2025 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting ~~2023~~2024 Revenues)

APPROVED BY OMB

3060-0855

>>> Please read instructions before completing.<<<

Annual Filing – due April 1, ~~2024~~2025

Block 1: Contributor Identification Information

During the year, filers must refile Blocks 1, 2 and 6 if there are any changes in Lines 104 or 112. See Instructions.

101	Filer 499 ID [If you don't know your number, contact the administrator at (888) 641-8722. If you are a new filer, write "NEW" in this block and a Filer 499 ID will be assigned to you.]	
102	Legal name of filer	
103	IRS employer identification number	[Enter 9 digit number]
104	Name filer is doing business as	

105 Telecommunications activities of filer [Select up to 5 boxes that best describe the reporting entity. Enter numbers starting with "1" to show the order of importance -- see instructions.]

☐ Audio Bridging (teleconferencing) Provider		☐ CAP/CLEC	☐ Cellular/PCS/SMR (wireless telephony inc. by resale)	
☐ Coaxial Cable	☐ Incumbent LEC	☐ Interconnected VoIP	☐ Interexchange Carrier (IXC)	☐ Local Reseller
☐ Non-Interconnected VoIP	☐ Operator Service Provider	☐ Paging	☐ Payphone Service Provider	☐ Prepaid Card
☐ Private Service Provider	☐ Satellite Service Provider	☐ Shared-Tenant Service Provider / Building LEC		☐ SMR (dispatch)
☐ Toll Reseller	☐ Wireless Data	☐ Other Local	☐ Other Mobile	☐ Other Toll

If Other Local, Other Mobile or Other Toll is checked describe carrier type / services provided:

106.1	Affiliated Filers Name/Holding Company Name (All affiliated companies must show the same name on this line.)	Check if filer has no affiliates ☐
106.2	Affiliated Filers Name/Holding Company Name IRS employer identification number	[Enter 9 digit number]
107	FCC Registration Number (FRN) [https://apps.fcc.gov/cores/userLogin.do] [For assistance, contact the CORES help desk at 877-480-3201 or CORES@fcc.gov]	[Enter 10 digit number]
108	Management company [if filer is managed by another entity]	
109	Complete mailing address of reporting entity corporate headquarters	Street1 Street2 Street3 City State Zip (postal code) Country
110	Complete business address for customer inquiries and complaints check if same address as Line 109 ☐	Street1 Street2 Street3 City State Zip (postal code) Country
111	Telephone number for customer complaints and inquiries [Toll-free number if available]	( ) - ext -

112 List all trade names used in the past 3 years in providing telecommunications. Include all names by which you are known by customers.

a		g	
b		h	
c		i	
d		j	
e		k	
f		l	

Use additional sheets if necessary. Each filer must provide all names used for telecommunications activities

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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~~2024~~2025 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting ~~2023~~2024 Revenues)

Block 2-A: Regulatory Contact Information		
201	Filer 499 ID [from Line 101]	
202	Legal name of filer [from Line 102]	
203	Person who completed this Worksheet	First MI Last
204	Telephone number of this person	( ) - ext -
205	Fax number of this person	( ) -
206	Email of this person ‖not for public release‖	
207	Contact person name, office name, and mailing address of a corporate office to which correspondence regarding this Telecommunications Reporting Worksheet should be sent. check if same name as Line 203 ☐ check if same address as Line 109 ☐	Office Attn: First name MI Last Email ‖not for public release‖ Phone ( ) - ext- Fax ( ) - Street1 Street2 Street3 City State Zip (postal code) Country
208	Billing address and billing contact person [Plan administrators will send bills for contributions to this address. Please attach a written request for alternative billing arrangements.] check if name and address same as Line 207 ☐	Company Attn: First name MI Last Email ‖not for public release‖ Phone ( ) - ext- Fax ( ) - Street1 Street2 Street3 City State Zip (postal code) Country
208.1	Email address pertaining to ITSP regulatory fee issues	‖not for public release‖
Block 2-B: Agent for Service of Process		All carriers and providers of interconnected and non-interconnected VoIP must complete Lines 209 through 213. During the year, these filers must refile Blocks 1, 2, and 6 if there are any changes in this section. See Instructions
209	D.C. Agent for Service of Process	Company Attn: First name MI Last
210	Telephone number of D.C. agent	( ) - ext -
211	Fax number of D.C. agent	( ) -
212	Email of D.C. agent	
213	Complete business address of D.C. agent for hand service of documents	Street1 Street2 Street3 City State DC Zip
214	Local/alternate Agent for Service of Process (optional)	Company Attn: First name MI Last
215	Telephone number of local/alternate agent	( ) - ext -
216	Fax number of local/alternate agent	( ) -
217	Email of local/alternate agent	
218	Complete business address of local/alternate agent for hand service of documents	Street1 Street2 City State Zip (postal code) Country

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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~~2024~~2025 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting ~~2023~~2024 Revenues)

Page

Block 2-C: FCC Registration and Contact Information		Filers must refile Blocks 1, 2 and 6 if there are any changes in this section. See Instructions.			
219	Filer 499 ID [from Line 101]				
220	Legal name of filer [from Line 102]				
221	Chief Executive Officer (or, highest ranking company officer if the filer does not have a chief executive officer)	First	MI	Last	
222	Business address of individual named on Line 221 check if same as Line 109 ☐	Street1 Street2 Street3 City	State	Zip (postal code)	Country
223	Second ranking company officer, such as Chairman (Must be someone other than the individual listed on Line 221)	First	MI	Last	
224	Business address of individual named on Line 223 check if same as Line 109 ☐	Street1 Street2 Street3 City	State	Zip (postal code)	Country
225	Third ranking company officer, such as President or Secretary (Must be someone other than individuals listed on Lines 221 and 223)	First	MI	Last	
226	Business address of individual named on Line 225 check if same as Line 109 ☐	Street1 Street2 Street3 City	State	Zip (postal code)	Country

227 Indicate jurisdictions in which the filer provides service. Include jurisdictions in which service was provided in the past 15 months and jurisdictions in which service is likely to be provided in the next 12 months.

☐ Alabama	☐ Guam	☐ Massachusetts	☐ New York	☐ Tennessee
☐ Alaska	☐ Hawaii	☐ Michigan	☐ North Carolina	☐ Texas
☐ American Samoa	☐ Idaho	☐ Midway Atoll	☐ North Dakota	☐ Utah
☐ Arizona	☐ Illinois	☐ Minnesota	☐ Northern Mariana Islands	☐ U.S. Virgin Islands
☐ Arkansas	☐ Indiana	☐ Mississippi	☐ Ohio	☐ Vermont
☐ California	☐ Iowa	☐ Missouri	☐ Oklahoma	☐ Virginia
☐ Colorado	☐ Johnston Atoll	☐ Montana	☐ Oregon	☐ Wake Island
☐ Connecticut	☐ Kansas	☐ Nebraska	☐ Pennsylvania	☐ Washington
☐ Delaware	☐ Kentucky	☐ Nevada	☐ Puerto Rico	☐ West Virginia
☐ District of Columbia	☐ Louisiana	☐ New Hampshire	☐ Rhode Island	☐ Wisconsin
☐ Florida	☐ Maine	☐ New Jersey	☐ South Carolina	☐ Wyoming
☐ Georgia	☐ Maryland	☐ New Mexico	☐ South Dakota	

228	Year and month filer first provided (or expects to provide) telecommunications in the U.S.	☐ Check if prior to 1/1/1999, otherwise:	Year	Month

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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~~2024~~2025 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting ~~2023~~2024 Revenues)

Page

Block 3: Carrier's Carrier Revenue Information

301	Filer 499 ID [from Line 101]					
302	Legal name of filer [from Line 102]					
Report billed revenues for January 1 through December 31, ~~2023~~2024. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars. See instructions regarding percent interstate and international.		Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates Interstate (b)	 International (c)	Breakouts Interstate Revenues (d)	 International Revenues (e)
Revenues from Services Provided for Resale as Telecommunications by Other Contributors to Federal Universal Service Support Mechanisms						
Fixed local service						
	Monthly service, local calling, connection charges, vertical features, and other local exchange service including subscriber line and					
303.1	PICC charges to IXCs Provided as unbundled network elements (UNEs)					
303.2	Provided under other arrangements					
	Per-minute charges for originating or terminating calls					
304.1	Provided under state or federal access tariff					
304.2	Provided as unbundled network elements or other contract arrangement					
	Local private line & business data service					
305.1	Provided to other contributors for resale as telecommunications					
305.2	Provided to other contributors for resale as interconnected VoIP					
306	Payphone compensation from toll carriers					
307	Other local telecommunications service revenues					
308	Support revenues received from Federal or state sources					
Mobile services (i.e., wireless telephony, paging, and other mobile services)						
309	Monthly, activation, and message charges except toll					
Toll services						
310	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.)					
311	Ordinary long distance(direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)					
312	Long distance private line services					
313	Satellite services					
314	All other long distance services					
315	Total revenues from resale [Lines 303 through 314]					

See section III.C.2 of the instructions for the requirements applicable to revenue reported on this page. These records must be made available to the administrator or the FCC upon request.

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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~~2024~~2025 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting ~~2023~~2024 Revenues)

Page

Block 4-A: End-User and Non-Telecommunications Revenue Information

401	Filer 499 ID [from Line 101]					
402	Legal name of filer [from Line 102]					
Report billed revenues for January 1 through December 31, ~~2023~~2024. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars. See instructions regarding percent interstate and international.		Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates Interstate (b)	 International (c)	Breakouts Interstate Revenues (d)	 International Revenues (e)
Revenues from All Other Sources (end-user, telecom. & non-telecom.)						
403	Surcharges or other amounts on bills identified as recovering State or Federal universal service contributions					
Fixed local services						
	Monthly service, local calling, connection charges, vertical features, and other local exchange service charges except for federally tariffed subscriber line charges and PICC charges					
	Traditional Circuit Switched					
404.1	Provided at a flat rate including interstate toll service – local portion					
404.2	Provided at a flat rate including interstate toll service – toll portion					
404.3	Provided without interstate toll included (see instructions)					
	Interconnected VoIP					
404.4	Offered in conjunction with a broadband connection					
404.5	Offered independent of a broadband connection					
405	Tariffed subscriber line charges, Access Recovery Charges, and PICC charges levied by a local exchange carrier on a no-PIC customer					
406	Local private line & business data service [Includes the transmission portion of wireline broadband Internet access provided on a common carrier basis.]					
407	Payphone coin revenues (local and long distance)					
408	Other local telecommunications service revenues					
Mobile services (i.e., wireless telephony, paging, and other mobile services)						
409	Monthly and activation charges					
410	Roaming and air-time charges for toll calls, but excluding separately stated toll charges					

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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Block 4-A: Continued

		Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
			Interstate (b)	International (c)	Interstate Revenues (d)	International Revenues (e)
Toll services						
411	Prepaid calling card (including card sales to customers) and non-carrier distributors) reported at face value of cards					
412	International calls that both originate and terminate in foreign points		0%	100%		
413	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 412					
	Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)					
414.1	All, other than interconnected VoIP, including, but not limited to, itemized toll on wireline and wireless bills					
414.2	All interconnected VoIP long distance, including, but not limited to, itemized toll					
415	Long distance private line services					
416	Satellite services					
417	All other long distance services					
	Revenues other than U.S. telecommunications revenues, including information services, inside wiring maintenance, billing and collection, customer premises equipment, published directory, dark fiber, Internet access, cable TV program transmission, foreign carrier operations, and non-telecommunications revenues (See instructions)					
418.1	bundled with circuit switched local exchange service					
418.2	bundled with interconnected VoIP local exchange service					
418.3	Other					
418.4	non-interconnected VoIP revenues not included in any other category					

Block 4-B: Total Revenue and Uncollectible Revenue Information

419	Gross billed revenues from all sources (incl. reseller & non-telecom.) [Lines 303 through 314 plus Lines 403 through 418]					
420	Gross universal service contribution base amounts [Lines 403 through 411 plus Lines 413 through 417] [See Table 3 in instructions.]					
421	Uncollectible revenue/bad debt expense associated with gross billed revenues amounts shown on Line 419 [See instructions.]					
422	Uncollectible revenue/bad debt expense associated with universal service contribution base amounts shown on Line 420					
423	Net universal service contribution base revenues [Line 420 minus line 422]					

Block 5: Additional Revenue Breakouts

501	Filer 499 ID [from Line 101]	
502	Legal name of filer [from Line 102]	

Filers that report revenues in Block 3 and Block 4 must provide the percentages requested in Lines 503 through 510. See instructions for limited exceptions.

			Block 3 Carrier's Carrier (a)	Block 4 End-User Telecom (b)
		Percentage of revenues reported in Block 3 and Block 4 billed in each region of the country. Round or estimate to nearest whole percentage. Enter 0 if no service was provided in the region.		
503	Southeast:	Alabama, Florida, Georgia, Kentucky Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	%	%
504	Western:	Alaska, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming	%	%
505	West Coast:	California, Hawaii, Nevada, American Samoa, Guam, Johnston Atoll, Midway Atoll, Northern Mariana Islands, and Wake Island	%	%
506	Mid-Atlantic:	Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and, West Virginia	%	%
507	Mid-West:	Illinois, Indiana, Michigan, Ohio, and Wisconsin	%	%
508	Northeast:	Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont	%	%
509	Southwest:	Arkansas, Kansas, Missouri, Oklahoma, and Texas	%	%
510	Total:	[Percentages must add to 0 or 100.]	%	%

511 Revenues from resellers that do not contribute to universal service support mechanisms are included in Block 4-B, Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded the filer has the option of identifying such revenues below. **As stated in the instructions, you must have in your records the FCC Filer 499 ID for each customer whose revenues are included on Line 511. (See instructions.)**

		(a) Total Revenues	(b) Interstate and International
	Revenues from resellers that do not contribute to Universal Service		
512	Gross TRS contribution base amounts [Lines 403 through 417 plus Line 418.4 less Line 511]		
513	Uncollectible revenue/bad debt expense associated with TRS contribution base amounts shown on Line 512		
514	Net TRS contribution base revenues [Line 512 less Line 513]		

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

6799

Block 6: CERTIFICATION: to be signed by an officer of the filer

601	Filer 499 ID [from Line 101]	
602	Legal name of filer [from Line 102]	

Section IV of the instructions provides information on which types of filers are required to file for which purposes. Any filer claiming to be exempt from one or more contribution requirements should so certify below and attach an explanation. [The Universal Service Administrator will determine which filers meet the *de minimis* threshold based on information provided in Block 4, even if you fail to so certify below.]

603 I certify that the filer is exempt from contributing to: Universal Service ☐ TRS ☐ NANPA ☐ LNP Administration ☐

Provide explanation below:

_____

_____

_____

_____

604	Please indicate whether the filer is	**State or Local Government Entity** ☐ **I.R.C. § 501 or State Tax Exempt (see instructions)** ☐
605	I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue information contained herein pursuant to sections 0.459, 52.17, 54.711 and 64.604 of the Commission's rules.	☐

6800

I certify that I am an officer of the above-named filer as defined in the instructions, that I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named company for the previous calendar year. In addition, I swear, under penalty of perjury, that all requested identification registration information has been provided and is accurate. If the above-named filer is filing on a consolidated basis, I certify that this filing incorporates all of the revenues for the consolidated entities for the entire year and that the filer adhered to and continues to meet the conditions set forth in section III-B of the instructions.

606	Signature	_____
607	Printed name of officer	First MI Last
608	Position with reporting entity	
609	Business telephone number of officer	( ) - ext -
610	Email of officer ‖not for public release‖	
611	Date	
612	Check those that apply	[redacted]ginal April 1 filing for year [redacted]w filer, registration only [redacted]vised filing with updated registration [redacted]vised filing with updated revenue data

Do not mail checks with this form. **File this form online:** https://forms.universalservice.org/portal/login

For additional information regarding this worksheet contact: (888) 641-8722 or via email: Form499@usac.org

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FCC Form 499-A, XXXX~~September~~ 202~~4~~3
Approved by OMB
OMB Control Number 3060-0855
Estimated Average Burden Hours Per Response: 13.5 Hours

~~2024~~2025 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A)

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File the FCC Form 499-A online at https://forms.universalservice.org

I. INTRODUCTION

The Communications Act of 1934, as amended, requires that the Commission establish mechanisms to fund universal service (USF), interstate telecommunications relay services (TRS), the administration of the North American Numbering Plan (NANPA), and the shared costs of local number portability administration (LNPA).[1] To accomplish these congressionally directed objectives, the Commission requires telecommunications carriers and certain other providers of telecommunications (including Voice-over-Internet-Protocol (VoIP) service providers) to report each year on the Telecommunications Reporting Worksheet the revenues they receive from offering service.[2] The administrators of each of these programs use the revenues reported on this Worksheet to calculate and assess any necessary

[1] 47 U.S.C. §§ 151, 225, 251, 254, 616.

[2] *See* 47 CFR §§ 52.17(b), 52.32(b), 54.708, 54.711, 64.604(c)(5)(iii)(A) and (B).

contributions. The Commission also uses the revenue data reported on this Worksheet to calculate and assess Interstate Telecommunications Service Provider (ITSP) regulatory fees.[3]

Although some Telecommunications Reporting Worksheet filers may not need to contribute to each of the support and cost recovery mechanisms, all telecommunications carriers and certain additional telecommunications providers must file. These instructions explain which filers must contribute to particular mechanisms, but filers should consult the specific rules that govern contributions for each of the mechanisms.[4] In general, contributions are calculated based on each filer's end-user telecommunications revenue information, as filed in this Worksheet.

By filing this Worksheet, filers may also satisfy their obligations under section 413 of the Act to designate an agent in the District of Columbia for service of process[5] and their obligations to register with the Federal Communications Commission.[6]

[3] *See* 47 U.S.C. § 159(a), (b)(1)(A), (g) (authorizing the Commission to collect annual regulatory fees to recover the costs of enforcement, policy and rulemaking, user information, and international activities).

[4] *See* 47 CFR §§ 52.17 (numbering administration), 52.32 (local number portability), 54.706 (universal service), 64.604 (TRS).

[5] 47 U.S.C. § 413; *see* 47 CFR § 1.47(h).

[6] 47 CFR § 64.1195.

II. CONTACT INFORMATION

If you have questions about the Worksheet or the instructions, you may contact:

Universal Service Administrator	form499@usac.org (888) 641-8722

If you have questions regarding contribution amounts, billing procedures, or the support and cost recovery mechanisms, you may contact:

Universal Service Administrator:	form499@usac.org (888) 641-8722
TRS Administrator:	trs@rolkaloube.com (717) 585-6605
NANPA Billing and Collection Agent:	nanp@welchllp.com (613) 760-4512
Local Number Portability Administrator:	NPACBilling@iconnectiv.numberportability.com (844) 560-8050
ITSP Regulatory Fees	(877) 480-3201

III. FILING REQUIREMENTS AND GENERAL INSTRUCTIONS

A. WHO MUST FILE

1. GENERAL INFORMATION

With very limited exceptions, all intrastate, interstate, and international providers of telecommunications in the United States[7] must file this Worksheet. In addition to filing this form most filers must contribute to the universal service, TRS, NANPA, and LNPA funding mechanisms. This section provides a short summary to assist carriers and service providers in determining whether they must contribute to one or more of the mechanisms. Filers should consult the Commission's rules and orders to determine whether they must contribute to one or more of the mechanisms.

FCC Form 499-A is a multi-purpose form. It is used for at least seven purposes:

Annual filing requirements:

1. Report revenues for purposes of the federal Universal Service Fund (USF);
2. Report revenues for purposes of the federal Telecommunications Relay Services Fund (TRS);
3. Report revenues for the administration of the North American Numbering Plan (NANPA);
4. Report revenues for the shared costs of local number portability administration (LNPA);
5. Report revenues for calculating and assessing Interstate Telecommunications Service Provider (ITSP) regulatory fees;

One-time filing requirements (with obligation to revise if information changes):

6. Satisfy obligations under section 413 of the Act to designate an agent in the District of Columbia for service of process;
7. Fulfill obligations to register with the Federal Communications Commission under 47 CFR § 64.1195.

If you are subject to one or more of the above requirements, you must file FCC Form 499-A.

1. Federal Universal Service Fund — Entities that provide interstate telecommunications to the public for a fee as well as certain other providers of interstate telecommunications must contribute to the universal service support mechanisms. *See* 47 CFR § 54.706.

2. Telecommunications Relay Services — Every common carrier[8] providing telecommunications services and every VoIP provider (including interconnected and non-interconnected) must contribute to the TRS Fund. *See* 47 CFR §§ 64.601(b), 64.604.

3. Non-Interconnected VoIP Service Providers — All providers of "non-interconnected VoIP service" (as defined in section 64.601(a) of the Commission's rules) with end-user revenues subject to TRS

[7] For this purpose, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

[8] "Common carrier" or "carrier" means "any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy. . ." 47 U.S.C. § 153(11).

contributions must file this Worksheet in order to register with the Commission and report their revenues for purposes of calculating TRS contributions.[9]

4. North American Numbering Plan Administration — All telecommunications carriers and interconnected VoIP providers in the United States shall contribute to meet the costs of establishing numbering administration. *See* 47 CFR § 52.17.

5. Shared Costs of Local Number Portability — The shared costs of long-term number portability attributable to a regional database shall be recovered from all telecommunications carriers and interconnected VoIP providers providing service in that region. *See* 47 CFR § 52.32.

6. ITSP Regulatory Fees – Congress requires the Commission to assess and collect regulatory fees "to recover the costs of …enforcement activities, policy and rulemaking activities, user information services, and international activities." *See* 47 CFR § 159(a).

7. Designation of Agent for Service of Process – For more information on this requirement, see the instructions for Block 2-B.

8. FCC Registration – For more information on this requirement, see the instructions for Block 2-C.

2. ADDITIONAL INFORMATION REGARDING USF CONTRIBUTION REQUIREMENTS

Entities that provide interstate telecommunications to the public for a fee as well as certain other providers of interstate telecommunications must contribute to the universal service support mechanisms.

- The term "telecommunications" refers to the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.[10]

- For the purpose of filing, the term "interstate telecommunications" includes, but is not limited to, the following types of services: wireless telephony, including cellular and personal communications services (PCS); paging services; dispatch and operator services; mobile radio services;[11] access to interexchange service; business data services; wide area telecommunications services (WATS); subscriber toll-free and 900 services; message telephone services (MTS); private line; telex; telegraph; video services; satellite services; resale services; Frame Relay services; asynchronous transfer mode (ATM) services; Multi-Protocol Label Switching (MPLS) services; audio bridging services;[12] and interconnected VoIP services.

---

[9] *See Contributions to the Telecommunications Relay Services Fund*, CG Docket No. 11-47, Report and Order, 26 FCC Rcd 14532, 14537, para. 12 (2011) (*2011 TRS Contributions Order*) (adding definition of "non-interconnected VoIP service" to the Commission's TRS rules at section 64.601(a)). *See* 47 C.F.R § 64.601(a).

[10] 47 U.S.C. § 153(50).

[11] *See Request for Review by Waterway Communication System, LLC and Mobex Network Services, LLC of a Decision of the Universal Service Administrator*, WC Docket No. 06-122, Order, 23 FCC Rcd 12836 (WCB 2008).

[12] *See Request for Review by InterCall, Inc. of Decision of Universal Service Administrator*, CC Docket No. 96-45, Order, 23 FCC Rcd 10731, 10737–38, para. 22 (2008) (*Intercall Order*), *petition for reconsideration denied*, *Petitions for Reconsideration and Clarification of the InterCall Order*, WC Docket No. 06-122, CC Docket No. 96-45, Order on Reconsideration, 27 FCC Rcd 898 (2012), *subsequent history omitted*.

- Note that all incumbent (ILEC) and competitive (CLEC) local exchange carriers provide access services and, therefore, provide interstate telecommunications. No filing exemptions exist for data or non-voice services.
- There is no filing exception for entities that offer services to a narrow or limited class of users. Thus filers include:
  - Entities that provide interstate telecommunications to entities other than themselves for a fee on a private, contractual basis.
  - Most telecommunications carriers and all interconnected VoIP providers including those that qualify for the *de minimis* exception under the Commission's universal service rules.[13]
  - Owners of pay telephones, also known as "pay telephone aggregators."
- Three types of non-common-carrier telecommunications providers may, under the circumstances set forth below, not be required to contribute to USF directly: (a) *de minimis* telecommunications providers; (b) government, broadcasters, schools, and libraries; and (c) systems integrators and self-providers.

a. Exception for USF *de minimis* telecommunications providers

Telecommunications providers are not required to contribute directly to the universal service support mechanisms for a given year if their contribution for that year is less than $10,000.[14]

- Providers that offer telecommunications for a fee exclusively on a non-common carrier basis need not file this Worksheet if their contribution to the universal service support mechanisms would be *de minimis* under the universal service rules. Note that entities providing solely private line service may nevertheless be considered common carriers if they offer their services directly to the public or to such classes of users as to be effectively available directly to the public.[15]
- Telecommunications carriers providing telecommunications services on a common-carriage basis and interconnected VoIP providers need not contribute directly to the universal service support mechanism if they meet the *de minimis* standard.[16] However, they must file this Worksheet because they must contribute to other support mechanisms (TRS, NANPA or LNPA). *See* section III.A.1 for information regarding contribution requirements for TRS, NANPA, and LNPA. Such providers need not file an FCC Form 499-Q.[17]

[13] *See* 47 CFR § 54.708.

[14] *See id*.

[15] *See* 47 U.S.C. § 153(53).

[16] A resale provider may contribute directly to the USF by signing a resale certificate or may be treated as an end user by its underlying carrier and therefore may contribute indirectly as a result of USF pass-through charges. *See, e.g.,* section IV.C.4 "Attributing Revenues from Contributing Resellers and From End Users."

[17] Sections 54.706, 54.711, and 54.713 of the Commission's rules require all telecommunications carriers providing interstate telecommunications services, interconnected VoIP providers that provide interstate telecommunications, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to the universal service fund and file a FCC Form 499-Q on February 1, May 1, August 1, and November 1 each year. 47 CFR §§ 54.706, 54.711, 54.713. The FCC Form 499-Q sets forth information that the contributor must submit, so that the Administrator of the universal service support mechanisms may calculate and assess contributions. *See* Telecommunications Reporting Worksheet, FCC Form 499-Q
(continued . . .)

Providers who may be *de minimis* should complete the table contained in Appendix A to determine whether they meet the *de minimis* standard.

- Use the table in Appendix A to calculate estimated universal service contributions for the period January 202~~43~~ through December 202~~43~~.
    - To complete this table, providers must first complete Block 4 of the Worksheet and enter the amounts from Lines 423(d) on Appendix A line 1, and 423(e) on Appendix A line 2.
- Providers whose estimated contributions to universal service support mechanisms would be less than $10,000 are considered *de minimis* for universal service contribution purposes and will not be required to contribute directly to universal service support mechanisms.

b. Exception for government, broadcasters, schools, and libraries

The following non-common-carrier entities are explicitly exempted from contributing directly to the universal service support mechanisms and need not file this Worksheet unless they contribute to TRS, LNP, or NANPA:[18]

- Government entities that purchase telecommunications services in bulk on behalf of themselves, such as state networks for schools and libraries.
- Public safety and local governmental entities licensed under Subpart B of Part 90 of the Commission's rules or any entity providing interstate telecommunications exclusively to public safety or government entities that do not offer services to others.
- Broadcasters, non-profit schools, non-profit libraries, non-profit colleges, non-profit universities, and non-profit health care providers.

c. Exception for systems integrators and self-providers

Systems integrators: Systems integrators that derive less than five percent of their systems integration revenues from the resale of telecommunications are not required to file or contribute directly to universal service.[19] Systems integrators provide integrated packages of services and products that may include, but are not limited to computer capabilities, interstate telecommunications, remote data processing services, back-office data processing, management of customer relationships with underlying carriers and vendors, provision and maintenance of telecommunications and computer equipment, and help desk functions.[20] However, systems integrators must file this Worksheet if they have contribution obligations to other support mechanisms (TRS, NANPA or LNPA).

(Continued from previous page)

(~~2024~~2025) Instructions for Completing the Quarterly Worksheet for Filing Contributions to Universal Service Support Mechanisms, OMB Control Number 3060-0855 (Insert Release Date).

[18] *See Universal Service First Report and Order*, 12 FCC Rcd at 9187, para. 800.

[19] Note that systems integrators that have contribution obligations to other support mechanisms (TRS, NANPA, or LNPA) must file this worksheet.

[20] *See Federal-State Joint Board on Universal Service; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5471-75 (1997).

Self-Providers: Entities that provide telecommunications only to themselves or to commonly-owned affiliates need not file.[21]

d. Filing Exemption for Marketing Agents

Marketing agents, i.e., entities that market services on behalf of a telecommunications provider, are not telecommunications providers and are not required to file this Worksheet. The amounts remitted to or retained by the marketing agent are treated as expenses of the underlying provider and may not be deducted from the provider's revenues. A telecommunications reseller is not a marketing agent and must file this Worksheet.

B. WHICH TELECOMMUNICATIONS PROVIDERS MUST CONTRIBUTE FOR WHICH PURPOSES

Table 1 summarizes which telecommunications carriers and service providers must directly contribute for particular purposes. This chart is provided for informational purposes only. It is not intended to be exhaustive, nor is it intended to serve as legal guidance or precedent. Filers are instructed to consult the Commission's rules and orders to determine whether they must contribute to one or more of the mechanisms. *See* 47 CFR §§ 52.17, 52.32, 54.706, 64.604.

Table 1: Which Telecommunications Providers Must Contribute Directly for Which Purposes

Type of filer	Universal Service	TRS	NANPA	LNPA
Non-interconnected VoIP providers with no other telecommunications revenues		X		
De minimis payphone aggregators that do not also have telecommunications carrier revenues		X		
Other payphone aggregators that do not also have telecommunications carrier revenues	X	X		
De minimis telecommunications providers (including audio-bridging service providers) with no telecommunications service revenues				
Other telecommunications providers (including audio-bridging providers) with no telecommunications service revenues	X			
Telecommunications carriers that provide only intrastate service		X	X	X

[21] *See Universal Service First Report and Order*, 12 FCC Rcd at 9187, para. 800.

Telecommunications carriers that provide services only to other universal service contributors			X	X
Telecommunications carriers that provide only international services		X	X	X
De minimis interstate telecommunications carriers (including satellite carriers and common-carriage stand-alone audio-bridging service providers) and *de minimis* interconnected VoIP providers		X	X	X
All other interstate telecommunications carriers (including satellite carriers and common-carriage stand-alone audio-bridging service providers) and all other interconnected VoIP providers	X	X	X	X

As shown above, some providers may be exempt from contributing to USF, but nevertheless must file this Worksheet because they are required to contribute to TRS, NANPA, or LNPA. If an entity is not required to contribute to any of these support mechanisms, then it is not required to file this Worksheet.

- For USF purposes, these non-contributors must be treated as end users by their underlying carriers and therefore may end up contributing indirectly as a result of USF pass-through surcharges.
- Providers who do not file this Worksheet because they are *de minimis* for USF contribution purposes, and need not file for any other purpose, should retain the table contained in Appendix A and documentation of their contribution base revenues for five calendar years after the date each Worksheet is due.[22]
- Interconnected VoIP providers who are *de minimis* must file this Worksheet and retain the table and documentation of their contribution base revenues for five calendar years after the date each Worksheet is due.[23]

FILING BY LEGAL ENTITY

Each legal entity providing interstate telecommunications for a fee or providing interstate interconnected VoIP service, including each affiliate or subsidiary of an entity, must separately complete and file a copy of the Worksheet, except as provided below.[24] Entities with distinct articles of incorporation, articles of

[22] *See* 47 CFR § 54.706(e) ("Any entity required to contribute to the federal universal service support mechanisms shall retain, for at least five years from the date of the contribution, all records that may be required to demonstrate to auditors that the contributions made were in compliance with the Commission's universal service rules"); *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195, Report and Order, 22 FCC Rcd 16372, 16386–87, para. 27 (2007) (*USF Comprehensive Review Order*). Section § 54.711(a) of the Commission's rules, 47 CFR § 54.711, also requires contributors to "maintain records and documentation to justify information reported in the Telecommunications Reporting Worksheet, including the methodology used to determine projections, for three years and shall provide such records and documentation to the Commission or the Administrator upon request."

[23] *Id.*

[24] *See* 47 CFR § 64.1195 (outlining the Commission's registration requirements).

formation, or similar legal documents are separate legal entities. Each legal entity, affiliate, and subsidiary must identify its ultimate controlling parent or entity, or provide a common identifier for all of its affiliated filers on Block 1, Line 106.

As an alternative to each affiliate filing separately, entities may file on a consolidated basis but must certify each year that they meet all of the following conditions:[25]

- A single entity oversees the management of all affiliated systems;
- A single entity sends bills to customers identifying it (or a trade name) as the service provider, rather than identifying the individual legal entities;
- All revenues are posted to a single general ledger;[26]
- If separate revenue and expense accounts exist, they are derived from one consolidated set of books and the consolidated filing must cover all revenues contained in the consolidated books;
- Customers have a single point of contact;
- The consolidated filer acknowledges that process served on it would represent process served on any or all of the affiliated legal entities;
- The consolidated filer agrees to document and resolve all slamming complaints that might be served on either it or any of the affiliated legal entities;[27]
- The consolidated filer obtains a separate FCC Registration Number (FRN) from those assigned to its affiliated legal entities;
- The consolidated filer acknowledges that its universal service, TRS, LNP, NANPA, and regulatory fee obligations will be based on data provided in the consolidated Worksheet filings, that it bears the responsibility of satisfying those obligations, and that all legal entities covered by the filing are jointly and severally liable for such obligations; and
- The consolidated filer acknowledges that it: (1) was not insolvent on the date it undertook to make payments on a consolidated basis or on the date of actual payments to universal service, TRS, LNP, NANPA, and regulatory fees, and did not become insolvent as a result of such undertaking or payments; (2) was not left with unreasonably small capital as a result of such undertaking or payments; and (3) was not left unable to pay debts as they matured as a result of such undertaking or payments.[28]

[25] *See 1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, CC Docket 98-171, Report and Order, 14 FCC Rcd 16602 (1999) (*Consolidated Reporting Order*); *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752 (2002) (*2002 First Contribution Methodology Order and FNPRM*).

[26] The FCC Form 499 Filings for the consolidated filer must reflect all revenues in this general ledger.

[27] A Commercial Mobile Radio Service (CMRS) carrier that is not subject to certain slamming regulations is not required to certify that it will document and resolve all slamming complaints that might be served on either the filer or any of its affiliated legal entities that also are not subject to the slamming regulations.

[28] For purposes of this certification, the term "insolvent" means either unable to pay debts when due or having liabilities greater than assets. *See* 11 U.S.C. § 101(32).

This certification should be filed with the Commission's Data Collection Agent (*see* address in Table 3) and must also include:

- A list of the legal names of all the legal entities covered by the filing. See instructions to Line 112 regarding the reporting of these legal names on the Worksheet.
- The FCC Form 499 Filer IDs of all the legal entities covered by the filing
- The consolidated filer's FRN
- For wireless carriers, a list of all radio licenses (call signs) issued to each legal entity covered by the filing

Filers filing on a consolidated basis should be aware that any penalties associated with failure to pay or underpayment of any of its obligations will be assessed on the total revenue reported on the consolidated basis, rather than on a separate legal entity basis.

C. HOW TO FILE

1. NO FILING FEE

There is no fee to file this form.

2. WHEN TO FILE

This section provides the filing schedule and relevant filing addresses. If a filing date is a holiday (as defined in section 1.4(e)(1) of the Commission's rules), Worksheets are due the next business day. *See* 47 CFR § 1.4(e)(1).

Table 2: Filing Schedule for One-Time Requirements

What to file	When to file	Where to file
New telecommunications carriers and other telecommunications providers must register with the Commission when they begin to provide service.[29] Registration with the Commission includes obtaining an FCC registration number ("FRN") from the Commission registration system ("CORES") and obtaining a Filer ID from USAC's E-File system. If a new filer had already started providing telecommunications services prior to its registration with the FCC and obtaining a 499 Filer ID from USAC, it must file FCC Forms 499-A for all prior applicable years in which it provided telecommunications services and/or VoIP. 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.	Upon beginning to provide service, but no later than 30 days after beginning to provide service.	FCC (to obtain an FRN) https://apps.fcc.gov/cores/userLogin.do USAC (to obtain a 499 Filer ID) https://www.usac.org/service-providers/contributing-to-the-usf/register-for-a-499-id/ Such information is provided at Page 2, Block 2 of the FCC Form 499-A.
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.	Within one week of the contact information change.	Filers wishing to update Preparer information, headquarter address, billing contact information, or DC Agent for Service of Process, can submit either an FCC Form 499-A or an FCC Form 499-Q or, for billing-related matters only, email USAC's billing department.[30] Filers wishing to update any other information must submit a revised FCC Form 499-A. For more information, see https://www.usac.org/service-providers/contributing-to-the-usf/making-revisions/

[29] Registration information includes information reported in Blocks 1 and 2 of the Telecommunications Reporting Worksheet.

[30] Filers seeking to update limited DC agent information such as an address and/or telephone number change for more than twenty registrations at one time may contact USAC and request permission to submit a summary Excel-styled document containing these changes. Generally, changing an agent requires submission of an FCC Form 499-A with the accompanying officer certification.

What to file	When to file	Where to file
Filers that cease providing telecommunications must deactivate their Filer ID with USAC by submitting a letter with termination date and information on their successor entity to USAC. Filers must also update their CORES ID information with the Commission	Within 30 days of the date that the company ceased providing service.	FCC https://apps.fcc.gov/cores/userLogin.do USAC https://www.usac.org/service-providers/contributing-to-the-usf/manage-your-499-id/

Table 3: Filing Schedule for Annual Reporting Requirements

What to file	When to file	Where to file
Completed FCC Form 499-A	April 1	Data Collection Agent https://forms.universalservice.org
Completed FCC Form 499-Q (universal service contributors only)	February 1 May 1 August 1 November 1	Data Collection Agent c/o Universal Service Administrative Company https://forms.universalservice.org
Traffic studies relied on by providers to report interstate and/or international revenues on FCC Form 499-A *See* section IV.C.5.h for format and content requirements for traffic studies	April 1	Data Collection Agent - via Email c/o Universal Service Administrative Company form499@usac.org
Consolidated filer certification *See* section III.B for format and content requirements for consolidated filer certification	April 1	Data Collection Agent - via Email c/o Universal Service Administrative Company form499@usac.org

Do not send universal service, TRS, NANPA or LNPA contributions with the Worksheet or to any of the above listed addresses. The appropriate administrators will calculate the amount of contribution due and send a notification to the billing contact email address identified on Line 208 of the FCC Form 499-A that the statement is ready to be viewed in E-File. *See* Table 4 for contribution bases used by the USF, TRS, NANPA and LNPA administrators to determine contribution obligations.

3. ELECTRONIC FILING

Filers capable of accessing the Internet are required to file this form electronically. For information on filing electronically, go to https://www.usac.org/service-providers/contributing-to-the-usf/forms-to-file/.

Filers may file the consolidated filer certifications and traffic studies by submitting paper copies to: **Form 499 Data Collection Agent c/o USAC, 700 12th Street N.W., Suite 900, Washington, D.C. 20005**.

D. OBLIGATION TO FILE REVISIONS

Line 612 provides check boxes to show whether the Worksheet is the original April 1 filing for the year, a registration form for a new filer, a revised filing with updated registration information, or a revised filing with updated revenue data for the year.

Filers must submit a revised Form 499-A if there is any change in any of the following types of information:

- Filer identification in Block 1

- Regulatory contact information in Block 2-A
- Agent for service of process in Block 2-B
- FCC registration information in Block 2-C

Filers must also submit revised worksheets if they discover an error in their revenue data.

- Since companies generally close their books for financial purposes by the end of March, such filers should base the April filing on closed books.
- In filing a revised Worksheet, filers should not include routine out-of-period adjustments to revenue data unless such adjustments would affect a reported amount by more than ten percent.
- **Filers must submit any revised Worksheet that would result in decreased contributions by March 31 of the year after the original filing due date.**[31]

Filers should not file revised revenue information to reflect mergers, acquisitions, or sales of operating units.

- If a filer that submitted a Form 499-A no longer exists, its successor company is responsible for continuing to make assessed contribution or true-up payments, if any, for the funding period and must notify the Form 499 Data Collection Agent.
- If the operations of an entity ceased during the previous calendar year due to an acquisition by or merger with a successor, the successor company must submit the acquired entity's FCC Form 499-A Worksheet and report all pre-acquisition revenue for that calendar year. If the successor company has E-File access to the account of the acquired entity, it may submit the Worksheet electronically, otherwise it may submit a hard copy Worksheet to USAC. It is the successor company's responsibility to ensure that the revenues for both companies for the previous calendar year are accounted for in their entirety on the respective company's quarterly and annual Worksheets.
- Either the entity that ceased operations or the successor entity may owe additional universal service contributions or may be due refunds, depending on how its FCC Form 499-A Worksheet compares to previously filed FCC Form 499-Q Worksheets.
    - Such entities are not liable for TRS, LNP, or NANPA contributions for the upcoming year. Check the appropriate boxes on Line 603 and write "Not in business as of filing date" on the explanation line.

E. RECORDKEEPING

Filers shall maintain records and documentation to justify information reporting on the Worksheet, including the methodology used to determine projections and to allocate interstate revenues, for five years.[32] Additionally, filers must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's Office of Inspector General, to the Universal Service Administrative Company (USAC), and to auditors upon request.[33] Review by the Commission or USAC may cover any existing corporate records, not just those

[31] *See Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Order, 20 FCC Rcd 1012, 1013, para. 2 (WCB 2004), *pet. for recon. and applications for review pending*.

[32] *See* 47 CFR § 54.706(e) ("These records shall include without limitation the following: Financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation.").

[33] *See id.*; 47 CFR § 54.711(a).

specifically maintained for these purposes.[34] Entities acquiring carrier operations through consolidation, merger, etc., must maintain the records of the acquired entity.[35]

F. COMPLIANCE

Failure to file the Worksheet, submit traffic studies (if applicable), submit supporting documentation upon request, and pay contributions in a timely fashion may subject entities to the enforcement provisions of the Communications Act and any other applicable law.[36] In addition, entities may be billed by the administrators for reasonable costs, including interest and administrative costs that are caused by late, inaccurate, or untruthful filing of the Worksheet or overdue contributions.[37] Inaccurate or untruthful information contained in the Worksheet may lead to prosecution under the criminal provisions of Title 18 of the United States Code.[38]

G. ROUNDING OF NUMBERS AND NEGATIVE NUMBERS

Dollar Amounts. — Reported revenues in Blocks 3, 4, and 5 greater than one thousand dollars may be rounded to the nearest thousand dollars. Dollar amounts may be reported in whole dollars. For example, $2,271,881.93 could be reported at $2,271,882 or $2,272,000, but not $2272 thousand, $2,270,000.00, or $2.272 million. Enter $0 in any line for which the filer had no revenues for the year.

Negative Numbers. — Filers are directed to provide billed revenues without subtracting any expenses, allowances for uncollectibles, or settlement payments and without making out-of-period adjustments. Therefore, do not enter negative numbers on any billed revenue lines on the Worksheet. *See* instructions for Lines 421 and 422 regarding uncollectibles.

IV. SPECIFIC INSTRUCTIONS

A. BLOCK 1: FILER IDENTIFICATION INFORMATION

Block 1 of the Telecommunications Reporting Worksheet reports identification information.

Line 101	**499 Filer ID**

USAC assigns an FCC Form 499 Filer ID number once a company completes the online registration process at https://efile.universalservice.org/ContributorRegistration/V2/. This number is then used for the company to file subsequent FCC Forms 499. Filer 499 ID numbers can be found at:

- FCC Form 499 Filer Database (http://apps.fcc.gov/cgb/form499/499a.cfm)
- Telecommunications Provider Locator (https://www.fcc.gov/encyclopedia/telecommunications-provider-locator)

[34] *See* 47 U.S.C. § 218.

[35] *See* 47 CFR § 42.1.

[36] In addition, pursuant to the Debt Collection Improvement Act of 1996, the Commission shall withhold action on applications or other requests for benefits by delinquent debtors and dismiss those applications or other requests if the delinquent debt is not paid or satisfactory arrangement for payment is not made. *See* 47 CFR § 1.1910; *Amendment of Parts 0 and 1 of the Commission's Rules, Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors*, MD Docket No. 02-339, 19 FCC Rcd 6540 (2004).

[37] *See* 47 CFR § 54.713 (universal service); 47 CFR § 64.604(c)(5)(iii)(A) and (B) (TRS); *see also* 47 CFR § 52.17(b) (NANPA); 47 CFR § 52.32(c) (LNPA).

[38] *See* 47 CFR § 54.711.

Line 102	Legal Name of Filer

Enter the legal name of the filer as it appears on articles of incorporation or articles of formation and other legal documents. Each legal entity must file a separate Worksheet unless affiliated entities are filing on a consolidated basis. *See* section III.B.

Line 103	IRS Employer Identification Number

Enter the Internal Revenue Service (IRS) employer identification number (EIN) for the filer, which should be the same EIN that the company uses to file any federal taxes, if the filer offers services subject to such taxes.

- Do not use individual social security numbers for the federal EIN.
- If a filer lacks an EIN (*i.e.* has no taxpayer identification number to provide other than an individual social security number), it should contact USAC (see section II for contact information) so that it can be assigned an alternative identification number.
- Consolidated filers must provide the EIN of the holding company.

Line 104	Doing Business As Name

Enter the principal name under which the filer conducts telecommunications activities, typically the name that appears on customer bills or the name used when service representatives answer customer inquiries.

Line 105	Telecommunications Activities of Filer

Mark the boxes that describe the telecommunications activity or activities of the filer. If more than one is appropriate, label the activities in order of importance to the filer's business. Enter a 1 in the box that is the most important activity, a 2 in the next most important, etc., but select no more than 5 categories. An explanation of the categories appears in Appendix B.

Line 106	Affiliated Filers/ Holding Company Information

Enter a common identifier for all affiliated filers (the "Affiliated Filers Name"). This is typically the name of the filer's holding company or controlling entity, if any. Amongst a large group of affiliates, this may be the name of the predominant commonly owned or controlled entity. All reporting affiliates or commonly owned entities should have the same Affiliated Filers Name and IRS employer identification number appearing on Line 106.1 and 106.2 respectively. For those entities also required to submit information to the Broadband Data Collection (BDC) system, use the same single name that is used in the FCC Form 477 and/or the BDC broadband deployment submissions to indicate common ownership or control.[39]

- Unless otherwise specifically provided, an affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person."[40] For this purpose, the term 'owns' means "to own an equity interest (or the equivalent thereof) of more than 10 percent."[41]

[39] The Commission adopted an Order ending the collection of broadband deployment data through the FCC Form 477 in December 2022. *See Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket No. 19-195 et al., 37 FCC Rcd 14957, 14960-61, paras. 11-10 (2022). Pursuant to the Order, the Commission continues to collect broadband and voice subscription data using the FCC Form 477, but filers submit such data solely through the BDC system. *Id.* at para. 13.

[40] *See* 47 U.S.C. § 153(2).

[41] *Id.*

- If the filer has no affiliates, check the appropriate box on Line 106.

Line 107	FCC Registration Number

Enter the FCC Registration Number (FRN) of the filer. The FRN is a ten-digit number that includes a check-digit and is used to identify an entity within all Commission Licensing/Filing systems and the Commission's Revenue Accounting Management Information System (RAMIS). The number is assigned by the Commission Registration System (CORES). For more information, *see* https://apps.fcc.gov/cores/userLogin.do.

Line 108	Management Company

Enter the name of the management company if the filer is managed by an entity other than itself. If the filer and one or more telecommunications provider(s) are commonly managed, then each should show the same management company on Line 108. Filers need not be affiliated to have a common management company. The management company would typically be the point of contact for the administrators of the support mechanisms.

Line 109	Mailing Address of Corporate Headquarters

Enter the complete mailing address of the corporate headquarters of the filer.

Lines 110-111	Business Address/ Telephone Number for Customer Inquiries and Complaints

Line 110. — Enter a business address for the filer that could be used either for customer inquiries or that parties could use to contact the filer in order to resolve complaints. Check the box if this address is the same as the mailing address of the corporate headquarters on Line 109.

Line 111. — Enter a telephone number that can be used to resolve customer complaints, for customer service, or for billing inquiries, such as a customer toll-free number.

Line 112	Trade Names

Enter all names that the filer used in the past three years for providing telecommunications.

- Enter all names by which the filer would be known to customers, government bodies, creditors, the press, etc.
- Consolidated filers should provide all names used by all telecommunications affiliates covered by the filing.
- The list must include the filer's billing agents if those parties, rather than the filer, are identified on customer bills.
- The list should also include names of predecessor companies that would have contributed to universal service, TRS, NANP, or LNP or filed a Telecommunications Reporting Worksheet in the prior year. In such cases, include the prior Filer 499 ID as part of the name, as this information will be used by the administrators in instances where other information indicates that a non-filer might exist and also to ensure that entities are not billed improperly for predecessor companies that no longer exist.
- If there is insufficient space to enter all names, contact USAC.

B. BLOCK 2: CONTACT INFORMATION

Block 2 of the Telecommunications Reporting Worksheet reports contact information for regulatory and billing purposes.

1. BLOCK 2-A: REGULATORY CONTACT INFORMATION

Line 201	499 Filer ID

Enter the Filer 499 ID from Line 101.

Line 202	Legal Name of Filer

Enter the legal name of the filer from Line 102.

Line 203-206	Person Who Completed This Worksheet/ Contact Information

Enter the name and telephone number of the person who filled out the FCC Form 499. An email address is also required and will not be publicly released. This person should be able to provide clarifications or additional information and, if necessary, serve as the first point of contact if either the Commission or an administrator should choose to verify or audit information provided in the Worksheet.

Line 207	Corporate Office to Which Correspondence Should Be Sent

Enter the contact person name, office name, and mailing address of a corporate office to which correspondence regarding this Worksheet should be sent. An email address is also required and will not be publicly released. USAC does NOT send Worksheets to this address; all Worksheets must be filed using USAC's electronic filing system. Failure to receive a Worksheet from an administrator or the FCC does not relieve the filer from its obligation to file in a timely fashion.

Line 208	Billing Contact Information

Line 208 — Enter a billing contact person name, address, and email address for administrators to send billing information for contributions to the Universal Service Fund. The email address will not be publicly released. Notifications of issued invoices for USF contributions, which may be viewed in E-File, will be sent to the email address specified. Information on establishing electronic fund transfer and bills TRS, NANPA, or LNPA contributions will be sent to this address unless other arrangements are made via written request.

Line 208.1 — An FCC ITSP regulatory fee bill, if due, will be sent to the email address specified on Line 208.1. FCC inquiries regarding ITSP regulatory fees will also be sent to this email address. Carrier questions regarding ITSP regulatory fee bills should be directed to the FCC Financial Operations Help Desk, 877-480-3201.

Although a filer may or may not use the same contact information for Lines 207 and 208, it is the filer's responsibility to ensure that accurate information is provided on both lines. A filer will be responsible for any late fees, interest or penalties incurred as a result of its failure to provide accurate contact information on this form.

2. BLOCK 2-B: AGENT FOR SERVICE OF PROCESS

Section 413 of the Act requires each common carrier "to designate in writing an agent in the District of Columbia" upon whom all notices, process, orders, and decisions made by the Commission may be served on behalf of that carrier in any proceeding pending before the Commission. The Commission has also extended this requirement to interconnected and non-interconnected VoIP providers.[42] Carriers that

[42] 47 U.S.C. § 413; *see* 47 CFR § 1.47(h) (interconnected VoIP providers); *Contributions to the Telecommunications Relay Services Fund*, CG Docket No. 11-47, Report and Order, 26 FCC Rcd 14352, 14542, para. 21 (2011) (non-interconnected VoIP providers).

hold international section 214 authorizations must designate a U.S. citizen or U.S. lawful permanent resident as their agent for service of process.[43]

Lines 209-218	Agent for Service of Process

Carriers, interconnected VoIP providers, and non-interconnected VoIP providers must enter the company name, contact person name, business address, email address, telephone or voicemail number for their designated D.C. Agent.

Carriers, interconnected VoIP providers, and non-interconnected VoIP providers *must* designate a *single* agent for service of process in D.C. for all Commission business. Service of any notice, process, orders, decisions, and requirements of the Commission may be made upon the filer by leaving a copy thereof with this designated agent during normal business hours at the agent's office or other usual place of residence.

In addition to this information, the filer may elect to provide a local or alternate agent for service of process located outside D.C. Filers other than carriers, interconnected VoIP providers, and non-interconnected VoIP providers need only report one agent for service of process, whether located inside D.C. or otherwise. Although the FCC Form 499-A permits carriers, interconnected VoIP providers, and non-interconnected VoIP providers to designate a preferred alternate or local agents for service of process, each designated agent for a particular carrier, interconnected VoIP provider or non-interconnected VoIP provider must accept service for all purposes relating to Commission business. A carrier, interconnected VoIP provider or non-interconnected VoIP provider may not limit a designated agent's ability to accept service on behalf of the carrier, interconnected VoIP provider or non-interconnected VoIP provider by subject matter, jurisdiction, affiliate or any other grounds. The Commission may assume that the local or alternate agent is the filer's preferred destination for all service of process.

New carriers and VoIP providers (including interconnected and non-interconnected) must identify an agent for service of process, must register with the FCC within 30 days of providing service, and all carriers or VoIP providers (including interconnected and non-interconnected) must notify USAC within one week if the contact information changes for their D.C. Agent. *See* Table 2 for more information.

3. BLOCK 2-C: FCC REGISTRATION INFORMATION

New telecommunications carriers and other telecommunications providers must register with the Commission when they begin to provide service. Carriers and other telecommunications providers must update registration information within one week of a material change. Registration information includes information reported in Blocks 1 and 2 of the Telecommunications Reporting Worksheet.

Lines 219-226	FCC Registration Information

As explained above, virtually all carriers filing the FCC Form 499 are considered to be interstate carriers. They, along with interconnected and non-interconnected VoIP providers, must provide the names and business addresses of their Chief Executive Officer, Chairman, and President.

Refer to the following list for instructions for different types of providers:

- If the filer does not have one or more of these officers, then names should be supplied for the three most senior-level officers of the filer

[43] 47 U.S.C. § 413; *see* 47 CFR § 1.47(h); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Report and Order, 35 FCC Rcd 10927, 10951-52, paras. 68-69, (2020) (*Executive Branch Process Reform Report and Order*).

- If the same person occupies more than one position, then names should be supplied for the three most senior-level officers of the filer
- If the filer is a sole proprietorship, list only one name
- If the filer is a partnership, list the managing partner on Line 221
- If the filer is owned by two partners, list the second partner on Line 223
- If there are three or more partners, list information for the managing partner and the two other partners with the greatest financial interest in the partnership

For purposes of this filing, an officer is an occupant of a position listed in the article of incorporation, articles of formation, or other similar legal document.

Line 227	**Jurisdictions in Which Filer Provided/ Will Provide Service**

Check those jurisdictions where the filer provided telecommunications service or interconnected VoIP service in the past 15 months, and any additional jurisdictions in which the filer expects to provide such services in the next 12 months. Identify jurisdictions where customers physically obtain service, and for switched services, identify jurisdictions where customers can originate calls. For services where the called party pays, however, also identify jurisdictions where calls terminate.[44] For example, an operator service provider that handled inmate calls originating in New Jersey and terminating collect in New Jersey, New York, and Pennsylvania would identify those three states as jurisdictions served.

Line 228	**Year and Month that Filer First Provided/ Will Provide Service**

Enter the year and month that the filer first provided telecommunications or interconnected VoIP service. If not yet providing either type of service, then the filer should indicate the year and month it expects to begin operations. If operations began prior to January 1, 1999, the filer may so indicate by using the check box rather than entering the specific date.

C. BLOCKS 3 AND 4-A: FILER REVENUE INFORMATION

Blocks 3 and 4-A of the Telecommunications Reporting Worksheet report revenue information for calendar year 2022.

For most filers, completing Lines 303–314 and 403–418 is a three-step process.

First, the filer must assign its gross billed revenues to reporting categories (generally, the rows on Form 499-A), which includes allocating revenues from bundled services between their telecommunications and non-telecommunications components. *See* Section IV.C.2.

Second, the filer must attribute telecommunications revenues derived from sales to contributing resellers (Block 3 on Form 499-A) or from sales to end users (Block 4 on Form 499-A). *See* Section IV.C.4.

Third, the filer must apportion its telecommunications revenues between the intrastate, interstate, and international jurisdictions (generally, the columns on the FCC Form 499-A). *See* Section IV.C.5.

1. FILER IDENTIFICATION

Line 301 **Line 401**	**499 Filer ID**

Enter the Filer 499 ID from Line 101.

[44] Both parties to a collect call are "consumers." 47 C.F.R § 64.708; *see* 47 C.F.R § 64.710(b)(1).

Line 302 Line 402	Legal Name of Filer

Enter the legal name of the filer from Line 102.

2. GROSS BILLED REVENUES – GENERAL

Report gross billed revenues as directed.

- Note on Gross Earned Revenues Reporting. — Filers that maintain records in accordance with Generally Accepted Accounting Principles and that record revenues when earned instead of when billed, may use earned revenues to represent billed revenues as long as they do so consistently from reporting period to reporting period. These revenues should not include amounts that cannot be billed to customers. Filers using earned revenues to represent billed revenues need not impute earned revenue for redeemed credits if no earned revenue is recorded when credits are redeemed. To the extent that earned revenues are net of any uncollectible amounts, these uncollectible amounts must not be included on Line 421 or Line 422.

Gross billed revenues include:

- Revenues from all sources, including non-regulated telecommunications offerings, information services, and other non-telecommunications services.
- Total revenues billed to customers during the filing period with no allowances for uncollectibles, settlements, or out-of-period adjustments.
- Gross billed revenues include:
  - Account set-up
  - Connection
  - Service restoration
  - Termination
  - Revenues derived from the activation and provision of interstate, international, and intrastate telecommunications and non-telecommunications services
  - Collection overages and unclaimed refunds for telecommunications and telecommunications services when not subject to escheats
  - Surcharges on telecommunications services or interconnected VoIP services that are billed to the customer and either retained by the filer or remitted to a non-government third party under contract
  - Any other non-recurring charges.

  These charges should be reported on the same line that the filer reports any associated recurring revenue.

Gross billed revenues do NOT include:

- Deposits
- Amounts that cannot be billed to customers and may be distinct from booked revenues
- Taxes
- Surcharges that are not recorded on the company books as revenues and are remitted to government bodies
  - BUT any charge on a customer bill represented to recover or collect contributions to federal and state universal service support mechanisms must be shown separately on Line 403.

Special cases:

- National Exchange Carrier Association (NECA) pool companies should report the actual gross billed revenues (CABS Revenues) reported to the NECA pool and not settlement revenues received from the pool.
- Entities making consolidated filings must include in their FCC Form 499 Filings all revenue on the consolidated books of account.
- Credits should not be deducted from billed revenues when the credit is issued. Instead, filers should include redeemed credits with uncollectible amounts reported on Line 421 and Line 422.
- Mergers and acquisitions: When two filers merge, the successor company should report total revenues for the reporting period for all predecessor operations, unless the filers maintain separate corporate identities and both continue to operate. In that special case, each filer should continue to report its revenues separately.[45] ~~Where an entity obtains, by any means whatsoever, the telecommunications operations or customer base of a filer, and the acquired company does not file its own FCC Form 499-A, the acquiring company must report all telecommunications revenues associated with such operations or customer base including revenues billed in the calendar year prior to the date of acquisition.~~
- International Services: For international services, gross billed revenues consist of gross revenues billed by U.S. telecommunications providers with no allowances for settlement or settlement-like payments. International settlement and settlement-like receipts for foreign-billed service should not be included in U.S. telecommunications revenues, but should be reported on Line 418.[46] Note that if the filer receives the foreign-bound traffic in the United States, then it is providing ordinary international service from the United States to a foreign point; receipts from the originating carrier should be reported as revenue on Line 414.
    - Revenue from circuits within the United States that connect a customer to an international circuit should be reported as interstate. Revenue from circuits that connect two foreign points should be reported on Line 418.
    - Reporting of international revenues should be consistent with the definitions provided in Appendix C below.[47]

3. APPORTIONING REVENUES AMONG REPORTING CATEGORIES

a. General Information

Good-faith estimates

If revenue category breakout cannot be determined directly from corporate books of account or subsidiary records, filers may provide on the Worksheet a good-faith estimate of the breakout.

- Good-faith estimates should be based on information that is current for the filing period.

[45] *See* Section III.C.

[46] For example, if a filer receives payment from a foreign carrier for traffic that the filer receives outside of the United States, brings into the United States, and then reoriginates and carries to a foreign point, the filer would not include those settlement-like payments as revenues on Line 414 of the FCC Form 499-A. Instead, those amounts would be reported on Line 418.

[47] The definitions in Appendix C were derived from the 2016 Filing Manual for Section 43.62 Annual Reports, consistent with past FCC Form 499 filing requirements.

- Filers should maintain documentation for good-faith estimates and entities may not simply report all revenues on one of the "other revenue" lines.

Column (a) required

Filers with any revenues for Lines 303–314 and 403–420 may not omit the dollar amounts from column (a), even if all of the revenues are for interstate or international services.

Block 3 vs. Block 4 revenues

Filers may report revenues from contributing resellers (i.e., universal service contributors) on Lines 303 through 314 and must report all other revenues on Lines 403 through 418. *See* Section IV.C.4 for additional information on reporting revenues from resellers.

- In many cases, the line-item categories are duplicated in Block 3 and Block 4.
- *Intercarrier compensation and universal service support:* The following categories of revenues are not end-user revenue and are reported in Block 3. For these revenue items, the filer is not required to retain Filer 499 ID information or verify that the customer is a reseller.

Category of Revenue	**Report on**
Per-minute switched access charges and reciprocal compensation	Line 304
Revenues received from carriers as payphone compensation for originating toll calls	Line 306
Charges for physical collocation of equipment pursuant to 47 U.S.C. § 251(c)(6)	Line 307
Revenues that filers receive as universal service and other similar support from either states or the federal government	Line 308
Revenues received from another U.S. carrier for roaming service provided to customers of that carrier	Line 309

- *Carriers required to use the USOA:* Carriers that are required to use the Uniform System of Accounts (USOA) prescribed in Part 32 of the Commission's rules should base their responses on their USOA account data and supplemental records, dividing revenues into those received from universal service contributors and those received from end users and other non-contributors.[48]
- *Certain international switched service revenues*: An underlying carrier also may include as carrier's carrier revenues any international switched service revenues received from another U.S. reselling carrier where that reselling carrier is using the underlying carrier's service to reoriginate the foreign-billed traffic of a foreign telephone operator. In this case, the reselling

[48] *See* section IV.C.4.

carrier must certify to the underlying carrier that it is using the resold international switched service to handle traffic that both originates and terminates in foreign points.

All filers should report revenues based on the following descriptions.

b. **Fixed local service revenue categories**

Fixed local services connect a specific point to one or more other points. These services can be provided using either wireline, fixed wireless, or interconnected VoIP technologies and can be used for local exchange service, private communications, or access to toll services.

Line 303 (Carrier's carrier) **Line 404 (End user)**	**Monthly service, local calling including message and local toll charges, connection charges, vertical features, and other local exchange services**

Lines 303 and 404 should include the basic local service revenues, except for:

- local private line revenues (reported on Lines 305 and 406);
- business data services revenues (reported on Lines 305 and 406);
- revenues from providing mobile or cellular services (reported on lines 309, 409, and 410);
- subscriber line charges levied under a tariff filed by the filer or placed on customer bills as a pass-through of underlying carrier subscriber line charges (reported on line 405).

Lines 303 and 404 should include charges for:

- optional extended area service;
- dialing features;
- local directory assistance;
- added exchange services such as automatic number identification (ANI) or teleconferencing;
- LNP surcharges;
    - Revenues from federally tariffed LNP surcharges should be reported on Line 404, and should be identified as interstate revenues.
- connection charges;
- charges for connecting with mobile service; and
- local exchange revenue settlements.

Interconnected VoIP providers not reporting based on the safe harbor that bundle fixed local exchange service with interstate toll services at a unitary price must determine the appropriate portion of revenues to allocate to interstate and international toll service, in a manner that is consistent with their supporting books of account and records.

Filers should break out Line 303/404 revenues as follows:

Carrier's Carrier Revenue

Line 303.1	Revenues for services provided to carriers as unbundled network elements (UNEs).
Line 303.2	Revenues for services provided to carriers under tariffs or arrangements

	other than unbundled network elements (for example, resale). Line 303.2 should also include Presubscribed Interexchange Carrier Charge (PICC) charges levied on carriers.

End-User Revenue

Line 404.1	Local service portion of revenues from local exchange service plans (other than interconnected VoIP plans) that include interstate calling as part of the flat monthly fee.
Line 404.2	Toll portion of revenues from local exchange service plans (other than interconnected VoIP plans) that include interstate calling as part of the flat monthly fee. (Note: if the revenue from the toll portion of such service is attributed to an affiliate, that affiliate must report such revenues on Line 404.2, not on Line 414).
Line 404.3	Revenues from local exchange services plans (other than interconnected VoIP plans) that do not include interstate calling.
Line 404.4	Revenues from local service provided via interconnected VoIP service offered in conjunction with a broadband connection.
Line 404.5	Revenues from local service provided via interconnected VoIP service offered independent of the broadband connection.[49]

Line 404 should not include subscriber line charges levied under a tariff filed by the filer or placed on customer bills as a pass-through of underlying carrier subscriber line charges. Filers should instead report such revenues on line 405. Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service; these amounts are separate from toll revenues and correspond to the revenues received by incumbent telephone companies to recover part of the cost of networks that allow customers to originate and terminate interstate calls. Incumbent LEC filers without subscriber line charge revenue must identify the interstate portion of fixed local exchange service revenues in column (d) of the appropriate line 404.1–404.5.[50] Line 404.1–404.5 should, however, include revenues from federally tariffed LNP surcharges, which should be identified as interstate revenues.

Line 304	**Per–minute charges for originating or terminating calls**

This line includes:

- Per–minute charges for originating or terminating calls, including charges related to originating or terminating VoIP-PSTN traffic.[51]

[49] Bundled offerings include those offered directly by the filer and those offered by the filer through an affiliate.

[50] *See Universal Service Contribution Methodology; Request for Review of Decision of the Universal Service Administrator by Mark Twain Telephone Company*, WC Docket Nos. 10-90, 06-122, Order, 37 FCC Rcd 8313, 8321, para. 18 & n.62 (WCB 2022).

[51] *See 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, 18005-08, paras. 940-42 (2011) (*USF/ICC Transformation Order)*, aff'd.,*sub nom.* In re: FCC 11-161, 753 F.3d 1015 (10th Cir. 2014) (setting forth default intercarrier compensation rates for VoIP-PSTN traffic); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Second Order on Reconsideration,

(continued . . .)

- Revenues to the local exchange carrier for messages between a cellular customer and another station within the mobile service area.
- Any other gross charges to other carriers for the origination or termination of toll or non-toll traffic.
- Direct trunk transport, port charges, mileage charges and rearrangement charges that are normally treated as access charge revenues.[52]

Do not deduct or net payments to carriers for origination or termination of traffic on their networks.

This line does not include:

- International settlement or settlement-like receipts or transiting fees from international toll services.

Filers should break out Line 304 revenues as follows:

Line 304.1	Revenues for originating and terminating minutes provided under state or federal access tariffs.
Line 304.2	Revenues for originating and terminating minutes provided as unbundled network elements or other contract arrangements.

Line 405	**Tariffed subscriber line charges, Access Recovery Charges, and PICC charges levied by a local exchange carrier on a no-PIC customer**

Line 405 should include charges to end users specified in access tariffs, such as tariffed subscriber line charges (SLCs), Access Recovery Charges (ARCs),[53] and Primary Interexchange Carrier Charges (PICCs) levied by a local exchange carrier on customers that are not presubscribed to an interexchange carrier (i.e., a no-PIC customer). Note that federal SLCs are separate from toll revenues.

Line 405 should not include charges to end users for business data services (which are reported on Line 406).

The Commission does not regulate how non-incumbent LECs recover the costs of the local loop, nor does it require non-incumbents to assess a non-traffic sensitive charge for the costs of providing interstate or interstate access service from their customers through a separately stated end user charge. To the extent non-incumbent contributors choose to assess a separately stated charge for the interstate portion of fixed local exchange service or interstate exchange access, they should report such revenues on Line 405 and

(Continued from previous page)
27 FCC Rcd 4648, 4659-4663, paras. 30-35 (2012) (the Commission allowed local exchange carriers (LECs) to tariff default rates equal to their intrastate originating access rates for originating intrastate toll VoIP traffic until June 30, 2014, after which time LECs are to tariff default rates for such traffic equal to their interstate originating access rates).

[52] 47 CFR Part 69.

[53] The Commission allowed incumbent LECs to assess an ARC on certain wireline telephone customers, a rule adopted as part of comprehensive intercarrier compensation reform. *See USF/ICC Transformation Order*, 26 FCC Rcd at 17956-17961, 17987-17994, paras. 847-853, 905-916. The ARC is tariffed separately from the SLC; however, the Commission permitted carriers to combine the ARC and SLC as a single line item on a customer bill. *Id.,* 26 FCC Rcd at 17958, para. 852. For purposes of reporting revenues on Line 405, incumbent LECs should include all revenues collected from ARCs.

allocate those revenues to the interstate jurisdiction, for USF contribution reporting purposes, in a manner that is consistent with their supporting books of account and records.[54]

Telecommunications providers that do not have SLC, ARC or PICC tariffs on file with the Commission or with a state utility commission, that are not reselling such tariffed charges, or that do not have separately stated charges for the interstate portion of fixed local exchange service or interstate exchange access should report $0 on Line 405.

Line 305 (Carrier's Carrier) Local Private Line and Business Data Service
Line 406 (End User)

Line 406 should include:

- Revenues from providing local services that involve dedicated circuits, private switching arrangements, digital subscriber lines, and/or predefined transmission paths, including those services that provide dedicated point-to-point transmission of data at certain guaranteed speeds and service levels using high-capacity connections.
- Revenues from special access lines resold to end users unless the service is bundled with and charged as part of a toll service, in which case the revenues should be reported on the appropriate toll service line.
- Revenues from offering dedicated capacity between specified points even if the service is provided over local area switched, multi-protocol label switching (MPLS), asynchronous transfer mode (ATM), or frame relay networks.
- Revenue from broadband transmission service, including consumer broadband-only loop service, voluntarily provided on a common carrier basis to providers of retail broadband Internet access except as set forth below. This provision does not include revenue from broadband transmission service offered on a common-carrier basis by rate-of-return carriers that are exempt from the contribution obligations on those services pursuant to Commission order.[55]
- Filers should report on Line 406 revenues derived from the sale of special access service on a common carrier basis to providers of retail broadband Internet access service.[56]
- All other revenues from local private line service and business data service billed to end users must be reported on Line 406.
- Mixed-use private or WATS lines: If over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate and must be reported.[57]

[54] For example, to the extent that a contributor's tariff filing (or equivalent) indicates that a non-traffic sensitive charge is for interstate access, then revenues for such charge (or a portion thereof) must be allocated to interstate revenues for USF reporting purposes.

[55] *See Petition of NTCA – The Rural Broadband Association and the United States Telecom Association for Forbearance Pursuant to 47 U.S.C. § 160(c) from the Application of Contribution Obligations on Broadband Internet Access Transmission Services*, WC Docket No. 17-206, Order, 33 FCC Rcd 5712 (2018) (*Rate-of-Return Forbearance Order*).

[56] *See Universal Contribution Methodology, Application for Review of Decision of the Wireline Competition Bureau filed by Global Crossing Bandwidth, Inc., et al.*, WC Docket No. 06-122, Order, 27 FCC Rcd 13780, 13797, para. 39 n.109 (2012) (*2012 Wholesaler-Reseller Clarification Order*); *Wireline Broadband Internet Access Services Order*, 20 FCC Rcd at 14915-16, paras. 112-113 & n.357; *2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7549, para. 62 n.206.

Line 418 should include:

- Revenues from the provision of broadband transmission service offered on a non-common-carrier basis to providers of broadband Internet access or
- Revenues from the provision of broadband transmission service offered on a common-carrier basis by rate-of-return carriers that are exempt from contribution obligations on those services pursuant to Commission order.[58]

Amounts reported on Line 305 should be divided between:

Line 305.1	Revenues for service provided to contributing resellers for resale as telecommunications.
Line 305.2	Revenues for service provided to contributing resellers for resale as interconnected VoIP. Revenue should not include interconnected VoIP service provided by the Filer and resold as interconnected VoIP service by reseller customers of the Filer; however, it should include private line/business data service provided by the Filer and resold as interconnected VoIP service by reseller customers of the Filer.

Line 306 (Carrier's Carrier) Line 407 (End User)	**Payphone Revenues**

Line 306 should include revenues received from carriers as payphone compensation for originating toll calls.

Line 407 should include revenues received from customers paid directly to the payphone service provider, including all coin-in-the-box revenues. Do not deduct commission payments to premises' owners.

Line 307 (Carrier's Carrier) Line 408 (End User)	**Other Local Telecommunications Service Revenues**

Include local telecommunications service revenues that reasonably would not be included with one of the other fixed local service revenue categories. Report any revenues from offering switched capacity on local area data networks such as ATM or frame relay networks.

Line 307 should include charges for physical collocation of equipment pursuant to 47 U.S.C. § 251(c)(6).

Line 308	**Universal Service and Similar Support Amounts Received from Federal or State Government Sources**

- Universal service support revenues may include:
- Any amounts that filers receive as universal service support from either states or the federal government.
    - Filers may include the following as revenues on Line 308:

(Continued from previous page)

[57] *See Universal Service Order*, 12 FCC Rcd at 9173, para. 778 (citing 47 CFR § 36.154(a)).

[58] *Rate-of-Return Forbearance Order*.

- Lifeline and Link Up reimbursement from the Fund;
- High Cost universal service support from the Fund;
- Subsidy amounts for discounted services provided to schools, libraries, and rural healthcare providers. This includes (1) revenue received directly from the Fund and (2) revenue received from a school, library, or rural healthcare provider to the extent such revenue is attributable to universal service subsidy amounts paid to the school, library, or rural healthcare provider.

  - Include amounts received as cash as well as amounts received as credit against contribution obligations.
  - Amounts received from the **federal** USF support mechanism should be attributed as either interstate or international revenues, as appropriate.

- Any non-universal service support amounts that filers receive as support from either the states or federal government.
  - Filers may include as revenues on Line 308:
    - Subsidy amounts from the Emergency Connectivity Fund, Emergency Broadband Benefit Program, and the COVID-19 Telehealth Program.

Do not include:

- Any amounts charged to customers to recover universal service or similar contributions.
- Any amounts schools, libraries, and rural health-care providers pay for the non-discounted portion of services. Such charges are properly reported as end user revenue.
- Any amounts end users pay for non-discounted portion of services. Such charges are properly reported as end user revenue.

c. Mobile service categories

Mobile services are wireless communications between mobile wireless equipment, such as cellular phones and other points.

Line 309 (Carrier's Carrier) **Mobile Services** **Line 409 and 410 (End User)**

Data reported on these lines should contain mobile service revenues, except:

- Toll charges to mobile service customers
  - Itemized toll charges to mobile service customers should be included in Lines 413 or 414, as appropriate.
- Charges associated with customer premises equipment
  - Itemized charges for customer premises equipment should be included in Line 418.3.
- Roaming charges for service provided by foreign carriers operating in foreign points. These charges are not U.S. telecommunications revenues and therefore should be reported on Line 418.

Filers should break out Line 309/409/410 revenues as follows:

Line 309	Revenues for all mobile service provided to contributing resellers, including revenues received from another U.S carrier for roaming service, whether or not it includes toll charges, provided to customers of that carrier.
Line 409	Revenues for mobile service provided to end users, including monthly charges, activation fees, service restoration, and service order processing charges, etc. End–user prepaid wireless service revenues attributable to activation and daily or monthly access charges should be reported on Line 409.
Line 410	Revenues for mobile service provided to end users, including any roaming charges assessed on customers for calls placed out of customers' home areas and local directory assistance charges. Revenues received from a foreign carrier for roaming services provided in the U.S. to customers of that carrier. End–user prepaid wireless service revenues attributable to airtime should be reported on Line 410.

d. Toll service revenue categories

Toll services are telecommunications services, wireline, wireless, or interconnected VoIP services, that enable customers to communicate outside of local exchange calling areas. Toll service revenues include intrastate, interstate, and international long-distance services.

For wireless providers, toll services are telecommunications services that enable customers to communicate outside the customer's plan-defined home calling area.[59] The term "home calling area" is used generally by wireless carriers to denote the plan-defined area in which a subscriber may make calls and incur no additional charges beyond the plan-specific per month charge, assuming the subscriber does not exceed the plan allotted minutes.[60]

Line 411	**Prepaid Calling Cards**

Include:

- Revenues from prepaid calling cards provided either to customers, distributors, or to retail establishments.
- Prepaid service where the customer utilizes the service provider's switching platform and a personal identification number (PIN) for purposes of verification and billing, even if the customer does not receive a physical card.[61]

Gross billed revenues should represent the amounts actually paid by end user customers and not the amounts paid by distributors or retailers, and should not be reduced or adjusted for discounts provided to distributors or retail establishments. All prepaid card revenues are classified as end–user revenues. For purposes of completing this Worksheet, prepaid card revenues should be recognized when end–user customers purchase the cards.

Line 310 (Carrier's carrier) **Line 413 (End User)**	**Operator and toll calls with alternative billing arrangements**

Operator and toll calls with alternative billing arrangements should include:

- All calling card or credit card calls, person-to-person calls, and calls with alternative billing arrangements such as third–number billing, collect calls, and country-direct type calls that either originate or terminate in a U.S. point
- All charges from toll or long-distance directory assistance

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[59] *See Universal Service Contribution Methodology, Petition for Declaratory Ruling of CTIA – The Wireless Association on Universal Service Contribution Obligations, Petition for Declaratory Ruling of Cingular Wireless, LLC*, WC Docket No. 06-122, Declaratory Order, 23 FCC Rcd 1411, 1414, para. 5 (2008) (*Separately Stated Toll Order)*.

[60] *Id.* at 1415, para. 7, n.28.

[61] *See AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services; Regulation of Prepaid Calling Card Services*, WC Docket Nos. 03-133, 05-68, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 4826, 4827–4827, para. 3 (2005) (*AT&T Prepaid Calling Card Services Declaratory Ruling*); *see also Universal Service Contribution Methodology; Request for Review of Decision of the Universal Service Administrator by Network Enhanced Telecom, LLP,* WC Docket No. 06-122, Order, 25 FCC Rcd 14533, 14538–39, paras. 12–13 (WCB 2010) (*Network IP Order*), *petition for partial reconsideration denied*, *Request for Review of a Decision of the Universal Service Administrator by Network Enhanced Telecom, LLP*, WC Docket No. 06-122, Order on Reconsideration, 26 FCC Rcd 6169 (WCB 2011).

- Revenues from all calls placed from all coin and coinless, public and semi-public, accommodation and prison telephones, except that:
    - Calls that are paid for via prepaid calling cards should be included on Line 411.
    - Calls paid for by coins deposited in the phone should be included on Line 407.

Line 412	International Calls that Originate and Terminate in Foreign Points

International calls that traverse the United States but both originate and terminate in foreign points ("traditional transiting traffic" revenues) are excluded from the universal service contribution base.

- Carrier's carrier (reseller) transit revenues should be reported on Line 311.
- End-user transit revenues should be segregated from other toll revenues by showing them on Line 412.

Telecommunications providers should only include traditional transiting revenues and should not report international settlement revenues from traditional settlement transiting traffic on the Worksheet

Line 311 (Carrier's carrier) Line 414 (End User)	Ordinary Long Distance

Filers should report ordinary long distance revenues on these lines, including:

- Revenues from most toll calls placed for a fee
- Flat monthly charges billed to customers, such as account maintenance charges, PICC pass-through charges, and monthly minimums
- Ordinary message telephone service (MTS), WATS, subscriber toll-free, 900, "WATS-like," and similar switched services
- Separately stated toll revenue from wireline, wireless, and interconnected VoIP services.[62]

Do not include:

- Revenues for the toll portion of flat rated local service (other than interconnected VoIP service), regardless of whether this portion of revenue is reported by a local exchange carrier or by its toll affiliate. Report such revenues on Line 404.2.
- Revenue for the toll portion of flat rated interconnected VoIP local service. Report such revenues on Line 404.4 or Line 404.5, as appropriate.

Ordinary long distance revenues should be reported as follows:

Line 311	Ordinary long distance and long distance using interconnected VoIP provided to contributing resellers.
Line 414.1	Ordinary long distance provided to end users using technologies other than interconnected VoIP, including toll service that employs Internet Protocol but that is not provided on an interconnected VoIP basis.[63]

[62] *See 2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7534, para. 29.

[63] *See Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges*, WC Docket No. 02-361, Order, 19 FCC Rcd 7457 (2004) (*AT&T IP-in-the-Middle Order*).

Line 414.2	Separately billed revenue for ordinary long distance provided to end users using interconnected VoIP.

Line 312 (Carrier's Carrier) Long Distance Private Line Services
Line 415 (End User)

Long distance private line service should include:

- Revenues from dedicated circuits, private switching arrangements, and/or predefined transmission paths, extending beyond the basic service area.
- Frame relay and similar services where the customer is provided a dedicated amount of capacity between points in different basic service areas.
- Revenues from the resale of business data services if they are included as part of a toll private line service.

For international private line services, U.S. providers must report on Line 415 or Line 312, as appropriate, revenues from the U.S. portion of the circuit to the theoretical midpoint of the circuit regardless of whether such revenues were billed to the customer by the reporting carrier or by a partner carrier in a foreign point.

Line 313 (Carrier's carrier) Satellite Services
Line 416 (End User)

Include:

- Revenues from providing space segment service and earth station link-up capacity used for providing telecommunications or telecommunications services via satellite.

Do not include:

- Revenues derived from the lease of bare transponder capacity.

Line 314 (Carrier's carrier) All Other Long-Distance Services
Line 417 (End User)

Include:

- All other revenues from providing long distance communications services.
- Toll teleconferencing.[64]
- Switched data, frame relay and similar services where the customer is provided a toll network service rather than dedicated capacity between two points.

[64] Audio bridging service providers should report all audio bridging revenues as telecommunications revenues. *See Intercall Order*, 23 FCC Rcd at 10734, 10739, paras. 8, 25 - 26.

e. **Other revenue categories**

Line 403	**Surcharges or other amounts on bills identified as recovering State or Federal universal service contributions**

Itemized charges levied by the filer in order to recover contributions to state and federal universal service support mechanisms should be classified as end-user billed revenues and should be reported on Line 403.

- Any charge identified on a bill as recovering contributions to federal universal service support mechanisms must be shown on Line 403 and should be identified as either interstate or international revenues, as appropriate. Amounts billed to customers to recover federal universal service contribution obligations should be attributed as either interstate or international revenues, as appropriate, but may not be reported as intrastate revenues.
- Any charge identified on a bill as recovering contributions to state universal service support mechanisms must be shown on Line 403 and included in column (a) in the total.
- Filers should report intrastate revenues on line 403 only to the extent that actual payments to state universal service programs were recovered by pass-through charges itemized on customer bills.

Line 418	**Other revenues that should not be reported in the contribution bases** **Non-interconnected VoIP revenues (TRS only)**

Line 418 should include all non-telecommunications service revenues on the filer's books, including non-telecommunications service revenues received from contributing resellers, as well as some revenues that are derived from telecommunications-related functions, but that should not be included in the universal service or other fund contribution bases. Line 418.4 should include non-interconnected VoIP revenues, which are included in the TRS contribution base only.

Line 418 includes revenues from:

- Information services.
    - Information services offering a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications are not included in the universal service or other fund contribution bases. For example, wireless text messaging services including Short Message Service (SMS) and Multimedia Messaging Service (MMS), voice mail, call moderation, and call transcription services are information services. Information services do not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- The provision of broadband transmission offered on a non-common-carrier basis to providers of broadband Internet access
- The provision of broadband transmission service offered on a common-carrier basis by rate-of-return carriers that are exempt from contribution obligations on those services pursuant to Commission order
- The provision of broadband Internet access
- Published directory services
- Billing and collection services
- Inside wiring
- Inside wiring maintenance insurance

- Pole attachments
- Open video systems (OVS)
- Cable leased access
- Cable service
- Direct broadcast satellite (DBS) service
- The sale, lease, installation, maintenance, or insurance of customer premises equipment (CPE)
- The sale or lease of transmission facilities, such as dark fiber or bare transponder capacity, that are not provided as part of a telecommunications service or as a UNE.
- Late payment charges
- Charges imposed by the filer for customer checks returned for non-payment
- Revenues from telecommunications provided in a foreign country where the traffic does not transit the United States or where the provider is offering service as a foreign carrier, i.e., a carrier licensed in that country.

Revenue reported on Line 418 should be divided into four categories:

Line 418.1	Revenues from other non-telecommunications goods or services that are bundled with U.S. wireline or wireless circuit switched exchange access services.
Line 418.2	Revenues from other non-telecommunications goods or services that are bundled with U.S. interconnected VoIP service.
Line 418.3	All other revenues properly reported on line 418 except those reported in Lines 418.1, 418.2, and 418.4, including broadband Internet access service subject to forbearance and broadband transmission service provided on a non-common carrier basis to a broadband Internet access provider.
Line 418.4	Revenues from non-interconnected VoIP services sold to end users that are not otherwise includable on Lines 403 to 417. Non-interconnected VoIP service is defined in Appendix B, under non-interconnected VoIP service provider.[65]

[65] For TRS purposes, "providers of non-interconnected VoIP services that are offered with other (non-VoIP) services that generate end-user revenues [are required] to allocate a portion of those end-user revenues to the non-interconnected VoIP service in two circumstances: (1) when those providers also offer the non-interconnected VoIP service on a stand-alone basis for a fee; or (2) when those providers also offer the other (non-VoIP) services without the non-interconnected VoIP service feature at a different (discounted) price." *See 2011 TRS Contributions Order*, 26 FCC Rcd at 14538-39, para. 15. For example, a video gaming service may integrate chat functions that utilize non-interconnected VoIP services, but use of such functions may not be readily identifiable or separable from the gaming service components. *Id.* at 14538-41, paras. 15-17.

f. Reporting revenues from bundled offerings

Allocation of revenues between either wireline or interconnected VoIP telecommunications and bundled non-telecommunications, such as information services and consumer premises equipment (CPE), are governed by the Commission's bundling rules.

The Commission adopted two safe harbor methods for allocating revenue when telecommunications services and CPE/enhanced services are offered as a bundled package.

- The first option is to report revenues from bundled telecommunications and CPE/enhanced service offerings based on the unbundled service offering prices, with no discount from the bundled offering being allocated to telecommunications services.
- Alternatively, filers may elect to treat all bundled revenues as telecommunications service revenues for purposes of determining their universal service obligations.

Filers may choose to use allocation methods other than the two described above. Filers should realize, however, that any other allocation method may not be considered reasonable and will be evaluated on a case-by-case basis in an audit or enforcement context.

Prepaid calling card providers may avail themselves of the bundled service safe harbors for separating revenue between telecommunications and information services.[66]

Similarly, providers of non-interconnected VoIP services that are offered with end-user revenue generating (non-VoIP) services may avail themselves of the bundled service safe harbors for allocating revenue.[67]

g. Notes for carriers that use the USOA

The revenue accounts in the USOA generally correspond to specific revenue lines in Block 3 and Block 4.

- For example, revenue amounts recorded in accounts 5001, 5002, 5050, 5060 and 5069 should be reported on Line 303 or Line 404, as appropriate.
- Similarly, revenues recorded in account 5280 should be reported on Line 407.

There are some exceptions.

- For example, local exchange carrier revenues from mobile carriers for calls between wireless and wireline customers should be reported on Line 304.
- Monthly and connection revenues from mobile services provided to end users in account 5004 should be reported on Line 409.
- Per-minute revenues from end users in account 5004 should be reported on Line 410. However, revenues in account 5004 from exchanging traffic with mobile service carriers should be reported on Line 304.

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[66] *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as Amended; 1998 Biennial Regulatory Review—Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets*, CC Docket Nos. 96-61, 98-183, Report and Order, 16 FCC Rcd 7418, 7446–48, paras. 47–54 (2001); *see Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Declaratory Ruling, Report and Order, 21 FCC Rcd 7290, 7298, para. 22 (2006) (*Prepaid Calling Card Services Order*), *vacated in part*, *Qwest Servs. Corp. v. FCC*, 509 F.3d 531 (D.C. Cir. 2007).

[67] *See 2011 TRS Contributions Order*, 26 FCC Rcd at 14538-41, paras. 15-17.

- Similarly, state per-minute access revenues recorded in account 5084 should be reported on Line 304; state special access revenues recorded in account 5084 should be reported on Line 305 and Line 406, as appropriate; and state subscriber line charge revenues recorded in account 5084 should be reported on Line 405.
- Uncollectible revenue recorded in account 5300 should be reported on Line 421. The portion of these revenues that correspond to contribution base revenues should be reported on Line 422.

Revenues classified in account 5200, miscellaneous revenues, should be divided into several lines for reporting purposes.

- For example, account 5200 includes revenues derived from unbundled network elements, which should be reported on Line 303 and, reciprocal compensation, which should be reported on Line 304.
- Some types of incidental regulated revenues contained in account 5200, miscellaneous revenues, will continue to be reported on Lines 403 through 408. These include collection overages and non-refundable prepaid amounts that are not used by the customer.
- Note that late payment charges, bad check penalties imposed by the company, enhanced services, billing and collection, customer premises equipment sale, lease or insurance, and published directory revenues should continue to be reported on Line 418.

Revenues recorded in account 5100, long distance network service revenues, should be reported on Line 310 through Line 314 and Line 411 through Line 417, as appropriate.

Revenues from account 5100, long distance message revenues, are normally revenues from ordinary long distance and other switched toll services and should be reported on Lines 311, 414.1, and 414.2 except for amounts properly reported on Lines 310, 407, 411, 412, and 413.

4. ATTRIBUTING REVENUES FROM CONTRIBUTING RESELLERS AND FROM END USERS

Filers must report revenues using two broad categories: (1) revenues reported in Block 3 (revenues from contributing resellers, intercarrier compensation, and universal service support) and (2) revenues reported in Block 4 (revenues from all other sources). Taken together, these revenues should include all revenues billed to customers and should include all revenues on the filers' books of account.

Except as noted below, most categories of revenues require the filer to determine whether the customer purchasing the telecommunications is a contributing reseller or instead an end user.[68] Revenues from services provided by underlying carriers to other entities that meet the definition of "reseller" (*see* below) are referred to herein as "carrier's carrier revenues" or "revenues from resellers." Revenues from all other sources consist primarily of revenues from services provided to end users, referred to here as "end-user revenues." This latter category includes foreign and non-telecommunications revenues.

[68] *See 2012 Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13786-87, para. 12; *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 97-21, Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400, 18507 (1997) ("For this purpose, a reseller is a telecommunications service provider that 1) incorporates purchased telecommunications services into its own offerings and 2) can reasonably be expected to contribute to support universal service based on revenues from those offerings"); *Federal-State Joint Board on Universal Service; Request for Review of Decision of the Universal Service Administrator by Global Crossing Bandwidth, Inc.,* CC Docket No. 96-45, Order, 24 FCC Rcd 10824, 10825-26, para. 5 (WCB 2009) (*Global Crossing Order*).

a. Definition of "Reseller"

For purposes of completing Block 3, a "reseller" is a telecommunications carrier or telecommunications provider that: (1) incorporates purchased telecommunications into its own offerings; *and* (2) can reasonably be expected to contribute to federal universal service support mechanisms based on revenues from those offerings.[69] Specifically, a customer is a reseller if it incorporates purchased wholesale service into an offering that is, at least in part, assessable telecommunications and can be reasonably expected to contribute to the federal universal service support mechanisms for that portion of the offering.[70]

b. Revenues from Entities Exempt from USF Contributions

For the purposes of filling out this Worksheet—and for calculating contributions to the universal service support mechanisms—certain telecommunications carriers and other providers of telecommunications may be exempt from contribution to the universal service support mechanisms.

- These exempt entities, including "international only" and "intrastate only" providers and providers that meet the *de minimis* universal service threshold, should not be treated as contributing resellers for the purpose of reporting revenues in Block 3.
- That is, filers that are underlying carriers should report revenues derived from the provision of telecommunications to exempt carriers and providers (including services provided to entities that are *de minimis* for universal service purposes) on Lines 403–417 of Block 4 of the Telecommunications Reporting Worksheet, as appropriate.
    - Underlying carriers must contribute to the universal service support mechanisms on the basis of such revenues.
    - In Block 5, Line 511, however, filers may elect to report the amounts of such revenues (i.e., those revenues from exempt entities that are reported as end-user revenues) so that these revenues may be excluded for purposes of calculating contributions to TRS, LNPA, and NANPA.

c. "Reasonable Expectation" Standard

Pursuant to the *2012 Wholesaler-Reseller Clarification Order*, a filer may demonstrate that it has a "reasonable expectation" that a customer contributes to federal universal service support mechanisms based on revenues from the customer's offerings by following the guidance in these instructions or by submitting other reliable proof.[71]

Filers that comply with the procedures specified in this section of the instructions will be afforded a "safe harbor"- *i.e.,* that filer will be deemed to have demonstrated a reasonable expectation. If a wholesale provider follows procedures that deviate in any way from the guidance in this section, the wholesale provider will have to demonstrate a reasonable expectation via "other reliable proof."[72] USAC shall

[69] *2012 Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13781-82, para.3.

[70] Thus, for example, if a customer purchases a DSL line and incorporates that service into an offering of both telephone service and broadband Internet access service, it may certify that it is a reseller for purposes of that purchased service so long as it contributes on the assessable revenues from the telephone service. *See id.* at 13796, para. 34 n.98.

[71] *2012 Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13794, para. 32, and 13801-02, paras. 51-52; *see Global Crossing Order*, 24 FCC Rcd at 1028-29, para. 14.

[72] *See id.* at 13801-02, paras. 51-52.

evaluate the use of "other reliable proof" to demonstrate a "reasonable expectation" on a case-by-case basis, based on the reasonableness of the utilized method or proof.[73]

Filers that do not comply with the safe harbor procedures or that do not otherwise meet the reasonable expectation standard will be responsible for any additional universal service assessments that result if their revenues must be reclassified as end user revenues.[74]

d. Safe Harbor Procedures for Meeting the "Reasonable Expectation."

Each filer should have documented procedures to ensure that it reports as "revenues from resellers" only revenues from entities that meet the definition of reseller. The procedures must include, at a minimum, the following information on resellers:

1. Filer 499 ID;[75]
2. Legal name;
3. Legal address;
4. Name of a contact person;
5. Phone number of the contact person; and,
6. As described below, an annual certification by the reseller regarding its reseller status;

Filers shall provide this information to the Commission or the Administrator upon request.

e. Certifications

Annual Certificates. A filer may demonstrate that it had and has a reasonable expectation that a particular customer is a reseller with respect to purchased service(s) by providing a certificate signed each calendar year by the customer that: [76]

> (1) specifies which services the customer is or is not purchasing for resale pursuant to the certificate;[77] and

[73] This requirement is further discussed in the *2012 Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13801-2, para. 52.

[74] If a wholesale provider's customer (or another entity in the downstream chain of resellers) actually contributed to the federal universal service support mechanisms for the relevant calendar year on offerings that incorporate purchased wholesale services, the wholesale provider will not be obligated to contribute on revenues for the wholesale services, even if the wholesale provider cannot demonstrate that it had a reasonable expectation that its customer would contribute when it filed its FCC Form 499-A for the relevant calendar year. *Id.* at 13799, paras. 43-44.

[75] Filer ID must be associated with an **active** 499 Filer to meet the "reasonable expectation" standard.

[76] Reseller certifications must be signed by the "customer" (*i.e.,* the resale provider itself rather than a third-party representative or consultant). *See, e.g*., *2012 Wholesaler-Reseller Clarification Order*.

[77] At the filer's discretion, the filer may, for example, rely on certificates that specify any of the following: (1) that all services purchased by the customer are or will be purchased for resale pursuant to the certificate ("entity-level certification"); (2) that all services associated with a particular billing account, the account number for which the customer shall specify, are or will be purchased for resale pursuant to the certificate ("account-level certification"); (3) that individual services specified by the customer are or will be purchased for resale pursuant to certification ("service-specific certification"); or (4) that all services except those specified either individually or as associated with a particular billing account, the account number(s) for which the customer shall specify, are or will be purchased for resale pursuant to the certificate. A customer may certify that additional services will be purchased

(continued . . .)

(2) is consistent with the following sample language:

I certify under penalty of perjury that the company is purchasing service(s) for resale, at least in part, and that the company is incorporating the purchased services into its own offerings which are, at least in part, assessable U.S. telecommunications or interconnected Voice over Internet Protocol services. I also certify under penalty of perjury that the company either directly contributes or has a reasonable expectation that another entity in the downstream chain of resellers directly contributes to the federal universal service support mechanisms on the assessable portion of revenues from offerings that incorporate the purchased services.[78]

Services Purchased After Date of Annual Certificate. A filer may sell additional service(s) to a customer after the date that the annual certificate is signed. If the annual certificate does not cover those additional services, the filer may demonstrate a reasonable expectation that a customer is a reseller with respect to a service purchased after the date of the annual certificate signed by the customer by relying on either of these received prior to the filing of the applicable FCC Form 499-A:

(1) a verifiable notification from the customer that the customer is purchasing the service for resale consistent with the valid, previously signed annual certificate, or

(2) a subsequent certificate covering the purchased service signed by the customer.

5. ALLOCATING REVENUES BETWEEN THE JURISDICTIONS

Columns (b), (c), (d), and (e) are provided to identify the part of gross revenues that arise from interstate and international services for each entry on Lines 303 through 314 and Lines 403 through 417.

a. Definitions

Intrastate telecommunications means: communications or transmission between points within the same State, Territory, or possession of the United States, or the District of Columbia.

Interstate and international telecommunications means: communications or transmission between a point in one state, territory, possession of the United States or the District of Columbia and a point outside that state, territory, possession of the United States or the District of Columbia.

b. General Requirements

Where possible, filers should report their amount of total revenues that are intrastate, interstate, and international by using information from their books of account and other internal data reporting systems.

- Where a filer can determine the precise amount of revenues that it has billed for interstate and international services, it should enter those amounts in columns (d) and (e), respectively.
    - Total revenues entered in column (a) include revenues billed for intrastate service even though intrastate revenues are not reported separately on the FCC Form 499-A.

(Continued from previous page)
for resale pursuant to the certificate if the customer (or another entity in the downstream chain of resellers) will contribute to the federal universal service support mechanisms on revenues attributed to such services for the relevant calendar year.

[78] In some instances, reselling carriers are themselves selling the underlying service to another (non-contributing) reseller, which then sells the same service to another (non-contributing) reseller, and so on until the service is ultimately sold to an entity that is a contributing "reseller." In these instances, an underlying carrier also may include as carrier's carrier revenue any revenues received from service ultimately provided to entities that meet the definition of "reseller" for purposes of the FCC Form 499-A.

- If the allocation of revenues cannot be determined directly from corporate books of account or subsidiary records, filers may provide on the Worksheet good-faith estimates of these figures.
    - In such cases, the filer should determine the good-faith estimates of the interstate and the international. revenues. Enter the interstate amount in column (d) and the international amount in column (e). Enter zero dollars in columns (d) and (e) if and only if there were no interstate or international revenues for the line for the reporting period.
    - A reporting entity may not submit a good-faith estimate lower than one percent unless the correct figure should be $0.
    - Good-faith estimates must be based on information that is current for the filing period.
    - Information supporting good-faith estimates must be made available to either the FCC or to the administrators upon request.

For example, if a prepaid calling card provider collects a fixed amount of revenue per minute of traffic, and 65 percent of minutes are interstate, then interstate revenues would include 65 percent of the per-minute revenues. Similarly, if a local exchange carrier bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though the charges are covered by a state tariff and the revenues are included in a local service account.

c. Services Offered Under Interstate Tariffs

Revenues from services offered under interstate tariffs, such as revenues from federal subscriber line charges and from federally tariffed LNP surcharges, should be identified as interstate revenues. This includes amounts incorporated in or bundled with other local service charges.

d. Flat-rate Unbundled Network Access Elements

In general, flat-rated unbundled network access elements should be classified according to the regulatory agency that has primary jurisdiction over the contracts.

e. Mixed-Use Private or WATS Lines

If over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate.[79]

f. Bundled Local and Toll Services

Many carriers and other providers of telecommunications now offer packages that bundle fixed local exchange service with interstate toll service (*i.e.*, voice long distance) for a single price.

- Revenues for the whole bundle, except for tariffed subscriber line, ARC and PICC charges, should be reported on Line 404, as described more fully above.
- The portion of revenues associated with interstate and international toll services must be identified in columns (d) and (e), respectively.[80]
- Filers should make a good-faith estimate of the amounts of intrastate, interstate, and international revenues from bundled local/toll service if they cannot otherwise determine these amounts from corporate records, and must make their methodology available to the Commission or the Administrator, upon request.

[79] *See Universal Service Order*, 12 FCC Rcd at 9173, para. 778 (citing 47 CFR § 36.154(a)).

[80] *See Separately Stated Toll Order*, 23 FCC Rcd at 1414, para. 5 (defining "toll service").

g. Safe Harbors

Wireless telecommunications providers, interconnected VoIP providers, and non-interconnected VoIP providers that choose to avail themselves of safe harbor percentages for interstate revenues may assume that the FCC will not find it necessary to review or question the data underlying their reported percentages.

Wireless Safe Harbor: The FCC provides the following safe harbor percentages of interstate revenues associated with Line 309, Line 409, and Line 410:[81]

37.1% of cellular and broadband PCS telecommunications revenues
12.0% of paging revenues
1.0% of analog SMR dispatch revenues

These safe harbor percentages may not be applied to universal service pass-through charges, fixed local service revenues, or toll-service charges. All filers must report the actual amount of interstate and international revenues for these services. For example, toll charges for itemized calls appearing on mobile telephone customer bills should be reported as intrastate, interstate or international based on the origination and termination points of the calls.

Interconnected and Non-Interconnected VoIP Safe Harbor: The FCC provides the following safe harbor percentage of interstate revenues associated with Line 303.2, Line 311, Line 404.4, Line 404.5, Line 414.2, and Line 418.4:

64.9% of interconnected VoIP and non-interconnected VoIP telecommunications revenues[82]

This safe harbor percentage may not be applied to universal service pass-through charges or other fixed local service revenues.

Single Election for Affiliated Entities: All affiliated wireless telecommunications providers and VoIP providers (including interconnected and non-interconnected) must make a single election, each quarter, whether to use a traffic study or to use the current safe harbor within the same safe harbor category.[83]

- So, for example, if in a calendar quarter a wireless telecommunications provider uses a traffic study to report interstate revenues for its cellular and broadband PCS telecommunications services, all of its affiliated legal entities must also use traffic studies to report interstate telecommunications revenues for cellular and broadband PCS offerings.

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[81] *See 2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7532–33, 7545–46, paras. 25–27, 53–55; *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) (*2002 Second Contribution Methodology Order and FNPRM*); *see also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21258–60, paras. 11-15 (1998).

[82] *2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7545, para. 53; *2011 TRS Contributions Order*, 26 FCC Rcd at 14544, para. 25.

[83] *See Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Order and Order on Reconsideration, 18 FCC Rcd 1421, 1424-25, para. 6 (2003) ("wireless telecommunications providers are 'affiliated' for purposes of making the single election whether to report actual interstate telecommunications revenues or use the applicable interim wireless safe harbor if one entity (1) directly or indirectly controls or has the power to control another, (2) is directly or indirectly controlled by another, (3) is directly or indirectly controlled by a third party or parties that also controls or has the power to control another, or (4) has an 'identity of interest' with another contributor"). *See also* 47 CFR § 1.2110(c)(5).

- The same wireless telecommunications provider and all affiliates, however, could use the safe harbor for paging services.

Same Methodology for the FCC Form 499-A and the FCC Form 499-Q: Filers should use the same methodology (traffic study or safe harbor) to report interstate and international jurisdictions on the FCC Form 499-A as used on the FCC Form 499-Qs to forecast revenue in each quarter of the applicable calendar year.

- For example, if a filer projected revenue based on a safe harbor for the first two quarters and based on traffic studies for the final two quarters, the amounts reported in the FCC Form 499-A for the first two quarters would be based on actual billings for those quarters and the relevant safe harbors, and the amounts reported for the final two quarters would be based on actual billings for those quarters and the traffic studies for those quarters.

Filers Not Required to File an FCC Form 499-Q: For filers who were not required to file the FCC Form 499-Q, the interstate and international jurisdictions reported on the FCC Form 499-A must be based on information that is current for the filing period.

h. Traffic Studies

Wireless telecommunications providers, interconnected VoIP providers, and non-interconnected VoIP providers may rely on traffic studies if they are unable to determine their actual interstate and international revenues.[84]

- In developing their traffic studies, such providers may rely on statistical sampling to estimate the proportion of minutes that are interstate and international.
- Any revenues associated with charges on customer bills that are identified as interstate or international must effectively be accounted for (e.g., through proper weighting in a traffic study) as 100 percent interstate or international when reporting revenues.[85]
- Sampling techniques must be designed to produce a margin of error of no more than one percent with a confidence level of 95%. If the sampling technique does not employ a completely random sample (e.g., if stratified samples are used), then the respondent must document the sampling technique and explain why it does not result in a biased sample.
- Traffic studies should include, at a minimum: (1) an explanation of the sampling and estimation methods employed and (2) an explanation as to why the study results in an unbiased estimate with the accuracy specified above.
- Mobile telecommunications providers, interconnected VoIP providers and non-interconnected VoIP providers should retain all data underlying their traffic studies as well as all documentation necessary to facilitate an audit of the study data and be prepared to make this data and documentation available to the Commission upon request.
- In addition, filers that rely on traffic studies must submit those studies to USAC at the time of the FCC Form 499-A filing. (S*ee* Table 3 for filing instructions – including address for filing traffic studies and filing deadlines). To enable USAC to match traffic studies filed by contributors with

[84] *See 2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7534–36, 7547, paras. 29–33, 57; *2011 TRS Contributions Order*, 26 FCC Rcd at 14544, para. 25.

[85] *See Separately Stated Toll Order*, 23 FCC Rcd at 1418, para. 15. In developing traffic studies, toll service traffic must be identified and treated in a manner that recognizes that such traffic is more likely to be interstate or international than intrastate. *See id*. Additionally, appropriate weighting of the higher revenue that is often associated with toll service must be reflected in the traffic study or studies. *See id*.

their FCC Form 499 filings, include the following identifying information at the top of each page of the traffic study: Filer ID; Company Name; Affiliated Filers Name (where applicable).

D. BLOCK 4-B: TOTAL REVENUE AND UNCOLLECTIBLE REVENUE INFORMATION

The Administrator relies on the detail line information on the Worksheet to arrive at the totals shown in Block 4-B. The Administrator will attempt to resolve conflicts between any sums that differ from the information entered into the totals on Block 4-B.

Line 419	Gross Billed Revenues from All Sources

Gross billed revenues from all sources should equal the sum of revenues by type of service reported on Lines 303 through 314 and Lines 403 through 418.

Line 420	Gross Universal Service Contribution Base Amounts

Universal service contribution base revenues should equal the subtotal of Lines 403 through 411 and Lines 413 through 417 for each column. The totals on this line represent gross end-user revenues for the purpose of determining contributions to universal service support mechanisms. *See* section IV.E (Line 511 instructions).

Line 421	Uncollectible revenue/ bad debt associated with Line 419 (Gross Billed Revenues)

Show the uncollectible revenue/bad debt expense associated with gross billed revenues amounts reported on Line 419.

- For those using billed revenues, this line may include redeemed credits.
- Reported uncollectible amounts should:
  - Be the amount reported as bad debt expense in the filer's income statement for the year.
  - Cover uncollectibles associated with all revenue on the filer's books (Line 419), including uncollectible carrier's carrier revenues, end-user telecommunications revenues, and revenues reported on Line 418.
  - Represent the portion of gross billed revenues that the filer reasonably expects will not be collected.
- Uncollectibles may not include any amounts associated with unbillable revenues.[86]
- Filers that operate on a cash basis should report $0 on this line.
- Filers that used earned revenue to represent billed revenues should not report as uncollectible any billings that are not included in earned revenues.

Filers that maintain separate detail of uncollectibles by type of business should rely on those records in dividing uncollectible expense between carrier's carrier, contribution base and other revenues, and for dividing uncollectibles associated with contribution base revenues between intrastate, interstate and international categories. Filers that do not have such detail should make such assignments in proportion to reported gross revenues.

Line 422	Uncollectible revenue/ bad debt associated with Line 420 (Universal Service Contribution Base Amounts)

[86] *See 2002 Second Contribution Methodology Order and FNPRM*, 17 FCC Rcd at 24970 n.95.

Show the portion of the uncollectible revenue/bad debt expense reported on Line 421 that is associated with just the universal service contribution base amounts reported on Line 420.

- Filers that maintain separate detail of uncollectibles by type of business should rely on those records in determining the portion of gross uncollectibles reported on Line 421 that should be reported on Line 422.
- Filers that do not have such detail should make such assignments in proportion to reported gross revenues.
- Filers must be able to document how the amounts reported on Line 422 relate to the uncollectible revenue/bad debt expense associated with gross billed revenues reported on Line 421.

In exceptional circumstances, amounts reported on Line 422 may exceed amounts reported on Line 421 or either amount might actually be negative. These situations can arise where amounts previously written off as uncollectible subsequently are collected.

Filers that maintain separate detail of uncollectibles by type of business should rely on those records in dividing uncollectible expense between carrier's carrier, contribution base and other revenues, and for dividing uncollectibles associated with contribution base revenues between intrastate, interstate and international categories. Filers that do not have such detail should make such assignments in proportion to reported gross revenues.

Line 423	**Net universal service contribution base revenues**

Net universal service contribution base revenues should equal the amounts reported on Line 420 minus the amounts reported on Line 422.

E. BLOCK 5: ADDITIONAL REVENUE BREAKOUTS FOR NON-USF MECHANISMS

Line 501	**Filer 499 ID**

Enter the Filer 499 ID from Line 101.

Line 502	**Legal Name of Filer**

Enter the legal name of the filer from Line 102.

Line 503-510	**Percentages of Telecommunications Revenues by LNPA Region**

In these lines, filers should identify the percentages of their telecommunications revenues by LNPA region.

- Payphone service providers, private service providers, and shared-tenant service providers that have certified that they are exempt from contributing to the shared costs of LNP need not provide these breakdowns.

Carriers and interconnected VoIP providers should calculate or estimate the percentage of revenues that they billed in each region based on the amount of service they actually provided in the parts of the United States listed for each region.

- Customer billing addresses may be used to calculate or estimate this percentage.
- The percentages in column (a), representing Block 3 revenues billed in each region of the country, should add to 100% unless the filer did not provide any services for resale by other contributors to the federal universal service support mechanisms.

- The percentages in column (b), representing Block 4 telecommunications service revenues billed in each region of the country (excluding non-telecommunications revenues reported on Line 418) should add to 100% unless the filer did not provide any telecommunications services to end users or non-contributing carriers.
- Filers may use a proxy based on the percentage of subscribers a provider serves in a particular region for reaching an estimate for allocating their end-user revenues to the appropriate regional LNPA.

Line 511	Revenues from Resellers that Do Not Contribute to Universal Service Support Mechanisms and Are Included in Block 4

Identify revenues from resellers that do not contribute directly to universal service support mechanisms and that are included in Block 4. Revenues from resellers that do not contribute to universal service support mechanisms are included on Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded, the filer has the option of identifying such revenues on Line 511.

Line 420 may contain revenues from some FCC Form 499 filers that are exempt from contributing directly to universal service support mechanisms. For example, these would include filers that meet the universal service *de minimis* exception or that provide "international only" service. Since these universal service exempt entities generally do contribute directly to the TRS, LNP, and NANPA mechanisms, revenues from these entities need not be included in the underlying service provider contribution bases for those mechanisms. Filers choosing to report revenues on Line 511 must have the FCC Filer 499 ID for each customer whose revenues are so reported.

Line 512	Gross TRS Contribution Base Amounts

TRS contribution base revenues reportable on Line 512(a) should equal the subtotal of Lines 403(a) through 417(a) and Line 418.4(a) less Line 511(a).

TRS contribution base revenues reportable on Line 512(b) should equal the subtotal of Lines 403(d) through 417(d), Lines 403(e) through 417(e), Line 418.4(d), and Line 418.4(e) less Line 511(b). The totals on this line represent gross end-user revenues for the purpose of determining contributions to TRS.

Line 513	Uncollectible Revenue/ Bad Debt Expense Associated with TRS Contribution Base Amounts

Show the portion of the uncollectible revenue/bad debt expense reported on Line 421 that is associated with just the TRS contribution base amounts reported on Line 512.

- Filers that maintain separate detail of uncollectibles by type of business should rely on those records in determining the portion of gross uncollectibles reported on Line 421 that should be reported on Line 513.
- Filers that do not have such detail should make such assignments in proportion to reported gross revenues.

Filers must be able to document how the amounts reported on Line 513 relate to the uncollectible revenue/bad debt expense associated with gross billed revenues reported on Line 421.

- In exceptional circumstances, amounts reported on Line 513 may exceed amounts reported on Line 421 or either amount might actually be negative. These situations can arise where amounts previously written off as uncollectible subsequently are collected.

Line 514	Net TRS Contribution Base Revenues

Net TRS contribution base revenues should equal the amounts reported on Line 512 less the amounts reported on Line 513.

F. BLOCK 6: CERTIFICATION

Line 601	Filer 499 ID

Copy the Filer 499 ID from Line 101.

Line 602	Legal Name of Filer

Copy the legal name of the filer from Line 102.

Line 603	Certifications – Exemptions from Contribution Requirement(s)

In this line, filers may certify that they are exempt from one or more contribution requirement(s) by checking the box next to the mechanism(s) from which they are exempt.

- As explained above, the FCC Form 499 Telecommunications Reporting Worksheet enables telecommunications carriers and service providers to satisfy a number of requirements in one consolidated form.
- Not all entities that file the Telecommunications Reporting Worksheet must contribute to all of the support and cost-recovery mechanisms (universal service, LNP, TRS, and NANPA). For example, certain telecommunications providers that are not telecommunications carriers must contribute to the universal service support mechanisms, but not to the TRS, LNP, and NANPA mechanisms.
- Section III.A provides summary information on which filers must contribute and which filers are exempt from particular contribution requirements.

Filers that certify that they are exempt from one or more mechanism(s) should use the space provided on Line 603 to explain the exemption.

Note: It is not necessary for a filer to certify that it is *de minimis* for universal service purposes because the universal service administrator can determine whether a filer meets the contribution threshold from other information provided on the form. If, however, a reseller or other provider of telecommunications qualifies for the *de minimis* exemption, it must notify its underlying carriers that it is not contributing directly to universal service. Such a reseller or other provider of telecommunication must be treated as an end user when the underlying carrier(s) file an FCC Form 499.

Line 604	Regulatory Fee Exemptions

In this line, filers indicate whether they are exempt from FCC regulatory fees or the filer is an "exempt telecommunications company."[87]

- A state or local governmental entity is any state, possession, city, county, town, village, municipal corporation, or similar political organization.[88]

[87] 47 CFR § 1.1162(c). The FCC will presume that otherwise exempt carriers prefer to pay FCC regulatory fees unless they check this box.

[88] 47 CFR § 1.1162(b).

- The second check box identifies organizations duly qualified as a nonprofit, tax exempt entity under section 501 of the Internal Revenue Code, 26 U.S.C. § 501 or by state certification.[89] These organizations typically qualify for non-profit status under sections 501(c)(3) or 501(c)(12).

Note that such entities are not exempt from universal service, TRS, LNP, or NANPA contributions unless they qualify under some other exemption (i.e., Interstate service providers that have mobile service or satellite service revenues but that do not have interstate local revenues or interstate toll revenues are exempt from payment of ITSP fees. Interstate service providers that provide service to only other carriers are also exempt from ITSP regulatory fees. Carriers whose total regulatory fee payment obligation is $1,000 or less are also exempt).

Line 605	Request for Nondisclosure of Revenue Information

Filers may use the box in Line 605 to request nondisclosure of the revenue information contained on the Telecommunications Reporting Worksheet.

- By checking this box, the officer of the company signing the Worksheet certifies that the information contained on the Worksheet is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the company filing the Worksheet.
- This box may be checked in lieu of submitting a separate request for confidentiality pursuant to section 0.459 of the Commission's rules.[90]

All decisions regarding disclosure of company-specific information will be made by the Commission. The Commission regularly makes publicly available the names (and Block 1 and 2-B contact information) of the entities that file the Telecommunications Reporting Worksheet and information on which filers contribute to which funding mechanisms, including entities that checked the boxes in Line 603.

Line 606-611	Officer Certification

An officer of the filer must examine the data provided in the Telecommunications Reporting Worksheet and certify that the information provided therein is accurate and complete.

- Officers of entities making consolidated filings should refer to Section III.B and must certify that they comply with the conditions listed in that section.
- An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement. Preferably, the signing officer would be a vice-president for finance, comptroller, treasurer, or a comparable officer holding a financial position. Alternatively, the officer signing the Form preferably would be the president or vice president of operations. If the filer is a sole proprietorship, the owner must sign the certification.

Capable filers must enter data, and verify, submit, and certify FCC Forms 499-A and 499-Q online via USAC's web-based data entry system, E-File.

- An electronic signature in the signature block of each form certified by that officer will be considered the equivalent to a handwritten signature on the form.

[89] 47 CFR § 1.1162(c).

[90] 47 CFR § 0.459; *see Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816 (1998) (listing the showings required in a request that information be withheld and stating that the Commission may defer action on such requests until a formal request for public inspection has been made).

- By entering his or her electronic signature into the signature block of each form, the officer, therefore, acknowledges that such electronic signature certifies his or her identity and attests under penalty of perjury as to the truth and accuracy of the information contained in each electronically signed form.
- Visit https://www.usac.org/service-providers/contributing-to-the-usf/forms-to-file/ for more information and access to the online filing system.

A person who willfully makes false statements on the Worksheet can be punished by fine or imprisonment under Title 18 of the United States Code.[91]

Line 612	Type of Filing

Indicate whether this filing is an original filing for the year, due on April 1, a registration filing for a new service provider, a filing with revised registration information, or a filing with revised revenue information. *See* section III.D for information on the obligation to file revisions.

V. CALCULATION OF CONTRIBUTIONS

Filers do not calculate the amounts that they must contribute in this Worksheet. The administrators will use the revenue information on the Worksheet to calculate a funding base and individual contributions for each support mechanism. Individual contributions are determined by the use of "factors"—factors reflect the total funding requirement of a particular mechanism divided by the total contribution base for that mechanism. Information on the contribution bases and individual filer contributions are shown below in Table 4.

Table 4: Contribution Bases

Support Mechanism	Funding Basis	
Universal service	less	Line 423(d) + Line 423(e)* revenues corresponding to universal service contributions**
TRS (Filers with end-user revenues must pay a minimum of $25)		Line 514(a) for contributions funding IP CTS,[92] IP Relay,[93] and VRS.[94] Line 514(b) for contributions funding all other forms of TRS
NANPA (Filers with end-user revenues must pay a minimum of $25. Filers with no end-user revenues must pay $25.)	plus less	Line 420(a) Line 412(a) Line 511(a)
LNPA - by region (Filers with only carrier's carrier revenue in a region must pay $100 for that region)	plus less times	Line 420(a) Line 412(a) Line 511(a) percentages on Lines 503 through 509

[91] *See* 18 U.S.C. § 1001.

[92] *See* 47 CFR 64.601(a)(22).

[93] *See* 47 CFR 64.601(a)(23).

[94] *See* 47 CFR 64.601(a)(50).

* Line 423(e) is excluded from the contribution base if the total of amounts on Line 423(d) for the filer consolidated with all affiliates is less than 12% of the total of Line 423(d) + Line 423(e) for the filer consolidated with all affiliates. *See* 47 CFR § 54.706(c).

** The contribution base for an individual filer is the projected collected interstate and international revenues for the quarter, reduced by an imputed amount of universal service support pass-through charges, based on the actual factor for the quarter. *See Contribution Methodology Order*, 17 FCC Rcd 24952; *see, e.g.*, Proposed First Quarter 2004 Universal Service Contribution Factor, CC Docket No. 96-45, Public Notice, 18 FCC Rcd 25111 (2003). *See also* FCC, Contribution Factor & Quarterly Filings - Universal Service Fund (USF) Management Support, https://www.fcc.gov/encyclopedia/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support.

Monthly billings for universal service are based on projected collected revenue information filed on the quarterly FCC Form 499-Q.

- Historical amounts reported on FCC Form 499-Q Line 116(b) and (c) correspond to FCC Form 499-A Line 420(d) and (e), respectively.
- Projected collected revenues on FCC Form 499-Q Line 120(b) and (c) correspond to net universal service base revenues on FCC Form 499-A Line 423(d) and (e), respectively.
- The FCC Form 499-Q provides instructions for projecting revenues, and for removing uncollectible amounts from billed revenue projections.
- The amounts filed on the FCC Form 499-A are used to review and true-up FCC Form 499-Q filings and associated contributions.

VI. ADDITIONAL INFORMATION

A. REMINDERS

- File the FCC Form 499-A online at https://forms.universalservice.org.
- Contributors are required to maintain records and documentation to justify information reported on the Telecommunications Reporting Worksheet for five years. *See* section III.E.
- Is the filer affiliated with another telecommunications provider? Each legal entity must file separately unless they qualify for filing on a consolidated basis. *See* section III.B. Each affiliate or subsidiary must show the same Affiliated Filers information on Lines 106.1 and 106.2.
- Provide data for all lines that apply. Show a zero for services for which the filer had no revenues for the filing period.
- Be sure to include on Line 112 all names by which the filer is known to customers, including the names of agents or billers if those names appear on customer bills.
- Telecommunications providers that are required to contribute to universal service support mechanisms must also file quarterly FCC Forms 499-Q. *See* section III.C.
- Wherever possible, revenue information should be taken from the filer's financial records.
- The Worksheet must be signed by an officer of the filer. An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement), and would typically be president, vice president for operations, comptroller, treasurer, or a comparable position.
- Do not mail the Worksheet to the FCC. *See* section III.C.

- Filers must re-file parts of the Worksheet if the Agent for Service of Process or FCC Registration information changes during the year.

FCC Form 499 is one of several forms that telecommunications carriers and other providers of interstate telecommunications may need to file. Information concerning common filing requirements for such providers may be found on the Commission's web site, at https://www.fcc.gov/reports-research/guides/common-carrier-filing-requirements-information-firms-providing-telecommunications-services.

B. PAPERWORK REDUCTION ACT NOTICE

Section 52.17 of the Federal Communications Commission's rules require all telecommunications carriers and interconnected VoIP providers to contribute to meet the costs of establishing numbering administration, and directs that contributions shall be calculated and paid in accordance with the FCC Form 499-A or Worksheet. 47 CFR § 52.17. Section 52.32 requires the local number portability administrators shall recover the shared costs of long-term number portability from all telecommunications carriers and interconnected VoIP providers. 47 CFR § 52.32. Sections 54.706, 54.711, and 54.713 require all interstate telecommunications carriers, interconnected VoIP providers, providers that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to universal service and file this Worksheet once a year and the FCC Form 499-Q four times a year. 47 CFR §§ 54.706, 54.711, 54.713. Section 64.604 requires that every common carrier, interconnected VoIP provider, and non-interconnected VoIP provider contribute to the TRS Fund on the basis of its relative share of end-user revenues that are subject to contributions based on information provided in this Worksheet. 47 CFR §§ 64.601(b), 64.604(c)(5)(iii)(A) and (B). Section 64.1195 and the Commission's orders require all telecommunications carriers and interconnected VoIP providers to register using the FCC Form 499-A. 47 CFR § 64.1195(a).

This collection of information stems from the Commission's authority under sections 151(i), 225, 251, 254, 258, and 715 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151(i), 225, 251, 254, 258, 616. The data in the Worksheet will be used to calculate contributions to the universal service support mechanisms, the TRS support mechanism, the cost recovery mechanism for numbering administration, and the cost recovery mechanism for shared costs of long-term number portability. Selected information provided in the Worksheet will be made available to the public in a manner consistent with the Commission's rules.

We have estimated that each response to this collection of information will take, on average, 13.5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, you may write the Federal Communications Commission, AMD-PPM, Washington, D.C. 20554, Paperwork Reduction Project (3060-0855). We also will accept your comments via the Internet if you send them to pra@fcc.gov. DO NOT SEND COMPLETED WORKSHEETS TO THIS ADDRESS.

You are not required to respond to a collection of information sponsored by the federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060-0855.

The Commission is authorized under the Communications Act to collect the information we request on this form. We will use the information that you provide to determine contribution amounts. If we believe there may be a violation or potential violation of a statute or a Commission regulation, rule, or order, your Worksheet may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your Worksheet may be disclosed to the Department of Justice, court, or other adjudicative

body when (a) the Commission; or (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

With the exception of your employer identification number, if you do not provide the information we request on the Worksheet, the Commission may consider you in violation of rules 1.47, 52.17, 52.32, 54.713, 64.604, and 64.1195. 47 CFR §§ 1.47, 52.17, 52.32, 54.713, 64.604, 64.1195.

The foregoing notice is required by the Paperwork Reduction Act of 1995, P.L. No. 104-13, 44 U.S.C. § 3501, *et seq*.

Appendix A

How to determine if a filer met the universal service *de minimis* standard for calendar year 202~~4~~3

(1)	*Interstate contribution base for filer* Enter Line 423(d) from FCC Form 499-A.	$
(2)	*International contribution base for filer* Enter Line 423(e) from FCC Form 499-A.	$
(3)	*Interstate contribution base for all affiliates** Enter sum of Line 423(d) from FCC Forms 499-A of all affiliates.	$
(4)	*International contribution base for all affiliates* Enter sum of Line 423(e) from FCC Forms 499-A of all affiliates.	$
(5)	*Consolidated interstate contribution base* Enter Line (1) + Line (3).	$
(6)	*Consolidated interstate and international contribution base* Enter Line (2) + Line (4) + Line (5).	$
(7)	*Consolidated interstate contribution base as a percentage of consolidated interstate and international contribution base* Enter Line (5) / Line (6).	%
(8)	*LIRE Exemption *** If Line (7) > 12%, enter Line (2). If Line (7) ≤ 12%, enter $0.	$
(9)	*Contribution base to determine de minimis qualification* Enter Line (1) + Line (8).	$
(10)	~~*2024*~~*2025 Form 499-A de minimis estimation factor*	0.~~256~~XXX ***
(11)	*Estimated annual contribution* Enter Line (9) x Line (10)	$

* Unless otherwise specifically provided, an affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person." For this purpose, the term "owns" means to own an equity interest (or the equivalent thereof) of more than 10 percent. *See* 47 U.S.C. § 153(2).

** Line 423(e) is excluded from the contribution base if the total of amounts on Line 423(d) for the filer consolidated with all affiliates is less than 12% of the total of Line 423(d) + Line 423(e) for the filer consolidated with all affiliates. *See* 47 CFR § 54.706(c).

*** The estimation factor is based on a contribution factor of 0.~~344~~XXX, which is higher than the contribution factor announced for any quarter of 202~~3~~2, and a corresponding circularity factor of 0.~~255341~~XXXXXX. Actual contribution and circularity factors for calendar year 202~~4~~3 may have increased or decreased depending on quarterly changes in program costs and the projected contribution base. Using the estimation factor, filers whose actual contribution requirements total less than $10,000 for the calendar year will be treated as *de minimis* and will receive refunds, if necessary. Filers whose actual contribution requirements total $10,000 or more are required to contribute directly to the universal service support mechanisms. Note that telecommunications carriers and interconnected VoIP service providers must file this Worksheet regardless of whether they qualify for the *de minimis* exemption. Telecommunications providers may qualify for one of the exemptions to filing as detailed in Sections II.A.2.

Appendix B

Explanation of categories listed in Line 105

CAP/CLEC (Competitive Access Provider/Competitive Local Exchange Carrier). — Competes with incumbent local exchange carriers (ILECs) to provide local exchange services, or telecommunications services that link customers with interexchange facilities, local exchange networks, or other customers, other than Coaxial Cable providers.

Cellular/PCS/SMR (Cellular, Personal Communications Service, and Specialized Mobile Radio). — Provides primarily wireless telecommunications services (wireless telephony). This category includes all providers of real-time two-way or push-to-talk switched voice services that interconnect with the public switched network, including providers of prepaid phones and public coast stations interconnected with the public switched network. *See* 47 CFR § 80.451. This category includes the provision of wireless telephony by resale. An SMR provider would select this category if it primarily provides wireless telephony rather than dispatch or other mobile services.

Coaxial Cable. — Uses coaxial cable (cable TV) facilities to provide local exchange services or telecommunications services that link customers with interexchange facilities, local exchange networks, or other customers.

ILEC (Incumbent Local Exchange Carrier). — Provides local exchange service. An incumbent LEC or ILEC generally is a carrier that was at one time franchised as a monopoly service provider or has since been found to be an incumbent LEC. *See* 47 U.S.C. § 251(h).

IXC (Interexchange Carrier). — Provides long distance telecommunications services substantially through switches or circuits that it owns or leases.

Interconnected VoIP Provider. — Provides "interconnected VoIP service," which is a service that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol compatible customer premises equipment (CPE); and (4) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

Local Reseller. — Provides local exchange or fixed telecommunications services by reselling services of other carriers.

Non-Interconnected VoIP Provider. — Provides non-interconnected VoIP service, which is a service that (i) enables real-time voice communications that originate from or terminate to the user's location using Internet protocol or any successor protocol and (ii) requires Internet protocol compatible customer premises equipment, but (iii) is not an interconnected VoIP service.

Operator Service Provider (OSP). — Serves customers needing the assistance of an operator to complete calls or needing alternate billing arrangements such as collect calling.

Paging — Provides wireless paging or wireless services. This category includes the provision of paging services by resale.

Payphone Service Provider. — Provides customers access to telephone networks through payphone equipment, special teleconference rooms, etc. Payphone service providers also are referred to as payphone aggregators.

Prepaid Calling Card Provider. — Provides prepaid calling card services by selling prepaid calling cards to the public, to distributors or to retailers. Prepaid card providers provide consumers the ability to place long distance calls without presubscribing to an interexchange carrier or using a credit card. Prepaid card providers typically resell the toll service of other carriers and determine the price of the

service by setting the price of the card, assigning personal identification numbers (PINs) and controlling the number of minutes that the card can be used for. Companies who simply sell cards created by others are marketing agents and do not file.

Private Service Provider. — Offers telecommunications to others for a fee on a non-common carrier basis. This would include a company that offers excess capacity on a private system that it uses primarily for internal purposes. This category does not include SMR or Satellite Service Providers.

Satellite Service Provider. — Provides satellite space segment or earth stations that are used for telecommunications service.

Shared-Tenant Service Provider /Building LEC. — Manages or owns a multi-tenant location that provides telecommunications services or facilities to the tenants for a fee.

SMR (dispatch) (Specialized Mobile Radio Service Provider). — Primarily provides dispatch services and mobile services other than wireless telephony. While dispatch services may include interconnection with the public switched network, this category does not include carriers that primarily offer wireless telephony. This category includes LTR dispatch or community repeater systems.

Stand-Alone Audio Bridging Provider /Integrated Teleconferencing Service Provider. — Allows end users to transmit a call (using telephone lines), to a point specified by the user (the conference bridge), without change in the form or content of the information as sent and received (voice transmission).

Toll Reseller. — Provides long distance telecommunications services primarily by reselling the long distance telecommunications services of other carriers.

Wireless Data. — Provides mobile or fixed wireless data services using wireless technology. This category includes the provision of wireless data services by resale.

The Worksheet also provides boxes for "Other Local," "Other Mobile," and "Other Toll." If one of these categories is checked, the filer should describe the nature of the service it provides under the check boxes. For example, filers that provide toll service that: (1) uses ordinary customer premises equipment with no enhanced functionality; (2) originates and terminates on the public switched telephone network and (3) undergoes no net protocol conversion and provides no enhanced functionality to end users due to the provider's use of IP technology should enter "VoIP toll" in the explanation field.[95]

Appendix C – Definitions for International Reporting

Country-Beyond Service is an International Calling Service (ICS) provided and billed by a U.S. International Service Provider to a customer located in a foreign point in which case the customer, using a credit card or calling card issued by the U.S. International Service Provider, calls a telephone number in another foreign point.

Country-Direct Service is ICS provided by a U.S. International Service Provider to a customer located in a foreign point in which case the customer, using a credit card or calling card issued by the U.S. International Service Provider, calls a telephone number in the United States.

Foreign-Billed (ICS) refers to ICS that originates or terminates with an end-user in the United States, and that is billed by a Foreign Service Provider.

[95] *See AT&T IP-in-the-Middle Order*, 19 FCC Rcd 7457.

Foreign Carrier refers to any entity that is authorized within a foreign country to engage in the provision of international telecommunications services offered to the public in that country within the meaning of the International Telecommunication Regulations, see Final Acts of the World Administrative Telegraph and Telephone Conference, Melbourne, 1988 (WATTC-88), Art. 1, which includes entities authorized to engage in the provision of domestic telecommunications services if such carriers have the ability to originate or terminate telecommunications services to or from points outside their country. The term "Foreign Carrier" does not refer to the nationality of the employees or owners of a communications entity. An affiliate of a Foreign Carrier that operates in the United States as a common carrier is a U.S. Carrier.

Foreign Service Provider refers to a Foreign Carrier; or any person or entity in a foreign point that provides VoIP service connected to the PSTN in a foreign point or between a foreign point and the United States; or any person or entity in a foreign point that provides International Call Completion Service to a U.S. International Service Provider or obtains International Call Completion Service from a U.S. International Service Provider.

International Calling Service (ICS) refers to International Message Telephone Service (IMTS) and International VoIP Service Connected to the PSTN, including International Call Completion Service for IMTS or International VoIP Service Connected to the PSTN.

International VoIP Service Connected to the PSTN refers to service between the United States and any foreign point that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet Protocol-compatible customer premise equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network (PSTN) or to terminate calls to the PSTN. International VoIP Service Connected to the PSTN consists of Interconnected VoIP Service and "one-way" VoIP services, between the United States and any foreign point. (One-way VoIP services enable users to terminate calls to the PSTN but do not permit users to receive calls that originate on the PSTN, or enable users to receive calls from the PSTN but do not permit the user to make calls terminating to the PSTN.) International Call Completion Service for International VoIP Service Connected to the PSTN is included within the definition of International VoIP Service Connected to the PSTN.

Re-originated Foreign ICS refers to ICS traffic from a foreign point that is transmitted to the United States for retransmission to a destination foreign point, but that is not handled as Traditional Transiting ICS.

Settlement Payout refers to the expense (including any transiting fees) that a U.S. International Service Provider incurs for International Call Completion Service to a foreign point obtained from a Foreign Service Provider.

Settlement Receipt refers to the revenue that a U.S. International Service Provider bills for International Call Completion Service to the United States provided to a Foreign Service Provider.

Traditional Transiting ICS refers to ICS from a foreign point that (a) transits the United States prior to completion at a foreign point and (b) is settled at a rate agreed upon by the Foreign Service Provider in the origination foreign point and the Foreign Service Provider in the destination foreign point. The U.S. International Service Provider that provides the transiting service is reimbursed for its handling and transmission of the traffic by the Foreign Service Provider in the origination foreign point.

U.S.-Billed Facilities ICS refers to U.S.-Billed ICS that a U.S. International Service Provider provides as Facilities ICS.

U.S.-Billed ICS refers to an ICS call that originates or terminates in the United States and that is billed by a U.S. International Service Provider to an end-user customer or to a U.S. International Service Provider

that is taking the service for resale; or a Reorginated Foreign ICS call that is billed by a U.S. International Service Provider to a Foreign Service Provider; or a country-beyond call.

FCC Form 499-Q Telecommunications Reporting Worksheet Approval by OMB
Quarterly Filing for Universal Service Contributors > Please read instructions before completing < 3060-0855

Block 1: Contributor Identification Information		**101** Filer 499 ID	
102 Legal name of reporting entity			
103 Filer's IRS employer identification number			
104 Name telecommunications provider is doing business as			
105 Affiliated Filers Name [All affiliated companies should show same name here. In most cases, the Affiliated Filers Name will be the holding company name		Check if filer has no affiliates: ☐	
105.1 Affiliate Filers Name IRS employer identification number		[Enter 9 digit number]	
106 Filer's FCC Registration Number (FRN)		[Enter 10 digit number]	
107 Complete mailing address of reporting entity's corporate headquarters			

Block 2: Contact Information			
108 Person who completed this worksheet	First	MI	Last
109 Telephone number of this person	( ) -		
110 Fax number of this person	( ) -		
111 Email of this person			
112 Billing address and billing contact person:			

Block 3: Contributor Historical and Projected Revenue Information

113 Indicate which quarterly filing this represents

Filing due	**Historical revenues (lines 115-118) for**	**Projected revenues (lines 119-120) for**
☐ November 1, 2024~~3~~	July 1 – September 30, 2024~~3~~	January 1 – March 31, 2025~~4~~
☐ February 1, 2025~~4~~	October 1 – December 31, 2024~~3~~	April 1 – June 30, 2025~~4~~
☐ May 1, 2025~~4~~	January 1 – March 31, 2025~~4~~	July 1 – September 30, 2025~~4~~
☐ August 1, 2025~~4~~	April 1 – June 30, 2025~~4~~	October 1 – December 31, 2025~~4~~

114 Check if using safe harbor to allocate interstate/intrastate revenues for each of the following (as applicable):
Cellular & broadband PCS: ☐ Paging: ☐ Analog SMR: ☐ Interconnected VoIP: ☐

Historical billed revenues with no allowance or deductions for uncollectibles. See Instructions.		Total Revenues (a)	Interstate Revenues (b)	International Revenues (c)
115	Telecommunications provided to other universal service contributors for resale as telecommunications or as interconnected VoIP			
116	End-user telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues			
117	All other goods and services		Column (b) and (c) not requested for Lines 117 and 118	
118	Gross-billed revenues from all sources [sum of above]			
119	Projected gross-billed end-user interstate and international telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues			
120	Projected collected end-user interstate and international telecommunications revenues including any pass-through charges for universal service contributions, but excluding international-to-international revenues			

Block 4: CERTIFICATION: to be signed by an officer of the reporting entity

121 I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue information contained herein pursuant to sections 0.459, 52.17, 54.711 and 64.604 of the Commission's Rules. ☐

I certify that I am an officer of the above-named reporting entity, that I have examined the foregoing report and to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true, that said Worksheet is an accurate statement of the affairs of the above-named company for the quarter and that the projections of gross-billed and collected revenues represent a good-faith estimate based on company procedures and policies.

122 Signature			
123 Printed name of officer	First	MI	Last
124 Position with reporting entity			
125 Email of officer (Required if available)			
126 Date			
127 This filing is:	☐ Original filing	☐ Revised filing [revisions due within 45 days of original filing deadline]	

File this form online https://forms.universalservice.org/portal/login
For additional information regarding this worksheet contact: Telecommunications Reporting Worksheet Info: (888) 641-8722 or via email: Form 499@usac.org

PERSONS WILLFULLY MAKING FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

FCC Form 499-Q, XXX~~September~~ 202~~2~~0243
Approved by OMB
OMB Control Number 3060-0855
Estimated Average Burden Hours Per Response: 10 Hours

Telecommunications Reporting Worksheet, FCC Form 499-Q 2025~~4~~
Instructions for Completing the Quarterly
Worksheet for Filing Contributions
to Universal Service Support Mechanisms

* * * * *

NOTICE: Sections 54.706, 54.711, and 54.713 of the Federal Communications Commission's rules require all telecommunications carriers providing interstate telecommunications services, interconnected voice-over-Internet-protocol (VoIP) providers that provide interstate telecommunications, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to universal service and file this Telecommunications Reporting Worksheet (FCC Form 499-Q or Worksheet) on February 1, May 1, August 1, and November 1, each year. 47 CFR §§ 54.706, 54.711, 54.713. This collection of information stems from the Commission's authority under Sections 151(i) and 254 of the Communications Act of 1934, as amended (Communications Act or Act), 47 U.S.C. §§ 151(i), 254. The data in the Worksheet will be used to calculate contributions to the universal service support mechanisms. Selected information provided in the Worksheet will be made available to the public in a manner consistent with the Commission's rules.

We have estimated that each response to this collection of information will take, on average, 10.0 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, project growth or decline in revenues, and actually complete and review the form or response. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, you may write the Federal Communications Commission, AMD-PPM, Washington, D.C. 20554, Paperwork Reduction Project (3060-0855). We also will accept your comments via the Internet if you send them to PRA@FCC.gov. DO NOT SEND COMPLETED WORKSHEETS TO THIS ADDRESS.

Remember -- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060-0855.

The Commission is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information that you provide to determine contribution amounts. If we believe there may be a violation or potential violation of a statute or a Commission regulation, rule, or order, your Worksheet may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your Worksheet may be disclosed to the Department of Justice, court, or other adjudicative body when (a) the Commission; or (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

With the exception of your employer identification number, if you do not provide the information we request on the Worksheet, the Commission may consider you in violation of sections 1.47, 52.17, 52.32, 54.713, and 64.604 of the Commission's rules. 47 CFR §§ 1.47, 52.17, 52.32, 54.713, and 64.604.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, P.L. No. 104-13, 44 U.S.C. §§ 3501, *et seq*.

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File FCC Form 499-Q online. http://forms.universalservice.org.

I. Introduction

As required under the Communications Act of 1934, as amended,[1] the Commission has established procedures to finance universal service support mechanisms. To accomplish this Congressionally-directed objective, contributions are collected from telecommunications carriers providing interstate telecommunications and certain other providers of interstate telecommunications (including interconnected VoIP providers). This Worksheet sets forth information that the contributor must submit, so that the administrator of the universal service support mechanisms may calculate and assess contributions.[2]

II. Filing Requirements and General Instructions

A. Who Must File

All providers of interstate telecommunications within the United States,[3] with very limited exceptions, must file an FCC Form 499-Q Telecommunications Reporting Worksheet.[4]

For purposes of determining whether an entity provides telecommunications, the term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. For the purpose of filing, the term "interstate telecommunications" includes, but is not limited to, the following types of services: wireless telephony, including cellular and personal communications services (PCS); paging services; dispatch services; mobile radio services;[5] operator services; access to interexchange service; business data services; wide area telecommunications services (WATS); subscriber toll-free services; 900 services; message telephone services (MTS); private line; telex; telegraph; video services; satellite services; resale services; frame relay, asynchronous transfer mode (ATM) and Multi-Protocol Label Switching (MPLS); audio bridging services;[6] and interconnected VoIP services.[7] Note, for example, that all

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[1] 47 U.S.C. §§ 151 *et seq*.

[2] On March 9, 2001, the Commission modified its rules to base universal service contributions on information reported on quarterly Telecommunications Reporting Worksheet filings, with an annual true-up based on information reported on annual Telecommunications Reporting Worksheets. *Federal-State Joint Board on Universal Service, Petition for Reconsideration filed by AT&T*, CC Docket No. 96-45, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748 (2001) (*Quarterly Reporting Order*); *see also 1998 Biennial Regulatory Review -- Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, CC Docket No. 98-171, Report and Order, 14 FCC Rcd 16602 (1999).

[3] For this purpose, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

[4] Section 254(d) applies not only to "every telecommunications carrier that provides interstate telecommunications *services*" but also to certain "other provider[s] of interstate telecommunications." 47 U.S.C. § 254(d) (emphasis added). For more information on these terms, s*ee* 47 U.S.C. §§ 153(50), (51); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997) (*Universal Service Order*); *Universal Service Contribution Methodology et al.*, WC Docket No. 06-122 *et al.*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) (*2006 Contribution Methodology Reform Order*).

[5] *See Request for Review by Waterway Communication System, LLC and Mobex Network Services, LLC of a Decision of the Universal Service Administrator*, WC Docket No. 06-122, Order, 23 FCC Rcd 12836 (WCB 2008).

[6] *See Request for Review by InterCall, Inc. of Decision of Universal Service Administrator*, CC Docket No. 96-45, Order, 23 FCC Rcd 10731, 10737-38, para. 22 (2008), *petition for reconsideration denied*, *Petitions for Reconsideration and Clarification of the InterCall Order*, WC Docket No. 06-122, CC Docket No. 96-45, Order on Reconsideration, 28 FCC Rcd 898 (2012), *subsequent history omitted.*

[7] *See* 47 CFR § 9.3 (defining interconnected VoIP service).

incumbent and competitive local exchange carriers provide access to an interstate public network and, therefore, provide interstate telecommunications. There are no exemptions for data or non-voice services.

Note also that entities must file this Worksheet, and are subject to universal service contribution requirements, if they offer interstate telecommunications for a fee to the public even if only a narrow or limited class of users could utilize the services. Included are entities that provide interstate telecommunications to entities other than themselves for a fee on a private, contractual basis. In addition, owners of pay telephones, sometimes referred to as "pay telephone aggregators," and interconnected VoIP providers must file this Worksheet if they do not qualify for the *de minimis* exemption under the Commission's universal service rules.

Marketing agents (i.e., entities that market services on behalf of a telecommunications provider) are not themselves telecommunications providers and are not required to file this Worksheet. The amounts remitted to or retained by the marketing agent are treated as expenses of the underlying provider and may not be deducted from underlying carrier revenues. A reseller is not a marketing agent.

The following three sections list types of telecommunications providers that are not required to file the FCC Form 499-Q. Note that such entities are treated as end users by their underlying carriers and therefore may be subject to pass-through charges.

1. Universal service exemption for *de minimis* telecommunications providers

Section 54.708 of the Commission's rules states that telecommunications carriers and telecommunications providers are not required to contribute directly to the universal service support mechanisms for a given year if their contribution for that year is less than $10,000.[8] Thus, potential contributors whose contribution to the universal service support mechanisms would be *de minimis* under the universal service rules are not required to file the Worksheet (FCC Form 499-Q) or contribute directly to universal service. Telecommunications carriers and other telecommunications providers should complete the table contained in Figure 1 to determine whether they meet the *de minimis* standard. To complete Figure 1, potential filers and all affiliates must first complete block 3 of the Worksheet and enter the amounts from Line 120(b) and 120(c) in Figure 1.

Telecommunications providers that do not file this Worksheet because they are *de minimis* for purposes of universal service contributions (and need not file for any other purpose) should retain Figure 1 and documentation of their contribution base revenues nonetheless for five years and may be required to provide it to the FCC, the FCC's Data Collection Agent or the Universal Service Administrative Company (USAC) upon request.[9]

Figure 1
Table to determine if a contributor meets the *de minimis* standard
for purposes of universal service contribution during 20254

1	Interstate contribution base for the quarter for filer (amount reportable on filer's FCC Form 499-Q; Line 120(b))	$
2	International contribution base for the quarter for filer (amount reportable on filer's FCC Form 499-Q; Line 120(c))	$
3	Interstate contribution base for the quarter for all affiliates* (total of amounts reportable on FCC Form 499-Q; Line 120(b) for all affiliates of the filer)	$
4	International contribution base for the quarter for all affiliates (total of amounts reportable on FCC Form 499-Q; Line 120(c) for all affiliates of the filer)	$

[8] 47 CFR § 54.708.

[9] *See Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195, Report and Order, 22 FCC Rcd 16372, 16386-87, para. 27 (2007) (codified at 47 CFR § 54.706(e)) (*USF Comprehensive Review Order*).

5	Consolidated interstate contribution base: Line (1) + Line (3)	$
6	Consolidated international contribution base: Line (2) + Line (4)	$
7	Total potential contribution base for filer and its affiliates: Line (5) + Line (6)	$
8	Combined interstate contribution base as a percentage of total potential contribution base: Line (5) / Line (7)	%
9	Interstate contribution base for filer from Line (1)	$
10	If the amount in Line (8) is equal to or greater than 12%, enter into Line (10) the international contribution base for the filer from Line (2). If the amount on Line (8) is less than 12%, enter $0 (*See* 47 CFR § 54.706(c))	$
11	Revenue base for the filer for the quarter for determining contributions to universal service support mechanisms: Line (9) + Line (10)	$
12	If the projected revenues on Lines (1) and (2) include projected pass-through charges for contributions to federal universal service support mechanisms, enter the total amount of projected pass-through charges. If the projected revenues on Lines (1) and (2) do not include any universal service pass-through charges, enter $0.	$
13	Contribution base; Line (11) – Line (12)	$
14	Annualizing multiplier	4
15	Annualized contribution base; Line (13) multiplied by Line (14)	
16	~~2024~~2025 Estimation factor for determining whether to file a 499-Q	0.XXX~~239~~ **
17	Estimated annual contribution: amount in Line (15) multiplied by Line (16)	$

* Unless otherwise specifically provided, an affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person." For this purpose, the term 'owns' means to own an equity interest (or the equivalent thereof) of more than 10 percent. *See* 47 U.S.C. § 153(2).

** The estimation factor is based on a contribution factor of 0.~~313~~XXXX, which is the average of the four contribution factors announced for 202~~4~~3, and a corresponding circularity factor of 0.~~237454~~XXXXXX. The public notices announcing the quarterly contribution factors are available at http://www.fcc.gov/encyclopedia/contribution-factor-quarterly-filings-universal-service-fund-usf-management-support.

Note: Actual contribution factors for future quarters may increase or decrease depending on quarterly changes in program costs and the contribution base. Filers whose actual contribution requirements total less than $10,000 for the calendar year will be treated as *de minimis* and will receive refunds, if necessary. Filers whose actual contribution requirements total $10,000 or more are required to contribute to the universal service support mechanisms and must file this Worksheet.

2. Exception for government, broadcasters, schools, and libraries

Certain entities are explicitly exempted from contributing directly to the universal service support mechanisms and need not file this Worksheet. Government entities that purchase telecommunications services in bulk on behalf of themselves, *e.g.*, state networks for schools and libraries, are not required to file or contribute directly to universal service. Public safety and local governmental entities licensed under Subpart B of Part 90 of the Commission's rules are not required to file or contribute directly to universal service. Similarly, if an entity provides interstate telecommunications exclusively to public safety or government entities and does not offer services to others, that entity is not required to file or contribute directly to universal service. In addition, broadcasters, non-profit schools, non-profit libraries, non-profit colleges, non-profit universities, and non-profit health care providers are not required to file the Worksheet or contribute directly to universal service. As explained above, these non-contributors must be treated as

end users by their underlying carriers and therefore may end up contributing indirectly as a result of pass-through charges.

3. Exception for systems integrators and self-providers

Systems integrators that derive less than five percent of their systems integration revenues from the resale of telecommunications are not required to file or contribute directly to universal service. Systems integrators are providers of integrated packages of services and products that may include the provision of computer capabilities, interstate telecommunications services, remote data processing services, back-office data processing, management of customer relationships with underlying carriers and vendors, provision of telecommunications and computer equipment, equipment maintenance, help desk functions, and other services and products. Legal entities that provide services only to themselves or to commonly-owned affiliates need not file.

B. Filing by Legal Entity

Each legal entity that provides interstate telecommunications service for a fee, or that provides interstate interconnected VoIP service, including each affiliate or subsidiary of an entity, must complete separately and file a copy of the attached Telecommunications Reporting Worksheet, except as provided for below. Entities that have distinct articles of incorporation, articles of formation or similar legal documents are separate legal entities. Each affiliate or subsidiary should identify their ultimate controlling parent or entity on Block 1 Line 105 – Affiliated Filers Name.

Consolidated filing will be permitted only if the filing entity certifies that all of the following conditions are met:[10]

(1) A single entity oversees the management of the affiliated systems;

(2) A single entity sends bills to customers and these bills identify a single entity (or trade name) as the service provider, rather than identifying the individual legal entities;

(3) All revenues are posted to a single general ledger;[11]

(4) To the extent that separate revenue and expense accounts exist, they are derived from one consolidated set of books and the consolidated filing must cover all revenues contained in the consolidated books;

(5) Customers have a single point of contact;

(6) The consolidated filer acknowledges that process served on the consolidated filer would represent process served on any or all of the affiliated legal entities;

(7) The consolidated filer agrees to document and resolve all slamming complaints that might be served on either the filing entity or any of the affiliated legal entities;[12]

(8) The consolidated filer obtains a separate FCC Registration Number (FRN) from those assigned to its affiliated legal entities;

(9) The consolidated filer acknowledges that its obligations with regard to universal service, Telecommunications Relay Services, Local Number Portability, the North American

[10] *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752 (2002).

[11] The FCC Form 499 Filings for the consolidated filer must reflect all revenues in this general ledger.

[12] A Commercial Mobile Radio Service (CMRS) carrier that is not subject to certain slamming regulations is not required to certify that it will document and resolve all slamming complaints that might be served on either the filing entity or any of its affiliated legal entities that also are not subject to the slamming regulations.

Numbering Plan, and regulatory fees will be based on the data provided in consolidated Worksheet filings, that it bears the responsibility to satisfy those obligations, and that all legal entities covered by the filing are jointly and severally liable for such obligations; and

(10) The consolidated filer acknowledges that it: (A) was not insolvent on the date it undertook to make payments on a consolidated basis or on the date of actual payments to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees, and did not become insolvent as a result of such undertaking or payments; (B) was not left with unreasonably small capital as a result of such undertaking or payments; and (C) was not left unable to pay debts as they matured as a result of such undertaking or payments.[13]

Each year, entities choosing to file on a consolidated basis must file a statement with the Commission's Data Collection Agent certifying that they meet all of the above conditions.[14] Such certification also must include: (1) a list of the legal names of all legal entities that are covered by the filing; (2) the FCC Form 499 identification numbers of all legal entities that are covered by the filing; (3) the consolidated filer's FRN; and (4) for wireless carriers, a list of all radio licenses (call signs) issued to each legal entity covered by the filing. Consolidated filers should file this certification with the Commission's Data Collection Agent (*see* address in Figure 2). Furthermore, a contributor choosing to file on a consolidated basis should recognize that any penalties associated with failure to pay or with underpayment of any of its obligations will be assessed on the total revenue reported on the consolidated basis, rather than on a separate legal entity basis.

C. When and Where to File

Filers are required to file this form electronically, effective April 1, 2015. Figure 2 provides the filing schedule and relevant filing addresses. If a filing date is a holiday (as defined in Section 1.4(e)(1) of the Commission's rules), Worksheets are due the next business day. There is no fee to file this form.

Figure 2: Filing schedule

What to file	When to file	Where to file **
Completed FCC Form 499-A	April 1	http://forms.universalservice.org
Completed FCC Form 499-Q (universal service contributors only) *	February 1 May 1 August 1 November 1	http://forms.universalservice.org
Consolidated filer certification *See* section II.B for format and content requirements for	April 1	Data Collection Agent c/o Universal Service Administrative Company form499@usac.org

[13] For purposes of this certification, the term "insolvent" means either unable to pay debts when due or having liabilities greater than assets. *See* 11 U.S.C. § 101(32).

[14] *See* address in Figure 2 (Filing Schedule).

consolidated filer certification		
* February 1: FCC Form 499-Q containing revenue information for October 1 through December 31 of the prior calendar year and projections for April 1 through June 30. May 1: FCC Form 499-Q containing revenue information for January 1 through March 31 and projections for July 1 through September 30. August 1: FCC Form 499-Q containing revenue information for April 1 through June 30 and projections for October 1 through December 31. November 1: FCC Form 499-Q containing revenue information for July 1 through September 30 and projections for January 1 through March 31 of the coming year.		
** The universal service administrator will calculate the amount of contribution due and send a notification to the billing contact email address identified in Line (112) of the FCC Form 499-Q that the billing statement is ready to be viewed in E-File.		

For information on filing electronically, go to http://forms.universalservice.org/.

Filers may file the consolidated filer certifications, and traffic studies by submitting electronic copies to: form499@usac.org.

D. Rounding of Numbers and Negative Numbers

Dollar Amounts. Reported revenues in Block 3 that are greater than a thousand dollars may be rounded to the nearest thousand dollars. **Dollar amounts may be reported in whole dollars**. For example, $2,271,881.93 could be reported as $2,271,882 or as $2,272,000, but could not be reported as $2272 thousand, or $2.272 million. Enter $0 in any line for which the contributor had no revenues for the period being reported.

Negative Numbers. Contributors are directed to provide billed revenues on Lines 115 through 119 without subtracting any expenses, allowances for uncollectibles or settlement payments and without making out-of-period adjustments. The amount of projected uncollectibles (the difference between Line 119 and Line 120) cannot exceed projected billings. Therefore, do not enter negative numbers on the form.

E. Obligation to File Revisions

A contributor must file a revised 499-Q Worksheet if it discovers an error in the data that it reports, i.e., if the filer discovers that it omitted or misclassified a major category of revenue. However, revised filings must be made within 45 calendar days of the original filing date. In general, the historical revenues contained in the quarterly filings will be based on unaudited books from a point in time and the projections will represent the filer's expectations as of a point in time. Contributors need not file revisions to the FCC Form 499-Q as a result of ordinary accounting adjustments such as out-of-period adjustments. Revenue information from the FCC Form 499-A will be used to ensure that contributions for the whole year are based on all subject revenues for the year.

Filers should not file revised revenue information to reflect mergers, acquisitions, or sales of operating units. In the event that a filer that submitted an FCC Form 499-Q no longer exists, the successor company to the contributor's assets or operations is responsible for continuing to make assessed contribution or true-up payments, if any, for the funding period and must notify USAC, the Form 499 Data Collection Agent.

F. Record Keeping

Filers shall maintain records and documentation to justify information reported in the Telecommunications Reporting Worksheet, including the methodology used to determine projections and

to allocate interstate revenues, for five years.[15] Additionally, filers must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's Office of Inspector General, to the USF Administrator, and to their auditors upon request.[16] Review by the Commission or the Administrator may cover any existing corporate records, not just those specifically maintained for the five year period.[17] Entities that acquire carrier operations through acquisition of property, consolidation, merger, etc., must maintain the records of the acquired entity.[18]

G. Compliance

Failure to file the Telecommunications Reporting Worksheet or to pay contributions in a timely fashion may subject entities to the enforcement provisions of the Communications Act and any other applicable law.[19] In addition, entities may be billed by the administrators for reasonable costs, including interest and administrative costs that are caused by late, inaccurate, or untruthful filing of the Worksheet or overdue contributions.[20] Inaccurate or untruthful information contained in the Telecommunications Reporting Worksheet may lead to prosecution under the criminal provisions of Title 18 of the United States Code.[21]

III. Specific Instructions

A. Block 1: Contributor Identification Information

Block 1 of the Telecommunications Reporting Worksheet requires identification information.

Line 101 – enter the "Filer 499 ID" number for the filing entity. This code is assigned by the Commission's Data Collection Agent after a company files its first FCC Form 499-A. Filer 499 IDs for current filers can be found at http://apps.fcc.gov/cgb/form499/499a.cfm or in the FCC report *Telecommunications Provider Locator*, which is available on the Commission's web site at http://www.fcc.gov/wcb/iatd/lec.html. This code should be entered at the top of any cover letter or supporting documentation. New filers are assigned Filer 499 ID numbers after a completed FCC Form 499-A Telecommunications Reporting Worksheet is received by the Data Collection Agent.

Line 102 – enter the legal name of the filer as it appears on articles of incorporation and other legal documents. Each legal entity must file a separate Worksheet unless affiliated entities are filing on a consolidated basis.[22]

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[15] *See USF Comprehensive Review Order*, 22 FCC Rcd at 16386-87, para. 27 ("These documents and records should include without limitation the following: financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation").

[16] *See id*. Administrator refers to the Universal Service Administrative Company.

[17] *See* 47 U.S.C. § 218.

[18] *See* 47 CFR § 42.1.

[19] In addition, pursuant to the Debt Collection Improvement Act of 1996, the Commission shall withhold action on applications or other requests for benefits by delinquent debtors and dismiss those applications or other requests if the delinquent debt is not paid or satisfactory arrangement for payment is not made. *See* 47 CFR § 1.1910; *Amendment of Parts 0 and 1 of the Commission's Rules, Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors*, MD Docket No. 02-339, 19 FCC Rcd 6540 (2004).

[20] *See* 47 CFR § 54.713 (universal service); 47 CFR § 64.604(c)(5)(iii)(B) (TRS); *see also* 47 CFR § 52.17(b) (NANPA); 47 CFR § 52.32(c) (LNPA).

[21] *See* 47 CFR § 54.711.

[22] *See* section II-B, page 6, for information on making consolidated filings.

Line 103 – provide the Internal Revenue Service (IRS) employer identification number (EIN) for the filer. This should be the same EIN that the company uses to file any federal taxes, if the filer offers services subject to those taxes. Do not use individual social security numbers for the federal EIN. If a filer lacks an EIN (*i.e.* has no taxpayer identification number to provide other than an individual social security number), it should contact USAC (see section IV.B for contact information) so that it can be assigned an alternative identification number. Consolidated filers must provide the EIN associated with the Affiliated Filers Name.

Line 104 – provide the principal name under which the company conducts telecommunications activities. This would typically be the name that appears on customer bills, or the name used when service representatives answer customer inquiries.

Lines 105 and 105.1 – use this block to provide a common identifier for all affiliated filers (the "Affiliated Filers Name"). This is typically the name of the filer's holding company or controlling entity, if any. Amongst a large group of affiliates, this may be the name of the predominant commonly owned or controlled entity. The common name used by all affiliates need not be a common carrier. All reporting affiliates or commonly controlled entities should have the same Affiliated Filers Name and IRS EIN associated with the Affiliated Filers Name appearing on Line 105 and Line 105.1. For those entities also required to submit information to the Broadband Data Collection (BDC) system, use the same single name that is used in the FCC Form 477 and/or the BDC broadband deployment submissions to indicate common ownership or control.[23]

- Unless otherwise specifically provided, an affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person."[24] For this purpose, the term 'owns' means "to own an equity interest (or the equivalent thereof) of more than 10 percent."[25]
- If the filer has no affiliates, check the appropriate box on Line 105.

Line 106 – provide the filer's FCC Registration Number (FRN). The FRN is a ten digit number that includes a check-digit. The FRN is used to identify an entity within all Commission Licensing/Filing systems and RAMIS (the Commission's Revenue Accounting Management Information System.) This number is assigned by CORES (the Commission Registration System) and can be obtained at https://apps.fcc.gov/cores/userLogin.do. For assistance, contact the CORES help desk at (877) 480-3201 or by e-mail at CORES@fcc.gov.

Line 107 – enter the complete mailing address of the corporate headquarters of the reporting entity.

B. Block 2: Contact Information

Lines 108-111 – enter the name, telephone number, fax number, and email address of the person who filled out the FCC Form 499-Q. This should be a person who can provide clarifications or additional information, and, if necessary, who could serve as the first point of contact in the event that either the Commission or an administrator should choose to verify or audit information provided in the Telecommunications Reporting Worksheet. Email addresses must be provided and, other than those for agents for service of process, will not be shared with parties other than the Commission or the Administrator.

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[23] The Commission adopted an Order ending the collection of broadband deployment data through the FCC Form 477 in December 2022. *See Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, paras. 11-10, Order, FCC 22-93 (rel. Dec. 9, 2022). Pursuant to the Order, the Commission continues to collect broadband and voice subscription data using the FCC Form 477, but filers submit such data solely through the BDC system. *Id.* at para. 13.

[24] *See* 47 U.S.C. § 153(2).

[25] *Id.*

Line 112 – provide a billing contact person name, address and email address for administrators to send billing information for contributions to the universal service fund. The Administrator will send a notification to the billing contact email address that the statement is ready to be viewed in E-File, unless other arrangements are made via written request.

C. Block 3: Contributor Revenue Information

Line 113 – Check the appropriate filing due date corresponding to the historical and projected revenue you are reporting.

Lines 114-120– Provide detailed revenue data.

1. Separating Telecommunications Revenues from Service Provided to Other Contributors to the Federal Universal Service Support Mechanisms for Resale [Line 115] from Telecommunications Revenues from Service Provided to End Users [Line 116] (carrier's carrier vs. end-user)

In the Telecommunications Reporting Worksheet, filers must report revenues using two broad categories: (1) revenues from contributing resellers, intercarrier compensation, and universal service support and (2) revenues from all other sources. Taken together, these revenues should include all revenues billed to customers and should include all revenues on the reporting entities' books of account. The FCC Form 499-A instructions provide more extensive information about each of these categories and are incorporated by reference in these instructions. Filers who are not familiar with the more explicit descriptions provided in Section IV.C.4 of the annual Telecommunications Reporting Worksheet (FCC Form 499-A) instructions should familiarize themselves with those instructions before completing this form.

Revenues from services provided by underlying carriers to other entities that meet the definition of "reseller" (*see* below) are referred to herein as "carrier's carrier revenues" or "revenues from resellers." Revenues from all other sources consist primarily of revenues from services provided to end users, referred to here as "end-user revenues." This latter category includes foreign and non-telecommunications revenues.

Revenues from Resellers -- For the purpose of completing Line 115, a "reseller" is a telecommunications carrier or telecommunications provider that: (1) incorporates purchased telecommunications into its own offerings; *and* (2) can reasonably be expected to contribute to federal universal service support mechanisms based on revenues from those offerings.[26] Specifically, a customer is a reseller if it incorporates purchased wholesale service into an offering that is, at least in part, assessable telecommunications and can be reasonably expected to contribute to the federal universal service support mechanisms for that portion of the offering.[27]

Each filer should have documented procedures to ensure that it reports as "revenues from resellers" only revenues from entities that meet the definition of reseller. The requirements for those procedures are described in Section IV.C.4 of the FCC Form 499-A instructions. Filers that do not comply with the standard described therein will be responsible for any additional universal service assessments that result if their revenues must be reclassified as end-user revenues.

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[26] *Universal Contribution Methodology, Application for Review of Decision of the Wireline Competition Bureau filed by Global Crossing Bandwidth, Inc., et al.*, WC Docket No. 06-122, Order, 27 FCC Rcd 13780, 13781-82, para. 3 (2012) (*2012 Wholesaler-Reseller Clarification Order*).

[27] Thus, for example, if a customer purchases a DS1 line and incorporates that service into an offering of both telephone service and broadband Internet access service, it may certify that it is a reseller for purposes of that purchased service so long as it contributes on the assessable revenues from the telephone service. *See id.* at 13796, para. 34 n.98.

Revenues from Entities Exempt from USF Contributions -- For the purposes of filling out this Worksheet -- and for calculating contributions to the universal service support mechanisms -- certain telecommunications carriers and service providers may be exempt from contribution to the universal service support mechanisms. These exempt entities, including "international only" and "intrastate only" providers and providers that meet the *de minimis* universal service threshold, should not be treated as resellers for the purpose of reporting revenues on Line 115. That is, filers that are underlying carriers should report revenues derived from the provision of telecommunications to exempt carriers and providers (including services provided to entities that are *de minimis* for universal service purposes) on Line (116). Underlying carriers must contribute to the universal service support mechanisms on the basis of such revenues.

2. Column (a) - total revenues

The reporting entity must report gross revenues from all sources, including nonregulated and non-telecommunications services on Lines 115 through 117 and these must add to total gross revenues as reported on Line 118. Gross revenues include account set-up, connection, service restoration, termination and other non-recurring charges. These charges should be reported on the same line that the filer reports any associated recurring revenue. For example, an early termination charge to an end user for an interstate private line service would be reported as interstate revenue on Line 116. Deposits are not revenue. Gross revenues should include revenues derived from the activation and provision of interstate, international, and intrastate telecommunications and non-telecommunications services. Gross revenues consist of total revenues billed to customers during the filing period with no allowances for uncollectibles, settlements, or out-of-period adjustments. Gross revenues do not include amounts that cannot be billed to customers. Gross revenues should include collection overages and unclaimed refunds for telecommunications and telecommunications services when not subject to escheats. Gross billed revenues may be distinct from booked revenues. National Exchange Carrier Association (NECA) pool companies should report the actual gross billed revenues (CABS Revenues) reported to the NECA pool and not settlement revenues received from the pool. Entities making consolidated filings must include in their FCC Form 499 Filings all revenue on the consolidated books of account.[28]

Where two contributors have merged prior to the filing date, the successor company should report total revenues for the reporting period for all predecessor operations. The two contributors, however, should continue to report separately if each maintains separate corporate identities and continues to operate.[29] Where an entity obtains, through purchase, merger or transfer, the telecommunications operations or customer base of a telecommunications provider during a quarter, the acquiring company must report all telecommunications revenues associated with such operations or customer base including revenues billed in the quarter prior to the date of acquisition.

Gross revenues also should include any surcharges on telecommunications services or interconnected VoIP services that are billed to the customer and either retained by the contributor or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any surcharges that are not recorded on the company books as revenues but which instead are remitted to government bodies. Note that any charge included on the customer bill and represented to recover or collect contributions to federal or state universal service support mechanisms must be included in Line 116. Filers should report as intrastate revenues state universal service charges only to the extent that actual payments to state universal service programs were recovered by pass-through charges itemized on customer bills. Other surcharges treated as revenue should be included in the revenue categories on which the surcharges were levied.

For international services, gross revenues consist of gross revenues billed by U.S. contributors with no allowances for settlement payments. International settlement receipts for foreign billed service should not

[28] For additional information regarding the reporting of revenues filers should refer to the FCC Form 499-A Instructions. *FCC Form 499-A Instructions* at 15-30.

[29] *See also* section II-E above.

be included in U.S. telecommunications revenues.[30] Note that if the filer receives the traffic in the United States, then it is providing ordinary international service from the United States to a foreign point and receipts from the originating carrier would be reported as revenue on Line 116(c).

For FCC Form 499 purposes, credits that are issued by the filer may be recognized only when redeemed. In Form 499 worksheets, filers that use earned revenue to represent billed revenue may recognize credits when redeemed but may not report negative revenues. Other filers should include credits in uncollectibles, when earned.

For international private line services, U.S. providers must report on Line 116 revenues from the U.S. portion of the circuit to the theoretical midpoint of the circuit regardless of whether such revenues were billed to the customer by the filer or by a partner provider in a foreign point. Revenues from circuits within the United States that connect a customer to an international circuit should be reported as interstate on Line 116.

Revenues from circuits that connect two foreign points should be reported on Line 118.

For purposes of completing this Worksheet, prepaid card revenues should be recognized when end-user customers purchase the cards.

If you have any revenue for Lines 115 and 116, you may not omit the dollar amounts from column (a) even if 100% of the revenue is for interstate or international service.

3. Column (b) and (c) - interstate & international

Columns (b) and (c) are provided to identify the part of gross revenues that arise from interstate and international services for Lines 115 and 116. Intrastate telecommunications means communications or transmission between points within the same State, Territory, or possession of the United States, or the District of Columbia. Interstate and international telecommunications means communications or transmission between a point in one State, Territory, possession of the United States or the District of Columbia and a point outside that State, Territory, possession of the United States or the District of Columbia. Revenues from services offered under interstate tariffs, such as revenues from federal subscriber line charges and from federally tariffed local number portability surcharges, should be identified as interstate revenues. This includes amounts incorporated in or bundled with other local service charges.

For example, if a prepaid calling card provider collects a fixed amount of revenue per minute of traffic, and 65 percent of minutes are interstate, then interstate revenues would include 65 percent of the end-user revenues. Similarly, if a local exchange carrier bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though the charges are covered by a state tariff and the revenues are included in a local service account. If over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate.[31] In general, flat-rated unbundled network access elements should be classified according to the regulatory agency that has primary jurisdiction over the contracts.

To the extent that contributors recover a non-traffic sensitive charge for the interstate portion of fixed local exchange service or for providing interstate or interstate access service from their customers through a subscriber line charge or access recovery charge, they must allocate those revenues to the interstate

[30] For example, if a filer receives payment from a foreign carrier for traffic that the filer receives outside of the United States, brings into the United States, and then reoriginates and carries the traffic to a foreign point, the filer would not include those settlement-like payments as revenues on the FCC Form 499-Q.

[31] *See Universal Service Order*, 12 FCC Rcd at 9173, para. 7788776 (1997) (citing 47 CFR § 36.154(a)).

jurisdiction, for USF contribution reporting purposes, in a manner that is consistent with their supporting books of accounts and records.[32]

Amounts billed to customers to recover federal universal service contribution obligations should be attributed as either interstate or international revenues, as appropriate, on Line 116 but may not be reported as intrastate revenues.

Note: Where possible, filers should report their amount of total revenues that are interstate and international by using information from their books of account and other internal data reporting systems. Where a filer can determine the precise amount of revenues that it has billed for interstate and international services, it should enter those amounts in columns (b) and (c), respectively. Total revenues entered in column (a) include revenues billed for intrastate service even though intrastate revenues are not reported separately on the Form 499-Q.

If interstate and international revenues cannot be determined directly from corporate books of account or subsidiary records, filers provide on the Worksheet good-faith estimates of these figures. Good-faith estimates must be based on information that is current for the filing period. Information supporting good-faith estimates must be made available to either the FCC, data collection agent, or to the Administrator upon request. For convenience, calculated interstate and international revenue amounts that are greater than one thousand dollars may be rounded to the nearest thousand dollars. Enter zero dollars in column (b) or column (c) if, and only if, there were no interstate or international revenues for the line for the reporting period.

Safe Harbors -- Note that the FCC provides the following safe harbor percentages of interstate wireless revenues associated with Lines 115, 116, 119 and 120:[33]

37.1% of cellular and broadband PCS telecommunications revenues

12% of paging revenues

–1% of analog SMR dispatch revenues

These safe harbor percentages may not be applied to universal service pass-through charges, fixed local service revenues, or toll service charges. **All filers must report the actual amount of interstate and international revenues for these services.** For example, toll charges for itemized calls appearing on mobile telephone customer bills should be reported as intrastate, interstate or international based on the origination and termination points of the calls.

The FCC provides the following safe harbor percentage of interstate interconnected VoIP revenues associated with Line 115, 116, 119 and 120:[34]

64.9% of interconnected VoIP telecommunications revenues

These safe harbor percentages may not be applied to universal service pass-through charges or other fixed local service revenues.

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[32] For example, to the extent that a contributor's tariff filing (or equivalent) indicates that a non-traffic sensitive charge is for interstate access, then revenues for such charge (or a portion thereof) must be allocated to interstate revenues for USF reporting purposes**.**

[33] *See Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) (*2002 Second Contribution Methodology Order and FNPRM*); *see also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21258-60, paras. 11-15 (1998) (*Wireless Safe Harbor Order*).

[34] *See 2006 Contribution Methodology Reform Order*, 21 FCC Rcd 7518 at 7532-33, 7545-46, paras. 25-27, 53-55.

Wireless telecommunications providers and interconnected VoIP providers that choose to avail themselves of these safe harbor percentages for interstate revenues may assume that the FCC will not find it necessary to review or question the data underlying their reported percentages. All affiliated wireless telecommunications providers and interconnected VoIP providers must make a single election, each quarter, whether to report actual revenues or to use the current safe harbor within the same safe harbor category.[35] So, for example, if in a calendar quarter a wireless telecommunications provider reports actual interstate revenues for its cellular and broadband PCS telecommunications services, all of its affiliated legal entities must also report actual interstate telecommunications revenues for cellular and broadband PCS offerings. The same wireless telecommunications provider and all affiliates, however, could use the safe harbor for paging services.

Note: Filers should use the same methodology (traffic study or safe harbor) to report interstate and international jurisdictions on the FCC Form 499-A as used on the FCC Form 499-Qs to forecast revenue in each quarter of the applicable calendar year. For example, if a filer projected revenue based on a safe harbor for the first two quarters and based on traffic studies for the final two quarters, the amounts reported in the FCC Form 499-A for the first two quarters would be based on actual billings for those quarters and the relevant safe harbors, and the amounts reported for the final two quarters would be based on actual billings for those quarters and the traffic studies for those quarters.

Many carriers and other providers of telecommunications now offer packages that bundle fixed local exchange service with interstate toll service (*i.e.,* voice long distance) for a single price. Revenues for the whole bundle, except for tariffed subscriber line and PICC charges, should be reported on Line 116, as described more fully below. The portion of revenues associated with interstate and international toll services must be identified in columns (d) and (e), respectively.[36] Filers should make a good faith estimate of the amounts of interstate and international revenues from bundled local/toll service if they cannot otherwise determine these amounts from corporate records, and must make their methodology available to the Commission or the Administrator, upon request.

Interconnected VoIP and CMRS providers may rely on traffic studies if they are unable to determine their actual interstate and international revenues.[37] In developing their traffic studies, interconnected VoIP and CMRS providers may rely on statistical sampling to estimate the proportion of minutes that are interstate and international. Any revenues associated with charges on customer bills that are identified as interstate or international must effectively be accounted for (e.g., through proper weighting in a traffic study) as 100

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[35] *See Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45 et al., Order and Order on Reconsideration, 18 FCC Rcd 1421, 1424-25, para. 6 (2003) ("wireless telecommunications providers are 'affiliated' for purposes of making the single election whether to report actual interstate telecommunications revenues or use the applicable interim wireless safe harbor if one entity (1) directly or indirectly controls or has the power to control another, (2) is directly or indirectly controlled by another, (3) is directly or indirectly controlled by a third party or parties that also controls or has the power to control another, or (4) has an 'identity of interest' with another contributor"). *See also* 47 CFR § 1.2110(c)(5).

[36] *See Universal Service Contribution Methodology, Petition for Declaratory Ruling of CTIA – The Wireless Association on Universal Service Contribution Obligations, Petition for Declaratory Ruling of Cingular Wireless, LLC*, WC Docket No. 06-122, Declaratory Order, 23 FCC Rcd 1411, 1414, para. 5 (2008) (defining "toll service") (*Separately Stated Toll Order*).

[37] *See 2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7534-36, 7547, paras. 29-33, 57; *see also Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as Amended; 1998 Biennial Regulatory Review – Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets*, CC Docket Nos. 96-61, 98-183, Report and Order, 16 FCC Rcd 7418, 7446-48, paras. 47-51 (2001) (*CPE Bundling Order*).

percent interstate or international when reporting revenues.[38] Sampling techniques must be designed to produce a margin of error of no more than one percent with a confidence level of 95%. If the sampling technique does not employ a completely random sample (e.g., if stratified samples are used), then the respondent must document the sampling technique and explain why it does not result in a biased sample. Traffic studies should include, at a minimum: (1) an explanation of the sampling and estimation methods employed and (2) an explanation as to why the study results in an unbiased estimate with the accuracy specified above. Mobile wireless providers and interconnected VoIP providers should retain all data underlying their traffic studies as well as all documentation necessary to facilitate an audit of the study data and be prepared to make this data and documentation available to the Commission upon request. In addition, CMRS and interconnected VoIP providers that rely on traffic studies must submit those studies to USAC (*see* Figure 2 for filing instructions – including address for filing traffic studies, and filing deadlines). To enable USAC to match traffic studies filed by contributors with their FCC Form 499 filings, include the following identifying information at the top of each page of the traffic study: Filer ID; Company Name; Affiliated Filers Name (where applicable).

4. Explanation of historical revenue categories

Total gross revenue reported on Line 118 should equal the total of the detail amounts reported on Lines 115 through 117.

Line 114 – Use this line to indicate if filer is using safe harbors to allocate revenues (in Lines 119 and 120) between interstate and intrastate jurisdictions. Select all that apply. See instructions above for the use of safe harbors.

Line 115 – Revenues from services provided to other universal service contributors for resale. This line should contain revenues from telecommunications services provided to resellers (*i.e.*, telecommunications revenue derived from other universal service contributors). This category comprises what is commonly-referred to as "carrier's carrier revenues." Filers may wish to consult the instructions for FCC Form 499-A, Lines 303 through 314, when calculating this figure.

Line 116 – Universal service contribution base revenues. This line should contain end-user telecommunications revenues (*i.e.*, telecommunications revenues derived from entities that do not contribute directly to universal service), except for revenue from international calls that both originate and terminate in foreign points. Filers should consult the instructions for FCC Form 499-A, Line 420, when calculating this figure.

Line 117 – Other revenue that should not be reported in the universal service contribution base, including revenues for telecommunications services subject to forbearance from a contribution obligation. This line should contain revenue from international calls that both originate and terminate in foreign points and revenues that are reportable on FCC Form 499-A, Line 418.

Line 117 should include all non-telecommunications service revenues on the reporting entity's books as well as some revenues that are derived from telecommunications-related functions but that should not be included in the universal service or other fund contribution bases. For example, information services offering a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications are not included in the universal service or other fund contribution bases. Information services do not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. Information services also are called enhanced services because they are

[38] *See Separately Stated Toll Order*, 23 FCC Rcd at 1418, para. 15. In developing traffic studies, toll service traffic must be identified and treated in a manner that recognizes that such traffic is more likely to be interstate or international than intrastate. *See id*. Additionally, appropriate weighting of the higher revenue that is often associated with toll service must be reflected in the traffic study or studies. *See id*.

offered over transmission facilities used in interstate communications and employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. For example, call moderation and call transcription services are information services. These services are exempt from contribution requirements and should be reported on Line 117. Line 117 should include revenues from published directory and carrier billing and collection services. Line 117 should include revenues from the sale, lease, installation, maintenance, or insurance of customer premises equipment (CPE). Line 117 should include inside wiring charges and inside wiring maintenance insurance. Line 117 should include the sale or lease of transmission facilities, such as dark fiber or bare transponder capacity, that are not provided as part of a telecommunications service or as a UNE. Line 117 should include pole attachment revenues. Line 117 should include revenues from providing open video systems (OVS), cable leased access, cable service, and direct broadcast satellite (DBS) services. Line 117 should include late payment charges and charges (penalties) imposed by the company for customer checks returned for non-payment. Line 117 should include revenues from telecommunications services provided in a foreign country where the traffic does not transit the United States or where the carrier is providing service as a foreign carrier, i.e., a carrier licensed in that country. Line 117 should include revenues from the provision of broadband Internet access services.

The Commission adopted two "safe harbor" methods for allocating revenue when telecommunications and CPE/enhanced services are offered as a bundled package.[39] The first option is to report revenues from bundled telecommunications and CPE/enhanced service offerings based on the unbundled service offering prices, with no discount from the bundled offering being allocated to telecommunications. Alternatively, contributors may elect to treat all bundled revenues as telecommunications revenues for purposes of determining their universal service obligations. Filers may choose to use allocation methods other than the two described above. Filers should realize, however, that any other allocation methods may not be considered reasonable, and will be evaluated on a case-by-case basis in an audit or enforcement context. Prepaid calling card providers may avail themselves of the bundled service safe harbors for separating revenue between telecommunications and information services.[40]

Line 118 – Gross billed revenues from all sources. This line should equal the sum of revenues by type of service reported on Lines 115 through 117.

As noted above, for further detail on the types of revenues that should be reported on Lines 115 through 117, filers may wish to consult the Instructions for the FCC Form 499-A, available on USAC's web site (https://www.usac.org/service-providers/resources/forms/).

5. Projected gross billed end-user interstate and international revenues

The projection quarter is the calendar quarter that starts two months after the filing date and finishes five months after the filing date. Line 119 should contain projected gross-billed end-user interstate and international revenues, including any pass-through charges for federal universal service contributions. These amounts should be the amounts that the filer anticipates reporting on Line 116, column (b) and column (c), in the FCC Form 499-Q filing due six months after the present filing date. In order to estimate these amounts, the filer could review the amounts they are reporting on Line 116 in the current filing and amounts reported in recent filings. In addition, filers could take into account general business conditions, new contracts covering the projection period, pricing trends, marketing programs, expansion plans, and other relevant information. Filers must develop good faith projections based on company procedures and

[39] *CPE Bundling Order*, 16 FCC Rcd 7418 at 7447-48, paras. 50-52.

[40] *See Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Declaratory Ruling, Report and Order, 21 FCC Rcd 7290, 7298. para. 22 (2006), *vacated in part*, *Qwest Servs. Corp. v. FCC*, 509 F.3d 531 (D.C. Cir. 2007).

policies. If the filer anticipates that revenues are as likely to increase as decrease, then it may copy the historic values from Line 116 to use as its projections for Line 119 or it could develop projections by trending historic values from previous quarterly filings. Filers need not make projections for Line 119 column (a).

6. Projected collected end-user interstate and international revenues

Line 120 should show the interstate and international revenues that the filer anticipates collecting from customers during the projection quarter. For this purpose "collected end-user" revenues refers to gross-billed end-user interstate and international telecommunications revenues, including any pass-through charges for federal universal service contributions, less estimated uncollectibles.[41] We define uncollectibles as the percentage of interstate and international telecommunications revenues that the contributor anticipates will not be collected from end-user customers. This percentage should be calculated in accordance with Generally Accepted Accounting Principles.[42] Thus, uncollectibles should represent the portion of gross billed revenues that the contributor reasonably expects will not be collected. Filers that use the accrual method of accounting should use the percentage of billed revenues that they recognize currently as a reserve for uncollectibles in their books of accounts. Filers that use the cash method of accounting should base this percentage on a comparison of actual collections and billed revenues, with the periods chosen to allow for the average delay between when services are billed and when payments are received. The amounts shown on Line 120 should be the amounts on Line 119 reduced by the percentage of uncollectibles.

Filers will be billed based on the amounts reported on Line 120. Any revisions to these amounts must be filed within 45 calendar days. No adjustments to billings will be made during the quarter to reflect actual levels of billed service and actual collection rates. The Administrator will use the actual revenue data provided by contributors on the FCC Form 499-A to perform annual true-ups to the quarterly projected revenue data submitted by contributors during the prior calendar year.[43] As necessary, the administrator will then refund or collect from contributors any over-payments or under-payments. If the combined quarterly projected revenues reported by a contributor are greater than those reported on its annual revenue report (FCC Form 499-A), then a refund will be provided to the contributor based on an average of the two lowest contribution factors for the year. If the combined quarterly projected revenues reported by a contributor are less than those reported on its annual revenue report (FCC Form 499-A), then the administrator will collect the difference from the contributor using an average of the two highest contribution factors from that year.

D. Block 4: Certification.

Line 121 – Filers may use the box in Line 121 to request nondisclosure of the revenue information contained on the Telecommunications Reporting Worksheet. By checking this box, the officer of the company signing the Worksheet certifies that the information contained on the Worksheet is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the company filing the Worksheet. This box may be checked in lieu of submitting a separate request for confidentiality pursuant to section 0.459 of the Commission's

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[41] *Wireless Safe Harbor Order*, 13 FCC Rcd at 21258-60, paras. 11-15; *2002 Second Contribution Methodology Order and FNPRM*, 17 FCC Rcd at 24970, para. 32.

[42] General Accepted Accounting Principles (GAAP) encompasses the conventions, rules, and procedures necessary to define accepted practice in the preparation of financial statements in the United States. The Financial Accounting Standards Board (FASB) is currently the primary authority to establish GAAP for all companies. Carriers subject to the Uniform System of Accounts would derive this figure from the amount recorded in Account 5301, Uncollectible Revenue - Telecommunications.

[43] *See* Telecommunications Reporting Worksheet, FCC Form 499-A, OMB 3060-0855 (*FCC Form 499-A*).

rules.[44] All decisions regarding disclosure of company-specific information will be made by the Commission. The Commission regularly makes publicly available the names (and Block 1 and 2 contact information) of the entities that file the Telecommunications Reporting Worksheet.

Lines 122 through 126 – An officer of the filer must examine the data provided in the Telecommunications Reporting Worksheet and certify that the information provided therein is accurate and complete.

- Officers of entities making consolidated filings should refer to Section III.B and must certify that they comply with the conditions listed in that section.
- An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement. Preferably, the signing officer would be a vice-president for finance, comptroller, treasurer, or a comparable officer holding a financial position. Alternatively, the officer signing the Form preferably would be the president or vice president of operations. If the filer is a sole proprietorship, the owner must sign the certification.

Capable filers must enter data, and verify, submit, and certify FCC Forms 499-A and 499-Q online via USAC's web-based data entry system, E-File.

- An electronic signature in the signature block of each form certified by that officer will be considered the equivalent to a handwritten signature on the form.
- By entering his or her electronic signature into the signature block of each form, the officer, therefore, acknowledges that such electronic signature certifies his or her identity and attests under penalty of perjury as to the truth and accuracy of the information contained in each electronically signed form.

Visit https://www.usac.org/service-providers/contributing-to-the-usf/forms-to-file/ for more information and access to the online filing system.

A person who willfully makes false statements on the Worksheet can be punished by fine or imprisonment under title 18 of the United States Code.[45]

Line 127 – Indicate whether this filing is an original filing or a revised filing.[46]

IV. Additional Information

A. Reminders

- Filers are required to maintain records and documentation to justify information reported on the Telecommunications Reporting Worksheet for five years. Filers also must maintain records detailing the methodology used to determine projections reported on the Telecommunications Reporting Worksheet. Upon request, filers may be required to provide such records and documentation to the Commission or to the administrator.
- Is the filer affiliated with another telecommunications provider? Each legal entity must file separately unless they qualify for filing on a consolidated basis. *See* section II-B. Each affiliate or subsidiary must show the Affiliate Filers Name on Line 105.

[44] 47 CFR § 0.459. *See also Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816 (1998) (listing the showings required in a request that information be withheld and stating that the Commission may defer action on such requests until a formal request for public inspection has been made).

[45] *See* 18 U.S.C. § 1001.

[46] *See* section II-E.

- To access the E-file system, go to http://forms.universalservice.org/.
- Provide data for all lines that apply. Show a zero for services for which the contributor had no revenues for the filing period.
- Contributors to universal service support mechanisms must make five FCC Form 499 filings each year. *See* Figure 2.
- Wherever possible, revenue information should be taken from the contributors' financial records. Filers also must provide projected revenue information on Line 119 through Line 120.
- The Worksheet must be signed by an officer of the reporting entity. An officer is a person who occupies a position specified in the corporate by laws (or partnership agreement), and would typically be president, vice president for operations, comptroller, treasurer, or a comparable position.
- Do not mail the Worksheet to the FCC. *See* section II-C for filing instructions.
- Note that FCC Form 499 is one of several forms that telecommunications carriers and other providers of interstate telecommunications may need to file. Information concerning common filing requirements for such providers may be found on the FCC web site, at http://forms.universalservice.org/.

B. Contact Information

If you have questions about the Worksheet or the instructions, you may contact:

Universal Service Administrator	form499@usac. org (888) 641-8722

If you have questions regarding contribution amounts, billing procedures, or the support and cost recovery mechanisms, you may contact:

Universal Service Administrator	(888) 641-8722

- FCC -

PUBLIC NOTICE

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

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Internet: http://www.fcc.gov

DA 24-623
Released: June 28, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF COMPUTER 5 INC. DBA LOCALTEL COMMUNICATIONS TO NORTHWEST FIBER, LLC, ZIPLY FIBER NORTHWEST, LLC, AND ZIPLY WIRELESS, LLC

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-87

Comments Due: July 12, 2024
Reply Comment Due: July 19, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Computer 5 Inc. dba LocalTel Communications (LocalTel), Northwest Fiber, LLC (NWF), Ziply Fiber Northwest, LLC (ZFN), and Ziply Wireless, LLC (Ziply Wireless), (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 substantially all of the assets of LocalTel to NWF, and ultimately, to ZFN and Ziply Wireless.[2]

[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 Computer 5 Inc. dba LocalTel Communications to Northwest Fiber, LLC, Ziply Fiber Northwest, LLC and Ziply Wireless, LLC, WC Docket No. 24-87 (filed on Mar. 14, 2024) (Application). Applicants filed supplements to their application on April 15, 2024, May 7, 2024, and June 18, 2024. Letter from Stepehen E. Coran, Counsel for Computer 5, Inc. dba LocalTel Communications, and Michael P. Donahue and Byron E. Springer, Jr., Counsel for Northwest Fiber, LLC, Ziply Fiber Northwest, LLC, and Ziply Wireless LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-87 (filed Apr. 15, 2024) (Apr. 15 Supplement); Letter from Michael P. Donahue and Byron E. Springer, Jr., Counsel for Northwest Fiber, LLC, Ziply Fiber Northwest, LLC, and Ziply Wireless LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-87 (filed May 7, 2024) (May 7 Supplement) (informing the Commission of a pro forma transfer that resulted in the insertion of two new intermediate holding companies in ZFN's ownership structure and confirming USF commitments); Letter from Michael P. Donahue and Byron E. Springer, Jr., Counsel for Northwest Fiber, LLC, Ziply Fiber Northwest, LLC, and Ziply Wireless LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-87 (filed June 18, 2024) (June 18 Supplement). Applicants also filed applications for the transfer of international authorizations. Any action on this application is without prejudice to other pending applications before the Commission.

LocalTel, a Washington corporation, provides voice and broadband service to more than 40,000 residences and businesses in rural communities and urban areas throughout Eastern Washington state using fixed wireless and fiber-to-the-home technologies.[3] LocalTel is designated as an eligible telecommunications carrier (ETC) in Washington and is authorized to receive $6,847,092.40 in CAF Phase II Auction support to deploy voice and broadband service to 1,910 locations in Washington.[4] In addition, LocalTel is authorized to receive $48,818,171.30 in Rural Digital Opportunity Fund (RDOF) support to deploy voice and broadband service to 12,530 locations in Washington.[5] LocalTel also participates in the Lifeline program and Affordable Connectivity Program (ACP).[6]

NWF, a Delaware limited liability company, was created in connection with a transaction for the purchase of certain subsidiaries from Frontier Communications Corporation (Frontier), which closed on May 1, 2020, with operations in Washington, Oregon, Idaho, and Montana.[7] NWF has continuously operated these subsidiaries since closing the Frontier transaction.[8] NWF and its operating affiliates use the trade name "Ziply Fiber."[9]

ZFN, a Delaware limited liability company, is a wholly-owned subsidiary of NWF.[10] ZFN provides service as the incumbent local exchange carrier (LEC) in all of the areas it currently serves in Washington, Oregon, and Idaho, and provides data, video (in limited areas in Western Washington and Northwestern Oregon), and voice services.[11] ZFN is designated as an ETC in Idaho, Oregon, and Washington[12] ZFN is also authorized to receive $20,066,009.70 in RDOF support to deploy voice and broadband services to 9,370 locations in Washington.[13] ZFN participates in the Lifeline program and ACP.[14] Ziply Wireless, a Delaware limited liability company, is a wholly-owned subsidiary of NWF.[15] Ziply Wireless provides service as a competitive LEC in Idaho, Oregon, and Washington.[16] Ziply Wireless provides voice and data services over a

[3] Application at 2-3.

[4] *Id*. at 3. *Connect America Fund Phase II Support Authorized for 387 Winning Bids*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 34 FCC Rcd 9406, Attach. A, pp. 3-6 (AU/WCB 2019).

[5] *Id*. *Rural Digital Opportunity Fund Support Authorized for 5,657 Winning Bids*, AU Docket No. 20-34, WC Docket No. 19-126 and WC Docket No. 10-90, Public Notice, 37 FCC Rcd 3570, Attach. A, pp. 270-272 (AU/WCB 2022).

[6] Application at 14.

[7] *Id*. at 4.

[8] *Id.*

[9] *Id.*

[10] *Id*. at 4-5.

[11] *Id*. at 5.

[12] *Id.* at 14.

[13] Application at 5. *Rural Digital Opportunity Fund Support Authorized for 5,657 Winning Bids*, AU Docket No. 20-34, WC Docket No. 19-126 and WC Docket No. 10-90, Public Notice, 37 FCC Rcd 3570, Attach. A, pp. 254-61 (AU/WCB 2022).

[14] Application at 14. Applicants state that Ziply Wireless will file a petition for designation as an ETC in the State of Washington for the area covered by LocalTel's CAF Phase II award. *Id.* at 6.

[15] *Id.* at 5-6.

[16] *Id.* at 6.

fixed wireless access network in Washington and Oregon.[17] ZFN is indirectly held by NWF, which is indirectly held, through a number of U.S. and Cayman Islands holding companies and funds, by Searchlight Capital Partners II GP, LLC (Upper GP), a Delaware limited partnership (collectively, Searchlight).[18] Applicants state that Upper GP is the "ultimate controlling entity of the Searchlight funds" and holds a 100% voting interest in ZFN.[19] Upper GP is ultimately controlled by Eric Zinterhofer (a U.S. citizen), Erol Uzumeri (a Canadian citizen), and Oliver Haarmann (a German citizen), each holding a 33 1/3% ownership interest in Searchlight Capital Partners II and a 26.27% indirect voting interest in ZFN.[20] Steve Weed indirectly holds 10% of the voting and equity interests of NWF, ZFN, and Ziply Wireless.[21] The following entities also ultimately hold a 10% or greater indirect interest in ZFN: The Public Sector Pension Board (Canada) (28.68% equity interest in ZFN); Canada Pension Plan Investment Board (Canada) (17.81% indirect equity interest in ZFN); and the British Columbia Investment Management Corporation (Canada) (17.93% indirect equity interest in ZFN).

Pursuant to the terms of the Asset Purchase Agreement and Plan of Merger between LocalTel and its controlling shareholder and principal (Selling Parties) and NWF and ZFN, NWF agreed to purchase, and LocalTel agreed to sell, "various rights, property, and assets (including all customer contracts and customer relationships) used in or necessary for the business of providing, for consumer and commercial use, broadband and voice services, including high-speed internet, transport, transit, voice, data, and other telecommunications services, throughout LocalTel's service territory over a leased fiber-based network infrastructure, together with services resold off of copper-based networks of local ILECs."[22] The Selling Parties and Ziply Wireless also entered into an Asset Purchase Agreement, whereby Ziply Wireless agreed to purchase, and the Selling Parties agreed to transfer, the wireless licenses and other assets, including customers, associated with LocalTel's fixed wireless business.[23] Applicants state that following the two-part transaction, NWF will transfer all fiber and related assets and operating obligations to its wholly-owned subsidiary, ZFN.[24]

Applicants state that pursuant to these transactions, LocalTel's CAF Phase II and RDOF assets, unused CAF II and RDOF support and future CAF II and RDOF support, will ultimately transfer to two separate NWF subsidiaries.[25] Applicants state that ZFN will acquire all of the LocalTel RDOF-related assets and assume all related obligations, and Ziply Wireless will acquire all

[17] *Id.*

[18] *Id*. at 3; June 18 Supplement at 7-9. Applicants state that Searchlight has investment interests in other broadband providers operating in multiple states, including a 13.9% interest in Consolidated Communications Holdings, Inc., a 22.6% interest in Northwest Fiber, LLC d/b/a Ziply Fiber, and a 2.9% interest in Uniti Group Inc., all of which either receive, or have received, Universal Service Fund support. *See* Application at 3-4 and n.6; Apr. 15 Supplement at 2-4. According to the Applicants, Searchlight also has investment interests in GCI Communications, Inc. and Electric Lightwave. *See* Application at 3-4 and n.6.

[19] June 18 Supplement at 7-9.

[20] Application at 3-4; June 18 Supplement at 1.

[21] Application at 19; June 18 Supplement at 3-4.

[22] Application at 6-7.

[23] *Id.* at 7.

[24] *Id*. at 8.

[25] *Id*. at 7.

CAF Phase II-related assets and assume all associated obligations.[26] Each affiliate commits to meeting the deployment milestones and performance requirements associated with the type of support that they will receive.[27]

Applicants assert that the proposed transaction is consistent with the public interest, convenience, and necessity.[28] Applicants contend that "the operations and networks of LocalTel, ZFN and Ziply Wireless are complimentary and adjacent with minimal overlap and multiple, larger competitors provide similar service in the LocalTel, ZFN and Ziply Wireless service areas."[29] Applicants further contend that the proposed transaction will "promote competition by lowering the costs of deployment" of provided services.[30] Because the proposed transaction is more complex than those accepted for streamlined treatment, and in order to analyze whether the proposed transaction would serve the public interest, we accept the Application for non-streamlined processing.[31]

No Referral to Executive Branch Agencies: The Commission determined in the Executive Branch Review Process Order that it would generally exclude from referral to the Executive Branch applications where the Applicants have "an existing mitigation agreement, there are no new reportable foreign owners of the applicant since the effective date of the mitigation agreement, and the applicant agrees to continue to comply with the terms of that mitigation agreement."[32] The Applicants argue that the Application qualifies for an exclusion from referral to the Executive Branch since it meets those criteria.[33] The Applicants state that NWF is party to a Nov. 21, 2019 Letter of Agreement from Timothy B. Austin, Vice President and Secretary, Northwest Fiber, LLC, to Assistant Attorney General for National Security, United States Department of Justice (Nov. 21, 2019 LOA).[34] The Applicants further state that the Nov. 21, 2019 LOA remains in place, that there are no new reportable foreign owners of NFW since the effective date of the Nov. 21, 2019 LOA, and that ZFN, Ziply Wireless, and NWF agree to comply with the terms of the Nov. 21, 2019

[26] *Id*.

[27] *Id*. at 8-9; *see also* May 7 Supplement at 9 ("NWF, ZFN and Ziply Wireless confirm their commitment to fulfill all their existing and acquired Lifeline, CAF, RDOF and other USF obligations after closing.").

[28] Application at 9-13.

[29] *Id.* at 11.

[30] *Id.* at 13.

[31] 47 CFR § 63.03(c)(1)(v).

[32] *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, 10939, para. 30 (2020) (Executive Branch Review Process Order); *see also* 47 CFR § 1.40001(a)(2)(iii).

[33] Application at 27-29.

[34] *See Applications Filed for the Transfer of Control of Certain Subsidiaries of Frontier Communications Corp. to Northwest Fiber, LLC*, WC Docket No. 19-188, Memorandum Opinion and Order and Declaratory Ruling, 34 FCC Rcd 12344 (WCB/IB/WTB 2019); IBFS File Nos. ITC-ASG-20190628-00129; ITC-ASG-20190628-00130; National Telecommunications and Information Administration, *Petition to Adopt Conditions to Authorizations and Licenses*, WC Docket No. 19-188, ITC-T/C-20190628-00128, ITC-ASG-20190628-00129, ITC-ASG-20190628-00130, ULS 0008706476, ULS 000870647, ISP-PDR-20190708-00006 (Nov. 22, 2019) (citing Letter of Agreement from Timothy B. Austin, Vice President and Secretary, Northwest Fiber, LLC, to Assistant Attorney General for National Security, United States Department of Justice (Nov. 21, 2019).

LOA.[35] We find that the Applicants have made a showing that this Application comes within an exclusion from referral to the Executive Branch for national security, law enforcement, foreign policy, and trade policy review. Although we are not formally referring the Application, we will provide a courtesy copy of this public notice to the Executive Branch agencies.[36]

Domestic Section 214 Application Filed for the Assignment of
Certain Assets of Computer 5 Inc. dba LocalTel Communications to
Northwest Fiber, LLC, Ziply Fiber Northwest, LLC and Ziply Wireless, LLC,
WC Docket No. 24-87 (filed Mar. 14, 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).

- Electronic Filers: Comments may be filed electronically using the Internet 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 deliver, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.**
    - 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).

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

1) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, dennis.johnson@fcc.gov;

[35] Application at 28-29.

[36] *See Executive Branch Review Process Order* at 10939, para 30 n.81.

2) David Krech, Office International Affairs, david.krech@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.[37] 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 Dennis Johnson at dennis.johnson@fcc.gov.

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[37] *See* 47 CFR § 1.45(c).

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-624
Released: June 28, 2024

INVOICING REMINDER FOR EMERGENCY CONNECTIVITY FUND PARTICIPANTS AS PROGRAM SUNSETS

WC Docket No. 21-93

Consistent with past guidance,[1] we remind applicants that June 30, 2024 is the sunset date for the Emergency Connectivity Fund (ECF) program. To be eligible for reimbursement, all purchases of equipment and/or services must have been made by this date.[2] For funding requests with a June 30, 2024 service delivery date, August 29, 2024 is the invoicing filing deadline. As soon as the August 29, 2024 invoice filing deadline passes, USAC will begin the de-obligation process for any remaining unused funding. Due to the Congressional funding rescission,[3] the Bureau does not expect to grant any waivers of the invoice filing deadline.

The Bureau strongly recommends applicants and service providers file requests for reimbursement as soon as possible to reduce delays near the August 29, 2024 invoice filing deadline. We also encourage applicants to assist the Commission and other ECF participants by filing post-commitment requests to reduce or cancel funding requests that will not be used.[4] This will aid USAC in determining invoice volume and if sufficient funds can be returned in accordance with the Congressional funding rescission, the Commission will again be able to process post-commitment requests and make certain commitment adjustments.

The Bureau recently updated the ECF Frequently Asked Questions (FAQs), https://www.fcc.gov/emergency-connectivity-fund-faqs, with information about the Congressional funding rescission and how to cancel ECF funding commitments that are not going to be used. For further information, please contact Kate Dumouchel, Telecommunications Access Policy Division, Wireline Competition Bureau, at kate.dumouchel@fcc.gov or 202-418-1839.

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[1] *Wireline Competition Bureau and Office of the Managing Director Provide Guidance on Emergency Connectivity Fund Program Upon Termination of the Emergency Period*, WC Docket No. 21-93, Public Notice, DA 23-406 (WCB May 12, 2023) (*ECF Sunset Guidance Public Notice*).

[2] American Rescue Plan Act, 2021, H.R. 1319, Pub. L. No. 117-2, 117th Cong., tit. VII, § 7402(a)(1)-(2) (2021) (enacted), available at https://www.congress.gov/bill/117th-congress/house-bill/1319/text (American Rescue Plan Act) (enrolled bill).

[3] Further Consolidated Appropriations Act, 2024, H.R. 2882, Pub. L. No. 118-364, 118th Cong., tit. VI § 639 (2024) (enacted), available at https://www.congress.gov/bill/118th-congress/house-bill/2882/text ("[o]f the unobligated balances of amounts made available under section 7402(c)(2)(A) of the American Rescue Plan Act of 2021 (Public Law 117-2), $1,768,000,000 are hereby rescinded not later than September 30, 2024.").

[4] For additional information about reducing or cancelling a funding request, please visit https://www.emergencyconnectivityfund.org/ecf-post-commitment-request-form/post-commitment-changes/.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-625
Released: June 28, 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 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]

(Continued from previous page)
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 should specify both the specific grounds for the request and the specific facts and circumstances on which the recipient relies in asserting those grounds. 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.[12] 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."[13]

Consistent with the Commission's goal of streamlining its internal review processes,[14] and further pursuant to our delegated authority,[15] 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.[16] Accordingly, we

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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 Extension Order*) (granting extension of time request by GigSky, Inc. based on funding issues).

[12] 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).

[13] FCC, Secure and Trusted Communications Networks Reimbursement Program: *Frequently Asked Questions* at 21 (2024), 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).

[14] *See Report on FCC Process Reform,* GN Docket No. 14-25 (Staff Working Group, Feb. 14, 2014) (*Process Reform Report*).

[15] *See* 47 CFR §§ 0.91, 0.291, 1.50004(h)(2).

[16] *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
(continued….)

hereby grant the pending petitions listed below for an extension of a recipient's term to remove, replace, and dispose of its covered equipment.[17]

Recipient – Central Louisiana Cellular, LLC, SCRP0001042

> **Grounds for individual term extension** – Central Louisiana Cellular, LLC (Cellular One) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[18] Cellular One states that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 18, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding. Cellular One explains that the lack of full funding led the company to "change course" in its strategy for meeting its removal, replacement and disposal obligations and that this created a delay in its project timeline.[19] Cellular One notes, however, that it has already "completed all removal of covered communications equipment" and is in the process of waiting for its vendor to dispose of the equipment.[20] Cellular One expects that the requested extension will allow it to complete the remaining required steps to meet its Reimbursement Program obligations "within a short time after the current deadline passes[.]"[21] The Bureau finds Cellular One's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of a lack of full funding,[22] and accordingly grants the requested extension through January 18, 2025.
>
> **New RRD term expiration date** – Cellular One'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 July 18, 2024 to January 18, 2025.

(Continued from previous page)
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).

[17] 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. Recipients should be aware of the lack of full funding will not necessarily be a sufficient showing for repetitive extension requests, as recipients should continually be making 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. As noted above, a recipient's 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. 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).

[18] *See* Request of Cellular One for Extension of Time, WC Docket No. 18-89 (filed June 10, 2024).

[19] *Id.* at 3.

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

[21] *Id.* at 3.

[22] *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.

Recipient – EXA Infrastructure US LLC, SCRP0001030

Grounds for individual term extension – EXA Infrastructure US LLC (EXA Infrastructure) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[23] EXA Infrastructure asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its June 30, 2024 deadline has, through no fault of its own, been materially affected by supply chain issues. EXA Infrastructure states it received certain replacement equipment months later than it had anticipated.[24] EXA Infrastructure also notes that the late equipment delivery led to additional delays because replacement "can only occur during certain timeframes and in some cases must work around customer schedules."[25] EXA Infrastructure observes that, despite these delays, there is "only a very small amount of equipment that has not yet been replaced."[26] EXA Infrastructure expects to complete all of its removal and replacement activities by June 30, 2024, but requests an extension primarily to account for the lead times for disposal of equipment by its vendor.[27] The Bureau finds EXA Infrastructure'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,[28] and accordingly grants the requested extension through December 30, 2024.

New RRD term expiration date – EXA Infrastructure'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 June 30, 2024 to December 30, 2024.

Recipient – Flat Wireless, LLC, SCRP0001103

Grounds for individual term extension – Flat Wireless, LLC (Flat Wireless) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[29] Flat Wireless asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 14, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding. Flat Wireless states that it has continued to work diligently to meet its deadline and has experienced "liquidity issues" that have hampered its ability to select vendors and place orders for needed replacement equipment, leading to project delays.[30] Flat Wireless explains that it is continually "reevaluat[ing] its project plan, timeline, and direction" in view of the funding shortfall, "which has contributed to significant delays."[31] The Bureau finds Flat Wireless's showing persuasive and that its situation is consistent with the situation of other recipients that

[23] *See* Request of EXA Infrastructure for Extension of Time, WC Docket No. 18-89 (filed May 22, 2024).

[24] *Id.* at 3.

[25] *Id.*

[26] *Id.*

[27] *Id.* at 4.

[28] *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.

[29] *See* Request of Flat Wireless for Extension of Time, WC Docket No. 18-89 (filed May 23, 2024).

[30] *Id.* at 3.

[31] *Id.*

have been granted extensions on similar grounds of a lack of full funding,[32] and accordingly grants the requested extension through January 14, 2025.

New RRD term expiration date – Flat 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 July 14, 2024 to January 14, 2025.

Recipient – Gigsky, Inc., SCRP0001143

Grounds for individual term extension – Gigsky, Inc. (Gigsky) requests a second six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[33] Gigsky asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its June 22, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding. Gigsky states that, since the Bureau granted its first extension request,[34] Reimbursement Program funding limitations have made "processing payments to vendors increasingly difficult, putting GigSky in a tough spot financially."[35] Gigsky describes efforts it has made to mitigate these effects, including by researching and negotiating for suitable alternative equipment consistent with the allocated funding and adds that it "acquir[ed] and implement[ed] a substantial portion of the required equipment."[36] Nevertheless, Gigsky requests an extension to allow it to "complete the project without compromising [its] financial stability or the integrity of [its] network upgrade," as it has faced substantial difficulties in in attempting to identify, obtain, and implement the rest of the alternative equipment it needs.[37] The Bureau finds Gigsky'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,[38] and accordingly grants the requested extension through December 22, 2024.

New RRD term expiration date – Gigsky'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 June 22, 2024 to December 22, 2024.

Recipient – LakeNet LLC, SCRP0001145

Grounds for individual term extension – LakeNet LLC (LakeNet) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[39] LakeNet asserts that its ability to complete the

[32] *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.

[33] *See* Supplemental Request of Gigsky for Extension of Time, WC Docket No. 18-89 (filed June 20, 2024) (Supplemental Request of Gigsky); Request of Gigsky for Extension of Time, WC Docket No. 18-89 (filed June 5, 2024).

[34] *See generally GigSky Extension Order*.

[35] Supplemental Request of Gigsky at 1.

[36] *Id.*

[37] *Id.* at 1-2.

[38] *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.

[39] *See* Request of LakeNet for Extension of Time, WC Docket No. 18-89 (filed June 18, 2024).

removal, replacement, and disposal of covered equipment and services by its July 21, 2024 deadline has, through no fault of its own, been materially affected by supply chain issues. LakeNet explains that it still has a "quantity of" certain parts "on backorder" with a vendor and that these parts are not expected to ship for several more months.[40] LakeNet notes that it is currently working with the vendor in an attempt to expedite the shipping date in view of its Reimbursement Program obligations.[41] LakeNet asserts that the requested extension, if granted, will provide it with sufficient time to receive the equipment, replace existing equipment, and meet its disposal obligations.[42] The Bureau finds LakeNet'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,[43] and accordingly grants the requested extension through January 21, 2025.

New RRD term expiration date – LakeNet'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 July 21, 2024 to January 21, 2025.

Recipient – Leaco Rural Telephone Cooperative, Inc., SCRP0001175

Grounds for individual term extension – Leaco Rural Telephone Cooperative, Inc. (Leaco) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[44] Leaco asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 27, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding. Leaco states that, as a result, it cannot afford to perform "two separate equipment hauls" and that it will instead "need to wait until all covered equipment is removed" from its network before completing its required disposal obligations, resulting in project delays.[45] Leaco notes that, with the exception of one tower subject to environmental restrictions, it has "successfully decommissioned, removed, and replaced all covered equipment."[46] Leaco expects that an extension would provide time for it to complete all of its required removal, replacement, and disposal activities.[47] The Bureau finds Leaco's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of a lack of full funding,[48] and accordingly grants the requested extension through January 27, 2025.

[40] *Id.* at 2.

[41] *Id.*

[42] *Id.*

[43] *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.

[44] *See* Request of Leaco for Extension of Time, WC Docket No. 18-89 (filed June 10, 2024).

[45] *Id.* at 3.

[46] *Id.*

[47] *Id.*

[48] *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.

New RRD term expiration date – Leaco'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 July 27, 2024 to January 27, 2025.

Recipient – MHG Telco LLC, SCRP0001023

Grounds for individual term extension – MHG Telco LLC (MHG Telco) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[49] MHG Telco asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its August 12, 2024 deadline has, through no fault of its own, been materially affected by supply chain issues. MHG Telco notes that it has recently experienced long lead times for hybrid fiber cables, a DC power plant and batteries, delays in the launch of RAN equipment software, unanticipated delays with interoperability and integration processes for the RAN, and associated delays in procuring skilled labor to perform required tasks.[50] MHG Teleco states that it is working diligently in view of these delays but requests an extension to provide it with adequate time to complete its removal, replacement, and disposal obligations.[51] The Bureau finds MHG Telco'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,[52] and accordingly grants the requested extension through February 12, 2025.

New RRD term expiration date – MHG Telco'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 12, 2024 to February 12, 2025.

Recipient – Pine Telephone Company, SCRP0001034; SCRP0001035; SCRP0001036

Grounds for individual term extension – Pine Telephone Company (Pine Telephone) requests a six-month extension of the 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.[53] Pine Telephone asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 20, 2024 (SCRP0001034) and August 12, 2024 (SCRP0001035 and SCRP0001036) deadlines has, through no fault of its own, been materially affected by the lack of full funding and supply chain issues. Pine Telephone describes efforts it has made to mitigate such delays by "shifting resources away from other business responsibilities" causing itself financial strain.[54] As to supply chain issues, Pine Telephone states that necessary equipment was delivered 10 months late and that these delays have pushed its "entire project back by several months."[55] Pine Telephone notes that this equipment could not be obtained from other sources due to equipment shortages.[56] Pine Telephone contends that it has

[49] *See* Request of MHG Telco for Extension of Time, WC Docket No. 18-89 (filed June 12, 2024) (Request of MHG Telco).

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

[51] *Id.* at 3.

[52] *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.

[53] *See* Request of Pine Telephone for Extension of Time, WC Docket No. 18-89 (filed June 10, 2024).

[54] *E.g.*, *id.* at 4.

[55] *E.g.*, *id.*

attempted to mitigate the funding shortfall by relying on in-house labor, but that this has also resulted in project setbacks and delays.[57] Pine asserts that, given these delays, the requested extension is necessary to avoid a premature reduction in coverage within its fixed and mobile wireless broadband footprint.[58] The Bureau finds Pine Telephone's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of lack of full funding and supply chain issues,[59] and accordingly grants the requested extensions through January 20, 2025 (SCRP0001034) and February 12, 2025 (SCRP0001035 and SCRP0001036).

New RRD term expiration date – Pine Telephone'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 File No. SCRP0001034, from July 20, 2024 to January 20, 2025;
- For File No. SCRP0001035, from August 12, 2024 to February 12, 2025; and
- For File No. SCRP0001036, from August 12, 2024 to February 12, 2025.

Recipient – PocketiNet Communications Inc., SCRP0001031

Grounds for individual term extension – PocketiNet Communications Inc. (PocketiNet) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[60] PocketiNet asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 20, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding. PocketiNet reports that it has "staggered equipment orders" to remain financially sound in view of the funding shortfall and that it has undertaken activities in a way that allows it to maintain network integrity and good standing with its vendors.[61] PocketiNet notes that these efforts have resulted in project delays.[62] Despite the delays, PocketiNet states that it has removed and replaced a large percentage of its affected equipment and expects that, with the requested extension, it would be able to complete its project requirements.[63] The Bureau finds PocketiNet's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of a lack of full funding,[64] and accordingly grants the requested extension through January 20, 2025.

(Continued from previous page)

[56] *E.g.*, *id.*

[57] *E.g.*, *id.*

[58] *E.g.*, *id.*

[59] *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 (as to the lack of full funding); *see 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 (as to supply chain issues).

[60] *See* Request of PocketiNet for Extension of Time, WC Docket No. 18-89 (filed June 20, 2024).

[61] *Id.* at 1.

[62] *Id.*

[63] *Id.*

[64] *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.

New RRD term expiration date – PocketiNet'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 July 20, 2024 to January 20, 2025.

Recipient – TelAlaska Cellular, Inc., SCRP0001160

Grounds for individual term extension – TelAlaska Cellular, Inc. (TelAlaska Cellular) requests an approximate six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[65] TelAlaska Cellular asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its August 19, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding and supply chain issues. TelAlaska describes that, due to the funding shortfall, it has taken a "phased approach" to meeting its Reimbursement Program obligations.[66] TelAlaska explains that this approach has resulted in project delays, particularly as the construction season in its opreating territory is approximately six months long.[67] TelAlaska notes that due to this limited construction season, and the need to perform advanced planning to move equipment by barge, it has been extremely vulernable to supply chain delays.[68] The Bureau finds TelAlaska Cellular's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of lack of full funding and supply chain issues,[69] and accordingly grants the requested extension through February 18, 2025.

New RRD term expiration date – TelAlaska Cellular'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 19, 2024 to February 18, 2025.

Recipient – Texas 10, LLC, SCRP0001041

Grounds for individual term extension – Texas 10, LLC (Texas 10) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[70] Texas 10 asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 15, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding and supply chain issues. Texas 10 states that the lack of full funding required it to change course in meeting its Reimbursement Program obligations, resulting in a short delay, and that its ability to meet the current deadline has been "compromised by delays in securing the needed workforce."[71] Texas 10 reports that it has completed its required removal and disposal activities and only needs to submit relevant paperwork to the Fund Administrator, and that it should be able to fulfill its

[65] *See* Request of TelAlaska Cellular for Extension of Time, WC Docket No. 18-89 (filed June 3, 2024).

[66] *Id.* at 2.

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

[68] *Id.* at 2.

[69] *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 (as to the lack of full funding); *see 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 (as to supply chain issues).

[70] *See* Request of Texas 10 for Extension of Time, WC Docket No. 18-89 (filed June 11, 2024).

[71] *Id.* at 3.

obligations "within a short time after the current deadline passes."[72] The Bureau finds Texas 10's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of lack of full funding and supply chain issues,[73] and accordingly grants the requested extension through January 15, 2025.

New RRD term expiration date – Texas 10'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 July 15, 2024 to January 15, 2025.

Recipient – Union Telephone Company, SCRP0001087; SCRP0001089; SCRP0001090; SCRP0001092; SCRP0001096; SCRP0001098

Grounds for individual term extension – Union Telephone Company (Union) requests a six-month extension of the 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.[74] Union asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 6, 2024 (SCRP0001089), July 13, 2024 (SCRP0001092), July 14, 2024 (SCRP0001096 and SCRP0001098), and July 15, 2024 (SCRP0001087 and SCRP0001090) deadlines has, through no fault of its own, been materially affected by the lack of full funding and supply chain issues. Union explains that it has been impacted by the partial funding as it has had to pay "well above market value" to obtain necessary equipment and services from vendors due, in part, to inflationary impacts.[75] Union notes that it has attempted to mitigate these effects by "invest[ing] significant time to procure alternate equipment," but that it has had only partial success in these efforts.[76] Union notes that these impacts have resulted in project delays.[77] As to supply chain issues, Union notes that equipment lead times that it has encountered have, in some cases, exceeded the overall Reimbursement Program timeline.[78] Union explains that it has attempted to mitigate these effects by "redesign[ing] a range of segments of its network," but that its project timeline has been delayed as a result of the supply chain issues.[79] The Bureau finds Union's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of lack of full funding and supply chain issues,[80] and accordingly

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

[73] *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 (as to the lack of full funding); *see 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 (as to supply chain issues).

[74] *See* Request of Union Telephone for Extension of Time, WC Docket No. 18-89 (filed May 23, 2024).

[75] *E.g.*, *id.* at 4-5.

[76] *E.g.*, *id.* at 5.

[77] *E.g.*, *id.*

[78] *E.g.*, *id.*

[79] *E.g.*, *id.*

[80] *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 (as to the lack of full funding); *see 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 (as to supply chain issues).

grants the requested extensions through January 6, 2025 (SCRP0001089), January 13, 2025 (SCRP0001092), January 14, 2025 (SCRP0001096 and SCRP0001098), and January 15, 2025 (SCRP0001087 and SCRP0001090).

New RRD term expiration date – Union'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 File No. SCRP0001087, from July 15, 2024 to January 15, 2025;
- For File No. SCRP0001089, from July 6, 2024 to January 6, 2025;
- For File No. SCRP0001090, from July 15, 2024 to January 15, 2025;
- For File No. SCRP0001092, from July 13, 2024 to January 13, 2025;
- For File No. SCRP0001096, from July 14, 2024 to January 14, 2025; and
- For File No. SCRP0001098, from July 14, 2024 to January 14, 2025.

Recipient – Velocity Communications, Inc., SCRP0001136

Grounds for individual term extension – Velocity Communications, Inc. (Velocity) requests a six-month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[81] Velocity asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 29, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding. Velocity notes the partial funding amount has weakened its bargaining position with vendors, leading to "less favorable contract terms and higher costs," and has the potential to affect its "service reliability and competitiveness."[82] Velocity states that it has attempted to mitigate the effects of the lack of full funding by adopting a "phased approach" to meeting its obligations that accounts for its "business liquidity" and mitigates its financial risks.[83] Velocity reports that it has continued to make "significant strides" towards its Reimbursement Program requirements and that it has recently completed specific decommissioning and destruction work, but nevertheless needs additional time to fully complete its obligations in light of adjustments it has had to make to its plans due to the funding shortfall.[84] The Bureau finds Velocity'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,[85] and accordingly grants the requested extension through January 29, 2025.

New RRD term expiration date – Velocity'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 July 29, 2024 to January 29, 2025.

Recipient – Windy City Cellular, SCRP0001015

Grounds for individual term extension – Windy City Cellular (Windy City) requests a six-

[81] *See* Supplemental Request of Velocity for Extension of Time, WC Docket No. 18-89 (filed June 14, 2024) (Supplemental Request of Velocity); Request of Velocity for Extension of Time, WC Docket No. 18-89 (filed June 5, 2024).

[82] Supplemental Request of Velocity at 1-2.

[83] *Id.* at 1.

[84] *Id.*

[85] *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.

month extension of the deadline to remove, replace, and dispose of covered equipment and services in its network under 47 CFR § 1.50004(h)(2).[86] Windy City Cellular asserts that its ability to complete the removal, replacement, and disposal of covered equipment and services by its July 27, 2024 deadline has, through no fault of its own, been materially affected by the lack of full funding and supply chain issues. As to supply chain issues, Windy City reports that it has been impacted by supply chain delays, including lead times for the delivery routers, services, and other hardware that unexpectedly increased from "6-8 weeks" to 16 weeks.[87] Windy City reports that, despite its efforts to obtain the same items from other sources, this supply chain delay resulted in five months of delay to its project timeline.[88] Windy City similarly explains that the funding shortfall has caused it to miss project deadlines, even as it has attempted to mitigate these effects by "restructur[ing] [its] internal resources and cashflow" to meet its Reimbursement Program obligations.[89] The Bureau finds Windy City Cellular's showing persuasive and that its situation is consistent with the situation of other recipients that have been granted extensions on similar grounds of lack of full funding and supply chain issues,[90] and accordingly grants the requested extension through January 27, 2025.

New RRD term expiration date – Windy City Cellular'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 July 27, 2024 to January 27, 2025.

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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[86] *See* Request of Windy City Cellular for Extension of Time, WC Docket No. 18-89 (filed May 30, 2024).

[87] *Id.* at 2.

[88] *Id.*

[89] *Id.*

[90] *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 (as to the lack of full funding); *see 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 (as to supply chain issues).

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

In re Applications of	)	
	)	
Mississippi Authority for Educational TV	)	FRN: 0001739002
	)	NAL/Acct. No. 202441420011
For Renewal of License for	)	Facility ID Nos. 43176, 43169, 43193, 43184,
Stations WMAO-TV, Greenwood, MS; WMAW-	)	43197, 43192, 43170, and 43168
TV, Meridian, MS; WMAV-TV, Oxford, MS;	)	LMS File Nos. 0000134083, 0000134094,
WMAU-TV, Bude, MS; WMAH-TV, Biloxi, MS;	)	0000134100, 0000134109, 0000134130,
WMAB-TV, Mississippi State, MS; WMAE-TV,	)	0000134161, 0000134176, and 0000134188
Booneville, MS; and WMPN-TV, Jackson, MS	)	

ORDER

Adopted: July 11, 2024 **Released: July 11, 2024**

By the Chief, Video Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Video Division, Media Bureau (Bureau) and Mississippi Authority for Educational TV (Licensee), licensee of noncommercial educational (NCE) stations WMAO-TV, Greenwood, Mississippi; WMAW-TV, Meridian, Mississippi; WMAV-TV, Oxford, Mississippi; WMAU-TV, Bude, Mississippi; WMAH-TV, Biloxi, Mississippi; WMAB-TV, Mississippi State, Mississippi; WMAE-TV, Booneville, Mississippi; and WMPN-TV, Jackson, Mississippi (Stations). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal applications (Applications) for the Stations. In particular, the Consent Decree resolves the Bureau's investigation involving the Licensee's compliance with section 73.3527(e)(8) of the Commission's Rules (Rules),[1] which sets forth the requirement for NCE stations to place quarterly issues/programs lists in their online public inspection file.

2. The Bureau and Licensee have negotiated the attached Consent Decree in which Licensee stipulates that it violated section 73.3527(e)(8) of the Rules[2] and provides that Licensee make a civil penalty payment to the United States Treasury in the amount of five thousand six hundred and twenty-five dollars ($5,625) and implement a compliance plan to ensure future compliance.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval. Based on the record before us, we also conclude that grant of the Stations' renewal applications, as captioned above, are appropriate. In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act.[3] That section provides that if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.[4] If, however, the licensee fails to meet that standard, the

[1] *See* 47 CFR § 73.3527(e)(8).

[2] *Id.*

[3] 47 U.S.C. § 309(k).

[4] 47 U.S.C. § 309(k)(1).

Commission may deny the application—after notice and opportunity for a hearing under section 309(e) of the Act—or grant the application "on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted."[5]

4. We find that the Licensee's violations of section 73.3527(e)(8) of the Rules[6] do not constitute a "serious violation" warranting designation of the Applications for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, constitute a pattern of abuse.[7] Further, based on our review of the Applications, we find that the Stations served the public interest, convenience, and necessity during the subject license term. We will therefore grant the Applications, consistent with the terms and conditions set forth in the attached Consent Decree.

5. **ACCORDINGLY, IT IS ORDERED** that, pursuant to sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,[8] and by the authority delegated by sections 0.61, 0.204, and 0.283 of the Rules,[9] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

6. **IT IS FURTHER ORDERED** that, pursuant to section 309(k) of the Communications Act of 1934, as amended,[10] the applications of Mississippi Authority for Educational TV for renewal of licenses, as captioned above, shall be granted consistent with the terms and conditions of the attached Consent Decree.

7. **IT IS FURTHER ORDERED** that, the investigation by the Bureau regarding the matters discussed 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 Mississippi Authority for Educational TV, 3825 Ridgewood Road, Jackson, MS 39211 and by electronic mail to ronnie.agnew@mpbonline.org. A copy shall also be sent to Licensee's counsel, Barry S. Persh, Esq., by electronic mail to bpersh@graymillerpersh.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division, Media Bureau

[5] 47 U.S.C. §§ 309(k)(2), 309(k)(3).

[6] 47 CFR § 73.3527(e)(8).

[7] For example, we do not find here that the Licensee's Stations operation "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies." See Heart of the Black Hills Stations, Decision, 32 FCC 2d 196, 198, para. 6 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." Id. at 200, paras. 10-11. See also Center for Study and Application of Black Econ. Dev., Hearing Designation Order, 6 FCC Rcd 4622 (1991); Calvary Educ. Broad. Network, Inc., Hearing Designation Order, 7 FCC Rcd 4037 (1992).

[8] 47 U.S.C. §§ 154(i), 154(j), and 503(b).

[9] 47 CFR §§ 0.61, 0.204, and 0.283.

[10] 47 U.S.C. § 309(k).

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

In re Applications of	)	
	)	
Mississippi Authority for Educational TV	)	FRN: 0001739002
	)	NAL/Acct. No. 202441420011
For Renewal of License for	)	Facility ID Nos. 43176, 43169, 43193, 43184,
Stations WMAO-TV, Greenwood, MS; WMAW-	)	43197, 43192, 43170, and 43168
TV, Meridian, MS; WMAV-TV, Oxford, MS;	)	LMS File Nos. 0000134083, 0000134094,
WMAU-TV, Bude, MS; WMAH-TV, Biloxi, MS;	)	0000134100, 0000134109, 0000134130,
WMAB-TV, Mississippi State, MS; WMAE-TV,	)	0000134161, 0000134176, and 0000134188
Booneville, MS; and WMPN-TV, Jackson, MS	)	

CONSENT DECREE

Adopted: July 11, 2024 **Released: July 11, 2024**

I. INTRODUCTION

1. The Video Division, Media Bureau of the Federal Communications Commission (hereafter "Bureau," as defined below) and Mississippi Authority for Educational TV (hereafter "Licensee," as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into the Licensee's compliance with section 73.3527(e)(8) of the Commission's rules (hereafter "Rules," as defined below), which requires noncommercial educational stations to place quarterly issues/programs lists in their online public inspection file.[1] To resolve these matters, the Licensee agrees to pay a civil penalty payment to the United States Treasury in the amount of five thousand six hundred and twenty-five dollars ($5,625) and implement a comprehensive Compliance Plan to ensure its future compliance with section 73.3527(e)(8) of the Rules. The Bureau agrees to terminate its investigation, and grant the Stations' pending license renewal applications, subject to the terms and conditions set forth below.

II. 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) "Applications" means applications of Mississippi Authority for Educational TV for renewal of the television broadcast licenses for stations WMAO-TV, Greenwood, MS, LMS File No. 0000134083; WMAW-TV, Meridian, MS, LMS File No. 0000134094; WMAV-TV, Oxford, MS, LMS File No. 0000134100; WMAU-TV, Bude, MS, LMS File No. 0000134109; WMAH-TV, Biloxi, MS, LMS File No. 0000134130; WMAB-TV, Mississippi State, MS, LMS File No. 0000134161; WMAE-TV, Booneville, MS, LMS File No. 0000134176; and WMPN-TV, Jackson, MS, LMS File No. 0000134188.

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

[1] 47 CFR § 73.3527(e)(8).

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

(f) "Compliance Plan" means the processes and procedures developed by the Licensee in an effort to ensure compliance with 47 CFR § 73.3527 generally, including 47 CFR 73.3527(e)(8) of the Rules.

(g) "Covered Employees" means all employees, volunteers, and agents of the Licensee, who are responsible for performing, supervising, overseeing, or managing activities related to the filing of timely issues/programs lists as required by the Issues and Programs Lists Rule.

(h) "Division" means the Media Bureau's Video Division.

(i) "Effective Date" means the date by which both the Bureau and the Licensee have signed the Consent Decree.

(j) Investigation" means the Bureau's examination of Licensee's apparent violations of 47 CFR § 73.3527(e)(8).

(k) "Issues and Programs Lists Rule" means 47 CFR § 73.3527(e)(8).

(l) "Licensee" or "MAET" means Mississippi Authority for Educational TV and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(m) "NCE" means noncommercial educational television station as defined by 47 CFR § 73.621.

(n) "OPIF" means the respective station's online public inspection file as defined by 47 CFR § 73.3527.

(o) "OPIF Rule" means 47 CFR § 73.3527, generally.

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

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

(r) "Stations" means collectively WMAO-TV, Greenwood, Mississippi; WMAW-TV, Meridian, Mississippi; WMAV-TV, Oxford, Mississippi; WMAU-TV, Bude, Mississippi; WMAH-TV, Biloxi, Mississippi; WMAB-TV, Mississippi State, Mississippi; WMAE-TV, Booneville, Mississippi; and WMPN-TV, Jackson, Mississippi.

III. BACKGROUND

3. On January 21, 2021, the Licensee filed the Applications. In the Applications, the Licensee disclosed that it failed to timely file a number of issues/programs lists.[2] Division staff identified the following late filed issues/programs lists in the OPIFs of the eight stations licensed to MAET.

- WMAO's OPIF included six issues/programs lists that were filed between one month and one year late, and four issues/programs lists that were filed over one year late.
- WMAW's OPIF included one issues/programs list that was filed under one month late, three issues/programs lists that were filed between one month and one year late, and four issues/programs lists that were filed over one year late.

[2] *See e.g.*, Application of Mississippi Authority for Educational TV for Renewal of License, LMS File No. 0000134083 (filed Jan. 21, 2021) at Attachment WMAO-TV Public File Exhibit.

- WMAV's OPIF included six issues/programs lists that were filed between one month and one year late, and one issues/programs lists that was filed over one year late.
- WMAU's OPIF included one issues/programs list that was filed under one month late, eight issues/programs lists that were filed between one month and one year late, and four issues/programs lists that were filed over one year late.
- WMAH's OPIF included one issues/programs list that was filed under one month late, six issues/programs lists that were filed between one month and one year late, and four issues/programs lists that were filed over one year late.
- WMAB's OPIF included one issues/programs list that was filed under one month late, six issues/programs lists that were filed between one month and one year late, and four issues/programs lists that were filed over one year late.
- WMAE's OPIF included one issues/programs list that was filed under one month late, seven issues/programs lists that were filed between one month and one year late, and four issues/programs lists that were filed over one year late.
- WMPN's OPIF included five issues/programs lists that were filed between one month and one year late, and three issues/programs lists that were filed over one year late.

4. The Issues and Programs Lists Rule requires every NCE television licensee to place in its OPIF, on a quarterly basis, an issues/programs list that details programs that have provided the station's most significant treatment of community issues during the preceding three month period and must include a brief narrative of the issues addressed, as well as the time, date, duration, and title of each program in which the issues were treated.[3] Issues/programs lists must be placed in the station's OPIF by the tenth day of the succeeding calendar quarter and copies must be retained until final action on the station's next license renewal application.[4]

5. The Licensee indicated to Division staff via phone conversations that the reason for the extent of violations was the unique nature of the Licensee's statewide network of NCE stations, all of which air the same content, and as a result, the same late filing would often occur in multiple stations' OPIFs. This is consistent with the review of the OPIFs by Division staff, which found that across the Stations, the late filed issues/programs lists were generally for the same quarters, and the late filings were submitted on the same day.

6. In consideration of the unique facts and nature of the Stations in this case, the Licensee's history of compliance, and the Licensee's agreement to pay a civil penalty and implement a compliance plan to prevent future violations of the Issues and Programs Lists Rule. The Bureau has negotiated the terms of this Consent Decree with the Licensee that terminates the Investigation and grants the Applications, subject to the terms and conditions set forth below. The Licensee has agreed to pay a civil penalty in the amount of Five Thousand Six Hundred and Twenty-Five dollars ($5,625) to the U.S. Treasury and maintain a Compliance Plan designed to ensure its future compliance with the Issues and Programs List Rule.

IV. TERMS OF AGREEMENT

7. **Adopting Order**. The Parties agree that the provisions of this Consent Decree shall be incorporated by reference by the Bureau in an Adopting Order without change, addition, deletion, or modification.

8. **Jurisdiction**. The Licensee agrees that the Bureau has jurisdiction over it and the matters

[3] 47 CFR § 73.3527(e)(8).

[4] *Id*.

contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

9. **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.

10. **Violations**. The Parties agree that any violation of the Adopting Order or the terms of this Consent Decree, in whole or in part, shall constitute a separate violation of a Commission order, entitling the Commission, or its delegated authority to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. **Admission of Liability**. The Licensee admits, for the purpose of this Consent Decree and for Commission civil enforcement purposes, that its actions described in Paragraphs 3 to 5 were willful and repeated violations of the Issues and Programs Lists Rule. By entering into this Consent Decree, the Licensee makes no other admission of liability of any Communications Law, and the Bureau makes no finding of any other liability or violation. Pursuant to 47 CFR § 73.3527(e)(11), Licensee shall place, within ten (10) calendar days, a copy of this Adopting Order and Consent Decree in the Stations' OPIFs and that copy must be retained until grant of the Stations' next license renewal applications.

12. **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 and to take the actions specified in Paragraph 17. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in Paragraphs 15 and 18 of this Consent Decree.

13. The Bureau further agrees that, in the absence of new material evidence, that 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 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.[5] However, in the event of any future violations by the Licensee, the Commission or its delegated entity may consider the Licensee's admission in this Consent Decree as a basis for considering its history of compliance with the Rules in order to determine an appropriate forfeiture amount.[6]

14. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission or its delegated authority from investigating new evidence of noncompliance by the Licensee with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against the Licensee for alleged violations of the Communications Laws or for any alleged misconduct, regardless of when such misconduct took place. Further, except as expressly provided herein, the Licensee acknowledges that the Commission and its delegated authority (including the Bureau) retains the discretion and authority to propose sanctions against the Licensee, including the issuance of notices of apparent liability for forfeiture, for any apparent willful and/or repeated violation by the Licensee of the

[5] *See* 47 CFR § 1.93(b).

[6] The Commission may adjust its base forfeiture 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." 47 U.S.C. § 503(b)(2)(E). *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 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b), paragraph (b)(10), Table 1 and Table 3.

Rules or Act. The Commission's adjudication of any complaints or potential will be based solely on the record developed in subsequent proceedings.

15. **Civil Penalty**. The Licensee agrees to make a civil penalty payment to the United States Treasury in the amount of Five Thousand Six Hundred and Twenty-Five Dollars ($5,625) within thirty (30) calendar days after the Effective Date. It also 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.[7] **The Licensee shall send electronic notification of payment to Andrew Manley at Andrew.Manley@fcc.gov on the date payment is made.** 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),[8] or by wire transfer. Payment should be made, in its entirety, under NAL account numbers 202441420011. Payments by check or money order are no longer accepted. Below are instructions that the Licensee should follow based on the form of payment selected:[9]

- 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 (202441420011), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).[10] 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. 202441420011 would be associated with FCC Bill Number 202441420011). 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. 202441420011 would be associated with FCC Bill Number 202441420011). Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number

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

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

[9] 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.

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

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.

16. **Event of Default**. The Parties agree that an Event of Default shall occur upon the failure by Licensee to pay the full amount of the Civil Penalty on or before the due date specified in Paragraph 15. After an Event of Default has occurred under this Consent Decree, the 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 the Licensee.

17. **Grant of Applications**. In the Adopting Order, the Bureau has determined that grant of the Applications is in the public interest, convenience, and necessity, and consistent with 47 U.S.C. § 309(k). The Bureau agrees to grant the Applications, for a full license term of eight years from the prior license expiration date, once the following conditions have been met: (1) the Licensee has fully and timely satisfied its obligation to comply with Paragraph 15 of this Consent Decree and (2) there are no other issues that would preclude the grant of the Applications.

18. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall, within 60 calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the OPIF Rule, including the Issues and Programs Lists Rule, and the terms and conditions of this Consent Decree. The Compliance Plan shall apply to the Stations, as defined in Paragraph 2(r) of this Consent Decree. The Compliance Plan shall contain, at a minimum, the following elements:

(a) **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a person employed (on a full, part-time, or contract basis) to serve as a Compliance Officer and to discharge the duties set forth below. The Compliance Officer must be provided all necessary corporate and organizational authority to ensure they are able to discharge their duties. The Compliance Officer shall report directly to the Licensee's President (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 OPIF Rules, including but not limited to the Issues and Programs Lists Rule prior to assuming his/her duties.

(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 Officer shall distribute a Compliance Manual that they have personally prepared or one that has been prepared by a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the OPIF Rule, including but not limited to the Issues and Programs Lists Rule;
ii. establish Operating Procedures that Covered Employees must follow to help ensure the Licensee's compliance with the OPIF Rule, including but not limited to the Issues and Programs Lists 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 OPIF 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 OPIF Rules, including but not limited to the Issues and Programs Lists Rule; and

iii. be reviewed at least every six months by the Compliance Officer and revised as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective. The Compliance Officer shall distribute any revisions to the Compliance Manual within five (5) business days of any updates to all Covered Employees.

(c) **Compliance Training Program**. The Licensee shall establish and implement a Compliance Training Program on compliance with the OPIF Rules, including but not limited to the Issues and Programs Lists Rule. As part of the Compliance Training Program, Covered Employees shall be advised of the Licensee's obligation to report any noncompliance with the OPIF Rules, including but not limited to the Issues and Programs Lists 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 ninety (90) 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 thirty (30) calendar days after the date they become a Covered Employee. The Licensee shall provide the Compliance Training Program to all Covered Employees on at least an annual basis, and it shall review and revise the Compliance Training Program, as necessary, to ensure that it remains current, complete, and effective.

(a) **Compliance Report**. The Licensee shall submit a Compliance Report to the Bureau one year after the Effective Date and within five (5) business days following the Termination Date. The Compliance Report shall contain a certification of compliance with the OPIF Rule, including but not limited to the Issues Programs Lists Rule during the previous year. The Compliance Report shall include a certification by the Compliance Officer stating that the Compliance Officer has personal knowledge that 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 beyond those reported under Paragraph 19. For any instance of noncompliance, including those already reported to the Bureau under Paragraph 19, the Compliance Officer must explain (i) the steps that Licensee has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken, and (ii) the steps that have or will be taken to prevent the recurrence of any such noncompliance, including the schedule on which such preventative action will be taken. The Compliance Officer's certification must comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury.[11] The Bureau may, within its sole discretion, require the Licensee to submit documentation or material that supports the certification being provided by the Compliance Officer. The Compliance Report shall be submitted to Division staff as follows: Andrew Manley at Andrew.Manley@fcc.gov and David Brown at David.Brown@fcc.gov.

19. **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Issues and Programs Lists Rule, or any instance of noncompliance with any applicable terms and conditions of this Consent Decree (i.e., Paragraph 18) within ten (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 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 or will take to

[11] 47 CFR § 1.16.

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 Division staff as follows: Andrew Manley at Andrew.Manley@fcc.gov and David Brown at David.Brown@fcc.gov.

20. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two years after the Effective Date ("Termination Date"), provided the Bureau is satisfied that the Licensee has demonstrated substantial compliance with its obligations. If the Bureau is not satisfied that the Licensee has demonstrated substantial compliance with its obligations, the Bureau may, within its sole discretion and authority, extend the Termination Date for up to an additional twenty-four (24) months.

21. **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[12] 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 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.

25. **Successors and Assigns**. The Licensee 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

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

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.

Federal Communications Commission

By:

_____
Barbara A. Kreisman
Chief, Video Division
Media Bureau

_____
Date

By:

_____
Royal Aills
Mississippi Authority for Educational TV

_____
Date

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

In re Applications of	)	
	)	
Southern Oregon Public Television, Inc.	)	FRN: 0006182273
	)	NAL/Acct. No. 202441420010
For Renewal of License for	)	Facility ID Nos. 61335 and 61350
Stations KFTS, Klamath Falls, OR; and KSYS,	)	LMS File Nos. 0000201881 and 0000201888
Medford, OR	)	

ORDER

Adopted: July 9, 2024 **Released: July 9, 2024**

By the Chief, Video Division, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Video Division, Media Bureau (Bureau) and Southern Oregon Public Television, Inc. (Licensee), licensee of noncommercial educational (NCE) stations KFTS, Klamath Falls, Oregon; and KSYS, Medford, Oregon (Stations). The Consent Decree resolves issues arising from the Bureau's review of the captioned license renewal applications (Applications) for the Stations. In particular, the Consent Decree resolves the Bureau's investigation involving the Licensee's compliance with section 73.3527(e)(8) of the Commission's Rules (Rules),[1] which sets forth the requirement for NCE stations to place quarterly issues/programs lists in their online public inspection file.

2. The Bureau and Licensee have negotiated the attached Consent Decree in which Licensee stipulates that it violated section 73.3527(e)(8) of the Rules[2] and provides that Licensee make a civil penalty payment to the United States Treasury in the amount of sixteen thousand five hundred dollars ($16,500) and implement a compliance plan to ensure future compliance.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval. Based on the record before us, we also conclude that grant of the Stations' renewal applications, as captioned above, are appropriate. In evaluating an application for license renewal, the Commission's decision is governed by section 309(k) of the Act.[3] That section provides that if, upon consideration of the application and pleadings, we find that: (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.[4] If, however, the licensee fails to meet that standard, the Commission may deny the application—after notice and opportunity for a hearing under section 309(e) of the Act—or grant the application "on terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted."[5]

[1] *See* 47 CFR § 73.3527(e)(8).

[2] *Id.*

[3] 47 U.S.C. § 309(k).

[4] 47 U.S.C. § 309(k)(1).

[5] 47 U.S.C. §§ 309(k)(2), 309(k)(3).

4. We find that the Licensee's violations of section 73.3527(e)(8) of the Rules[6] do not constitute a "serious violation" warranting designation of the Applications for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, constitute a pattern of abuse.[7] Further, based on our review of the Applications, we find that the Stations served the public interest, convenience, and necessity during the subject license term. We will therefore grant the Applications, consistent with the terms and conditions set forth in the attached Consent Decree.

5. **ACCORDINGLY, IT IS ORDERED** that, pursuant to sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,[8] and by the authority delegated by sections 0.61, 0.204 and 0.283 of the Rules,[9] the Consent Decree attached hereto **IS ADOPTED** without change, addition, or modification, and incorporated by reference.

6. **IT IS FURTHER ORDERED** that, pursuant to section 309(k) of the Communications Act of 1934, as amended,[10] the applications of Southern Oregon Public Television, Inc. for renewal of licenses, as captioned above, shall be granted consistent with the terms and conditions of the Consent Decree.

7. **IT IS FURTHER ORDERED** that, the investigation by the Bureau regarding the matters discussed 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 Southern Oregon Public Television, Inc., 28 S. Fir St., Suite 200, Medford, OR 97501 and by electronic mail to phil@sopbs.org. A copy shall also be sent to Licensee's counsel, Marc Denbo, Esq., by electronic mail to mdenbo@fccworld.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[6] 47 CFR § 73.3527(e)(8).

[7] For example, we do not find here that the Licensee's Stations operation "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies." See Heart of the Black Hills Stations, Decision, 32 FCC 2d 196, 198, para. 6 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." Id. at 200, paras. 10-11. See also Center for Study and Application of Black Econ. Dev., Hearing Designation Order, 6 FCC Rcd 4622 (1991); Calvary Educ. Broad. Network, Inc., Hearing Designation Order, 7 FCC Rcd 4037 (1992).

[8] 47 U.S.C. §§ 154(i), 154(j), and 503(b).

[9] 47 CFR §§ 0.61, 0.204, and 0.283.

[10] 47 U.S.C. § 309(k).

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

In re Applications of	)	
	)	
Southern Oregon Public Television, Inc.	)	FRN: 0006182273
	)	NAL/Acct. No. 202441420010
For Renewal of License for	)	Facility ID Nos. 61335 and 61350
Stations KFTS, Klamath Falls, OR; and KSYS,	)	LMS File Nos. 0000201881 and 0000201888
Medford, OR	)	

CONSENT DECREE

Adopted: July 9, 2024 **Released: July 9, 2024**

I. INTRODUCTION

1. The Video Division, Media Bureau of the Federal Communications Commission (hereafter "Bureau," as defined below) and Southern Oregon Public Television, Inc. (hereafter "Licensee," as defined below), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into the Licensee's compliance with section 73.3527(e)(8) of the Commission's rules (hereafter "Rules," as defined below), which requires noncommercial educational stations to place quarterly issues/programs lists in their online public inspection file.[1] To resolve these matters, the Licensee agrees to pay a civil penalty payment to the United States Treasury in the amount of sixteen thousand five hundred dollars ($16,500) and implement a comprehensive Compliance Plan to ensure its future compliance with section 73.3527(e)(8) of the Rules. The Bureau agrees to terminate its investigation, and grant the Stations' pending license renewal applications, subject to the terms and conditions set forth below.

II. 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) "Applications" means applications of Southern Oregon Public Television, Inc. for renewal of the television broadcast licenses for stations KFTS, Klamath Falls, OR, LMS File No. 0000201881; and KSYS, Medford, OR, LMS File No. 0000201888.

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

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

(f) "Compliance Plan" means the processes and procedures developed by the Licensee in an effort to ensure compliance with 47 CFR § 73.3527 generally, including 47 CFR 73.3527(e)(8) of the Rules.

(g) "Covered Employees" means all employees, volunteers, and agents of the Licensee, who are responsible for performing, supervising, overseeing, or managing activities

[1] 73.3527(e)(8).

related to the filing of timely issues/programs lists as required by the Issues and Programs Lists Rule.

(h) "Division" means the Media Bureau's Video Division.

(i) "Effective Date" means the date by which both the Bureau and the Licensee have signed the Consent Decree.

(j) "Investigation" means the Bureau's examination of Licensee's apparent violations of 47 CFR § 73.3527(e)(8).

(k) "Issues and Programs Lists Rule" means 47 CFR § 73.3527(e)(8).

(l) "Licensee" or "Southern Oregon" means Southern Oregon Public Television, Inc. and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

(m) "NCE" means noncommercial educational television station as defined by 47 CFR § 73.621.

(n) "OPIF" means the respective station's online public inspection file as defined by 47 CFR § 73.3527.

(o) "OPIF Rule" means 47 CFR § 73.3527, generally.

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

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

(r) "Stations" means collectively KFTS, Klamath Falls, Oregon; and KSYS, Medford, Oregon.

III. BACKGROUND

3. On October 4, 2022, the Licensee filed the Applications. In the Applications, the Licensee disclosed that it failed to timely file a number of issues/programs lists.[2] On April 23, 2023, at the request of Division Staff, the Licensee amended the Applications providing more details on the untimely filings.[3] In an attachment to the amended Applications, the Licensee stated that the late filings were the result of errors made by station personnel.[4] We note that "employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations"[5] and Licensees are responsible for the errors or oversights of their employees.[6] Division staff identified the following late filed issues/programs lists in the OPIFs of the two stations licensed to Southern Oregon.

[2] *See e.g.*, Applications at Attachment Statement re Online Public File and Station Website.

[3] *See*, Amended Applications of Southern Oregon Public Television, Inc. for Renewal of License, LMS File Nos. 0000201881 and 0000201888 (filed. Apr. 23, 2023).

[4] *Id.* at Attach. Letter of Licensee's President Supplementing Statement re Online Public File and Station Website Links 1-2.

[5] *Standard Comm'cns Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, 358, para. 4 (1986); *See also, Southern California*, 6 FCC Rcd at 4387, para. 3 (stating that "inadvertence… is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance").

[6] *Heidelberg Coll.*, 24 F.C.C. Rcd 11923, 11924–25 (2009) (quoting *Eure Family Limited Partnership*, Memorandum Opinion and Order, 17 FCC Rcd 21861, 21863–64 (2002)) ("Moreover, the Commission has long held that 'licensees are responsible for the acts and omission of their employees and independent contractors,' and has consistently 'refused to excuse licensees from forfeiture penalties where the actions of employees or independent contractors have resulted in violations.'").

- KFTS's OPIF included seven issues/programs lists that were filed under one month late, ten issues/programs lists that were filed between one month and one year late, and eight issues/programs lists that were filed over one year late.
- KSYS's OPIF included seven issues/programs lists that were filed under one month late, nine issues/programs lists that were filed between one month and one year late, and eight issues/programs lists that were filed over one year late.

4. The Issues and Programs Lists Rule requires every NCE television licensee to place in its OPIF, on a quarterly basis, an issues/programs list that details programs that have provided the station's most significant treatment of community issues during the preceding three month period and must include a brief narrative of the issues addressed, as well as the time, date, duration, and title of each program in which the issues were treated.[7] Issues/programs lists must be placed in the station's OPIF by the tenth day of the succeeding calendar quarter and copies must be retained until final action on the station's next license renewal application.[8]

5. The Licensee indicated to Division staff via phone conversations that the reason for the extent of violations was the unique nature of the Licensee's statewide network of NCE stations, all of which air the same content, and as a result, the same late filing would often occur in multiple stations' OPIFs. This is consistent with the review of the OPIFs by Division staff, which found that across the Stations, the late filed issues/programs lists were generally for the same quarters, and the late filings were submitted on the same day.

6. In consideration of the unique facts and nature of the Stations in this case, the Licensee's history of compliance, and the Licensee's agreement to pay a civil penalty and implement a compliance plan to prevent future violations of the Issues and Programs Lists Rule. The Bureau has negotiated the terms of this Consent Decree with the Licensee that terminates the Investigation and grants the Applications, subject to the terms and conditions set forth below. The Licensee has agreed to pay a civil penalty in the amount of Sixteen Thousand Five Hundred dollars ($16,500) to the U.S. Treasury and maintain a Compliance Plan designed to ensure its future compliance with the Issues and Programs List Rule.

IV. TERMS OF AGREEMENT

7. **Adopting Order**. The Parties agree that the provisions of this Consent Decree shall be incorporated by reference by the Bureau in an Adopting Order without change, addition, deletion, or modification.

8. **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.

9. **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.

10. **Violations**. The Parties agree that any violation of the Adopting Order or the terms of this Consent Decree, in whole or in part, shall constitute a separate violation of a Commission order, entitling the Commission, or its delegated authority to exercise any rights and remedies attendant to the enforcement of a Commission order.

11. **Admission of Liability**. The Licensee admits, for the purpose of this Consent Decree and for Commission civil enforcement purposes, that its actions described in Paragraphs 3 to 5 were willful and repeated violations of the Issues and Programs Lists Rule. By entering into this Consent Decree, the Licensee makes no other admission of liability of any Communications Law, and the Bureau makes no

[7] 47 CFR § 73.3527(e)(8).

[8] *Id*.

finding of any other liability or violation. Pursuant to 47 CFR § 73.3527(e)(11), Licensee shall place, within ten (10) calendar days, a copy of this Adopting Order and Consent Decree in the Stations' OPIFs and that copy must be retained until grant of the Stations' next license renewal applications.

12. **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 and to take the actions specified in Paragraph 17. In consideration for the termination of the Investigation, Licensee agrees to the terms, conditions, and procedures contained herein, including the actions specified in Paragraphs 15 and 18 of this Consent Decree.

13. The Bureau further agrees that, in the absence of new material evidence, that 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 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.[9] However, in the event of any future violations by the Licensee, the Commission or its delegated entity may consider the Licensee's admission in this Consent Decree as a basis for considering its history of compliance with the Rules in order to determine an appropriate forfeiture amount.[10]

14. **Subsequent Investigations**. This Consent Decree shall not prevent the Commission or its delegated authority from investigating new evidence of noncompliance by the Licensee with the Rules or Act or from adjudicating complaints or other adjudicatory pleadings filed by third parties against the Licensee for alleged violations of the Communications Laws or for any alleged misconduct, regardless of when such misconduct took place. Further, except as expressly provided herein, the Licensee acknowledges that the Commission and its delegated authority (including 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 Rules or Act. The Commission's adjudication of any complaints or potential will be based solely on the record developed in subsequent proceedings.

15. **Civil Penalty**. The Licensee agrees to make a civil penalty payment to the United States Treasury in the amount of Sixteen Thousand Five Hundred Dollars ($16,500) within thirty (30) calendar days after the Effective Date. It also 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.[11] **The Licensee shall send electronic notification of payment to Andrew Manley at Andrew.Manley@fcc.gov on the date payment is made.** 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. Payment should be made, in its entirety, under NAL account numbers 202441420010. Payments by check or money order are no longer

[9] *See* 47 CFR § 1.93(b).

[10] The Commission may adjust its base forfeiture 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." 47 U.S.C. § 503(b)(2)(E). *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 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b), paragraph (b)(10), Table 1 and Table 3.

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

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

accepted. Below are instructions that the Licensee 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 (202441420010), 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. 202441420010 would be associated with FCC Bill Number 202441420010). 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. 202441420010 would be associated with FCC Bill Number 202441420010). 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.

16. **Event of Default**. The Parties agree that an Event of Default shall occur upon the failure by Licensee to pay the full amount of the Civil Penalty on or before the due date specified in Paragraph 17. After an Event of Default has occurred under this Consent Decree, the 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 the Licensee.

17. **Grant of Applications**. In the Adopting Order, the Bureau has determined that grant of the Applications is in the public interest, convenience, and necessity, and consistent with 47 U.S.C.

[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.

309(k). The Bureau agrees to grant the Applications, for a full license term of eight years from the prior license expiration date, once the following conditions have been met: (1) the Licensee has fully and timely satisfied its obligation to comply with Paragraph 15 of this Consent Decree and (2) there are no other issues that would preclude the grant of the Applications.

18. **Compliance Plan**. For purposes of settling the matters set forth herein, the Licensee agrees that it shall, within 60 calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the OPIF Rule, including the Issues and Programs Lists Rule and the terms and conditions of this Consent Decree. The Compliance Plan shall apply to the Stations, as defined in Paragraph 2(r) of this Consent Decree. The Compliance Plan shall contain, at a minimum, the following elements:

(a) **Compliance Officer**. Within thirty (30) calendar days after the Effective Date, the Licensee shall designate a person employed (on a full, part-time or contract basis) to serve as a Compliance Officer and to discharge the duties set forth below. The Compliance Officer must be provided all necessary corporate and organizational authority to ensure they are able to discharge their duties. The Compliance Officer shall report directly to the Licensee's President (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 OPIF Rules, including but not limited to the Issues and Programs Lists Rule prior to assuming his/her duties.

(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 Officer shall distribute a Compliance Manual that they have personally prepared or one that has been prepared by a third party, such as a trade association or a law firm. The Compliance Manual shall:

i. thoroughly explain the requirements embodied in the OPIF Rule, including but not limited to the Issues and Programs Lists Rule;

ii. establish Operating Procedures that Covered Employees must follow to help ensure the Licensee's compliance with the OPIF Rule, including but not limited to the Issues and Programs Lists 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 OPIF 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 OPIF Rules, including but not limited to the Issues and Programs Lists Rule; and

iii. be reviewed at least every six months by the Compliance Officer and revised as necessary to ensure that the information set forth therein remains current, complete, accurate, and effective. The Compliance Officer shall distribute any revisions to the Compliance Manual within five (5) business days of any updates to all Covered Employees.

(c) **Compliance Training Program**. The Licensee shall establish and implement a Compliance Training Program on compliance with the OPIF Rules, including but not limited to the Issues and Programs Lists Rule. As part of the Compliance Training Program, Covered Employees shall be advised of the Licensee's obligation to report any noncompliance with the OPIF Rules, including but not limited to the Issues and Programs Lists 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

ninety (90) 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 thirty (30) calendar days after the date they become a Covered Employee. The Licensee shall provide the Compliance Training Program to all Covered Employees on at least an annual basis, and it shall review and revise the Compliance Training Program, as necessary, to ensure that it remains current, complete, and effective.

(d) **Compliance Report**. The Licensee shall submit a Compliance Report to the Bureau one year after the Effective Date and within five (5) business days following the Termination Date. The Compliance Report shall contain a certification of compliance with the OPIF Rule of compliance with the OPIF Rule, including but not limited to the Issues Programs Lists Rule during the previous year. The Compliance Report shall include a certification by the Compliance Officer stating that the Compliance Officer has personal knowledge that 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 beyond those reported under Paragraph 19. For any instance of noncompliance, including those already reported to the Bureau under Paragraph 19, the Compliance Officer must explain (i) the steps that Licensee has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken, and (ii) the steps that have or will be taken to prevent the recurrence of any such noncompliance, including the schedule on which such preventative action will be taken. The Compliance Officer's certification must comply with section 1.16 of the Rules and be subscribed to as true under penalty of perjury.[15] The Bureau may, within its sole discretion, require the Licensee to submit documentation or material that supports the certification being provided by the Compliance Officer. The Compliance Report shall be submitted to Division staff as follows: Andrew Manley at Andrew.Manley@fcc.gov and David Brown at David.Brown@fcc.gov.

19. **Reporting Noncompliance**. The Licensee shall report any instance of noncompliance with the Issues and Programs Lists Rule, or any instance of noncompliance with any applicable terms and conditions of this Consent Decree (i.e., Paragraph 18) within ten (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 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 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 Division staff as follows: Andrew Manley at Andrew.Manley@fcc.gov and David Brown at David.Brown@fcc.gov.

20. **Termination Date**. The obligations to which the Licensee is subject pursuant to this Consent Decree shall terminate two years after the Effective Date ("Termination Date"), provided the Bureau is satisfied that the Licensee has demonstrated substantial compliance with its obligations. If the Bureau is not satisfied that the Licensee has demonstrated substantial compliance with its obligations, the Bureau may, within its sole discretion and authority, extend the Termination Date for up to an additional twenty-four (24) months.

21. **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

[15] 47 CFR § 1.16.

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[16] 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 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.

25. **Successors and Assigns**. The Licensee 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.

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

Federal Communications Commission

By:

_____
Barbara A. Kreisman
Chief, Video Division
Media Bureau

_____
Date

By:

_____
Phillip W. Meyer
President & CEO
Southern Oregon Public Television, Inc.

_____
Date

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

In the Matter of	)	
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	
Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support	)	WC Docket No. 10-90

ORDER

Adopted: June 28, 2024 **Released: June 28, 2024**

By the Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau), on our own motion, grants a limited waiver to all eligible telecommunications carriers (ETCs) of the July 1, 2024 filing deadline under section 54.313(j) of the Commission's rules.[1] Generally, the Commission's rules may be waived for good cause shown.[2] We find that special circumstances warrant an extension of the FCC Form 481 filing deadline for Program Year 2025 from July 1, 2024 to July 10, 2024 due to technical difficulties that are impacting the FCC Form 481 filing portal.

2. All ETCs requesting federal high-cost or low-income universal service support from the Universal Service Administrative Company (USAC), the universal service Administrator, must file the FCC Form 481 on an annual basis. ETCs participating in the High Cost program must file FCC Form 481 with the Administrator on an annual basis by July 1st each year to be eligible to receive support.[3] Carriers that fail to comply with our reporting obligations are subject to support reductions.[4]

3. Beginning on June 26, 2024, USAC has encountered technical issues causing form processing difficulties and record availability complications that have impeded certain ETCs' ability to submit and certify their completed FCC Form 481. Due to these technical difficulties, USAC has temporarily disabled the FCC Form 481 filing portal to deploy a solution to these issues. This solution will result in a temporary delay in FCC Form 481 filing and certification for some ETCs. We direct USAC to notify ETCs once the technical issues are resolved.

[1] 47 CFR § 54.313(j). While Lifeline-only ETCs do not have a similarly prescribed filing deadline included in the Lifeline rules, to the extent a deadline for filing might exist in early July and be impacted by the technical difficulties experienced by USAC and discussed here, we also grant additional time for those ETCs to file FCC Form 481, as described in this Order. *See* 47 CFR § 54.422.

[2] 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969*); Northeast Cellular*, 897 F.2d at 1166. Waiver of a filing deadline in the Commission's rules is appropriate when (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

[3] 47 CFR § 54.313.

[4] 47 CFR § 54.313(j)(1)(i-ii).

4. We therefore adopt a limited waiver of section 54.313(j) of the Commission's rules[5] and allow ETCs to file and certify the FCC Form 481 by July 10, 2024. The Bureau has previously found good cause to waive the Commission's rules and grant an extension of a program deadline when technical issues affected an applicant's ability to meet a program's process deadline.[6] For the same reasons, we find that good cause exists here, and a temporary waiver is justified and would serve the public interest.

5. Accordingly, IT IS ORDERED, pursuant to sections 0.91, 0.291, 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3 that sections 47 CFR §§ 54.313(j) and 54.422 are waived, as described herein.

6. 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

[5] 47 CFR § 54.313(j).

[6] *See* 47 CFR §§ 0.91(b), 0.291. The Commission also has delegated authority to the Chief of the Wireline Competition Bureau to resolve unanticipated technical and operational issues relating to the universal service mechanisms that may arise. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Third Report and Order, 12 FCC Rcd 22485, 22488-89, para. 6 (1997); *The Wireline Competition Bureau Further Extends the HUBB Certification Deadline for Deployed Fixed Locations for Alaska Plan Carriers Adak, ASTAC, and MTA and Announces New Deadline*, WC Docket Nos. 10-90 and 16-271, Public Notice, 37 FCC Rcd 9406 (WCB 2022).

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 24-629
Released: June 28, 2024

REMINDER OF OBLIGATIONS TO ENSURE TELEVISED EMERGENCY INFORMATION IS ACCESSIBLE TO VIEWERS WITH DISABILITIES

MB Docket No. 12-107

The Federal Communications Commission (FCC or Commission) issues this Public Notice to remind video programming distributors (VPDs)—including broadcasters, cable operators, satellite television services, and "any other distributor of video programming for residential reception that delivers such programming directly to the home and is subject to the jurisdiction of the Commission"[1]—of their obligation under section 79.2 of the Commission's rules to make televised emergency information accessible to persons with disabilities.[2] This Public Notice also provides information for consumers on how to file complaints for noncompliance with this obligation.[3]

Background. Under section 79.2, emergency information is defined as "[i]nformation, about a current emergency, that is intended to further the protection of life, health, safety, and property, *i.e.*, critical details regarding the emergency and how to respond to the emergency."[4] Examples of the types of emergencies covered by the rule include pandemics, tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending changes in weather.[5] Critical details include, but are not limited to, "specific details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter in one's home, instructions on how to secure personal property, road closures, and how to obtain relief assistance."[6]

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[1] 47 CFR § 79.1(a)(11) (defining "video programming distributor").

[2] *See* 47 CFR § 79.2. Because of the importance of this issue, we have released similar Public Notices in the past. *See, e.g.*, *Reminder Regarding Obligations to Make Televised Emergency Information Accessible to Viewers with Disabilities*, Public Notice, DA 23-325 (CGB July 21, 2023). Unlike the closed captioning obligations contained in section 79.1 of the rules, there are no exemptions to these televised emergency information accessibility requirements. Additionally, VPDs may have a separate obligation to meet accessibility requirements when transmitting Emergency Alert System (EAS) messages on television. *See* 47 CFR § 11.51(d), (g)(3), (h)(4), (j)(2); *see also* Public Safety and Homeland Security Bureau, Federal Communications Commission, *EAS FAQ Accessibility* (July 13, 2021), https://www.fcc.gov/eas-faq-accessibility.

[3] *See* 47 CFR § 79.2(c).

[4] 47 CFR § 79.2(a)(2).

[5] *See id.; see also* Consumer and Governmental Affairs Bureau, Federal Communications Commission, *Access to Emergency Information on Television* (Jan. 27, 2021), https://www.fcc.gov/consumers/guides/accessibility-emergency-information-television.

[6] Note to 47 CFR § 79.2(a)(2).

While the rule applies to emergency information primarily intended for distribution to an audience in the geographic area in which the emergency is occurring, it also may apply to emergency information provided during programming that is distributed to an area outside the area immediately affected by an emergency. This is especially likely to happen when a large-scale disaster primarily affects one region but has an impact on outlying areas.[7] Furthermore, details about an ongoing emergency must continue to be accessible to individuals with disabilities in the aftermath of an emergency to ensure that people living in the affected communities have up-to-date information, when needed, to effectively respond to the event in a manner that can protect their life, health, safety, and property. We note that the National Oceanic and Atmospheric Administration predicts above-average activity during the 2024 hurricane season, which increases the likelihood that televised alerts will be necessary.[8] These events illustrate the broad variety of potential emergencies that this rule covers and demonstrate the importance of ensuring emergency information related to these events is accessible to affected individuals with disabilities.

Individuals who are Blind or Visually Impaired. To ensure access to emergency information by persons who are blind or visually impaired, emergency information provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming must be made accessible by aurally describing the emergency information in the main audio portion of the programming.[9] When emergency information is conveyed visually during programming other than newscasts (e.g., through "crawling" or "scrolling" text during regular programming), an aural tone on the main audio stream must accompany the visual information.[10] Additionally, such visual emergency information must be conveyed aurally in full at least twice through a secondary audio stream, preceded by an aural tone on that stream.[11] Aural emergency information must supersede all other programming on the secondary audio stream, including video description, foreign language translation, or duplication of the main audio stream.[12] Finally, multichannel video programming distributors (MVPDs) must ensure that any application or plug-in that they provide to consumers to access linear programming on second screen devices (e.g., tablets, smartphones, laptops, and similar devices) over their networks as part of their MVPD services is capable of passing through an aural representation of emergency information (including the aural tone) on a secondary audio stream.[13]

Individuals who are Deaf or Hard of Hearing. Emergency information provided in the audio portion of programming also must be accessible to persons who are deaf or hard of hearing through

[7] For example, wildfires in Northwestern and central Canada have prompted air quality alerts in the Midwest United States. *See Smoke from Canadian Wildfires Reaches US, Minnesota Under Air Quality Alert*, ABC News (May 13, 2024), https://abcnews.go.com/International/smoke-canadian-wildfires-reaches-us-minnesota-air-quality/story?id=110149929.

[8] The National Oceanic and Atmospheric Administration, *NOAA Predicts Above-Normal 2024 Atlantic Hurricane Season* (May 24, 2022), https://www.noaa.gov/news-release/noaa-predicts-above-normal-2024-atlantic-hurricane-season. *See also*, Federal Communications Commission, *Chairwoman Rosenworcel Cites Preparations for Hurricane Season* (June 4, 2024), https://www.fcc.gov/document/chairwoman-rosenworcel-cites-preparations-hurricane-season (with Chairwoman Rosenworcel noting that "[d]uring crises, the importance of staying connected takes on additional urgency—and the Commission is continuing to do its part to improve communications reliability and resiliency for first responders and consumers.").

[9] 47 CFR § 79.2(b)(2)(i).

[10] *See* 47 CFR § 79.2(b)(2)(ii).

[11] *Id*.

[12] 47 CFR § 79.2(b)(5).

[13] 47 CFR § 79.2(b)(6). *See Consumer & Governmental Affairs Bureau Reminds MVPDs of July 10, 2017 Deadline to Pass Through Audible Emergency Information During Linear Programming on Second Screen Devices*, MB Docket No. 12-107, Public Notice, 32 FCC Rcd 4773 (CGB 2017).

closed captioning or other methods of visual presentation, including open captioning, crawls or scrolls that appear on the screen.[14] Visual presentation of emergency information may not block any closed captioning, and closed captioning may not block any emergency information provided by crawls, scrolls, or other visual means.[15]

VPDs that are not permitted to rely on the electronic newsroom technique (ENT) to caption live programming must provide closed captioning for emergency information presented during regularly scheduled newscasts and newscasts that interrupt regular programming.[16] VPDs should take steps to establish internal protocols to obtain closed captioning resources quickly in the event of an emergency.[17] We also emphasize that, when closed captioning services are not provided, VPDs must make emergency information accessible by some other visual presentation method.[18] Likewise, VPDs that are permitted to use the ENT method to create captions for their live programming are reminded that, because the ENT method does not automatically caption non-scripted news, they must make the emergency information accessible by some other form of visual presentation.[19]

Individuals with Cognitive Disabilities. While not required by the Commission's rules, VPDs and video programmers are encouraged to make emergency information accessible to people with cognitive disabilities, such as through using plain language and pictorial information.[20]

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[14] 47 CFR § 79.2(b)(1).

[15] *See* 47 CFR § 79.2(b)(4). We note that some state and local government officials provide American Sign Language (ASL) interpreter services during their televised emergency announcements and press conferences. To the extent this service is provided, we encourage VPDs and video programmers to ensure that the interpreter is visible on the television screen at all times in order to benefit viewers who use ASL. *See, e.g.*, National Council on Disability, *Effective Communications for People with Disabilities: Before, During, and After Emergencies*, (May 27, 2014), https://ncd.gov/publications/2014/05272014/; National Association of the Deaf, *Position Statement on Accessible Emergency Management for Deaf and Hard of Hearing People*, https://www.nad.org/about-us/position-statements/position-statement-on-accessible-emergency-management-for-deaf-and-hard-of-hearing-people/ (last visited June 10, 2024); Dylan Goforth, The Frontier, *American Sign Language Interpreters Shine During COVID-19 Press Conferences.* (April 1, 2020), https://www.readfrontier.org/stories/american-sign-language-interpreters-shine-during-covid-19-press-conferences/ (discussing the importance of the sign language interpreter at COVID-19 briefings).

[16] ENT is a technique that converts the dialogue included on a teleprompter script into captions. For purposes of determining compliance with section 79.1, the Commission's rules permit live programming to be captioned using ENT, with the exception of live programming exhibited by the major national broadcast television networks (i.e., ABC, CBS, Fox, and NBC), affiliates of these networks in the top 25 television markets, and national non-broadcast networks serving at least 50% of all homes subscribing to multichannel video programming services. *See* 47 CFR § 79.1(e)(3).

[17] *See, e.g., Obligation of Video Programming Distributors to Make Emergency Information Accessible to Persons with Hearing Disabilities Using Closed Captioning*, Public Notice, 21 FCC Rcd 15084, 15084-85 (CGB 2006) (suggesting steps that include contracting with services that can generate closed captions on very short notice, posting notices in the newsroom reminding staff to contact the designated closed captioning service at the onset of an emergency, and labeling speed-dial buttons on newsroom telephones to connect to the captioning service).

[18] *Id.* at 15085-86; *see also* 47 CFR § 79.2(b)(1).

[19] *See* 47 CFR § 79.2(b)(1); *Closed Captioning and Video Description of Video Programming; Implementation of Section 305 of the Telecommunications Act of 1996; Accessibility of Emergency Programming*, MM Docket No. 95-176, Second Report and Order, 15 FCC Rcd 6615, 6623-24, para. 16 (2000).

[20] *See Reminder Regarding Obligations to Make Televised Emergency Information Accessible to Viewers Who Are Deaf, Hard of Hearing, Blind, or Visually Impaired and Recommendations to Improve Access for Viewers with Cognitive Disabilities*, Public Notice, 31 FCC Rcd 10906, 10909-10 (CGB 2016); *see also* Consumer and Governmental Affairs Bureau, Federal Communications Commission, Individuals with Cognitive Disabilities: Barriers to and Solutions for Accessible Information and Communication Technologies (2016),

(continued….)

Consumer Complaints and Enforcement

The Commission will continue to monitor complaints alleging violations of the emergency information rules and will review them for possible enforcement action. Consumers with a complaint or request for assistance regarding the inaccessibility of emergency information may reach the FCC using the following methods:

- Online Complaint Form: www.fcc.gov/accessibilitycomplaints
- Phone: 1-202-418-2517 (voice); 1-844-432-2275 (videophone for ASL users)
- E-Mail: dro@fcc.gov
- U.S. Mail:

  Federal Communications Commission,
  Consumer and Governmental Affairs Bureau
  Disability Rights Office
  45 L Street, NE
  Washington, DC 20554

To request this Public Notice or any other 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 Bureau at 202-418-0530 (voice).

General information about access to televised emergency information is available online at: https://www.fcc.gov/general/access-emergency-information-television. To view this information via an ASL video: www.fcc.gov/TVEmergencyAccessASL. For specific questions, contact: Bill Wallace, Attorney Advisor, Disability Rights Office, 202-418-2716, William.Wallace@fcc.gov.

-FCC-

https://docs.fcc.gov/public/attachments/DOC-341628A1.pdf (FCC White Paper containing best practices for making communications accessible to people with cognitive disabilities).

PUBLIC NOTICE

Federal Communications Commission
45 L Street N.E.
Washington, DC 20554

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

DA 24-631
Released: July 1, 2024

INTERCONNECTED VOIP NUMBERING AUTHORIZATION APPLICATION FILED BY BANDWIDTH INC. PURSUANT TO SECTION 52.15(g)(3) OF THE COMMISSION'S RULES

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-127[1]

Comments Due: July 16, 2024

Bandwidth Inc. (Bandwidth or Applicant), an interconnected Voice over Internet Protocol (VoIP) provider, filed a Numbering Authorization Application (Application) pursuant to section 52.15(g)(3) of the Federal Communications Commission's rules, seeking authorization to obtain North American Numbering Plan telephone numbers directly from the Numbering Administrator.[2] In its Application, Bandwidth indicates that it intends to initially request numbers in Texas.[3]

In its Application, Bandwidth includes the contact information and acknowledgements required by section 52.15(g)(3)(ii) of the Commission's rules.[4] Bandwidth provides evidence that it will be capable of providing service within 60 days of the numbering resources activation date.[5] Bandwidth also certifies that it complies with the contribution, regulatory fee, and 911 obligations.[6] In addition, Bandwidth certifies that it has the financial, managerial, and technical expertise to provide reliable service.[7] Bandwidth further certifies that none of its key management and technical personnel are being or have been investigated by the Commission, or any law enforcement or regulatory agency, for failure to comply with any law, rule, or order.[8] Finally, Bandwidth certifies that no party to the Application is

[1] We assign WC Docket No. 24-127 for this Application and all related filings by the applicant and interested parties. *See Wireline Competition Bureau Announces Commencement Date and Process for Interconnected VoIP Providers to File Applications for Authorization to Obtain Telephone Numbers*, Public Notice, 31 FCC Rcd 949, 950 (WCB 2016).

[2] *See* Application of Bandwidth for Authorization to Obtain Numbering Resources, WC Docket No. 24-127 (filed Apr. 16, 2024), https://www.fcc.gov/ecfs/document/104160636524615/1 (Application); *see also* 47 CFR § 52.15(g)(3).

[3] Application at 2; *see also Numbering Policies for Modern Communications et al.*, Report and Order, 30 FCC Rcd 6839, 6850, para. 24 & n.74 (2015) (*VoIP Direct Access to Numbers Order*).

[4] Application at 1-8; *see* 47 CFR § 52.15(g)(3)(ii)(A)-(N).

[5] Application at 2-3, Exhibits B, C, D; *see* 47 CFR § 52.15(g)(3)(ii)(H).

[6] Application at 3; *see* 47 CFR § 52.15(g)(3)(ii)(E), (J); *see also id.* §§ 1.1154, 52.17, 52.32, 64.604(c)(5)(iii); *id.* pts. 9 and 54, subpt. H.

[7] Application at 4, Exhibit E; *see* 47 CFR § 52.15(g)(3)(ii)(K).

[8] Application at 4, Exhibit E; *see* 47 CFR § 52.15(g)(3)(ii)(K).

subject to a denial of Federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.[9]

GENERAL INFORMATION

The Application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies.

Filing Requirements. Interested parties may file 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 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 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.** 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 not sent 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 email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

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

1) DAA@fcc.gov;

2) Margoux Newman, Competition Policy Division, Wireline Competition Bureau, Margoux.Newman@fcc.gov;

3) Jordan Marie Reth, Competition Policy Division, Wireline Competition Bureau, Jordan.Reth@fcc.gov.

[9] Application at 4; *see* 47 CFR § 52.15(g)(3)(ii)(M); *see also* 21 U.S.C. § 862.

Ex Parte Rules. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[10] 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.

To allow the Commission to consider fully all substantive issues regarding the application in as timely and efficient a manner as possible, petitioners and commenters should raise all issues in their initial filings. New issues may not be raised in responses or replies.[11] A party or interested person seeking to raise a new issue after the pleading cycle has closed must show good cause why it was not possible for it to have raised the issue previously. Submissions after the pleading cycle has closed that seek to raise new issues based on new facts or newly discovered facts should be filed within 15 days after such facts are discovered. Absent such a showing of good cause, any issues not timely raised may be disregarded by the Commission.

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

- FCC -

[10] 47 C.F.R. §§ 1.1200 *et seq.*

[11] *See* 47 CFR § 1.45(c).

Federal Communications Commission
Washington, D.C. 20554

July 1, 2024

DA 24-632
In Reply Refer to:
1800B3-TSN
Released: July 1, 2024

Gerald Parks
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Michael Lazarus, Esq.
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In re: **Gerald Parks**
DWEKC(AM), Williamsburg, Kentucky
Facility ID No. 72790
Application File No. BR-20120410ABU

Petition for Further Reconsideration

Dear Applicant:

We have before us the Petition for Further Reconsideration filed by Gerald Parks (Petitioner) on March 9, 2023 (2023 Petition), requesting (i) that we authorize immediate resumption of operations for station DWEKC(AM), Williamsburg, Kentucky (Station); (ii) that we reconsider and reverse the dismissal of Petitioner's 2012 application to renew the Station license (2012 Renewal Application) and the Station license cancellation; and (iii) that we grant both the 2012 Renewal Application and the late-filed renewal application submitted through the FCC Mailroom on April 20, 2022 (2022 Renewal Submission). For the reasons set forth below, we deny the 2023 Petition, specifically (i) we deny Petitioner's request to authorize resumption of Station operations; (ii) affirm our dismissal of the 2012 Renewal Application and cancellation of the Station license; and (iii) deny Petitioner's request that we allow the untimely filing of the 2022 Renewal Submission.

Background. On April 10, 2012, Petitioner filed the 2012 Renewal Application during the 2011-2014 radio license renewal cycle.[1] As was the case with all radio license renewal applications filed during the 2011-2014 renewal cycle, Petitioner requested renewal of the Station license for the maximum license term set forth in section 307(c)(1) of the Communications Act of 1934, as amended (Act), which provides that a license renewal may be granted "for a term of not to exceed 8 years from the date of expiration of the preceding license, if the Commission finds that public interest, convenience, and necessity would be served thereby."[2] The Media Bureau (Bureau) withheld action on the 2012 Renewal

[1] Application File No. BR-20120410ABU (2012 Renewal Application). *See Media Bureau Announces Revisions to License Renewal Procedures and Form 303-S; Radio License Renewal Cycle to Commence on May 2, 2011*, Public Notice, 26 FCC Rcd 3809 (MB 2011).

[2] 47 U.S.C. § 307(c)(1) (section 307(c)(1)).

Application, in part because the Enforcement Bureau was conducting an investigation into the Station's compliance with section 73.3526 of the Commission's rules, pertaining to the maintenance of a station's public inspection file.[3] Petitioner was also delinquent in paying the Station's regulatory fees and was in "red light" status with the Office of Managing Director, thus precluding grant of the 2012 Renewal Application.[4] On April 25, 2017, Bureau staff emailed Petitioner that the Enforcement Bureau had completed its investigation, but that the red light hold remained, and that Petitioner was required to amend the 2012 Renewal Application, in which Petitioner had certified compliance with the Public File Rule, a certification which the Enforcement Bureau's investigation had determined was not accurate.[5] Petitioner took no action either to resolve the red light hold or to amend the 2012 Renewal Application.[6]

The next radio license renewal cycle ran from 2019 until 2022,[7] and license renewal applications for the Station and other radio stations in Kentucky were due on April 1, 2020.[8] The *Renewal Procedures Public Notice* explicitly stated that "Licensees with pending applications from the prior renewal cycle also are subject to these filing requirements."[9] Petitioner did not file a renewal application for the Station by the April 1, 2020, deadline.[10] On July 15, 2020, the Bureau issued a Public Notice stating that the Station's license, among others, would expire on August 1, 2020, if the listed stations did not file renewal applications.[11] Petitioner did not file a renewal application by that deadline. On August 6, 2020, the Bureau issued a CDBS public notice stating that the license for the Station had been cancelled.[12] Petitioner did not seek timely reconsideration. The Bureau also dismissed the 2012 Renewal Application on that day in the Commission's CDBS database, but did not issue a separate public notice announcing that action. Subsequently, on March 16, 2022, after Petitioner's counsel contacted Bureau staff,[13] the Bureau reinstated and granted the 2012 Renewal Application, but the accompanying public notices did not give any explanation for these actions.[14]

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[3] 47 CFR § 73.3526 (Public File Rule). *See Gerald Parks*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 15 (EB 2013); Forfeiture Order, 30 FCC Rcd 7038 (EB 2015) (finding that Petitioner had failed to comply with section 73.3526 by failing to maintain issues/programs lists in the Station's public inspection file).

[4] *See* 47 CFR § 1.1910(b)(2).

[5] Email from Michael Wagner, Assistant Chief, Audio Division, FCC Media Bureau, to Linda Hugen and Gerald Parks (Apr. 25, 2017, 8:51 AM EDT).

[6] According to the 2023 Petition, Petitioner did not reach an agreement with the Department of the Treasury regarding the Station's delinquent regulatory fees until November 2020. 2023 Petition, Attachment 2.

[7] *See Media Bureau Announces Procedures for 2019-2022 Radio License Renewal Cycle*, Public Notice, 34 FCC Rcd 2304 (MB 2019) (*Renewal Procedures Public Notice*).

[8] 47 CFR § 73.3539(a).

[9] *Renewal Procedures Public Notice*, 34 FCC Rcd at 2304.

[10] The Bureau staff sent two e-mails to Petitioner advising the Station to file a renewal application. *See* Email from Dana Butler, Audio Division, FCC Media Bureau, to Gerald Parks (Apr. 8, 2020, 3:41 PM EDT); Email from Dana Butler, Audio Division, FCC Media Bureau, to Gerald Parks (Apr. 17, 2020, 2:27 PM EDT). Petitioner does not deny receiving these emails.

[11] *Radio License Expirations*, Public Notice, 35 FCC Rcd 7007 (MB 2020) (*Expiration Warning Public Notice*).

[12] *Broadcast Actions*, Public Notice, Report No. 49796 (MB Aug. 6, 2020) (*Cancellation Public Notice*).

[13] 2022 Petition at 6.

[14] *Broadcast Applications*, Public Notice, Report No. 30200 (MB Mar. 21, 2022); *Broadcast Actions*, Public Notice, Report No. 52000 (MB Mar. 21, 2022).

On April 20, 2022, Petitioner filed a Petition for Reconsideration (2022 Petition), along with an Emergency Request for Immediate Restoration of Station Operating Authority (Emergency Request). In the 2022 Petition, Petitioner argued that the Bureau erred in reinstating and granting the 2012 Renewal Application without simultaneously rescinding the August 6, 2020, cancellation of the Station's license, claiming that this was mandated by section 307(c)(3) of the Act.[15] Petitioner stated that the Station's counsel contacted the Bureau staff regarding issuing a public notice of the dismissal of the 2012 Renewal Application, and that the reinstatement and grant of the 2012 Renewal Application was "designed to solve the FCC failure to provide public notice with respect to the 2012 Renewal Application while nominally leaving the Station license cancelled."[16] Petitioner further argued that section 307(c)(3) of the Act mandates that the Station's license continues in effect so long as the 2012 Renewal Application remains subject to agency reconsideration and judicial review.[17] Petitioner argued that the reinstatement of the 2012 Renewal Application required the Bureau to reinstate the cancelled license for the Station, which in turn would afford Petitioner the opportunity to file the required license renewal application for the 2019-2022 renewal cycle.[18]

Petitioner also argued that Petitioner was not aware of the *Expiration Warning Public Notice,* but was nonetheless not required to file a renewal application for the 2019-2022 renewal cycle because the 2012 Renewal Application was still pending, and therefore Petitioner did not have a license that expired on August 1, 2020.[19] Petitioner further argued that the *Renewal Procedures Public Notice*, of which Petitioner was also unaware, does not require a station with a pending renewal application from a previous license renewal cycle to file an additional application for the 2019-2022 renewal cycle,[20] and that such a requirement contradicts the Act.[21]

On February 7, 2023, the Bureau released its Letter Decision,[22] dismissing Petitioner's 2022 Petition as untimely to the extent it sought reconsideration of the DWEKC license cancellation and

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[15] 2022 Petition at 6 (citing 47 U.S.C. § 307(c)(3) ("Pending any administrative or judicial hearing and final decision on such an application and the disposition of any petition for rehearing pursuant to section 405 or section 402 of this title, the Commission shall continue such license in effect.")).

[16] 2022 Petition at 6. Petitioner notes that the Station's counsel was informed by the staff that the license cancellation remained in effect. *Id*.

[17] 2022 Petition at 6-7.

[18] 2022 Petition at 7.

[19] 2022 Petition at 8-9. As will be discussed below, all Kentucky radio licenses expired, at the latest, on August 1, 2020, pursuant to 47 U.S.C. § 307(c)(1).

[20] 2022 Petition at 9.

[21] Petitioner cited to the Bureau's decisions in *Pollack/Belz Communications Company, Inc.*, Forfeiture Order, 29 FCC Rcd 14635 (MB 2014) (*Pollack/Belz*), and *Magnolia State Broadcasting, Inc*., Memorandum Opinion and Order and Notice of Apparent Liability, DA 22-105 (MB 2022) (*Magnolia*), as evidence of the Media Bureau accepting a renewal application filed after the expiration of a station's license. In a Supplement to the 2022 Petition (Supplement), Petitioner cited to four additional decisions in support of the argument that the Bureau can reinstate an expired license years after cancellation and accept an untimely renewal application: *Pinebrook Corporation*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 31 FCC Rcd 11976 (MB 2016); *R&M Broadcasting Company*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 10336 (MB 2011); *Media Associates, Inc*., Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 4085 (MB 2007); and *Schweitzer Media, Inc*., Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 4095 (MB 2007).

[22] *Dennis P. Corbett, Esq.*, Letter Decision, 38 FCC Rcd 1084 (MB 2023) (*2023 Letter Decision*).

reinstatement of that license, granting in part and denying in part the 2022 Petition to the extent Petitioner alleged error in the Bureau's reinstatement and grant of the 2012 Renewal Application, dismissing as moot Petitioner's Emergency Request, and dismissing as untimely the Supplement to the 2022 Petition. The Bureau initially noted that Petitioner's filings involved two separate sets of action by the Bureau—the *Cancellation Public Notice*, which cancelled the Station's license and became final in September 2020,[23] and the staff's March 2022 reinstatement and grant of the 2012 Renewal Application, which had no effect on the Station's already-cancelled license.

The Bureau found that, in this case, the August 6, 2020, *Cancellation Public Notice* served as formal notification to Petitioner that the Commission had cancelled the Station's expired license.[24] If Petitioner sought reconsideration of the *Cancellation Public Notice*, Petitioner was required to file a petition for reconsideration or application for review by September 8, 2020.[25] Petitioner failed to file the requisite petition for reconsideration or application for review by that date, and the cancellation of the Station's license was therefore final as of September 15, 2020.[26] We found Petitioner's arguments regarding the 2012 Renewal Application did not alter the finality of the license cancellation, because the status of the 2012 Renewal Application had no bearing on the 2020 DWEKC license cancellation for failure to file a 2020 renewal application. We stated that under section 405(a) of the Act and section 1.106(f) of the rules,[27] we generally lack the authority to entertain late-filed petitions for reconsideration, and on that basis dismissed the 2022 Petition as untimely.[28]

We additionally rejected Petitioner's contention that the lack of public notice of dismissal of the 2012 Renewal Application somehow rendered the petition for reconsideration timely.[29] The 2020 dismissal of the 2012 Renewal Application was a ministerial action triggered by cancellation of the Station's license. Any error in not giving public notice of this dismissal was harmless because the dismissal had no impact on the status of the Station's license, which expired by its own terms and was formally cancelled in the *Cancellation Public Notice*. Moreover, the *Cancellation Public Notice* provided Petitioner ample notice that the Station's license had been cancelled, and Petitioner had constructive notice of this action. Petitioner offered no justification for the failure to respond to the *Expiration Warning Public Notice* or the *Cancellation Public Notice*.

With regard to the claims concerning the Commission's second set of actions—the reinstatement and grant of the 2012 Renewal Application—the Bureau recognized the error in reinstating and granting the 2012 Renewal Application, and therefore partially granted the 2022 Petition, but denied the 2022 Petition to the extent Petitioner alleged that grant of the 2012 Renewal Application allowed Petitioner to (1) file the untimely 2022 Petition, well after the August 2020 license cancellation had become final, and

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[23] 47 CFR § 1.117(a).

[24] *See* 47 CFR § 1.4(b)(4).

[25] *See* 47 CFR § 1.4(e)(1).

[26] 47 CFR § 1.117(a).

[27] 47 U.S.C. § 405(a); 47 CFR § 1.106(f).

[28] *2023 Letter Decision*, 38 FCC Rcd at 1086-87. Petitioner stated in the Supplement, "[to] the extent leave to file this Supplement is required, Parks respectfully requests that it be granted." Supplement at n.1. We interpreted this as a request to waive 47 CFR § 1.106(f) ("[t]he petition for reconsideration *and any supplement* thereto shall be filed within 30 days from the date of public notice of the final Commission action.").

[29] *Id*. at 1087-88.

(2) file a renewal application for the 2020-2028 license term when such application was actually due in 2020.[30] Accordingly, in the *2023 Letter Decision* we rescinded the reinstatement and grant of the 2012 Renewal Application, finding that the application became moot upon cancellation of the DWEKC license.[31] In addition, we rejected Petitioner's argument that Petitioner was not required to file a renewal application in 2020 due to the pendency of the 2012 Renewal Application and the fact that the 2012 Renewal Application could, at best, only have granted Petitioner a license until August 2020.[32] In the *2023 Letter Decision* we further found Petitioner's cited cases, in the 2022 Petition and Supplement, to be factually distinguishable from the present case.[33] We concluded that the Bureau "has no authority to reinstate a cancelled license once the 30-day statutory period for seeking reconsideration has elapsed," citing various policy reasons for this conclusion, including regulatory uncertainty on the part of adjacent station licensees and future auction bidders if license cancellations could be challenged in perpetuity.[34] Finally, we noted that section 307(c)(3) does not apply when a renewal application was granted without a hearing, as in this case, and that the section only applies when an application is designated for hearing.[35]

Petitioner filed the 2023 Petition on March 9, 2023, justifying the petition for further reconsideration on the ground that the Bureau had partly granted the 2022 Petition, and that therefore the 2023 Petition should not be deemed repetitious under section 1.106(k)(3) of the rules.[36] Petitioner devotes much of the 2023 Petition to the contention that the Bureau's dismissal of the 2022 Petition was arbitrary and capricious, in that it violated what Petitioner terms the "plain language" of section 307(c)(3) of the Act, further challenging the Bureau's finding that said language limited the effectiveness of that section to matters that had been designated for hearing.[37] Petitioner continues to argue that the failure to give public notice of dismissal of the 2012 Renewal Application means that the license renewal sought in that application continues in effect while it is remains unresolved, again citing section 307(c)(3).[38] Lastly, Petitioner challenges the statement in the *2023 Letter Decision* that the red light infirmity was unresolved, attaching evidence of a settlement with the Department of the Treasury in November 2020.[39]

Discussion. We deny the 2023 Petition.[40] Petitioner continues to characterize section 307(c)(3) of the Act as a form of tolling of a license term on which the Commission has yet to render a final

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[30] *Id*. at 1088.

[31] *Id*.

[32] *Id*. at 1088-89.

[33] *Id*. at 1089-91.

[34] *Id*. at 1091.

[35] *Id*. at 1091-92.

[36] 47 CFR § 1.106(k)(3). *See* Petition at 1-2.

[37] Petition at 3-7.

[38] *Id*. at 7-10.

[39] *Id*. at 7-11 and Attachment 2.

[40] We concur in Petitioner's contention that, due to our action in the *2023 Letter Decision*, 47 CFR § 1.106(k)(3) does not compel dismissal of the Petition as repetitious, which in any event is not mandatory. *See*, *e.g.*, *MTS and WATS Market Structure: Average Schedule Companies*, Memorandum Opinion and Order, 2 FCC Rcd 6642, 6643, para. 6 and n.28 (1987). *See also Amendment of Section 73.3555(e) of the Commission's Rules, National Television Multiple Ownership Rule*, Order on Reconsideration, 32 FCC Rcd 3390, 3397 n.56 (2017) ("Even if a petition is repetitious, the Commission can, in its discretion, consider it.").

decision. We decline to repeat the analysis and dismissal of Petitioner's arguments set forth in the *2023 Letter Decision*. Rather, we consider the implications of Petitioner's repeated contentions. Specifically, (1) we examine and find that Petitioner's interpretation of section 307(c)(3) conflicts with section 307(c)(1), which plainly states that broadcast licenses can be renewed for, at most, eight years beginning at the expiration date of the previous license term,[41] and (2) we hold that the practical effect of Petitioner's reading of section 307(c) leads to an unreasonable result that is contrary to statutory intent. In this, we expand upon our statement in the *2023 Letter Decision*, noting Petitioner's theory that "his own failure to comply with the Rules excused him from timely filing a renewal application during the subsequent renewal cycle," and rejecting "this novel suggestion, which would reward licensees that fail to meet their financial obligations and comply with the Rules."[42]

First, Petitioner continues to argue that the 2012 Renewal Application has yet to be finally resolved, and thus that the 2012-2020 Station license term must, under section 307(c)(3), be effectively "tolled" until such final resolution. Petitioner either ignores or dismisses the plain language of section 307(c)(1), stating in pertinent part that "[u]pon application therefor, a renewal of such license may be granted from time to time for a term of *not to exceed 8 years from the date of expiration of the preceding license*, if the Commission finds that public interest, convenience, and necessity would be served thereby."[43] Thus, if we were now to grant the 2012 Renewal Application, under section 307(c)(1) that grant would only be effective for eight years following the date of expiration of the preceding license or, in other words, until August 2020, which date has already passed. In fact, no matter what action the Bureau takes with regard to the 2012 Renewal Application, it would not change the fact that the DWEKC license still expired almost four years ago.

Moreover, Petitioner's interpretation of section 307(c)(3) is not necessary in order to harmonize sections 307(c)(1) and 307(c)(3).[44] Petitioner cites the proposition that "[a] statute would be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant . . . ."[45] Petitioner contends that section 307(c)(3) only makes sense if it ensures that a licensee is permitted to exhaust all administrative remedies before its license is cancelled.[46] However, the only reasonable reading of these two subparts of section 307 is that section 307(c)(3) prevents the Commission from cancelling a license *during the current license term*. Even assuming, *arguendo*, Petitioner's reading that section 307(c)(3) applies to any type of timely challenge to Commission action, and not just to a hearing proceeding, had Petitioner filed in September 2020 a timely petition for reconsideration of the August 2020 license cancellation, with a late-filed renewal application and request for waiver of the filing deadline, then Petitioner might argue that the August 2020-August 2028 license

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[41] 47 U.S.C. § 307(c)(1) (section 307(c)(1)).

[42] *2023 Letter Decision*, 38 FCC Rcd at 1089 n.37.

[43] 47 U.S.C. § 307(c)(1) (emphasis added). We do not treat the duration and specifications of a license term the same as the construction period and tolling provisions of an original construction permit. Under 47 CFR § 73.3598(b)(2), the three-year construction period is tolled when, *inter alia*, grant of the construction permit is the subject of administrative or judicial review. Section 307(c)(1), however, has no such tolling provision: the license term is a firm eight-year period commencing with the expiration date of the previous license.

[44] 2023 Petition at 5-6.

[45] *Hibbs v. Winn*, 542 U.S. 88, 101, 124 S.Ct. 2276, 2286 (2004) (citing 2A N. Singer, Statutes and Statutory Construction § 46.06, pp. 181-186 (rev. 6th ed. 2000)).

[46] 2023 Petition at 6.

renewal term should be continued in effect pending administrative resolution of the petition.[47] It does *not* reasonably follow that even a timely petition for reconsideration of the license cancellation—let alone Petitioner's untimely petition for reconsideration of the DWEKC license cancellation—would relate back to the full prior, already-expired license term merely because the 2012 Renewal Application had not been finally resolved during that prior license term. As stated above, under section 307(c)(1) the most that any renewal applicant could expect while challenging adverse action on its renewal application would be the full eight-year term dating from expiration of its preceding license. Petitioner in fact received the full eight-year August 2012-August 2020 license term, despite being subject to a red light for nonpayment of Commission fees during the duration of that term.[48] For Petitioner to claim entitlement to an open-ended license term, beginning in 2012 and ending only upon exhaustion of all administrative remedies, is not consistent with 307(c)(1).

Petitioner's claim, in fact, contradicts another principle of statutory construction, namely, that statutes should not be construed in a manner that contradicts the drafter's intent. A station that violates the Commission's rules through nonpayment of required fees should not receive an indefinite license term after failing to file, pay filing fees for, or provide local public notice of a renewal application,[49] when compared to a station that has paid all its fees but fails to file a renewal application. The latter's license expires at the end of the eight-year term. An applicant such as Petitioner, who fails to pay required fees or otherwise comply with Commission rules, should not receive an indefinite extension of its license that other stations do not enjoy. Yet this is the interpretation of section 307(c) of the Act that Petitioner insists is compelled by both the statutory language and Congressional intent. As suggested in the *2023 Letter Decision*,[50] to accept Petitioner's argument would signal that the inattentive and negligent are rewarded while only the law-abiding are held to the statutes and rules. Such an interpretation controverts Congressional intent when it enacted the Debt Collection Improvement Act,[51] which penalizes fee-deficient licensees rather than assisting them.

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[47] We maintain our position that, under the *Renewal Procedures Public Notice* and *Pollack/Belz*, Parks was required to file a renewal application in April 2020 notwithstanding the Bureau's inability to grant the 2012 Renewal Application due to Petitioner's inaction, including the Station's ongoing fee deficiencies, which continued until November of 2020. *See supra* notes 6, 21; 2023 Petition, Attachment 2. Despite having cited *Pollack/Belz* in support of Petitioner's arguments, *see supra* note 21, in the 2023 Petition Petitioner contends that the Bureau's citation of *Pollack/Belz* was ineffective, asserting that Bureau-level precedent that has not been approved by the full Commission only binds the parties thereto and otherwise has no precedential value, citing *Comcast Corp. v. FCC*, 526 F.3d 763, 769 (D.C. Cir. 2008) (*Comcast Corp.*). 2023 Petition at 9. In point of fact, *Comcast Corp.* stands only for the proposition that the *Commission* is not bound by Bureau-level precedent that has not been approved by the full Commission. It does not hold that the Bureau need not follow its own precedent (provided, of course, that said precedent has not been overturned by the Commission). *See Comcast Corp.*, 526 F.3d at 769 ("[A] long line of cases in this circuit . . . unambiguously holds that an agency is not bound by unchallenged staff decisions. As we stated in a recent case, '[t]here is no authority for the proposition that a lower component of a government agency may bind the decision making of the highest level.' (cites)").

[48] Petitioner was delinquent in the payment of the Station's regulatory fees when Petitioner filed the 2012 Renewal Application, and did not resolve those fee payments until November 2020, after the DWEKC license was cancelled. *See* Petition, Attachment A.

[49] 47 CFR § 73.3580.

[50] *See supra* note 42.

[51] Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996). *See generally Amendment of Parts 0 and 1 of the Commission's Rules—Implementation of the Debt Collection Improvement Act of*

It is well settled that the plain meaning of legislation should be conclusive, except in those cases in which the literal application of a statute will produce a result demonstrably at odds with the drafters' intention. In such cases, the drafters' intention, rather than strict language, controls.[52] Petitioner does not cite any legislative history or other evidence to support the proposed interpretation of section 307(c)(3), which as noted above would indicate Congressional intent to confer benefits, including indefinite license terms, on applicants delinquent in their financial obligations to the U.S. government, benefits not available to broadcasters that meet those obligations. Instead, the record makes clear that Petitioner failed to comply with Commission rules and procedures, including the aforementioned regulatory fee and public file obligations, culminating in filing a petition for reconsideration fully a year and a half after Petitioner was provided with constructive notice of DWEKC's license cancellation. Petitioner does not dispute a failure to meet those obligations;[53] rather, Petitioner offers an unsupported interpretation of section 307(c)(3) that provides for an indefinite extension of the Station's 2012-20 license term as recompense for the Bureau's failure to give public notice of the 2012 Renewal Application's subsequent dismissal. For the reasons discussed herein and in the *2023 Letter Decision*, we reject Petitioner's interpretation of section 307(c) of the Act.

Conclusion/Action. Accordingly, **IT IS ORDERED** that the Petition for Further Reconsideration filed by Gerald Parks on March 9, 2023, **IS DENIED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors, Report and Order, 19 FCC Rcd 6540 (2004).

[52] *See*, *e.g.*, *U.S. v. Ron Pair Enter., Inc.*, 489 U.S. 235, 243 (1989); *U.S. v. X-Citement Video, Inc.*, 513 U.S. 64, 68-69 (1994). *See also Mova Pharmaceutical Corp. v. Shalala*, 140 F.3d 1060, 1068 (D.C. Cir. 1998); *Absolute Broadcasting, LLC FM Translator Station DW253AF, Bennington, Vermont*, Memorandum Opinion and Order, FCC 23-38, paras. 18-19 (2023) (citing the Commission's finding, affirmed by the Court of Appeals for the District of Columbia Circuit, that a literal reading of 47 U.S.C. § 312(g), which might allow a silent station to avoid the statute's automatic license expiration by initiating unauthorized operation several states away, compelled an absurd result and was thus invalid).

[53] We note that Petitioner frequently notes the service the Station provided to its Appalachian community. *See*, *e.g.*, 2023 Petition at iii, 3, 6, and Attachment 1 to Attachment A; 2022 Petition at 3-4. We do not dispute the quality of service provided, but note that it is not a relevant factor to our analysis of Section 307(c).

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

In the Matter of	)	
	)	
Assurance Wireless, USA L.P. and	)	File No. EB-TCD- 24-00036031
T-Mobile USA, Inc.	)	
	)	
Informal Complaint Regarding	)	
Access to Telecommunications and Advanced	)	
Communications Services	)	

MODIFIED ORDER

Adopted: July 2, 2024 **Released: July 8, 2024**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Modified Order,[1] the Enforcement Bureau *sua sponte* modifies a previously adopted Order considering an informal complaint alleging that Assurance Wireless (Assurance) and its parent company, T-Mobile USA, Inc. (T-Mobile), (collectively, Company) failed to ensure that its services were accessible to and usable by persons with disabilities.[2] Specifically, the informal complaint alleges that Assurance's services were not accessible to or usable by persons with vision disabilities because the devices provided as the input and control function for the services were inoperable without vision and did not enable access to Assurance's services.

2. We conclude that Assurance, as a service provider, violated sections 255(c) and 716(b)(1) of the Communications Act of 1934, as amended (the Act), and sections 6.5(b)(1) and 14.20(a)(2) of the Commission's rules (Rules) by failing to ensure its Lifeline service is accessible to and usable by individuals with vision disabilities. In addition, we conclude that Assurance violated section 14.31(a) of the Rules by failing to create and maintain records documenting its efforts to implement sections 255, 716, and 718 of the Act with regards to its Lifeline service.[3]

II. BACKGROUND

A. Legal Background

3. Section 255 of the Act promotes accessibility to telecommunications services for individuals with disabilities.[4] In implementing section 255 of the Act, part 6 of the Rules requires service providers to ensure that its services are accessible to and usable by persons with disabilities, if "readily

[1] The modifications, herein, include redaction of information.

[2] Pursuant to section 1.113(a) of the Commission's rules, the Enforcement Bureau may, on its own motion, modify any action taken pursuant to delegated authority within 30 days after public notice of such action. 47 CFR § 1.113(a).

[3] Lifeline is a Federal Communications Commission program that, as part of the Universal Service Fund, provides qualifying low-income consumers with voice telephony service, broadband internet service, or bundled voice-broadband packages through eligible telecommunications carriers. *See* 47 CFR § 54.401.

[4] 47 U.S.C. § 255(c).

achievable."[5] Congress amended the Act by passing the Twenty-First Century Video Accessibility Act (CVAA) which expanded access requirements to include Advanced Communications Services (ACS) and enacted sections 716, 717, and 718.[6] Section 716 of the Act requires providers of ACS to ensure that its services are accessible to and usable by person with disabilities, unless the requirements are not achievable.[7] Section 717 of the Act required the Commission to adopt rules that facilitate record keeping and the filing and disposition of informal complaints alleging non-compliance with sections 255, 716, and 718.[8] Section 718 of the Act requires providers to make Internet browsers built into mobile devices accessible to and usable by individuals with disabilities.[9] In implementing the CVAA, the Commission adopted part 14 of the Rules.[10]

4. *Accessibility*. Sections 255 and 716 of the Act and parts 6 and 14 of the Rules provide separate obligations for service providers and equipment manufacturers. Equipment manufacturers are required to ensure that equipment is designed, developed, and fabricated so that the telecommunications functions of the equipment are accessible to and usable by individuals with disabilities, if readily achievable, and to the extent that the equipment is used for ACS, ensure that the equipment and software that such manufacturer offers for sale or otherwise distributes in interstate commerce shall be accessible to and usable by individuals with disabilities, unless the requirements are not achievable. Providers of telecommunications service are required to ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable,[11] and providers of advanced communications services shall ensure that such services offered by such provider in or affecting interstate commerce are accessible to and usable by individuals with disabilities, unless the requirements are not achievable.[12]

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[5] 47 CFR § 6.5(b)(2). *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996, Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities*, WT Docket No. 96-198, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417, 6461, para. 106 (1999).

[6] Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751 (2010) (as codified in various sections of 47 U.S.C.) (CVAA). The law was enacted on October 8, 2010. *See also* Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-265, 124 Stat. 2795 (2010), also enacted on October 8, 2010, to make technical corrections to the Twenty-First Century Communications and Video Accessibility Act of 2010 and the amendments made by that Act. Hereinafter, all references to the CVAA will be to the CVAA as codified in the Communications Act of 1934, as amended, unless otherwise indicated.

[7] 47 U.S.C. § 617. Section 716(e)(1) of the Act requires the Commission to promulgate such regulations that are necessary to implement its requirements which shall: "(A) include performance objectives to ensure the accessibility, usability, and compatibility of advanced communications services and the equipment used for advanced communications services by individuals with disabilities; (B) provide that advanced communications services, the equipment used for advanced communications services, and networks used to provide advanced communications services may not impair or impede the accessibility of information content when accessibility has been incorporated into that content for transmission through advanced communications services, equipment used for advanced communications services, or networks used to provide advanced communications services; (C) determine the obligations under this section of manufacturers, service providers, and providers of applications or services accessed over service provider networks; and (D) not mandate technical standards, except that the Commission may adopt technical standards as a safe harbor for such compliance if necessary to facilitate the manufacturers' and service providers' compliance with sections (a) through (c)."

[8] 47 U.S.C. § 618(a). Section 716 of the Act governs accessibility requirements for Advanced Communications Services (ACS). *See* 47 U.S.C. § 617.

[9] *Id.* § 619.

[10] *Id.* §§ 255, 617, 618; 47 CFR §§ 14.1-14.61.

[11] 47 U.S.C. § 255(c).

[12] *Id.* § 617(b)(1).

5. For a service to be accessible, the input, control, and mechanical functions shall be locatable, identifiable, and operable when assessed, independently, based on a range of disabilities, including one mode that does not require user vision.[13] In addition, service providers must ensure that "[a]ll information necessary to operate and use the product, including but not limited to, text, static or dynamic images, icons, labels, sounds, or incidental operating cues, . . . [p]rovide visual information through at least one mode in auditory form."[14]

6. *Usability.* Sections 6.3 and 14.21 of the Rules require service providers to ensure that individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation, and technical support functionally equivalent to that provided to individuals without disabilities.[15]

7. *Recordkeeping.* Section 14.31 of the Rules requires service providers subject to sections 255, 716, or 718 of the Act to create and maintain, in the ordinary course of business, records of the efforts taken to implement those respective sections. Such records shall include: (1) information about the service provider's efforts to consult with individuals with disabilities; (2) descriptions of the accessibility features of its products and services; and (3) information about the compatibility of its products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access.[16]

8. *Request for Dispute Assistance.* Section 14.32 of the Rules enables a consumer to file a Request for Dispute Assistance (RDA) with the Consumer and Governmental Affairs Bureau (CGB) if the consumer believes a service provider is in violation of section 255, 716, or 718, or the applicable Rules.[17] Commission staff will forward the RDA to the relevant service provider, and assist the parties in reaching a settlement.[18] If the matter is not resolved within thirty days, the consumer may file an informal complaint with the Enforcement Bureau (Bureau).[19]

9. *Informal Complaint.* Pursuant to section 14.34 of the Rules, a party may file an informal complaint against a service provider alleging violations of sections 255, 716, or 718 of the Act.[20] Once an informal complaint is filed, the Commission will investigate the alleged violations and, within 180 days of the complaint, issue an order finding whether the service provider violated the relevant statutory provision(s) or Rule(s), and provide a basis therefore, unless such complaint is resolved before that time.[21] If the Commission determines that there has been a violation, it may in such order, or in a subsequent order: (1) direct the service provider to bring the service into compliance within a reasonable period of time; and (2) take other enforcement action that the Commission deems appropriate.[22] The Rules provide the service provider an opportunity to comment on the proposed remedial action before such action becomes final.[23]

[13] 47 CFR §§ 6.3(a)(1), 14.21(b)(1).

[14] *Id.* §§ 6.3(a)(2), 14.21(b)(2).

[15] *Id.* §§ 6.3(l), 14.21(c).

[16] *Id.* § 14.31(a).

[17] *Id.* § 14.32(a).

[18] *Id.* § 14.32(c), (d).

[19] *Id.* §§ 14.32(e),14.34(a).

[20] *Id.* § 14.34(a).

[21] 47 U.S.C. § 618(a)(3)(B); *see also* 47 CFR§ 14.37(a).

[22] 47 U.S.C. § 618(a)(3)(B)(i); *see also* 47 CFR § 14.37(b)(2).

[23] 47 CFR § 14.37(c).

10. In establishing the informal complaint rules, the Commission imposed minimum requirements for filing informal complaints.[24] Pursuant to section 14.34(b) of the Rules, the complaint must contain, at minimum: (1) contact information for both the complainant and the manufacturer or service provider; (2) a statement of facts explaining why the complainant contends that the defendant provider is in violation of sections 255, 716, or 718 of the Act, and the relief requested; (3) the date(s) on which the complainant either purchased, acquired, or used (or attempted to purchase, acquire, or use) the equipment or service about which the complaint is being made; (4) a certification that the complainant submitted a Request for Dispute Assistance (RDA) at least 30 days before it filed the complaint; (5) the complainant's preferred method of response to the complaint; and (6) any other information that is required by the Commission's accessibility complaint form.[25]

11. Once the complainant establishes a *prima facie* case by including the elements identified in section 14.34(b) of the Rules, the burden of proof shifts to the service provider to prove that its service is accessible, or, if not accessible, that accessibility is not readily achievable or not achievable.[26] The Rules require service providers to submit records documenting efforts to make a product accessible and usable to support its claims of compliance or demonstrating that it was not readily achievable to make a product accessible.[27] Conclusory and unsupported claims are insufficient to carry this burden of proof; a service provider must be able to demonstrate its efforts through its records.[28]

B. Factual Background

12. Assurance is an Eligible Telecommunications Carrier (ETC) that provides Lifeline service in over 40 states as part of a service bundle that includes a free mobile phone, unlimited text messaging, 1,000 talk minutes, and 4.5GB of Data (Lifeline Service Package).[29] Kenneth Geaniton (Mr. Geaniton or Complainant), a {[ ]} consumer, subscribed to Assurance's Lifeline service and had been a customer since {[ ]}.[30] In {[ ]}, Mr. Geaniton was unable to access his Lifeline service because his feature phone, i.e., a non-smartphone, ceased to work.[31] {[

[24] *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*; *Amendments to the Commission's Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996*; *Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket No. 10-213; WT Docket No. 96-198; CG Docket No. 10-145, Report and Order and Further Noticed of Proposed Rulemaking, 26 FCC Rcd 14557, 14661, para. 245 (2011).

[25] 47 CFR § 14.34(b).

[26] *Id.* § 14.36(a).

[27] *Id.* § 14.36(a), (b)(2) ("To carry its burden of proof, a manufacturer or service provider must produce documents demonstrating its due diligence in exploring accessibility and achievability . . . throughout the design, development, testing, and deployment stages of a product or service.").

[28] *Id.* § 14.36(a).

[29] Informal Complaint Response from Sara Baxenberg, Counsel to T-Mobile USA, Inc., to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, at 12 (Feb. 1, 2024) (Informal Complaint Response) (on file in EB-TCD-24-00036031). Response to Letter of Inquiry, from T-Mobile, to Kristi Thompson, Chief Telecommunications Consumers Division, FCC Enforcement Bureau, at 4, Response to Question 7 (Apr. 4, 2024) (on file in EB-TCD-24-00036031) (LOI Response).

[30] *See* Informal Complaint Response, *supra* note 29, at TMOCVAA00000032. Material set off by double brackets {[ ]} is confidential and is redacted from the public version of this document.

[31] *See* Kenneth Geaniton, Informal Complaint Filed Pursuant to 47 CFR §14.34 against Assurance Wireless at 4 (dated Jan. 10, 2024) (on file in EB-TCD- 24-00036031) (Informal Complaint). *See also*, Informal Complaint Response at 15 {[ ]}, which corroborates Mr. Geaniton informing the Bureau that he began to experience device issues as early as {[ ]}).

]}[32] Mr. Geaniton advised Assurance that due to {[ ]} he could not operate a smartphone and preferred a flip-phone (feature phone) with tactile buttons and a screen reader.[33]

13. On May 11, 2021, Mr. Geaniton filed an RDA with CGB, seeking to resolve his accessibility issue with his Assurance Lifeline service by requesting a feature phone with tactile buttons and a screen reader.[34] To resolve the RDA and work with Mr. Geaniton based on his personal situation, the Company {[

]}[35] This required Assurance to de-enroll Mr. Geaniton from the Lifeline program and make him a T-Mobile subscriber with a post-paid plan.[36] {[

]}[37]

14. On December {[ ]}, 2022, Mr. Geaniton's {[

]} {[ ]}[38] On March 8, 2023, Mr. Geaniton received a {[ ]}, a feature phone from Assurance; however, the phone was not activated, and he could not make or receive phone calls.[39] {[ ]}, Mr. Geaniton was still unable to make or receive calls{[ ]}.[40] {[

]}[41] On May 10, 2023, Mr. Geaniton submitted another RDA alleging that he continued to be unable to make or receive calls because the {[ ]} still had not been activated.[42] {[

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[32] Informal Complaint Response at 15, *supra* note 29, and TMOCVAA00000017. {[

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[33] *See* Informal Complaint, *supra* note 31.

[34] Informal Complaint Response, *supra* note 29, at 15-16.

[35] *Id.*; *see also id.* at TMOCVAA00000001 (Letter from Shellie Blakeney, Director, Government Affairs, T-Mobile USA, Inc., to Sherita Kennedy, Disability Rights Office, Federal Communications Commission (Aug. 4, 2021)).

[36] Informal Complaint, *supra* note 31.

[37] Informal Complaint Response, *supra* note 29, at 16. {[

]}{[ ]} Mr. Geaniton filed an RDA requesting either an Assurance accessible device or T-Mobile service equivalent to Assurance's Lifeline service. {[

]}

[38] *Id. supra* note 29, at 18. {[

]} However, Universal Service Administrative Company (USAC) records provided to the Bureau show that Mr. Geaniton has only had Assurance Wireless as his Lifeline provider. *See* E-mail from FCC Inquiries, USAC, to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (May 22, 2024, 12:42 EDT) (USAC E-mail).

[39] Informal Complaint, *supra* note 31, at 5. *See also* Informal Complaint Response, *supra* note 29, at TMOCVAA00000044.

[40] Informal Complaint Response, *supra* note 29, at TMOCVAA00000055.

[41] *Id.* at TMOCVAA00000063.

[42] Informal Complaint, *supra* note 31, at 5. {[

]}. LOI Response, supra note 29, at 16, Response to Question 22. *See also* 47 CFR § 54.405(e)(3).

]}[43] However, a Company representative {[
]}.[44] To provide a device with a screen reader, the Company identified {[ ]}.[45] {[ ]}, Assurance issued Mr. Geaniton a {[ ]} that Mr. Geaniton {[ ]}.[46] {[
]}

15. On September 9, 2023, Mr. Geaniton alleged that his service was again interrupted and he was unable to make or receive calls.[47] Mr. Geaniton contacted Assurance and was informed that it was {[ ]} congestion and it would pass in a few hours, i.e., his service would be operable.[48] {[ ]}[49] However, {[
]}[50] Mr. Geaniton subsequently submitted another RDA on October 20, 2023.[51] {[
]}[52] The Company's{[
]}.[53] Mr. Geaniton states that the service was restored until {[ ]}, when Mr. Geaniton again experienced an additional service interruption and subsequently filed an Informal Complaint (Complaint) with the Bureau.[54]

[43] Informal Complaint Response, *supra* note 29, at TMOCVAA00000063 {[
]}.

[44] *Id*. *See also* Informal Complaint Response, *supra* note 29, at 18 {[
]}

[45] *Id.* at 18 and at TMOCVAA00000063.

[46] *Id.* at TMOCVAA00000064. {[
]}

[47] Informal Complaint, *supra* note 31, at 3; Informal Complaint Response, *supra* note 29, at 19 and at TMOCVAA00000067.

[48] *Id*.

[49] Informal Complaint Response, *supra* note 29, at 20.

[50] LOI Response, *supra* note 29, at TMOCVAA00000475, Response to Question 22 and Document Request 28 {[
]}

[51] Informal Complaint, *supra* note 31, at 5.

[52] *Id.* at 5. *See also* Informal Complaint Response, *supra* note 29, at 20 and at TMOCVAA00000071.

[53] Informal Complaint Response, *supra* note 29, at 20. *See also,* Informal Complaint, *supra* note 31, at 5. (Mr. Geaniton alleges that the device's screen reader was not functioning and he was therefore unable to identify that {[ ]} was activated.)

[54] *See generally* Informal Complaint, *supra* note 31.

16. On January 12, 2024, the Bureau served the Complaint on the Company.[55] On February 1, 2024, the Company filed its Response to the Complaint.[56] On February 29, 2024, the Bureau issued a Letter of Inquiry (LOI) to the Company requesting additional information and supporting documentation about Assurance's wireless services and its customer and technical support services.[57] The Company filed its LOI response on April 1, 2024, with supplemental filings submitted on April 18, May 3, and May 9, 2024.[58]

III. DISCUSSION

A. Establishing a *Prima Facie* Case

17. Assurance provides services that allow users to make and receive calls, utilize electronic messaging, access broadband internet, and make use of interoperable video conferencing.[59] As a result, Assurance is a provider of both telecommunications services[60] and advanced communication services (ACS),[61] and therefore, Assurance is subject to the requirements of sections 255(c) and 716(b) of the Act and sections 6.5(b)(1) and 14.20(a)(2) of the Rules.

18. Mr. Geaniton's Complaint alleges that Assurance failed to provide: (1) accessible and usable wireless service; (2) an accessible device; and (3) customer service and technical support that provided him the detailed information that would allow him to operate the function Assurance provided to control Assurance's services, i.e., a wireless phone.[62]

19. The Company alleges that Mr. Geaniton did not make a *prima facie* case because the Complaint failed to allege that (1) Assurance or T-Mobile offered no accessible devices; (2) a feature of the T-Mobile network impedes the use of accessibility features; and (3) he could not access customer service or technical support due to his disability.[63] However, section 14.34(b) of the Rules does not require complainants to include such specificity.[64] Complaints filed pursuant to section 14.34, must meet a minimum set of requirements, and Mr. Geaniton's Complaint contained all of the required information. Mr. Geaniton's Complaint contained: (1) contact information for Mr. Geaniton and Assurance; (2) a statement of facts explaining why Mr. Geaniton contends that Assurance is in violation of sections 255, 716, or 718, and the relief requested; (3) the dates on which Mr. Geaniton used or attempted to use

[55] Letter from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Shellie Blakeney, Technology and Engineering Policy, T-Mobile USA Inc., Scott Freiermuth, Government Affairs, T-Mobile USA, Inc. (Jan. 12, 2024) (on file in EB-TCD-24-00036031).

[56] Informal Complaint Response, *supra* note 29.

[57] Letter of Inquiry from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Sara Baxenberg, Counsel for T-Mobile USA, Inc. (Feb. 29, 2024) (LOI).

[58] LOI Response, *supra* note 29; Supplemental Response to FCC Inquiry from Sara Baxenberg, Counsel to T-Mobile USA, Inc., to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Apr. 18, 2024) (on file in EB-TCD-24-00036031) (April Supplemental LOI Response); Response to FCC Follow-Up Inquiries from Sara Baxenberg, Counsel to T-Mobile USA, Inc., to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau (May 3, 2024) (on file in EB-TCD-24-00036031); Second Supplemental Response to FCC Letter of Inquiry from Sara Baxenberg, Counsel to T-Mobile USA, Inc., to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, (May 9, 2024) (on file in EB-TCD-24-00036031).

[59] 47 U.S.C. §§ 255(c), 617(b); 47 CFR §§ 6.5(b)(1), 14.20(a)(2).

[60] 47 CFR § 6.3(k).

[61] *Id.* § 14.10(c).

[62] *See generally* Informal Complaint, *supra* note 31.

[63] Informal Complaint Response, *supra* note 29, at 26.

[64] 47 CFR § 14.34(b). *See also supra* para. 7.

Assurance's service; (4) a certification that Mr. Geaniton submitted an RDA at least thirty days before he filed the Complaint; (5) Mr. Geaniton's preferred method of response to the complaint; and (6) additional information as requested by the Commission's accessibility complaint form.[65] Therefore, Mr. Geaniton's Complaint established a *prima facie* case.

B. Assessing the Accessibility and Usability of Assurance's Lifeline Service

20. Pursuant to section 14.36(a) of the Rules, once the *prima facie* case is established, the burden of proof shifts to Assurance to prove that its service was accessible to and usable by individuals with disabilities. The Company failed to meet its burden of proof.

21. The Company asserts that it is solely responsible for the accessibility of the service and its service is accessible to and usable by persons with disabilities.[66] The Company argues that: (1) any device issue is the obligation of the manufacturer; and (2) no aspect of the Company's network impedes the use of a device's accessibility features.

22. We agree with the Company's assertion that sections 255 and 716 of the Act, and parts 6 and 14 implementing Rules establish separate obligations for equipment manufacturers and service providers. We find that Assurance cannot be held liable for obligations of an equipment manufacturer since it does not make or produce the devices provided to users. However, Assurance is responsible for its end-to-end service, regardless of the devices the Company chooses to provide to users.

23. In assessing the accessibility and usability of Assurance's services, we look at the end-to-end service provided to customers with vision disabilities, including the integral role the device(s) provided by Assurance play in the provision of the services. Here, the Lifeline Service Package included a wireless device that served as the input/control function to access Assurance's services. Under both part 6 and part 14 of the Rules, in order to meet the accessibility requirement the services' input, control, and mechanical functions must be locatable, identifiable, and operable, with at least one mode not requiring vision to operate.[67] Without an operable device, a consumer is not able to access and use Assurance's Lifeline service.

24. During the relevant period, Assurance {[ ]} customers could only access Assurance services using the devices Assurance provided. Between {[ ]}, the Company provided Mr. Geaniton with {[ ]} devices following Mr. Geaniton's various complaints regarding service interruptions.[68] The record shows that while Mr. Geaniton was initially provided a smartphone with a screen reader, he explained to

[65] Informal Complaint, *supra* note 31. *See also supra* para. 10.

[66] Informal Complaint Response, *supra* note 29, at 11-14 (stating that the Company's telecommunication services are "inherently accessible to persons with vision-related disabilities, as voice communication by its nature does not rely on user vision" and that the Company makes available: (1) device user guides online on its website, (2) alternative versions of user guides such as large print or Braille, and (3) additional resources such as "information about accessibility features for its devices, contact information for customer care and to obtain access to directory services for blind customers, information about access to TRS.). We note that because the Company alleged that the service is accessible, neither the Company nor the Bureau need to conduct an achievability analysis. Such an analysis is done when a service provider claims the service is not accessible. *See* 47 CFR §§ 6.5(b)(1), 14.20(a)(2), and 14.36(a).

[67] 47 CFR §§ 6.3(a)(1)(i), 14.21(b)(1)(i).

[68] LOI Response, *supra* note 29, at 12, Response to Question 20. Assurance informed the Bureau it provided Mr. Geaniton with {[ ]}.

the Company why he could not use such a device and preferred a feature phone with tactile buttons.[69] The Commission's Rules do not require a service provider to provide a phone and in particular, a certain type of phone.[70] Rather, the Rules require Assurance to provide accessible service, which in this case includes having input/control functions that can be operated without vision.[71] Once the Company decided to replace the initially provided smartphone with a variety of devices, Assurance's services were not accessible to and usable by Mr. Geaniton. As a person with a {[ ]}, Mr. Geaniton, for extended periods of time, was unable to access and use Assurance's services with the device(s) provided as for the input/control function. The Company also failed to demonstrate that it provided to Mr. Geaniton the information necessary to operate and use the service.[72] The Company provided the Bureau with {[ ]}.[73] Those {[ ]} are not dispositive here, however. Even if the *devices* had one mode that was operable without vision, Assurance is a *service* provider and as such it had a responsibility under the Rules to ensure that the devices it provided to Mr. Geaniton—as the input/control function to the service—were appropriately integrated into and synced up with the Lifeline service provided by Assurance to Mr. Geaniton.[74] Had Assurance taken steps to that end, it would have ensured that its service could be accessed, controlled, and operated by persons without vision. Assurance has provided no evidence that it took any such steps, however, nor has it provided any other evidence that its service was operable without vision. Indeed, the only pertinent evidence that is in the record—Mr. Geaniton's inability to use the devices provided to him to enable access to Assurance's service—strongly suggests that Assurance's service was not operable without vision. For example, the Company provided a {[ ]} which contains a screen reader functionality, however, it is not evidenced that the device was successfully provisioned to the network nor does the record indicate that Mr. Geaniton was able to access and use Assurance's service through the {[ ]}.[75] The Company subsequently provided a {[ ]}, which does not contain a screen reader functionality, and the Company failed to produce information regarding its operability without vision.[76] Finally, the Company provided Mr. Geaniton with {[

[69] Informal Complaint, *supra* note 31 (citing to RDA # 4770242, RDA # 5377289, and RDA #6211456, attachments to Informal Complaint stating that the Company provided an {[ ]}).

[70] 47 CFR §§ 6.5(b), 14.20(a).

[71] *Id*. §§ 6.3(a)(1), 14.21(b)(1).

[72] Informal Complaint Response, *supra* note 29, at 13; *see also* Informal Complaint Response, *supra* note 29, at TMOCVAA00000051 - TMOCVAA00000063 {[ ]} *See also*, LOI Response, *supra* note 29, at TMOCVAA00000436 – TMOCVAA0000466. {[ ]} The records produced insufficiently demonstrate the accessibility features contained in the device or how to effectively enable/use the feature).

[73] LOI Response, *supra* note 29, at 12, response to question 21. *See also* Informal Complaint Response, *supra* note 29, at 13.

[74] 47 CFR §§ 6.5(b), 14.20(a)(2); *see also*, 47 CFR §§ 6.3(a)(2), 14.21(b)(2).

[75] LOI Response, *supra* note 29, at TMOCVAA00000265 – TMOCVAA0000319. *See generally* Informal Complaint Response, *supra* note 29, at TMOCVAA00000029 – TMOCVAA0000056.

[76] *See e.g.*, Informal Complaint Response, *supra* note 29, at 13, 18 and at TMOCVAA00000063. {[ ]} *See also*, LOI Response, *supra* note 29, at 13.

]}.[77]

25. Because the device(s) Assurance provided was/were not operable, the Company's services were not accessible to or usable by Mr. Geaniton. Whether the Company offered a variety of accessible phones or a single accessible phone, Assurance is required to ensure that the service's input/control function(s), which Assurance chose to furnish via the device(s) it provided to customers to use its service, was accessible to and usable by persons with vision disabilities. In each instance described above, from {[ ]} through {[ ]}, the Assurance-provided device that served as the required input/control for the Lifeline service was inoperable by Mr. Geaniton for various reasons. When the devices failed to enable access to Assurance's service, and the Company failed to provide Mr. Geaniton with information that enabled him to use the service, Assurance's service was not accessible to and usable by Mr. Geaniton.

26. While Mr. Geaniton engaged with Company representatives numerous times to address the various issues he experienced, the Company was not able to provide him with detailed information on the device's accessibility features so that he would be able to access and use Assurance's services.[78] Assurance customer service/technical support also apparently did not adequately track the history of customer issues and actions previously taken to resolve those issues.[79] In several instances, representatives were unaware of previous actions {[ ]}. For example, Mr. Geaniton stated that the Company's representative did not know that in order to give him access to Assurance's services, the Company {[ ]}.[80] Additionally, on several occasions, the Company {[ ]}.[81] The Company's inability to provide effective customer service/technical support led to a lack of continuity in its efforts and significant delays in resolving issues and providing Mr. Geaniton with access to working service.

27. The Company notes that it relies on {[ ]} to ensure the accessibility and usability of any of the provided devices.[82] The Company relies on {[ ]} at its own risk. {[ ]} do not provide a defense if the Company's services are not accessible because the devices Assurance provided for input/control of its services are not operable to persons without vision.

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[77] *See generally*, Informal Complaint, *supra* note 31. *See also* Informal Complaint Response, *supra* note 29, at 19-21.

[78] *See, e.g.*, April Supplemental LOI Response, *supra* note 58, at TMOCVAA00001011, Response to Document Request 29. {[

]}

[79] The Act and Rules do not require Assurance to track complaints or customer history. However, the Bureau contends that failing to do so may cause preventable delays in resolving accessibility matters, particularly in instances where the Company chooses to use {[ ]} to ensure the accessibility and usability of its service.

[80] Informal Complaint, *supra* note 31, at 2.

[81] *Id*. at 4 {[ ]}. {[

]} *See also*, April Supplemental LOI Response, *supra* note 58, at TMOCVAA00001012, Response to Request for Documents 29.

[82] Informal Complaint Response, *supra* note 29, at 13.

28. Mr. Geaniton never claimed that the Company's {[ ]}[83] We note, however, that the Company failed to explain the cause of the{[ ]} issue(s) that resulted in Mr. Geaniton having no service for an extended period of time.[84] The basis for the Company's claim that it provided customer service and technical support exceeding that of which is provided to non-disabled persons is also not clear. {[ ]}, this came after over a year of service interruptions and his filing of five (5) RDAs with the CGB.[85] A simple question may have disclosed the nature of Mr. Geaniton's problem. However, because of what appears to be {[ ]} with the accessibility features on the input/control mechanism, i.e., the device, the Company did not discover the true nature of a simple problem until Mr. Geaniton {[ ]}.

29. Assurance is required to ensure that Mr. Geaniton possessed all the information necessary to operate and use its Lifeline service.[86] Assurance failed to provide Mr. Geaniton with information on how to establish and maintain Lifeline service and failed to instruct Mr. Geaniton on how to navigate the Lifeline service when the provided device is not operable. These failures resulted in numerous instances where Mr. Geaniton was not able to troubleshoot service disruptions with or without the assistance of customer service and technical support.[87] Additionally, Assurance failed to inform Mr. Geaniton that {[ ]}, could potentially result in prolonged periods of service disruption. While we acknowledge that the Company {[ ]} for Mr. Geaniton {[ ]}, {[ ]} resulted in Mr. Geaniton experiencing significant periods of time without access to Assurance's services.

C. Recordkeeping Obligation

30. The Company should be able to support its claims that Assurance's services are accessible to and usable by persons without vision by producing documentation of the actions taken to ensure accessibility and usability. Section 14.31 of the Rules require service providers to create and maintain a record of the efforts taken to implement sections 255, 716, and 718 of the Act.[88] The Company {[

[83] *Id*. at 27.

[84] *Id*. at 15-21.

[85] Informal Complaint, *supra* note 31, at 3.

[86] 47 CFR §§ 6.5(b), 14.20(a)(2); *see also*, 47 CFR §§ 6.3(a)(2), 14.21(b)(2) (pursuant to the obligations set forth in sections 6.5 and 14.20, the service provider must satisfy the requirements of Accessible as established by sections 6.3 and 14.21).

[87] For example, because the screen reader on the{[ ]} provided by Assurance was not working, Mr. Geaniton would not have been able to identify that {[ ]}. *See* Informal Complaint, *supra* note 31, at 5. And Assurance's troubleshooting failed to consider whether {[ ]} was a factor in the service disruption. Mr. Geaniton's inability to determine that {[ ]}, potentially impeding his ability to access the service highlights how even basic information on how the device interacts with the service could have assisted him.

[88] 47 CFR § 14.31(a) requires that "[e]ach manufacturer and service provider subject to section 255, 716, or 718 of the Act, must create and maintain, in the ordinary course of business and for a two years period from the date a product ceases to be manufactured or a service ceases to be offered, records of the efforts taken by such manufacturer or provider to implement sections 255, 716, and 718 with regard to this product or service, as applicable, including: (1) Information about the manufacturer's or service provider's efforts to consult with individuals with disabilities; (2) Descriptions of the accessibility features of its products and services; and (3) Information about the compatibility of its products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access."

]}[89] These {[ ]} to provide records pursuant to its recordkeeping obligation.[90] The Company did not provide any documentation that exhibits: (1) information about the Company's efforts to consult with individuals with disabilities; (2) descriptions of the accessibility features of its services; and (3) information about the compatibility of its products and services with peripheral devices or specialized customer premise equipment commonly used by individuals with disabilities to achieve access. While service providers have great flexibility in determining what records to create and maintain to reflect its accessibility efforts, such records should be relevant and capable of being used as part of an entity's response to allegations of non-compliance. The Company failed to produce to the Bureau any records that would reflect any efforts documenting that its services were accessible to and usable by persons with vision disabilities, and particularly with regard to the devices provided to Mr. Geaniton as the input/control mechanisms for Assurance's services. Without such documentation, the Company has failed to produce evidence to support its claims of service accessibility and compliance with its recordkeeping obligations.

31. We find that: (1) Mr. Geaniton established a *prima facie* case by meeting the informal complaint requirements set forth in section 14.34 of the Rules; (2) Assurance failed to meet its burden of proof that its services are accessible to and usable by persons with vision disabilities; and (3) Assurance failed to create and maintain in the ordinary course of business a record of its accessibility efforts.[91] As a result, Assurance failed to demonstrate its compliance with sections 255 and 716 of the Act and sections 6.5(b), 14.20(a), and 14.31(a) of the Rules.

IV. PROPOSED REMEDY

32. Section 717 of the Act authorizes the Commission to direct a service provider to bring its service into compliance with our accessibility rules if the Commission determines that the service provider has failed to comply with sections 255 or 716 of the Act.[92] In accordance with our rules, we therefore propose the following remedies to ensure that Assurance complies with the requirements of sections 255 and 716 of the Act and sections 6.5(b) and 14.21(a) of the Commission's Rules. We propose to require Assurance to:

a. identify a device(s) that has been tested and confirmed to be (1) accessible to Mr. Geaniton, (2) compatible with Assurance's network, and (3) enables Mr. Geaniton to reliably access and use Assurance's Lifeline service;

b. make publicly available the information regarding the accessibility features associated with the devices Assurance provides or makes available to customers subscribed to its Lifeline service;

c. enhance its customer support to provide customers with accessibility issues access to trained personnel capable of providing accessibility information and troubleshooting issues that make Assurance's service unusable to consumers with disabilities;

d. establish a specialized group to be responsible for assisting users who need/use accessibility features and to make these specialized resources available to consumers through an email address, specialized "chat" button, or phone; and

e. implement a complaint system that tracks complaints alleging accessibility issues and allows Assurance to identify accessibility complaint trends and allows representatives working with

[89] Informal Complaint Response, *supra* note 29, at 13, 24 {[ ]}.

[90] *Id*.

[91] 47 CFR § 14.36.

[92] 47 U.S.C. §§ 617, 618(a)(3)(B); *see also* 47 CFR § 14.37(b)(1).

a consumer to have access to what actions/steps have already been taken to assist a consumer in resolving an issue.

33. Pursuant to section 14.37(c) of the Rules, we provide Assurance thirty (30) days from the date this Order is released to comment. Following the opportunity to comment on the proposed remedy, the Bureau may issue an order, consistent with the findings herein, setting forth the remedy (Remedy Order).

V. ORDERING CLAUSES

34. Accordingly, **IT IS ORDERED** that, pursuant to sections 255, 716, and 717 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 255, 617, 618, and sections 6.5(b), 14.20(a), and 14.37 of the Commission's rules, 47 CFR §§ 6.5(b), 14.20(a), 14.37, the Complaint filed against Assurance Wireless, USA L.P. and T-Mobile USA, Inc., **IS GRANTED** to the extent described herein.

35. **IT IS FURTHER ORDERED** that this Order is effective upon release.

36. **IT IS FURTHER ORDERED** that a copy of this Order be served sent by first class mail and certified mail, return receipt requested, to Scott Freiermuth, Government Affairs, T-Mobile, USA Inc., by mail at 6450 Sprint Parkway Overland Park, KS 66251, by email at scott.r.freiermuth@t-mobile.com, and Shellie Blakeney, Technology and Engineering Policy, T-Mobile, USA Inc., by mail 6450 Sprint Parkway Overland Park, KS 66251, by email at shellie.blakeney@t-mobile.com.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Pine City Radio, LLC	)	Facility ID 8605
Licensee of WHOD(FM),	)	FRN: 0027205848
Jackson, Alabama	)	
	)	
and	)	
	)	Facility ID 8607
WBMH(FM), Grove Hill, Alabama	)	FRN: 0027205848

ORDER TO PAY OR TO SHOW CAUSE

Adopted: July 2, 2024 **Released: July 2, 2024**

By the Chief, Media Bureau and the Managing Director, Office of Managing Director:

I. INTRODUCTION

1. By this Order to Pay or to Show Cause, we initiate a proceeding to revoke the licenses held by Pine City Radio (Licensee) for WHOD(FM), Jackson, Alabama and WBMH(FM), Grove Hill, Alabama (Stations), for failure to pay delinquent regulatory fees and associated interest, administrative costs, and penalties owed to the Federal Communications Commission (Commission). For the reasons set forth below, we direct Licensee to pay the overdue regulatory fees, including any associated interest, penalties, and administrative costs, or show cause why the payment demanded is inapplicable or should otherwise be waived or deferred.

II. DISCUSSION

2. Under section 9 of the Communications Act of 1934, as amended (Act), and section 1.1151 of the Commission's rules (Rules), the Commission is required to "assess and collect regulatory fees" to recover the cost of carrying out the functions of the Commission."[1] When the required payment is received late or is incomplete, the Commission must assess a penalty equal to "25 percent of the amount of the fee which was not paid in a timely manner."[2]

3. For fiscal year (FY) 2020, the deadline for paying regulatory fees was September 28, 2020;[3] for fiscal year (FY) 2021, it was September 27, 2021;[4] for FY 2022, it was September 30, 2022;[5] for fiscal year (FY) 2023, it was September 20, 2023.[6] When Licensee failed to pay or only partially paid

[1] 47 U.S.C. § 159(a)(1); 47 CFR § 1.1151.

[2] 47 U.S.C. § 159A(c)(1); 47 CFR § 1.1164.

[3] *Regulatory Fee Filing Window is Extended to Monday, September 28, 2020,* Public Notice, DA 20-1131, 35 FCC Rcd 10466 (OMD September 24, 2020). *Payment Methods and Procedures for Fiscal Year 2020 Regulatory Fees*, Public Notice, DA 20- 1032, 35 FCC Rcd 9456 (OMD September 4 , 2020).

[4] *Regulatory Fee Filing Window is Extended to Monday, September 27, 2021*, Public Notice, DA 21- 1201, 36 FCC Rcd 13907 (OMD September 24, 2021).

[5] *Fiscal Year 2022 Regulatory Fee Filing Deadline is Extended to Friday, September 30, 2022, for All Regulatory Fee Payors*, Public Notice, DA 22-1023, 37 FCC Rcd 11154 (OMD September 28, 2022).

[6] *Payment Methods and Procedures for Fiscal Year 2023 Regulatory Fees*, Public Notice, DA 23- 765, 2023 WL 5541802 (OMD August 28, 2023).

its regulatory fees by these deadlines, the Commission assessed charges that included the statutory late payment penalty required by the section 9A(c)(1) of the Act[7] and section 1.1164 of the Rules,[8] and interest and administrative costs set forth in section 3717 of the Debt Collection Improvement Act of 1996 (the DCIA) and section 1.1940 of the Rules.[9]

4. The Commission's records show that Licensee currently has unpaid regulatory fee debt for WHOD(FM) of $1,565.37 for FY 2020; $1,565.41 for FY 2021; $1,697.28 for FY 2022; and $1,550.00 for FY 2023; and unpaid regulatory fee debt for WBMH(FM) of $1,373.69 for FY 2020; $1,372.94 for FY 2021; $1483.49 for FY 2022; and $1,356.25 for FY 2023. Additional interest and other charges will continue to accrue on these debts until they are paid in full. The Commission sent Licensee demand letters in accordance with the requirements of the DCIA demanding payment of Licensee's delinquent regulatory fees.[10] When Licensee did not pay its regulatory fee debts for FYs 2020, 2021, and 2022, the Commission transferred those debts to the United States Department of Treasury (Treasury) for collection.[11] At the Commission's request, the United States Department of Treasury has returned all of the previously transferred regulatory fee debts to the Commission for further collection. Additionally, please note that our records show there is an overpayment of $105.40 under this FRN,[12] which the Commission will apply to reduce Licensee's delinquent regulatory fee debt, upon written instruction from Licensee.[13]

5. The Commission has authority under section 9A(c)(4) of the Act to revoke licenses and authorizations for failure to pay regulatory fees (or related interest and penalties) in a timely fashion. Accordingly, we require Licensee to file with the Media Bureau documented evidence within sixty (60) calendar days of the date of this Order that full payment of all outstanding regulatory fee debt has been made or show cause why the payment is inapplicable or should be waived or deferred.[14] Licensee is hereby notified that failure to provide such evidence of payment or to show cause within the time specified may result in revocation of Licensee's license for the Stations. Additionally, in order to apply the overpayment to an outstanding balance, Licensee must instruct the Commission to what debt the overpayment should be applied.

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[7] 47 U.S.C. § 159A(c)(1).

[8] 47 CFR § 1.1164.

[9] 31 U.S.C. § 3717; 47 CFR § 1.1940.

[10] *See* 31 U.S.C. § 3711; 31 CFR § 901.2. In addition to the demand letters, the Media Bureau notified Licensee of its delinquency in paying the regulatory fees owed by the Licensee. Emails from Aleander Sanjenis, Audio Division, FCC Media Bureau to Pine City Radio, LLC (April 7, 2022 12:30 PM EDT) and Robin Lott, Audio Division, FCC Media Bureau to Pine City Radio, LLC (March 30, 2023 11:02 AM and 11:20 AM EDT).

[11] *See* 31 U.S.C. § 3711(g); 31 CFR §§ 285.12(c), 901.1; 47 CFR § 1.1917.

[12] The overpayment consists of $105.40 made by Licensee to the Treasury for Treasury fees. When the Treasury returned the Licensee's regulatory fee debts to the Commission, the Treasury cancelled its fee assessment and remitted the $105.40 to the Commission.

[13] Licensee may request that the Commission apply the $105.40 payment to reduce its delinquent regulatory fee debt by electronic transmission to Cheryl.Collins@fcc.gov or Theresa.Meeks@fcc.gov. Licensee must include its FRN in the request. Upon receipt of the request, the Commission will apply the $105.40 to Licensee's delinquent debt in accordance with 47 CFR § 1.1940(f).

[14] The Commission may waive, reduce, or defer payment of fee debt where good cause is shown and where waiver, reduction or deferral would promote the public interest. The Commission interprets this provision narrowly, granting relief only when a requesting party has shown extraordinary circumstances outweighing the public interest in recovering the cost of the Commission's regulatory services. A party seeking a waiver for financial hardship must conclusively prove financial hardship, providing copies of all such financial documents as are necessary to show that it lacks sufficient funds to pay its regulatory fees and maintain its service to the public. *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, MD Docket 19-105, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8207-08, paras. 49-51 (2019).

6. Under section 9A(c)(4)(C)(i) of the Act and section 1.1164(f)(1) of the Rules,[15] an adjudicatory hearing will not be designated unless Licensee presents a substantial and material question of fact. Further, disposition of any adjudicatory hearing will be based upon written evidence only, and Licensee will bear the burden to introduce evidence and to provide proof in any such hearing.[16] Unless the Licensee substantially prevails in the hearing, the Commission may assess the Licensee for the costs of such hearing.[17]

7. To the extent that Licensee is a respondent in other administrative proceedings, both before this agency and other federal agencies, action in this proceeding is without prejudice to action in those proceedings. Further, the existence of any such proceedings and matters raised therein are not considered in this proceeding.

III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to section 9A(c)(4) of the Act and sections 0.11, 0.61, 0.231, 0.283 and 1.1164(f) of the Rules,[18] Pine City Radio, LLC is hereby **ORDERED TO PAY TO THE FEDERAL COMMUNICATIONS COMMISSION** within sixty (60) calendar days of the date of this Order the outstanding regulatory fees for FYs 2020, 2021, 2022, and 2023, **OR SHOW CAUSE** to the Commission within sixty (60) calendar days of the date of this Order why these regulatory fees are inapplicable or should otherwise be waived or deferred.

9. **IT IS FURTHER ORDERED** that payment of the delinquent regulatory fee debt must be made through the Commission's Registration System (CORES)[19] or by wire transfer, and must include the FRNs referenced above. Additional wire transfer instructions are as follows:

ABA Routing Number 021030004

Receiving Bank:
TREAS NYC
33 Liberty St.
New York, NY 10045

(BNF) Beneficiary: FCC
Account #: 27000001
OBI Field (skip one space between each information item)

Pine City Radio, LLC must provide the Payer FRN (if different than the FRN referenced above) and a contact phone number.

Pine City Radio, LLC must fax a copy of the wire transfer confirmation to the FCC at (202) 418-2843 or send the wire transfer confirmation copy to the FCC via email to RROGWireFaxes@fcc.gov on the same day the wire transfer is initiated.

10. **IT IS FURTHER ORDERED** that Pine City Radio, LLC must submit a completed FCC Form 159 (Remittance Advice) at the time of payment. The FCC Form 159 must be faxed to the FCC at (202) 418-2843. An FCC Form 159 and detailed instructions for completing the form may be obtained at http://www/fcc.gov/Forms/Forms 159/159.pdf. When completing the FCC Form 159, Pine City Radio, LLC must enter its FRN in block number 23A (call sign/other ID) and enter the following payment codes for the fiscal years involved in block number 24A (payment type code): for WHOD(FM), 2041 (for FY

[15] 47 U.S.C. § 159A(c)(4)(C)(i); 47 CFR § 1.1164(f)(1).

[16] 47 U.S.C. § 159A(c)(4)(C)(ii); 47 CFR § 1.1164(f)(2).

[17] 47 U.S.C. § 159A(c)(4)(C)(ii)(iii) ; 47 CFR § 1.1164(f)(3).

[18] 47 U.S.C. § 159A(c)(4); 47 CFR §§ 0.11, 0.61, 0.231, 0.283 and 1.1164(f).

[19] https://apps.fcc.gov/cores/userLogin.do

2020); 2141 (for FY 2021); 2241 (for FY 2022); and 2341 (for FY 2023); and for WBMH(FM), 2041 (for FY 2020); 2141 (for FY 2021); 2241 (for FY 2022); and 2341 (for FY 2023).

11. Any written response must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to section 1.16 of the Commission's rules.[20] The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington DC 20554, ATTN: Albert Shuldiner, Chief, Audio Division, Media Bureau. A copy must be emailed to Alexander.Sanjenis@fcc.gov and Olivia.Hill@fcc.gov.

- 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.[21]
    - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
    - Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

12. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by registered mail, return receipt requested, to Pine City Radio, LLC, c/o Larry D. Perry, Esquire, 11464 Saga Lane, Knoxville, TN 37931.

FEDERAL COMMUNICATIONS COMMISSION

Holly Saurer
Chief, Media Bureau

Mark Stephens,
Managing Director, Office of Managing Director

[20] 47 CFR § 1.16.

[21] Hand-delivered or messenger delivered paper filings continue to NOT be accepted at FCC Headquarters.

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 24-635
Released: July 3, 2024

SPACE BUREAU AND OFFICE OF INTERNATIONAL AFFAIRS ANNOUNCE PUBLIC PREVIEW OF NEW INTERNATIONAL COMMUNICATIONS FILING SYSTEM (ICFS)

New ICFS Scheduled to be Released in August

By this Public Notice, the Space Bureau and the Office of International Affairs announce a public preview of the new International Communications Filing System (ICFS), which is being upgraded to a cloud-based platform.

ICFS contains applications, supporting documents, pleadings, comments, public notices, Commission actions, and final authorizations for services regulated by the Space Bureau and the Office of International Affairs. These include:

- Satellite Earth Stations
- Satellite Space Stations
- International Section 214 Authorizations
- Submarine Cable Landing Licenses
- Section 310(b) Petitions for Declaratory Ruling
- Signaling Point Codes
- Data Notification Identification Codes
- Foreign Carrier Affiliation Notifications
- Recognized Operating Agency filings
- International High Frequency Broadcast Stations
- Section 325(c) (Permit to Deliver Programs to Foreign Broadcast Stations)

The public preview for the new ICFS will occur on the following schedule:

July 17, 2024	10:00AM	Data Notification Identification Codes
	1:00PM	RTL (International Route List)
July 18, 2024	10:00AM	Submarine Cable Landing License Applications
July 19, 2024	10:00AM	Satellite Earth Stations - Part 1
	1:00PM	Schedule B - Part 1
July 22, 2024	10:00AM	SAT (satellite space stations)
	1:00PM	Schedule S
July 23, 2024	10:00AM	ISP (Section 310(b) Petitions for Declaratory Ruling)
	1:00PM	Signaling Point Codes (SPC)

July 24, 2024	10:00AM	Section 325(c) (Permit to Deliver Programs to Foreign Broadcast Stations)
	1:00PM	International Section 214 Authorizations (ITCs)
July 25, 2024	10:00AM	International High Frequency Broadcast Stations
July 26, 2024	10:00AM	Satellite Earth Station Applications – Part 2
	1:00PM	Schedule B – Part 2

These sessions will provide a guided tour of the enhanced look and functionality of the new ICFS. All preview sessions will be recorded and posted to the Commission website for later review. During and after these sessions, interested parties can submit questions and comments to the Commission at ICFSDemo@fcc.gov. The Commission staff will review these submissions, and consider them when developing future refinements to the new ICFS.

Registration information for the public preview sessions is available at: https://www.fcc.gov/international-affairs/upgraded-international-communications-filing-system-icfs-preview. In order to participate in the live preview sessions, you must register. You must register separately for each session in which you plan to participate.

The new ICFS is scheduled to be deployed in August 2024. In the next few weeks, the Space Bureau and the Office of International Affairs will release another public notice providing additional details about the transition from the current ICFS to the new system.

Additional Information. For further information, please send an email to ICFSDemo@fcc.gov, contact Adrienne McNeil (202) 418-0412, or contact the ICFS Help Line at ICFSInfo@fcc.gov or (202) 418-2222.

- 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 24-636
Released: July 3, 2024

WIRELINE COMPETITION BUREAU AND OFFICE OF ECONOMICS AND ANALYTICS REVISE PUBLIC RELEASE VERSION OF TECHNICAL APPENDICES FOR INCARCERATED PEOPLE'S COMMUNICATIONS SERVICES DRAFT REPORT AND ORDER, ORDER ON RECONSIDERATION, CLARIFICATION AND WAIVER AND FURTHER NOTICE OF PROPOSED RULEMAKING

WC Docket Nos. 23-62 and 12-375

By this Public Notice, the Wireline Competition Bureau and Office of Economics and Analytics announce the availability of revised public release versions of the technical appendices in connection with the draft circulated Report and Order, Order on Reconsideration, Clarification and Waiver, and Further Notice of Proposed Rulemaking. The circulated draft was released to the public on June 27, 2024 and is scheduled for consideration by the Commission at its July open meeting scheduled for Thursday, July 18, 2024.[1] The revised technical appendices remove redaction of certain information deemed non-confidential subsequent to public release.[2]

The revised technical appendices may be accessed at the following link: https://www.fcc.gov/document/bringing-common-sense-fairness-correctional-facility-phone-rates.

The Protective Order issued in these proceedings permits parties to designate certain material as confidential.[3] Interested parties may access this confidential information pursuant to the procedures set forth in the *2023 IPCS Protective Order,* including, among other things, by signing and dating the acknowledgement set forth in the appendix to the *2023 IPCS Protective Order* agreeing to be bound by its terms.[4] For more information on how to access confidential information, please see the *2023 IPCS Protective Order*.[5]

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[1] *See Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62 and 12-375, Report and Order, Order on Reconsideration, Clarification and Waiver, and Further Notice of Proposed Rulemaking, FCC-CIRC2407-01 (June 27, 2024) (Draft Order); Press Release, FCC Announces Tentative Agenda for July Open Meeting (June 27, 2024), https://docs.fcc.gov/public/attachments/DOC-403537A1.pdf.

[2] The fact that some information is redacted in the revised technical appendices does not represent a decision by the Commission that the information is entitled to confidential treatment under our rules and may not be revealed publicly. *See* 47 CFR § 0.459.

[3] *See generally Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services*, WC Docket Nos. 23-62 and 12-375, Protective Order, 38 FCC Rcd 2498 (2023) (*2023 IPCS Protective Order*).

[4] *2023 IPCS Protective Order*, 38 FCC Rcd at 2500, para. 6.

[5] *See id*.

Please contact Stephen Meil at (202) 418-7233 or via email at stephen.meil@fcc.gov, or Simon Solemani at (202) 418-2270 or via email at simon.solemani@fcc.gov, for further information.

- FCC -

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

In the Matter of	)	
	)	
Request for Review and/or Waiver of Decision of	)	
the Emergency Connectivity Fund Program	)	
Administrator by	)	
	)	
Trinity County Connectivity Consortium	)	ECF202104936
Trinity County, CA	)	
	)	
Establishing Emergency Connectivity Fund to	)	WC Docket No. 21-93
Close the Homework Gap	)	

ORDER

Adopted: July 3, 2024 **Released: July 3, 2024**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we address a request for review and/or waiver from the Trinity County Connectivity Consortium (Petitioner) seeking review of the denial of a funding request for network construction through the Emergency Connectivity Fund (ECF) program.[1] The ECF program is a temporary emergency program with limited, appropriated funding. When the ECF program was created, the Federal Communications Commission (Commission) designed it to quickly provide funding for commercially available Internet access services, with a narrow exception for network construction to connect students to Internet access only in areas where there were no commercially available Internet access service options.[2] The Petitioner sought $25.5 million in ECF funding for the construction of sixteen wireless towers in its area, which would later be used to contract with third-party long-term evolution (LTE) or 5G mobile broadband providers to provide mobile broadband coverage in the area. After review of the record, we deny the Petitioner's request for review and/or waiver, finding that the requested network construction is ineligible for support through the ECF program.

II. BACKGROUND

2. As part of the American Rescue Plan Act of 2021, Congress appropriated $7.171 billion to the Emergency Connectivity Fund and directed the Commission to promulgate rules providing for the distribution of funding to eligible schools and libraries for the purchase during the COVID-19 emergency period of eligible equipment and/or advanced telecommunications and information services for use by

[1] Request for Review by Trinity County Connectivity Consortium of Decision of Universal Service Administrator and/or Waiver, Establishing Emergency Connectivity Fund to Close the Homework Gap, WC Docket No. 21-93 (filed May 1, 2023) (Request for Review).

[2] *See Establishing the Emergency Connectivity Fund to Close the Homework Gap*, WC Docket No. 21-93, Report and Order, 36 FCC Rcd 8696, 8716-18, paras. 40-41 (2021) (*ECF Report and Order*).

students, school staff, and library patrons, including at locations other than a school or library.[3] On May 10, 2021, the Commission adopted a Report and Order establishing the rules for the ECF program to distribute the funding to eligible schools and libraries.[4]

3. Consistent with the American Rescue Plan Act, in the *ECF Report and Order*, the Commission determined the equipment and services eligible for support from the program to be Wi-Fi hotspots, modems, routers, devices that combine a modem and router, connected devices, and commercially available Internet access services delivered via Wi-Fi hotspots with wireless broadband connectivity or via leased modems with fixed broadband connectivity, generally delivered from a local Internet service provider.[5] ECF program funding was limited to requests for eligible equipment and services to meet the unmet needs of students, school staff, and library patrons that otherwise lacked access to equipment and/or Internet access services sufficient to engage in remote learning during the COVID-19 emergency period.[6]

4. The *ECF Report and Order* also provided a limited exception for network construction where there is no commercially available Internet access service option.[7] In only that limited instance, support for network construction would be permitted in order to quickly bring Internet connectivity to the students, school staff, and library patrons that do not have any other Internet access options.[8] In light of the decision to forego any requirement to conduct competitive bidding in order to allow entities to more quickly connect students, school staff, and library patrons during the COVID-19 emergency, the Commission adopted certain evidentiary requirements for ECF Program requests for network construction, to reduce the risk of using the limited emergency funding on time-consuming infrastructure construction projects that may be better suited for other funding programs or where there are commercially available Internet access services.[9] Under the limited exception for network construction, applicants must demonstrate that there are no commercially available Internet access service options sufficient to support remote learning from one or a combination of providers.[10] Applicants seeking support for network construction must define the geographic area that will be served and assess the estimated number of students and school staff or library patrons to be served.[11] Applicants must be able to provide clear evidence demonstrating how they determined that an existing fixed or mobile broadband network was not available and that they sought service from existing providers serving the area prior to constructing a new network, and that such providers were unable or unwilling to provide services sufficient to meet the remote learning needs of their students, school staff, or library patrons.[12] Network construction was also only available for projects that could be completed and services provided within one year from the date of the funding commitment decision letter approving the construction.[13]

5. The Commission and the Universal Service Administrative Company (USAC) opened an

[3] American Rescue Plan Act, 2021, H.R. 1319, Pub. L. No. 117-2, 117th Cong., tit. VII, § 7402(a)(1)-(2) (2021) (enacted), available at https://www.congress.gov/bill/117th-congress/house-bill/1319/text (American Rescue Plan Act) (enrolled bill).

[4] *See generally ECF Report and Order*, 36 FCC Rcd at 8708-13, paras. 29-35.

[5] *See id*. at 8708, 8712-13, paras. 28, 35.

[6] *See id*. at 8736-37, para. 81.

[7] *See id*. at 8716-17, para. 40.

[8] *See id*. at 8716-17, para. 40.

[9] *See id*. at 8716-18, paras. 40-41.

[10] *See id*. at 8717-18, para. 41.

[11] *See id*. at 8717-18, para. 41.

[12] *See id*. at 8717-18, para. 41.

[13] *See id*. at 8717-18, para. 41.

initial application filing window from June 29, 2021 to August 13, 2021,[14] and a second application filing window from September 28, 2021 to October 13, 2021.[15] During the first two windows, applicants requested over $6.4 billion in ECF support.[16] The Wireline Competition Bureau (Bureau) opened a third filing window from April 28, 2022 to May 13, 2022 and received requests for over $2.8 billion.[17] The COVID-19 public health emergency expired at the end of the day on May 11, 2023,[18] and, per the statute, June 30, 2024 was the sunset date for the ECF program.[19]

6. Trinity County Connectivity Consortium (Consortium) is a consortium comprised of eight school districts in Northern California. The Consortium describes the area as covering over one million acres of land in Humboldt and Trinity County, as well as the Hoopa Valley Reservation.[20] It also describes the region as mountainous and sparsely populated, with students living in rural towns that are unserved by service providers.[21] It explains that over 62% and 58% of students in Trinity and Humboldt County, respectively, qualify for free and reduced lunch, and that a majority of students served by the Consortium would have difficulty affording services if they were available.[22] The Consortium estimates nearly a third of the students it serves are of Native American descent.[23] Finally, the Consortium states that over 81% of their students were unable to receive direct instruction due to a lack of Internet access, resulting in some instances of teachers mailing packets home to students.[24]

7. On July 27, 2021, the Consortium filed an ECF application requesting $25,552,000 to construct 16 wireless towers in the area of the Consortium.[25] The Consortium estimated that 1,500 students lacked a broadband connection.[26] The Consortium provided nine topographical maps to estimate the geographic area where the towers would be constructed.[27] In the "Trinity County Connectivity

[14] News Release, FCC, *FCC Announces Emergency Connectivity Fund Application Window Will Open on June 29* (June 15, 2021), https://www.fcc.gov/document/emergency-connectivity-fund-application-window-opens-june-29 (*First ECF Application Window News Release*).

[15] News Release, FCC, *FCC Announces Over $5 Billion in Funding Requests Received in Emergency Connectivity Fund Program* (Aug. 25, 2021), https://www.fcc.gov/document/fcc-announces-over-5-billion-emergencyconnectivity-fund-requests (*Second ECF Application Window News Release*).

[16] *See* 47 CFR § 54.1710; *ECF Report and Order*, 36 FCC Rcd at 8734, 8737, paras. 78, 83.

[17] *Wireline Competition Bureau Announces Third Application Filing Window for the Emergency Connectivity Fund Program*, WC Docket No. 21-93, Public Notice, DA 22-309, 2022 WL 867322, at *1 (WCB Mar. 23, 2022) (*Third ECF Application Window PN*).

[18] Department of Health and Human Services (HHS), COVID-19 Public Health Emergency (PHE), https://www.hhs.gov/coronavirus/covid-19-public-health-emergency/index.html (last visited June 25, 2024).

[19] *See Wireline Competition Bureau and Office of the Managing Director Provide Guidance on Emergency Connectivity Fund Program Upon Termination of the Emergency Period*, WC Docket No. 21-93, Public Notice, DA 23-406 (WCB May 12, 2023) (*ECF Sunset Guidance Public Notice*) (announcing that the expiration of the COVID-19 period requires that all purchases of eligible equipment and services must be made by June 30, 2024, in order for the purchase to be eligible for reimbursement from the ECF program).

[20] Request for Review at 4.

[21] Request for Review at 4.

[22] Request for Review at 5.

[23] Request for Review at 5.

[24] Request for Review at 5-6.

[25] ECF Application No. ECF202104936, Trinity County Connectivity Consortium (July 27, 2021).

[26] ECF Application No. ECF202104936, Trinity County Connectivity Consortium, at 2 (July 27, 2021).

[27] Request for Review, Exhibit A, Site Maps.

Project" description submitted with the application, the Consortium explains that the intent, after construction of the 16 towers, "is to contract with a service provider to expand its wireless network" in order to allow students to connect to the internet at home.[28] On July 25, 2022, USAC denied the application, finding that it was unable to determine whether the request was eligible based on the information provided by the applicant.[29] The Petitioner timely appealed the decision to USAC, which denied the appeal on April 3, 2023, stating that the Consortium did not provide sufficient information to show that USAC erred in the original decision.[30] The Petitioner then filed its Request for Review with the Wireline Competition Bureau (Bureau) on May 1, 2023.[31] The Consortium also met with Commission staff for three *ex parte* presentations on May 31, September 14, and December 19.[32]

8. In the Request for Review, the Petitioner states that the Consortium provided clear evidence to support its request for funds to build the wireless towers.[33] First, the Consortium states that it sought service from existing providers and certified that such providers were unable or unwilling to provide sufficient services.[34] It states that in addition to the certification, it provided screenshots of provider websites showing no service was available at certain student addresses, and that it was unable to get letters from service providers stating that they were unwilling or unable to provide service.[35] The Consortium also provides descriptions and copies of two different types of coverage maps it provided to USAC – the first depicting coverage based on manual cellular surveys conducted by Trinity Consortium personnel and the second was another map based on FCC data available at the time.[36] Finally, the Consortium states that it prepared and analyzed surveys of parents, staff, and community members.[37] In sum, the Consortium argues that they provided clear evidence that there is no commercially available Internet access sufficient for remote learning. In the alternative, the Consortium seeks a waiver that would allow the application to be granted based upon the provided documentation.[38] It states that the public interest would be served by funding the project.

[28] Request for Review, Exhibit A, Project Narrative.

[29] Letter from USAC, to Rachel White, Trinity County Connectivity Consortium, concerning ECF Application No. ECF202104936 (July 25, 2022) (Funding Commitment Decision Letter).

[30] Letter from USAC, to Rachel White, Trinity County Connectivity Consortium, concerning ECF Application No. ECF202104936 (Apr. 3, 2023) (Revised Funding Commitment Decision Letter, or RFCDL). The RFCDL also cited to section 54.1715(b) of the ECF program rules and paragraphs 90 and 119-20 of the *Emergency Connectivity Fund Order*, both of which are related to record retention requirements for program participants. We agree with the Consortium that these citations are not applicable to this appeal and were cited in error on the RFCDL.

[31] Request for Review by Trinity County Connectivity Consortium of Decision of Universal Service Administrator and/or Waiver, WC Docket No. 21-93 (May 1, 2023) (Request for Review).

[32] Letter from Jessica Gylstrom, Telecommunications Law Professionals PLLC, to Ms. Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-93 (filed June 2, 2023) (June 2nd *Ex Parte*); Letter from Jessica Gylstrom, Telecommunications Law Professionals PLLC, to Ms. Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-93 (filed Sept. 18, 2023) (Sept. 18th *Ex Parte*); Letter from Jessica Gylstrom, Telecommunications Law Professionals PLLC, to Ms. Marlene H. Dortch, Secretary, FCC, WC Docket No. 21-93 (filed Dec. 21, 2023) (Dec. 21st *Ex Parte*).

[33] Request for Review at 12-18.

[34] Request for Review at 14.

[35] Request for Review at 14-15.

[36] Request for Review at 15-17.

[37] Request for Review at 17-18.

[38] Request for Review at 24-25.

III. DISCUSSION

9. Based on our *de novo* review of the record,[39] we find that the Petitioner's funding request was ineligible for support from the Emergency Connectivity Fund because it is requesting funding for wireless tower deployment only, and without providing service or connectivity to students and school staff. We therefore deny the Petitioner's Request for Review. In addition, and in the alternative, we find that the Consortium did not provide sufficient information, as required by the *ECF Report and Order*, regarding the availability of fixed or mobile services for students and school staff in the geographic area that they proposed to serve in order for USAC or the Bureau to determine the eligibility of the request. Finally, we also deny the Petitioner's request for waiver of the program rules, finding no special circumstances present to alter the type of projects for which Emergency Connectivity Fund support could be used.

10. First, we find that the Petitioner's application, which requests funding to build 16 wireless towers but does not connect students or school staff with unmet need to such services, is inconsistent with the purpose of the limited exception for network construction to quickly connect students with unmet need during the COVID-19 emergency period. The Emergency Connectivity Fund program was designed to provide emergency funding for equipment and commercially available Internet services for students, school staff, and library patrons with unmet need during the COVID-19 emergency period. If approved, this funding request would build 16 wireless towers, but offer no Internet service to the students or school staff with unmet need, as required by the *ECF Report and Order*.[40] We find this request is inconsistent with the limited exception set out in the *ECF Report and Order* for network construction and therefore ineligible for funding through the ECF program. Based on the application and subsequent appeal documents, the intent of the project is to eventually contract with a mobile broadband provider to offer LTE or 5G service via the 16 towers.[41] The Consortium's ECF request does not provide details regarding how the funding would result in such service being provided to or targeted to students or school staff with unmet need. After questions from Bureau staff for more information about how they planned to provide service to students with unmet need, in a June 2nd *ex parte* filed with the Commission, the Consortium states that it plans to work with its students and families to ensure that they are able to afford any broadband service being introduced as a result of an ECF-funded network.[42] Ultimately, the Consortium is requesting funding to build wireless towers in their county at large with an eventual hope to have LTE or 5G service offered. Students and school staff would still be left to find ways to access and pay for a service from this proposed wireless network until and after construction is completed and a contract with a mobile broadband provider is established. Thus, we find this request for network construction ineligible for the ECF program.

11. In addition, and in the alternative, we also find that the Consortium did not provide enough information for USAC to determine whether all of the proposed towers that it is seeking to construct meet the requirements set out in the *ECF Report and Order*.[43] Even if the Consortium were

[39] The Bureau must conduct a *de novo* review of requests for review of decisions issued by USAC. 47 CFR § 54.1718(e).

[40] *See ECF Report and Order*, 36 FCC Rcd at 8716-17, para. 40.

[41] Request for Review, Exhibit A, Project Narrative.

[42] June 2nd *Ex Parte* at 3.

[43] *See supra* para. 4. First, applicants must provide clear evidence demonstrating how they determined that an existing fixed or mobile broadband network was or is not available, including by seeking service from existing service providers serving the area prior to constructing the network. Applicants seeking support for network construction must define the geographic area that will be served and assess the estimated number of students and school staff to be served. Eligible entities must be able to provide clear evidence demonstrating how they determined that an existing fixed or mobile broadband network was not available and that they sought service from existing providers serving the area prior to constructing a new network, and that such providers were unable or unwilling to provide services sufficient to meet the remote learning needs of their students, school staff, or library

(continued….)

providing Internet service to students, school staff, or library patrons through this request, it did not provide sufficient information for USAC to review whether the service would be provided to students and school staff with unmet needs – that is, students and school staff that otherwise lacked access to equipment and/or Internet access services sufficient to engage in remote learning during the COVID-19 pandemic. The Consortium estimated that 1,500 students with unmet need would be provided with a broadband connection as a result of the ECF support for the wireless tower construction. In their application, and in the subsequent appeals, the Consortium provided nine maps with hand-drawn circles indicating where coverage was unavailable.[44] They also provided additional coverage maps,[45] generally including areas that were included in their application, as well as screen shots from service provider websites checking whether service was available from a small sample of addresses.[46]

12. However, based on the information provided, the Consortium has not provided sufficient information for USAC nor the Bureau to determine whether the proposed construction would serve students and school staff with unmet need. While they seek over $25.5 million in funding to provide service for an estimated 1,500 students, they provided less than 20 addresses for which they had clearly checked for coverage from service providers in the area.[47] The maps provided did not clearly show where the requested towers, nor where the student households were generally located in order for USAC or the Bureau to determine whether the construction would provide service to students or staff without access to fixed or mobile service offerings. The Consortium states that it contacted service providers and was unable to get responses indicating that the service providers were unable or unwilling to provide service,[48] however, there is no documentation of seeking service from fixed or wireless service providers. The applicant states that Frontier Communications is the main provider in the area, but does not indicate which other fixed or mobile providers they contacted.[49] While the Request for Review notes that the Consortium prepared and analyzed surveys from students or parents, the surveys do not appear to have been provided to USAC nor the Bureau in order to help determine whether the construction would be eligible. The application and appeals state that the Consortium did a manual cellular service survey in areas with a high number of student residences.[50] However, the application narrative and appeal do not provide sufficient information for USAC or the Bureau to determine which service provider networks were tested, where, nor how. In sum, there is insufficient information for USAC or the Bureau to determine whether any of the areas described have alternative service offerings or whether the proposed construction would actually be able to provide broadband connections to the students and school staff with unmet need.

13. Finally, we deny the Consortium's request for a waiver of the Commission's rules. The Commission may exercise its discretion to waive a rule where the particular facts demonstrate that (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the

(Continued from previous page)
patrons. Network construction was also only available for projects that could be completed and services provided within one year of the funding commitment decision letter approving the construction.

[44] Request for Review, Exhibit D.

[45] Request for Review, Exhibit D.

[46] Request for Review, Exhibit D.

[47] In addition, when reviewing the FCC Broadband Map for the neighborhoods near the sample addresses provided, other service providers appear to be offering service. Without additional detail about the locations with unmet need, nor the geographical area to be served, we are unable to determine whether these providers (e.g., Velocity Communications, LLC in Weaverville, CA) were contacted or are able to provide service to the students in the area.

[48] Request for Review at 14.

[49] Request for Review, Exhibit D.

[50] Request for Review at 15-16, Exhibit D.

public interest.[51] Here, we recognize the challenges the students and school staff in these areas have faced due to the lack of access to Internet connectivity at home, for availability or affordability reasons. The Commission provided a limited exception for new construction in areas without any commercially available service,[52] but the Consortium's requested solution is for a large wireless infrastructure project that does not fit within the Emergency Connectivity Fund eligibility requirements. While the Bureau is sympathetic to the desire to deploy wireless infrastructure in the area, the intent of the Emergency Connectivity Fund was to specifically target connectivity for students and school staff, while other universal service programs are focused on general deployment in hard-to-serve areas.[53] We also recognize that outreach and communications with the Consortium could have more clearly explained the ineligibility of the request, but we do not find that this confusion merits special circumstances that would justify altering the eligibility of the wireless infrastructure without service in this instance.

IV. ORDERING CLAUSES

14. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that the Request for Review and/or Waiver filed by Trinity County Connectivity Consortium on May 1, 2023 is DENIED.

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

[51] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

[52] *ECF Report and Order*, 36 FCC Rcd at 8716-18, paras. 40-41.

[53] While not a determining factor to this decision, we note that certain documents provided by the Consortium indicate that the research and pricing had been developed prior to the pandemic, providing additional indication that the project's goal of being general deployment of broadband infrastructure.

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 24-638
Released: July 3, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE ACQUISITION OF CERTAIN ASSETS OF COMMNET WIRELESS, LLC BY INLAND CELLULAR LLC

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-134

Comments Due: July 17, 2024
Reply Comment Due: July 24, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Commnet Wireless, LLC (Commnet) and Inland Cellular LLC (Inland) (together, 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) support obligations for certain designated census blocks in the state of Washington's Study Area Code (SAC) 529033 (covering 1,391 locations) and the state of Montana's SAC 489014 (covering 896 locations) (together, Assigned Census Blocks) by Inland.[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 Filed for the Assignment of Certain Assets of Commnet Wireless, LLC to Inland Cellular LLC, WC Docket No. 24-134 (filed Apr. 30, 2024) (Application). On June 24, 2024, Applicants filed a supplement to their domestic section 214 application. Letter from Clare Andonov, Counsel for Inland Cellular, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 24-134 (filed June 24, 2024) (Supplement). 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 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 3-4. On May 20, 2021, the Washington Utilities and Transportation Commission (Washington UTC) issued an order granting designation of Commnet as an ETC for the purpose of receiving RDOF support in select census

respect to the Assigned Census Blocks, $484,476.91/year over ten years to serve 133 census blocks (1,391 locations) in Washington, and $276,198.55/year over ten years to serve 80 consensus blocks (896 locations) in Montana.[5] Applicants state that Commnet is not providing any RDOF-funded service and does not have any local subscribers for any RDOF-funded service in the Assigned Census Blocks.[6]

Inland, a Washington limited liability company, provides mobile voice, broadband, and other communications services to approximately 30,000 subscribers in 20 counties in rural areas of Washington and Idaho.[7] Inland is a designated ETC in Washington and Idaho.[8] Inland is a wholly-owned subsidiary of Inland Cellular Telephone Company (ICTC), a Washington corporation that provides wireless service in rural areas of the Pacific Northwest.[9] The following U.S. citizens and U.S. trust hold direct 10% or greater interest in ICTC: Nathan Weis (68.42%); Rodney Jovanovich (30.22%); and the Weis Children Trust (30.22%).[10] Applicants state that neither ICTC, Nathan Weis, Rodney Jovanovich, nor the Weis Children Trust hold a 10% or greater interest in any other provider of domestic telecommunications services.[11]

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blocks in the state of Washington including in Clallam, Kittitas, and San Juan counties (Commnet Washington ETC Designation) (Docket No. UT-210149, Order No. 01). *Id.* On June 1, 2021, the Montana Public Service Commission (Montana PSC, and together with Washington UTC, the PSCs) issued an order granting designation of Commnet as an ETC for the purpose of receiving RDOF support in select census blocks located in Lincoln, Park and Lewis and Clark counties in the state of Montana (Commnet Montana ETC Designation) (Docket No. 2021.03.030, Order No. 777a). *Id.*

[5] *See Connect America Fund Phase II Auction Support Authorized*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 22-151, Attach. A at 4-5 (WCB rel. Feb. 14, 2022). . Applicants note that the Assigned Census Blocks are only a portion of each of the two involved SACs and that Commnet will retain the other portions of the involved SACs. Application at n.4. Applicants state that Inland shall ask the Universal Service Administrative Company (USAC) that the Assigned Census Blocks in each state be carved out and made into new SACs to be assigned to Inland, concurrently with USAC's acceptance of Inland's letters of credit and bankruptcy opinion letters. *Id.*

[6] Application at 3. Applicants note that Commnet did not propose to borrow money to fund its construction or operation to fulfill its RDOF obligations in either Washington or Montana. *Id.* Applicants state that Commnet proposed to construct a fixed wireless network in each of these two states, using CBRS (3.5 GHz) spectrum. *Id.*

[7] *Id.* at 5. Applicants state that the Washington counties include Whitman, Walla, Columbia, Garfield, Asotin, Lincoln, Adams, Ferry, Spokane, Stevens, and Grant County. *Id.* at n.5. The Idaho counties include Clearwater, Latah, Lewis, Idaho, Kootenai, Bonner, Benewah, Shoshone, and Nez Perce County. *Id.* Applicants state that Inland also has nine retail and customer service centers in the rural areas of Washington and Idaho. *Id.* Applicants further state that Inland is registered as a cellular provider with the Commission (FCC Filer Id.: 829984) and is also the licensee of numerous Commission wireless licenses (FRN: 22355762). *Id.* at n.6. Applicants also note that, in 2023, Inland was awarded a ConnectMT Broadband Grant as authorized by the American Rescue Plan Act and the Montana legislature. *Id.* at 5. Applicants state that Inland's authorized buildout will provide broadband services and fiber to selected rural communities in Montana, including approximately 15,628 households in frontier, underserved, or unserved areas in approximately ten counties. *Id*. Applicants state that the Montana counties in Inland's ConnectMT grant included Cascade, Fergus, Flathead, Lake, Musselshell, Missoula, Glacier, Pondera, Rosebud, and Lincoln County. *Id.* at n.7.

[8] *Id.* at 5-6.

[9] *Id.* at 4.

[10] *Id.* at 12-13. Applicants state that Lydia Weis and Dylan Weis, both U.S. citizens, will each hold a 30.22% indirect ownership interest in ICTC as a result of being the two beneficiaries of the Weis Children Trust. *Id* at 13.

[11] Supplement at 2.

Description of the Proposed Transaction

Applicants provide the following description of the proposed transaction (Transaction) in the Application:

> On December 9, 2023, the Applicants entered into the Agreement under which Commnet agreed to assign the RDOF obligations and corresponding unspent RDOF support it has received for the Assigned Census Blocks to Inland, and Inland agreed to accept those funds and assume those obligations, subject to any required regulatory approvals. Both Applicants have been authorized to receive support from the Federal Universal Service Fund and have been designated as ETCs by the [Washington] UTC. As part of the assignment and assumption, Commnet and Inland have agreed to work together to effectuate the assignment of Commnet's RDOF program obligations to Inland with respect to the Assigned Census Blocks. Inland will be filing applications with the [PSCs] seeking approval of a) modification of its [Washington] UTC ETC designation to include the Assigned Census Blocks in Washington; and b) designation by the Montana PSC as an ETC with respect to the Assigned Census Blocks in Montana (collectively, the Inland ETC Petitions). Commnet will also seek approval from the PSCs for Commnet to relinquish the Commnet Washington ETC Designation and Commnet Montana ETC Designation for the Assigned Census Blocks (Commnet Relinquishment Applications).
>
> In connection with the assignment of Commnet's RDOF obligations under the Agreement, subject to grant of this Application and the Inland ETC Petitions, Inland will acquire the interests of and assume Commnet's RDOF obligations with respect to the Assigned Census Blocks. Commnet will retain a portion of the RDOF support it has received to date to cover its expenditures for the provision, maintenance and upgrade of supported facilities and services, and will deliver to Inland at closing an agreed-upon sum for the remainder of those funds.
>
> . . . [B]oth Applicants have been designated as ETCs in Washington, and Commnet has also been designated as an ETC in Montana. (Inland is also an ETC in Idaho.) Consummation of the Transaction is contingent upon, among other things, receipt of all necessary regulatory approvals in connection with this Transaction, including, without limitation, this Application, the Inland ETC Petitions and the Commnet Relinquishment Applications.
>
> In this Application, the Applicants seek Commission approval for the assignment of Commnet's implied domestic Section 214 authorization which Commnet holds as an ETC and as a RDOF recipient for the Assigned Census Blocks. The Applicants expect to consummate the Transaction as soon as Commission and the PSCs approvals are obtained. Inland acknowledges and understands that, as a condition to grant of this Application, it will need to submit and have approved by USAC irrevocable letters of credit and bankruptcy opinion letters for the Assigned Census Blocks in each of Washington and Montana. Inland is prepared to meet those requirements.
>
> . . . USAC at that time will also have to create new SACs for the Assigned Census Blocks in each state. The two involved SACs here, 489014 in Montana and 529033 in Washington, are *not* being assigned, as Commnet is retaining the other census blocks and locations in each of those two SACs. Only the Assigned Census Blocks are being assigned here. Commnet fully intends to meet its RDOF obligations with respect to the locations in each of SACs 49014 and 529033 that are not being assigned herein.

> After consummation of the Transaction, Inland will undertake deployment of the RDOF-supported networks and integrate such activities and operations into its own ongoing operations and its RDOF deployment. Any future changes to the rates, terms, and conditions of service will be undertaken pursuant to customers' contracts, tariffs, and applicable law. No carrier change charges will result from the Transaction, and no customer service or billing contact information will change as a result of the Transaction. The Transaction will be transparent to the customers of the Applicants, which customers will continue to be served pursuant to each Applicant's existing operations and existing terms and conditions. As noted above, no other Commission licenses or authorizations are involved in the Transaction.[12]

Statement of Public Interest

Applicants assert that the proposed transaction would serve the public interest, convenience, and necessity.[13] Applicants state that Inland and its affiliates have deployed wireless and broadband networks and served customers since 1989 in rural areas of Washington and Idaho. They further assert that Inland is uniquely situated to efficiently deploy RDOF-supported voice and broadband service in the Assigned Census Blocks.[14] 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, nor will the proposed transaction result in any delays in deployment of services consistent with the applicable public interest obligations associated with receipt of RDOF funding.[15] Applicants also state that Inland commits to meeting the remaining buildout milestones and performance obligations established for the Assigned Census Blocks, including the 40% buildout milestone required by December 31, 2025.[16] Applicants further state that Inland will use the RDOF support for covered services and does not anticipate the need to take on any debt repayment obligations or otherwise substantially increase its costs to deploy service.[17]

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.[18]

> Domestic Section 214 Application Filed for the Acquisition of Certain Assets of Commnet Wireless, LLC, by Inland Cellular LLC,WC Docket No. 24-134 (filed Apr. 30, 2024).

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[12] Application at 6-8.

[13] *Id.* at 8-10. Applicants note that Commnet believes that the Assigned Census Blocks might be served in a more expeditious and cost-effective manner by Inland given Inland's proximity to Commnet's RDOF-supported areas, as well as Inland's existing operations, resources, and infrastructure. *Id.* at 8. Applicants assert that because the Assigned Census Block areas are adjacent to or nearby Inland's existing operations, Inland can achieve economies of scale and leverage its labor force, infrastructure, and operational capabilities to rapidly and cost-effectively build out the Commnet Assigned Census Block areas as Inland expands its broadband operations. *Id.*

[14] *Id.* at 8.

[15] *Id.* at 9.

[16] *Id.* at 10.

[17] *Id.*

[18] 47 CFR § 63.03(c)(1)(v).

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).

- 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).

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.

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.[19] 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.

-FCC-

[19] *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 24-639
Released: July 3, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF AMELIA TELEPHONE CORPORATION AND NEW CASTLE TELEPHONE COMPANY FROM TDS TELECOMMUNICATIONS, LLC TO RIVERSTREET MANAGEMENT SERVICES, LLC

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-185

Comments Due: July 17, 2024
Reply Comments Due: July 24, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by TDS Telecommunications, LLC (TDS Telecom or Transferor) and RiverStreet Management Services, LLC (RiverStreet or Transferee) (collectively, 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 to transfer control of Amelia Telephone Corporation (Amelia Telephone) and New Castle Telephone Company (New Castle Telephone) (collectively, Licensees) from TDS Telecom to RiverStreet.[2] The proposed transfer of control will be made pursuant to the Stock Purchase Agreement dated May 31, 2024.[3]

TDS Telecom, a Delaware limited liability company and wholly-owned subsidiary of Telephone and Data Systems, Inc. (TDS). Through its wholly-owned subsidiaries, TDS Telecom

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

[2] Application for Consent to Transfer Control of Amelia Telephone Corporation and New Castle Telephone Company from TDS Telecommunications, LLC to RiverStreet Management Services, LLC, Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-185 (filed June. 24, 2024) (Application). On April 25, 2024, RiverStreet Communications of Virginia, Inc. (RWVA), a RiverStreet affiliate, entered into an agreement with EMPOWER Broadband, Inc. (EMPOWER), whereby, subject to Commission approval, RSVA will assign the Connect America Fund (CAF) II obligations for certain Census Block Groups (CBGs) to EMPOWER, who has agreed to assume and accept all future CAF II compliance obligations for those CBGs. The application for Commission consent to this assignment is pending. *See Domestic Section 214 Application and Waiver Requests Filed for the Acquisition of Connect America Fund Phase II Auction Funding and Related Buildout and Service Obligations of RiverStreet Communications of Virginia, Inc. by EMPOWER Broadband, Inc.; Limited Waiver of Non-Compliance Tier 4 Support Recovery Deadline Granted for RiverStreet*, WC Docket Nos. 24-245 and 10-90, Public Notice, DA 24-477 (WCB May 20, 2024). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[3] Application at n.1.

delivers high-speed Internet, TV entertainment, and telecommunications services to a mix of small to mid-sized urban, suburban, and rural communities throughout the U.S., as well as offering Voice-over-Internet Protocol (VoIP) advanced communications solutions, dedicated Internet service, data networking, and hosted-managed services to businesses.[4] TDS Telecom directly owns all of the issued and outstanding shares of capital stock of Amelia Telephone and New Castle Telephone, both Virginia corporations.[5] Amelia Telephone is an incumbent local exchange carrier (LEC) and designated Eligible Telecommunications Carrier (ETC) providing service in Study Area Code (SAC) 190217 in Virginia. New Castle Telephone is an incumbent LEC and designated ETC providing service in SAC 193029 in Virginia. Both Licensees receive Universal Service Fund high-cost support in the form of Enhanced Alternative Connect America Cost Model (E-ACAM) and Connect America Fund Intercarrier Compensation (CAF ICC) support. Licensees also participate in the Lifeline program, and Applicants assert they will continue to do so following consummation of the proposed transaction.[6]

TDS Telecom is a wholly-owned subsidiary of Telephone and Data Systems, Inc. ("TDS"), a Delaware corporation.[7] TDS is controlled by a Voting Trust whose trustees are LeRoy T. Carlson, Jr., Walter C.D. Carlson, Prudence E. Carlson, and Dr. Letitia G.C. Carlson, all siblings and each a U.S. citizen. LeRoy T. Carlson, Jr. is the President of TDS, and Walter C.D. Carlson is its nonexecutive Chairman. As of April 19, 2024, the Voting Trust controls 54.3% of the voting power of TDS's total shares that vote in matters other than the election of directors, and 95.7% of the Series A Common Shares, which elect seven of TDS's eleven directors. Accordingly, the Voting Trust elects a majority of the directors and directs a majority of the combined voting power of TDS in matters other than the election of directors.[8]

RiverStreet is a holding company organized as a North Carolina corporation[9] and a subsidiary of Wilkes Telephone Membership Corporation (Wilkes), a North Carolina corporation owned by its member/subscribers. Applicants assert that no single member/subscriber owns or controls more than ten percent of Wilkes' equity.[10] Wilkes is an incumbent LEC and ETC providing service in SAC

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[4] Application at 2.

[5] TDS Telecom also wholly owns Virginia Telephone Company, a Virginia incumbent LEC. *Id.* at 2 n.2.

[6] *Id.* at 2.

[7] *Id.* at 10.

[8] *Id.*

[9] RiverStreet wholly owns the following providers: Barnardsville Telephone Company, an incumbent LEC providing service in SAC 230469 in North Carolina; Saluda Mountain Telephone Company, an incumbent LEC providing service in SAC 230498 in North Carolina; Service Telephone Company, an incumbent LEC providing service in SAC 230500 in North Carolina; Ellerbe Telephone Company, an incumbent LEC providing service in SAC 230478 in North Carolina; Electronics Service Co. of Hamlet, Inc., a wireless Internet service provider (WISP) providing service in rural areas of southeastern North Carolina and northeastern South Carolina; RiverStreet Communications of North Carolina, a competitive LEC providing service in SAC 239033 in North Carolina; RiverStreet Wireless of North Carolina, a WISP providing service in North Carolina and holder of common carrier industrial microwave and CBRS licenses; RiverStreet Communications of Virginia, Inc., a competitive LEC providing service in SAC 19024 in Virginia and other unregulated services in certain Virginia counties; RiverStreet Wireless of Virginia, Inc., operating as a WISP provider in Virginia and holder of private industrial microwave and CMRS licenses; Peoples Mutual Telephone Company, an incumbent LEC providing service in in SAC 190244 in Virginia; and NCRBN, LLC, an Internet service provider operating in North Carolina. *Id.* at 3-4.

[10] *Id.* at 3.

230510 in North Carolina. RiverStreet is owned by Wilkes (88.89%), and Eric Cramer (11.11%), a U.S. citizen. Applicants assert there will be no other 10%-or-greater equity owners (direct or indirect) of Licensees following consummation of the transaction.[11] The principal business of both Wilkes and Cramer is telecommunications. Applicants assert there is no overlap in the service area of any RiverStreet affiliate with the service areas of Amelia Telephone and New Castle Telephone.[12]

Pursuant to the terms of the stock purchase agreement, RiverStreet will purchase all of the issued and outstanding capital stock of Amelia Telephone and New Castle Telephone, which would give RiverStreet control of those companies.[13] Applicants assert that after consummation of the proposed transaction Amelia Telephone and New Castle Telephone will continue to exist and operate pursuant to their respective section 214 authorizations.[14]

Applicants request streamlined treatment of the proposed transaction under the Commission's rules and assert that a grant of the application would serve the public interest, convenience, and necessity. 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.[15]

> Domestic Section 214 Application Filed for the Transfer of Control of Amelia Telephone Corporation and New Castle Telephone Company from TDS Telecommunications, LLC to RiverStreet Management Services, LLC, WC Docket No. 24-185 (filed June 24, 2024).

GENERAL INFORMATION

The transfer of control 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).

- 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

[11] *Id.* at 10-11.

[12] *Id.* at 5, 14.

[13] *Id.* at 2.

[14] *Id.* at 6.

[15] 47 CFR § 63.03(c)(1)(v).

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.

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

1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
2) Randall Sifers, Competition Policy Division, Wireline Competition Bureau, randall.sifers@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.[16] 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 Randall Sifers at (202) 418-2325.

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[16] *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 24-640
Released: July 3, 2024

DOMESTIC SECTION 214 APPLICATION FILED FOR THE TRANSFER OF CONTROL OF KINEX TELECOM, INC. TO PLANET NETWORKS, INC.

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 24-120

Comments Due: July 17, 2024
Reply Comment Due: July 24, 2024

By this Public Notice, the Wireline Competition Bureau seeks comment from interested parties on an application filed by Kinex Telecom, Inc. (Kinex) and Planet Networks, Inc. (Planet) (together, 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 transfer of control of Kinex to Planet.[2]

Kinex, a Virginia corporation, provides voice and broadband service, including interconnected Voice over Internet Protocol (VoIP) service, using fixed wireless and fiber technology to connect homes, businesses, and anchor institutions in Virginia.[3] Kinex provides these services to approximately 1,600 residential and business customers and focuses on serving rural and remote areas in central Virginia.[4] Kinex, an Eligible Telecommunications Carrier, receives high-cost universal service support through the Rural Digital Opportunity Fund (RDOF) support mechanism.[5] Kinex is owned by two U.S. citizens, James Garrett (60%) and Scott Chidester (20%), and Planet Capital, LLC (Planet Capital), a Delaware limited liability company wholly owned by Planet (20%).[6]

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

[2] Application for Consent to Transfer Control of Kinex Telecom, Inc. to Planet Networks, Inc., Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-120 (filed Apr. 19, 2024) (Application). Applicants filed a supplement to the Application on June 28, 2024. Supplement to Application for Consent to Transfer Control of Kinex Telecom, Inc. to Planet Networks, Inc., Pursuant to Section 214 of the Communications Act of 1934, as Amended, WC Docket No. 24-120 (filed June 28, 2024) (Supplement). Any action on this domestic section 214 application is without prejudice to Commission action on other related, pending applications.

[3] Application at 4, 15.

[4] *Id*. at 4.

[5] *Id*. at 11-12. Kinex also participates in the Lifeline program and will continue to do so post-consummation of the transaction. *Id*. at 12.

[6] *Id*. at 13-14.

Planet is a Delaware corporation and holding company that does not provide telecommunications services.[7] Planet, through Planet Capital, also a holding company, provides voice and broadband service using both fiber and coaxial cable technology to connect homes, businesses, and anchor institutions in rural markets of New York, New Jersey, and Pennsylvania[8] through three wholly-owned competitive local exchange carrier (LEC) subsidiaries: Planet Fiber NY LLC; Planet Fiber NJ LLC; and Planet Fiber PA LLC.[9] Each competitive LEC subsidiary provides intraLATA transport, interconnected VoIP, and broadband Internet services.[10] Planet's only 10% or greater owner is Robert Boyle (52%), a United States Citizen.[11]

Pursuant to the terms of the proposed transaction, Planet Capital and Kinex entered into a Stock Purchase Agreement by which Planet Capital acquired a 20 percent equity interest in Kinex, and Kinex and its shareholders agreed to sell all of their equity to Planet Capital.[12] Applicants state that upon approval by the Commission of this Application and by state authorities, Planet Capital will acquire the remaining 80% of Kinex, including Kinex's voice and broadband operations (both within and outside of its RDOF area), its RDOF support obligations, and its right to receive corresponding RDOF support.[13] Applicants assert that at closing, Planet Capital will be responsible for Kinex's ongoing operations, customer service, network expansion, and deployment of RDOF facilities and services.[14] Applicants also assert that Planet Capital will also own all of Kinex's existing facilities, including 350 miles of fiber serving RDOF locations, engineering plans, local permits, and other work product that Kinex has created and installed.[15] Applicants explain that after consummation of the transaction, Kinex will continue and accelerate deployment of the RDOF-supported network and integrate such activities and operations into its own ongoing operations.[16] Applicants further explain that no carrier change charges will result from the transaction, and no customer service or billing contact information will change as a result of the transaction.[17] Applicants contend that the transaction will be transparent to the customers of the Applicants, as customers will continue to be served pursuant to their existing operations.[18] Finally, Applicants assert that Kinex's new ownership plans to upgrade the Kinex network and offer faster speeds to subscribers at lower prices.[19]

Applicants assert that the proposed transaction is consistent with the public interest,

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[7] *Id*. at 4, 13.

[8] *Id*. at 4-5, 15.

[9] Supplement at 1.

[10] *Id*.

[11] Application at 14.

[12] *Id*. at 2.

[13] *Id*. at 2, 14.

[14] *Id.* at 6.

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.*at 7.

convenience, and necessity.[20] 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.[21]

Domestic Section 214 Application Filed for the Transfer of Control of
Kinex Telecom, Inc., to Planet Networks, Inc.,
WC Docket No. 24-120 (filed Apr. 19, 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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  - 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.
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In addition, e-mail one copy of each pleading to each of the following:

1) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, tracey.wilson@fcc.gov;
2) Megan Capasso Danner, Competition Policy Division, Wireline Competition Bureau, megan.danner@fcc.gov; and

[20] *Id*. at 16.

[21] 47 CFR § 63.03(c)(1)(v).

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.[22] 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 Megan Capasso Danner at (202) 418-1151.

-FCC-

[22] *See* 47 CFR § 1.45(c).

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

In the Matter of	)	
	)	
CaptionCall, LLC	)	File No.: EB-TCD-22-00034166
	)	CD Acct. No.: 202432170003
	)	FRN: 0022575187
	)	
	)	
MachineGenius, Inc.	)	File No.: EB-TCD-22-00033824
	)	CD Acct. No.: 2023217006
	)	FRN: 0029557113

ORDER

Adopted: July 8, 2024 **Released: July 9, 2024**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC of Commission) has entered into a Consent Decree to resolve its Investigation into whether Sorenson Communications, LLC, and CaptionCall, LLC, (CaptionCall), in its provision of Internet Protocol Captioned Telephone Service (IP CTS) violated the Commission's rules prohibiting the retention of call content beyond the duration of a call and the submission of inaccurate information to the Telecommunications Relay Service (TRS) Fund Administrator. To resolve this matter, CaptionCall agrees to implement the terms of this Consent Decree, including novel privacy and data protection measures, and undertake a settlement which includes a TRS Fund reimbursement of $12,000,000 and a civil penalty of $5,000,000. As part of the settlement, CaptionCall also agrees to relinquish all claims to $13,655,072.38 associated with compensation for IP CTS minutes and to spend a minimum of $4,000,000 on TRS privacy and data protection enhancements.

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.

3. In the absence of material new evidence relating to this matter, we do not set for hearing the question of CaptionCall's basic qualifications to hold or obtain any Commission license or authorization.[1]

4. Accordingly, **IT IS ORDERED** that, pursuant to section 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 matters **ARE TERMINATED** in accordance with the terms of the attached Consent Decree.

[1] *See* 47 CFR § 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 Shawn Troutt, Chief Legal Officer, CaptionCall, LLC, 4192 Riverboat Rd., Salt Lake City, UT 84123, John Nakahata, Harris, Wiltshire & Grannis LLP, 1919 M Street NW, Washington, DC 20036, and to Travis LeBlanc, Cooley LLP, 1299 Pennsylvania Avenue NW, Suite 700, Washington, DC 20004.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of CaptionCall, LLC	)	File No.: EB-TCD-22-00034166 CD Acct. No.: 202432170003 FRN: 0022575187
MachineGenius, Inc.	)	File No.: EB-TCD-22-00033824 CD Acct. No.: 2023217006 FRN: 0029557113

CONSENT DECREE

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) and Sorenson Communications, LLC, and CaptionCall, LLC, by their authorized representatives, hereby enter into this Consent Decree for the purpose of settling the Bureau's investigation into noncompliance reports CaptionCall submitted pursuant to its *December 2021 Consent Decree* and the *MachineGenius Consent Decree*.[1] Specifically, the investigation considered the extent to which in its provision of Internet Protocol Captioned Telephone Service (IP CTS), CaptionCall engaged in practices that violated the Commission's rules, including among other things, retaining call content beyond the duration of a call and submitting inaccurate information to the TRS Fund Administrator. To resolve this matter, CaptionCall agrees to implement the terms of this Consent Decree, and undertake a comprehensive settlement, which includes a TRS Fund reimbursement of $12,000,000 and a civil penalty of $5,000,000. As part of the settlement, CaptionCall agrees to relinquish all claims to $13,655,072.38 associated with compensation for IP CTS minutes. Additionally, CaptionCall agrees to spend a total amount of at least $4,000,000 on investments in privacy and data protection enhancements for the benefit of TRS users. CaptionCall's commitment to its users is demonstrated in its willingness to implement increased and strengthened compliance practices through this Consent Decree, which reflects the Commission's ongoing efforts to safeguard the TRS program and protect the privacy and data of TRS users.

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.[2]

(b) "Administrator" or "TRS Fund Administrator" means the entity designated by the Commission to administer the TRS Fund.[3]

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

(d) "Agreement" shall mean any contractual relationship between CaptionCall and any Vendor with access to CaptionCall's systems used to process, transmit, or store User

[1] *Sorenson Communications, LLC, CaptionCall, LLC*, Order and Consent Decree, 36 FCC Rcd 16545 (EB 2021) (*December 2021 Consent Decree*); *MachineGenius, Inc*., Order and Consent Decree, 37 FCC Rcd 7817 (EB 2022) (*MachineGenius Consent Decree*).

[2] 47 U.S.C. § 151 *et seq.*

[3] 47 CFR § 64.604(c)(5).

Data, including, but not limited to, oral and written contracts, amendments, addendums, exhibits, appendices, schedules, side letters, and any other document related to any such agreement.

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

(f) "Call Captioning" shall refer to activities implemented by CaptionCall or any person or entity acting on behalf of CaptionCall to generate captions in the provisioning of an IP CTS call.

(g) "CaptionCall" or "Company" shall refer to CaptionCall, LLC to the extent that the company provides branded IP CTS pursuant to an FCC certification.

(h) "CaptionCall, LLC" shall refer to CaptionCall, LLC, a wholly owned subsidiary of Sorenson Communications, LLC and holder of a conditional certification from the Commission to provide IP CTS, any predecessors-in-interest and any successors-in-interest, to the extent they provide(d) IP CTS.

(i) "CD Acct No." means account number 202432170003, associated with payment obligations described in paragraph 22 of this Consent Decree.

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

(k) "Communications Laws" means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which CaptionCall is subject by virtue of its FCC certification.

(l) "Compliance Plan" means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 16.

(m) "Covered Incident" means any incident: (1) that results in CaptionCall notifying, pursuant to a statutory or regulatory requirement, any U.S. federal, state, or local government entity that User Data was, or is reasonably believed to have been, accessed, acquired, or publicly exposed without authorization; (2) in which User Data was, or is reasonably believed to have been, accessed, acquired, or publicly exposed, in each case without authorization, provided that this shall not include a good-faith access to or acquisition of User Data by a CaptionCall employee or agent (including Vendors) where such information is not used improperly or further disclosed; or (3) in which User Data was subject to unlawful retention.

(n) "Covered Personnel" means all CaptionCall employees and Vendors of CaptionCall who (i) perform duties related to CaptionCall's filings to the Administrator, (ii) perform Marketing Partner functions, or (iii) directly, supervise, oversee, or manage the performance of duties that are required for CaptionCall's compliance with the Communications Laws and this Consent Decree, including the Privacy and Data Protection Program. Only Vendors receiving benefits, financial or otherwise, will be considered to be Covered Personnel.

(o) "CPNI" or "Customer Proprietary Network Information" shall have the same meaning as the term is defined in 47 CFR § 64.5103(f).

(p) "*December 2021 Consent Decree*" shall mean the Consent Decree entered into between the Bureau and CaptionCall on December 3, 2021, DA 21-1488.[4]

[4] *See December 2021 Consent Decree*, 36 FCC Rcd 16545 (EB 2021).

(q) "Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, electronically stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

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

(s) "Internet Protocol Captioned Telephone Service" or "IP CTS" shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(19).

(t) "Investigation" means the investigation commenced by the Bureau in EB-TCD-22-00034166 regarding whether CaptionCall violated the Communications Laws, including the issues associated with Noncompliance Reports filed pursuant to the *December 2021 Consent Decree* and, as a successor, the *MachineGenius Consent Decree*.

(u) "*MachineGenius Consent Decree*" shall mean the Consent Decree entered into between the Bureau and MachineGenius, Inc. on July 8, 2022, DA 22-729.[5]

(v) "Marketing" shall refer to activities implemented by CaptionCall or its agent acting on behalf of or under the direction of CaptionCall, to identify or solicit potential new customers for CaptionCall or conduct person-to-person activities to promote use of the Company's IP CTS products and service.

(w) "Marketing Partner" shall refer to any Vendor that receives benefits, financial or otherwise, and is tasked with identifying, educating, or otherwise soliciting prospective or potential IP CTS users with the intent of becoming CaptionCall customers. This does not include entities to the extent that their engagement with CaptionCall is only to publish, broadcast, host or facilitate advertising.

(x) "Noncompliance Reports" shall refer to the reports filed pursuant to paragraph 24 of the *December 2021 Consent Decree*, paragraph 16 of the *MachineGenius Consent Decree*, and paragraph 17 of this Consent Decree.

(y) "Operating Procedures" means the standard internal operating procedures and compliance policies established by CaptionCall to implement the Compliance Plan as described in this Consent Decree at paragraph 16.

(z) "Parties" means CaptionCall and the Bureau, acting pursuant to delegated authority from the Commission, each of which is a "Party."

(aa) "Privacy and Data Protection Program" means the privacy and data protection-related obligations, program, and procedures described in this Consent Decree at paragraph 16(b).

(bb) "Requests for Reimbursement" shall mean CaptionCall's monthly submissions made to the TRS Fund Administrator for the purpose of receiving reimbursements for the provision of IP CTS.

(cc) "Resubmissions" shall mean any Request for Reimbursement submitted to the TRS Fund Administrator to modify a prior Request for Reimbursement.

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

[5] *See MachineGenius Consent Decree*, 37 FCC Rcd 7817 (EB 2022).

(ee) "Sorenson Communications, LLC" shall mean the parent of CaptionCall, LLC, and any predecessors-in-interest and successors-in-interest, solely to the extent that the entity held an FCC certification to provide IP CTS.

(ff) "Telecommunications Relay Services" or "TRS" shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(43).

(gg) "TRS Fund" or "Fund" shall refer to the term as described in 47 CFR § 64.604(c)(5)(iii).

(hh) "TRS Rules" means the regulations set forth at 47 CFR §§ 64.5101 through 64.5111 and §§ 64.601 through 64.636, Commission orders related to 47 U.S.C. § 225 of the Act, and any other applicable Rules and orders specifically related to IP CTS.

(ii) "User Data" means, with respect to IP CTS: (1) Customer Proprietary Network Information (CPNI); (2) information collected from a user to comply with 47 CFR §§ 64.611(j) and 64.615, as applicable; (3) IP CTS call content, whether audio or transcribed; and (4) "personally identifiable information" as defined in 47 CFR § 64.2011(e)(5), as published at 89 Fed. Reg. 9968, 10002 (Feb. 12, 2024), to which the Company has access. User Data does not include information that has been aggregated, deidentified or anonymized.

(jj) "Vendor" or "Vendors" means any contractor, agent, or third-party entity that provides services to or on behalf of CaptionCall in its provision of IP CTS.

II. BACKGROUND

3. Telecommunications Relay Services (TRS) allow millions of Americans to conduct critical conversations every day. TRS enables persons who are deaf, hard of hearing, deafblind or have speech disabilities to utilize the telecommunications system to make and receive calls through the use of technology and/or Communications Assistants (CAs). Internet Protocol Captioned Telephone Service (IP CTS) is an Internet form of TRS for hard of hearing users that use their voice to speak, but need the service to communicate effectively on a call with another party.[6] With IP CTS, users are able to read captions of the communications of the other party to the call using an IP-enabled device or application connected to the Internet. During the conversation, the captions are generated by a CA or automatic speech recognition (ASR) software.

4. Section 225 of the Communications Act of 1934, as amended (the Act) requires the Commission to ensure the provision of TRS is functionally equivalent to the provision of voice communication services used by persons without disabilities, including the privacy and confidentiality of call content.[7] The Commission has long emphasized that when a TRS caller reaches a CA, it is the equivalent of reaching a dial tone.[8] Section 225 directs the Commission to adopt regulations that prohibit providers from disclosing and keeping records of the content of any relayed conversation beyond the duration of a call and from intentionally altering a relayed conversation.[9] Likewise, section

[6] 47 CFR § 64.601(a)(23). "With IP CTS, the connection carrying the captions between the relay service provider and the relay service user is via the [I]nternet rather than the public switched telephone network."

[7] 47 U.S.C. § 225(a)(3), (b)(1).

[8] *See, e.g.*, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CC Docket No. 98-67, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 5165-66, para. 60 (2000) (For a TRS user, reaching a CA to place a relay call is the equivalent of picking up a phone and getting a dial tone.); *Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 13-124 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8671, para. 136, n. 299 (2013).

[9] 47 U.S.C. § 225(d)(1)(F)-(G).

64.604(a)(2)(i)-(ii) of the TRS Rules prohibit CAs from disclosing or keeping records of the content of any conversation beyond the duration of a call and, with limited exceptions, from intentionally altering a relayed conversation.[10] In addition to establishing the requirement for TRS providers to maintain the confidentiality of relayed conversations, the Commission has adopted rules to protect TRS users' privacy, User Data, and the integrity of the TRS Fund.

5. CaptionCall provides IP CTS pursuant to a conditional certification.[11] On December 3, 2021, the Commission, Sorenson Communications, LLC, and CaptionCall, LLC entered into a consent decree to terminate an investigation into potential violations of the Commission's TRS Rules.[12] On July 8, 2022, MachineGenius, LLC entered into a consent decree with the Bureau.[13] CaptionCall became a successor-in-interest to this consent decree when it purchased assets from MachineGenius, LLC on July 12, 2022. Pursuant to the *December 2021 Consent Decree*, CaptionCall implemented an enhanced compliance program.[14]

6. As a result of CaptionCall's ongoing compliance monitoring and compliance processes, and as required by the *December 2021 Consent Decree* and *MachineGenius Consent Decree*, CaptionCall submitted noncompliance reports that identified and reported various issues to the Bureau.[15]

[10] 47 CFR § 64.604(a)(2)(i)-(ii).

[11] *Extension of Conditional Certifications of CaptionCall, LLC and Sorenson Communications, LLC, to Provide Telecommunications Relay Services,* CG Docket Nos. 03-123, 10-51, Public Notice, DA 24-281, 2024 WL 1236608 (CGB Mar. 20, 2024)*; see also Grant of Conditional Certification for CaptionCall, LLC to Provide Internet Protocol Captioned Telephone Service After Its Acquisition by Ariel GP Holdco, LLC*, CG Docket No. 03-123, Public Notice, DA 22-311 (CGB 2022). The Company previously provided IP CTS under Sorenson Communications, LLC's conditional certification.

[12] *December 2021 Consent Decree*, *supra* note 1.

[13] *MachineGenius Consent Decree*, *supra* note 1. CaptionCall has filed all reports of noncompliance submitted to the Bureau pursuant to the MachineGenius Consent Decree. *See, e.g.*, Report of Noncompliance from CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Aug. 16, 2022) (on file in EB-TCD-22-00033824).

[14] *December 2021 Consent Decree*, *supra* note 1, at 16556-61, para. 23.

[15] *See id.* at 16561-62, para. 24; *MachineGenius Consent Decree*, *supra* note 1, at 7824, para 16. *See also* Letter Report of Noncompliance, from Steven Fredley, Compliance Officer, CaptionCall, LLC, to Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 17, 2022) (on file in EB-TCD-17-00024119); Letter Report of Noncompliance, from Steven Fredley, Compliance Officer, CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Mar. 17, 2022) (on file in EB-TCD-17-00024119); Report of Noncompliance, Letter from Steven Fredley, Compliance Officer, CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Apr. 13, 2022) (on file in EB-TCD-17-00024119); Letter Report of Noncompliance, from Steven Fredley, Compliance Officer, CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (June 15, 2022) (on file in EB-TCD-17-00024119) (June 2022 Noncompliance Report); Letter Report of Noncompliance, from Andrew Jorgensen, Compliance Officer, CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Aug. 16, 2022) (on file in File No. EB-TCD-22-00033824); Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Oct. 3, 2022) (on file in EB-TCD-17-00024119); Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, and Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 7, 2023) (on file in EB-TCD-17-00024119); Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 7, 2023) (on file in File No. EB-TCD-22-00033824); Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, and Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 16, 2023) (on file in EB-TCD-17-00024119); Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, and Sharon Lee, Deputy

(continued….)

CaptionCall's noncompliance reports included, among other things, (i) the improper retention of call content beyond the duration of the call,[16] (ii) failure to send required account change notifications to some customers in a timely manner, (iii) a description of actions taken by its Marketing Partners which resulted in noncompliance reports,[17] and (iv) seeking and receiving compensation from the TRS Fund for minutes that were ineligible for compensation.[18] The Bureau initiated an Investigation into these matters and CaptionCall fully cooperated, including making its personnel available for interviews with the Bureau.[19] As part of the Bureau's Investigation, Commission staff, supported by the Administrator, conducted a site visit at CaptionCall facilities in Salt Lake City, Utah. The site visit allowed the Commission and Administrator to obtain information on the reported noncompliance issues and CaptionCall's remediation efforts.

7. To resolve the Bureau's Investigation, CaptionCall and the Bureau enter into this Consent Decree and agree to the following terms and conditions.

III. TERMS OF AGREEMENT

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

9. **Jurisdiction**. CaptionCall 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.

10. **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.

Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Mar. 7, 2023) (on file in EB-TCD-17-00024119); Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, and Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Mar. 16, 2023) (on file in EB-TCD-17-00024119). CaptionCall also provided supplemental filings letters for some of the reports. The Bureau and CaptionCall acknowledge that CaptionCall's implementation of an enhanced compliance program facilitated CaptionCall's ability to identify, report and remediate these issues.

[16] June 2022 Noncompliance Report. CaptionCall stated the Company was not aware of the software errors or call content retention prior to discovery of the software error in June of 2022. During the course of the Investigation, CaptionCall has reiterated that it found no evidence to believe that the retained call content was accessed, breached, or disclosed in any way.

[17] Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, and Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 7, 2023) (on file in EB-TCD-17-00024119); Letter Report of Noncompliance, from Steven Fredley, HWG LLP, Counsel for CaptionCall, LLC, to Kristi Thompson, Chief, and Sharon Lee, Deputy Chief, Telecommunications Consumers Division, FCC Enforcement Bureau (Feb. 16, 2023) (on file in EB-TCD-17-00024119). CaptionCall compensated both Marketing Partners based on referrals made that became registered CaptionCall users. The practices resulted from work done pursuant to the agreement with CaptionCall. CaptionCall considers the actions of both Marketing Partners to be violations of the specific compliance safeguards of the Marketing Partners' contracts with CaptionCall. CaptionCall identified these problems through its own vendor monitoring, and timely terminated these arrangements when its compliance review identified these noncompliance issues.

[18] These minutes included, among other things, minutes generated through internal phone numbers, minutes associated with calls where the content was altered based on a CA's action/lack of action or software settings, and calls with unreadable captions.

[19] Letter of Inquiry from Kristi Thompson, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Steven Fredley, Counsel to Sorenson Communications, LLC and CaptionCall, LLC (Aug. 25, 2022) (on file in EB-TCD 22-00034166).

11. **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, CaptionCall 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 violations identified in this Consent Decree or existence of this Consent Decree in any action against CaptionCall concerning the matters that were the subject of the Investigation, provided that CaptionCall satisfies its obligations under this Consent Decree. In the event that CaptionCall fails to satisfy any of its material 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.

12. **Representations; Warranties**. CaptionCall represents and warrants that it will treat the Civil Penalty set forth herein as a penalty within the meaning of section 162(f) of the Internal Revenue Code.[20] The Company also agrees that it will not treat any payment of the Civil Penalty described below in paragraph 22 as tax deductible for purposes of federal, state, or local law or include the Civil Penalty as a business cost in its Annual Cost Submission to the TRS Fund Administrator.

13. Sorenson and CaptionCall warrant that they will invest a total of at least $4,000,000 in TRS privacy and data protection enhancements and user awareness in support of their provision of TRS, as described in paragraph 21 herein. CaptionCall further warrants the investment pursuant to paragraph 21 herein shall be in addition to any such costs associated with implementing or complying with any of the requirements set forth in paragraph 16 of this Consent Decree.

14. CaptionCall also warrants that it will relinquish any claims to reimbursement of $13,655,072.38 for minutes not handled in compliance with the Commission's rules.[21]

15. **Admission of Facts**. For the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraph 11 herein, that paragraphs 5 and 6 herein contain a true and accurate description of the facts underlying the Investigation. No other admissions are made by CaptionCall.

16. **Compliance Plan.** Within ninety (90) calendar days after the Effective Date, CaptionCall shall develop a plan designed to ensure compliance with the Communications Laws and the terms and conditions of this paragraph (Compliance Plan). The Compliance Plan at a minimum shall consist of the following:

(a) **Operating Procedures.** Within one-hundred and twenty (120) days after the Effective Date:

i. **Process Assessment**. CaptionCall shall engage a qualified, independent examiner to conduct an assessment of all CaptionCall processes that support and/or contribute to CaptionCall's submissions of Requests for Reimbursement to the TRS Fund Administrator. The assessment shall be performed within twelve (12) months from the Effective Date.

ii. **Internal Compliance Reporting**. CaptionCall shall ensure that the head(s) of key functions including, but not limited to, IT, Customer Support, Account Management, Sales, and Marketing, have been trained on their obligations to provide oversight and to report compliance issues to the Compliance Officer

[20] *See* 26 U.S.C. § 162(f).

[21] CaptionCall identified and reported the minutes associated with the $13,655,072.38 in Noncompliance Reports submitted to the Bureau based on compliance review measures established subsequent to the *December 2021 Consent Decree*. CaptionCall previously received $440,237.35 of the $13,655,072.38 in reimbursements from the TRS Fund and has already submitted revised billing data to the TRS Administrator. The remaining $13,214,835.48 is associated with minutes that have not been reimbursed to CaptionCall from the TRS Fund.

and the Privacy Officer, where applicable, and are adhering to CaptionCall's established compliance reporting policies. Additionally, the Compliance Officer shall compile information on compliance reporting and provide it to the Chief Legal Officer on a quarterly basis.

iii. **Management of Incidents Involving Potential Noncompliance**. CaptionCall shall establish, implement, and/or modify a documented process for managing incidents of noncompliance with the Communications Laws and the terms of this Consent Decree to ensure at a minimum:

1. A documented and disseminated policy that describes requirements for timely notification to the Compliance Officer, Privacy Officer, and/or Chief Legal Officer, as appropriate, upon discovery of any incident that may have resulted in violation of the Communications Laws;
    a. Provides employees and parties working on behalf of CaptionCall with clear guidance on the notifications required when the person or entity discovers an issue that raises the potential of noncompliance with the Communications Laws and this Consent Decree; and
    b. Describes the escalation process and authorizations required for addressing an incident and/or remediation.
2. A record of the issue is created, including, but not limited to, the staff/contractors involved in the identification, if known, and remediation of the incident, the critical dates from discovery to resolution, and all remediation actions related to the incident;
3. Documents are retained in accordance with the following:
    a. To the extent that the noncompliance incident impacted CaptionCall's billing submission(s) to the Administrator, the compliance incident record(s) and related documents, other than User Data, shall be retained for five (5) years in accordance with 47 CFR § 64.604(c)(5)(iii)(D)(7); and
    b. Documents describing the incidence of noncompliance and the resolution for three (3) years following the resolution of the incident.
4. A regular review by the Compliance Officer of reported incidents, investigation reports, and remediation efforts.

iv. **Vendor Agreements.** CaptionCall shall ensure all Agreements with Vendors, including any modifications, are executed in writing after a review to ensure that the arrangements are consistent with the Communications Laws. All new Agreements, or those renewed after the Effective Date (Renewed Agreements) between CaptionCall and any Vendor that handles CA-based captioning for IP CTS calls on behalf of CaptionCall shall include a requirement allowing CaptionCall to conduct annual in-person site visits to the Vendor's Network Operations Center (NOC) and location(s) where captioning of CA-based CaptionCall IP CTS calls are handled and permitting CaptionCall to routinely conduct remote monitoring of such IP CTS calls the Vendor handles on behalf of CaptionCall.

(b) **TRS Privacy and Data Protection Program**. Within one hundred and twenty (120) calendar days after the Effective Date, CaptionCall shall develop and implement a TRS Privacy and Data Protection Program that is reasonably designed to ensure compliance with the privacy and data protection-related requirements of the Communications Laws and the following terms of this Consent Decree. The Privacy and Data Protection Program at a minimum shall consist of the following:

i. **Privacy Officer**. CaptionCall shall designate a Privacy Officer to establish, implement, and manage the Company's Privacy and Data Protection Program. The Privacy Officer must have the training, qualifications, experience, and resources necessary for implementing, maintaining, and monitoring the privacy -related requirements of the Privacy and Data Protection Program, and will collaborate with the Chief Information Security Officer to oversee the data protection-related requirements of the Privacy and Data Protection Program. The Privacy Officer shall report directly to the Chief Executive Officer and/or the Chief Legal Officer and, in conjunction with the Compliance Officer and the Chief Information Security Officer, be responsible for overseeing that CaptionCall establishes appropriate policies, procedures, risk assessments, and training concerning the privacy and data protection-related requirements of the Communications Laws that relate to User Data. The Privacy Officer will have primary oversight of CaptionCall's efforts to comply with the privacy-related requirements of the Privacy and Data Protection Program, and will collaborate with the Chief Information Security Officer to oversee CaptionCall's efforts to comply with the data protection-related requirements of the Privacy and Data Protection Program.

ii. **Data Retention Schedule and Data Inventory.** CaptionCall shall develop, implement, and maintain, at a minimum:

1. A data retention schedule that limits the retention of User Data for only as long as is reasonably necessary to fulfill the purpose for which the User Data was collected or as otherwise required to comply with applicable laws or other legal requirements;

2. A requirement that CaptionCall document and adhere to a retention schedule for User Data, setting forth: (a) the purposes for which such information is collected; (b) the specific business needs for retaining each category of User Data; and (c) a set timeframe for deletion of each category of User Data (absent any intervening deletion requests from consumers) that precludes indefinite retention of any User Data, unless otherwise required by applicable law or other legal requirements;

3. Policies to document internally the decision to collect, use, disclose, or maintain each category of User Data. Such documentation should include: (a) the purpose for which the category of User Data is being collected; (b) whether controls are in place to ensure that the category of User Data collected is only used for the particular purpose for which it was collected; (c) the data retention limit set for each category of User Data (per the retention schedule); and (d) the categories of authorized employees and Vendors who have a need-to-know and access to each category of User Data; and

4. Policies requiring the secure deletion and disposal of User Data, including, where appropriate, the sanitization or destruction of electronic media containing User Data.

iii. **Call Content Retention Processes.** CaptionCall shall develop policies designed to ensure that:

1. New or modified IP CTS software or systems are tested/audited for retention of IP CTS call content; and

2. Privacy and security protections are considered when developing new IP CTS service enhancements, or making changes to software and systems used to manage or process IP CTS calls, and any such changes or development are carried out pursuant to a secure system development lifecycle (SDLC) for software development. At a minimum, the SDLC should include the NIST SP 800-218, or a similarly situated and recognized framework, for the implementation of secure software development.

iv. **Incident Response**. CaptionCall shall develop and implement policies and procedures for detecting, responding to, and limiting the consequences of Covered Incidents.

v. **Vendor Oversight.** CaptionCall shall ensure that for any new or Renewed Agreements entered into more than ninety (90) calendar days after the Effective Date:

1. It conducts a data privacy and security assessment prior to the engagement of any new or Renewed Agreement with a Vendor that will be processing User Data on behalf of CaptionCall;

2. All such Agreements between CaptionCall and any Vendor that processes or stores User Data on behalf of CaptionCall will include requirements consistent with, and no less stringent than, the following:

a. Requiring the Vendor to implement data protection measures consistent with, and no less stringent than, the applicable requirements of subsections (ii)(4), (iii), and (iv) of this Privacy and Data Protection Program;

b. Requiring the Vendor to notify CaptionCall of any Covered Incident as soon as is practicable, but no later than three (3) business days after discovery;

c. Requiring the Vendor to provide CaptionCall with specific information upon request when notified that the information is necessary for CaptionCall to respond to a regulatory inquiry or obligation;

d. Stipulating that CaptionCall may conduct assessments of the Vendor once every two years. The objective of such assessments is to ensure any User Data being transmitted, stored, or processed by the Vendor is subject to privacy and security measures that are compliant with the applicable requirements of subsections (ii)(4), (iii), and (iv) of this Privacy and Data Protection Program; provided, however,

that notwithstanding the foregoing, the Vendor may satisfy this assessment requirement by providing a copy of its most recent audit report performed by a qualified and independent third-party auditor covering these requirements; and

e. Notifying CaptionCall of security-related changes in the Vendor's systems that materially impact User Data.

3. CaptionCall develops, implements, and modifies, as required, processes that govern its oversight of Vendors that have access to User Data based on the service(s) the Vendor provides to or on behalf of CaptionCall.

vi. **Subsequent Changes.** To the extent that CaptionCall has some aspect of this Privacy and Data Protection Program for User Data already in place on the Effective Date, CaptionCall shall ensure that subsequent changes maintain or enhance the Privacy and Data Protection Program consistent with the relevant and then current requirements of the Communications Laws and this Consent Decree.

vii. **Risk Assessment**. Within one-hundred and eighty (180) calendar days after the Effective Date, CaptionCall shall engage a qualified, independent assessor that is not an affiliate of CaptionCall or its owners, to conduct a risk assessment of CaptionCall's Privacy and Data Protection Program for User Data pursuant to applicable requirements for the Privacy and Data Protection Program in this Consent Decree. CaptionCall shall submit the Executive Summary and Summary of Findings to the Bureau in its sixteen (16) month Compliance Report filed pursuant to paragraph 18.

(c) **Marketing and Call Captioning.** Within thirty (30) calendar days after the Effective Date, CaptionCall shall:

i. Describe in all new Agreements or any Renewed Agreements with Marketing Partners and CA-based Call Captioning Vendors, the details of the work to be performed on behalf of CaptionCall and identify the points of contact between CaptionCall and the Marketing Partner or Vendor;

ii. Maintain all Agreements associated with costs reported in submissions to the TRS Fund Administrator for at least two years after the term of the Agreement;

iii. Require in all new Agreements and Renewed Agreements that Marketing Partners and CA-based Call Captioning Vendors must provide CaptionCall with specific information upon request when notified that the information is necessary for CaptionCall to respond to a regulatory inquiry or obligation;

iv. Waive in all Agreements any requirement for a Marketing or Call Captioning Vendor to (a) notify CaptionCall of the Vendor's receipt of an inquiry from the Commission or an agent acting on behalf of the Commission and (b) obtain CaptionCall's approval for the Marketing Partner or Vendor to respond to the Commission or its agent;

v. Ensure that billing and payment Documents associated with each entity that receives compensation from CaptionCall based on performing Marketing or Call Captioning functions are recorded and retained for at least two years after the term of the Agreement; and

vi. Maintain a process to terminate any Agreement with any Marketing Partner within three (3) business days of obtaining information confirming that a Marketing Partner has violated the Communications Laws or the terms of this Consent Decree when performing the work done on behalf of CaptionCall.

(d) **Resubmissions to the TRS Fund Administrator**. Within sixty (60) days of the Effective Date, CaptionCall shall provide the Administrator the following information for each previously submitted Resubmission and any new Resubmission filed after the Effective Date for data months associated with any violations or potential violations disclosed in Noncompliance Reports filed with the Bureau from February 17, 2022 to March 16, 2023:

i. (a) A detailed description of the issue involved in the Noncompliance Report that forms the basis for the Resubmission; (b) an estimate of the minutes and monies associated with the impacted calls associated with the Noncompliance Report by data month and data year; and (c) the date of the Noncompliance Report filed with the Commission or some other notice made to the Administrator or Commission staff describing the issue that forms the basis of the Resubmission; and (d) a list of the file name(s) associated with the Resubmission. CaptionCall may work with the Administrator to identify any modifications that may be required to adequately address a particular situation, including circumstances where multiple Resubmissions are associated with the same issue.

1. If at any time during the term of this Consent Decree the Administrator directs providers to use a specific form to provide detailed information with Resubmissions, CaptionCall shall use such form to comply with paragraph 16(d)(i) of this Consent Decree.

(e) **Compliance Manual**. Within sixty (60) calendar days after the Effective Date, CaptionCall shall update where necessary and continue to maintain its Compliance Manual to include any modifications or amendments resulting from this Consent Decree.

(f) **Compliance Training Program**. CaptionCall shall maintain and update where necessary its Compliance Training Program for all Covered Personnel to ensure that training related to the Communications Laws and this Consent Decree is relevant to the duties and responsibilities of Covered Personnel and to enhance CaptionCall's compliance with the Communications Laws and this Consent Decree. CaptionCall shall repeat Compliance Training related to the Communications Laws and this Consent Decree 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.

i. All Covered Personnel who are employees of CaptionCall shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that:

1. Any person who becomes a Covered Personnel based on being a CaptionCall employee at any time after delivery of the Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Personnel; and

2. Any Covered Personnel who is an employee of CaptionCall and who completed Compliance Training within twelve (12) months prior to the Effective Date, will not be required to complete new training prior to the one-year anniversary of their prior Compliance Training. Such persons may be provided a compliance update specific to their role and responsibilities as necessary.

ii. CaptionCall shall create and provide to Covered Personnel who are not CaptionCall employees, training materials tailored to emphasize compliance topics relevant to work that the entity performs on behalf of CaptionCall. CaptionCall shall require such entities to submit no later than March 31 each year, an attestation that the entity has trained its employees during the prior calendar year based on the training materials CaptionCall provided.

17. **Reporting Noncompliance**. CaptionCall shall report any material noncompliance with the Communications Laws and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance, regardless of whether CaptionCall knows full details of the noncompliance. To the extent known, such reports (Noncompliance Reports) shall include a detailed explanation of: (i) each instance of noncompliance, (ii) the steps that CaptionCall 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 CaptionCall has taken or will take to prevent the recurrence of any such noncompliance. If the Company is still investigating the noncompliance, CaptionCall shall provide a timeline for when it will provide further information to the Commission. All Noncompliance Reports shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, N.E. Washington, D.C. 20554, with a copy submitted electronically to the Deputy Chief (TRS), Telecommunications Consumers Division, Enforcement Bureau via e-mail to fccebaccess@fcc.gov. All reports of noncompliance shall also be submitted to the Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau via e-mail to TRSreports@fcc.gov, and to the Office of The Managing Director, at OMDTRSReports@fcc.gov.

18. **Compliance Reports**. CaptionCall shall file compliance reports (Compliance Reports) with the Commission twelve (12) months after the Effective Date and sixteen (16) months after the Effective Date.

(a) Each Compliance Report shall include a detailed description of CaptionCall's efforts during the relevant period to comply with the Communications Laws and the terms and conditions of this Consent Decree, including a description of the mandated TRS Privacy and Data Protection Enhancements required pursuant to paragraph 21 and the amount spent on each identified enhancement. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of CaptionCall, stating that the Compliance Officer has personal knowledge or is relying on the personal knowledge of another individual that CaptionCall: (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 17 of this Consent Decree. If the Compliance Officer is relying on the personal knowledge of any other individual rather than his or her own knowledge, the Company shall provide separate declarations of individuals with personal knowledge as to the certified matter.

(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.[22]

(c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of CaptionCall, 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 CaptionCall 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 CaptionCall 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 fccebaccess@fcc.gov and to sharon.lee@fcc.gov.

19. **Termination Date**. Unless stated otherwise, the requirements set forth in paragraphs 16 through 21 through of this Consent Decree shall expire eighteen (18) months after the Effective Date.

20. **TRS Fund Reimbursement and Relinquishment of Claims**. Sorenson Communications, LLC and CaptionCall, LLC shall reimburse $12,000,000 to the TRS Fund, for which they are jointly and severally liable. Sorenson Communications, LLC and CaptionCall, LLC acknowledge that the amount of the reimbursement is a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1). Sorenson Communications, LLC and CaptionCall, LLC further agree that the Debt shall, to the maximum extent possible, be satisfied by administrative offset from funds held by the TRS Fund Administrator according to the following schedule:

- Four million dollars ($4,000,000) shall be offset from the TRS Fund disbursements(s) made to CaptionCall, LLC in August 2024;
- Eight million dollars ($8,000,000) shall be offset from the TRS Fund disbursements(s) made to CaptionCall, LLC in September 2024.

21. **TRS Privacy and Data Protection Enhancements**. Sorenson and CaptionCall shall ensure that a total of at least $4,000,000 will be invested in privacy and data protection enhancements for TRS users and user awareness in support of their provision of TRS (collectively, TRS Privacy and Data Protection Enhancements) including, but not limited to, the following:

(a) Implementing privacy and data protection enhancements, which may include privacy enhancing technologies (PET), tools, staffing, or process designed to enhance privacy and data protection for TRS users.

(b) Developing and implementing a non-branded privacy and data protection awareness campaign aimed at educating IP CTS users on scams and other privacy and data-protection issues. The awareness campaign may include educational resources (such as guides, videos, blogposts, social media posts, newsletters, or other materials), which can be shared with the Commission and other IP CTS providers to be placed on websites to reach the broadest demographic of IP CTS users.

(c) Within one hundred and twenty (120) calendar days after the Effective Date, CaptionCall shall provide the Bureau with a detailed initial plan of the expected TRS Privacy and Data Protection Enhancements to be made over the course of this Consent Decree pursuant to this paragraph 21, including the intended purposes for which the TRS Privacy and Data Protection Enhancements will be used and, to the extent known, the anticipated expenditure associated with each such purpose. In an effort to ensure that the TRS Privacy and Data Protection Enhancements are tailored

[22] 47 CFR § 1.16.

towards maximum impact, the initial plan, including cost estimates, may be revised from time to time, as enhancements and actual costs may differ from expected/budgeted cost estimates.

(d) CaptionCall shall provide a detailed description of the expenditures of the TRS Privacy and Data Protection Enhancements in each Compliance Report filed pursuant to paragraph 18 herein. With each filing of a Compliance Report, CaptionCall shall maintain a cumulative reporting of TRS Privacy and Data Protection Enhancements expenditures, including the amount of the expenditure and the date of the expenditure.

(e) CaptionCall shall include all TRS Privacy and Data Protection Enhancements expenditures in the Annual Cost Submission(s) (RSDR) filed with the TRS Fund Administrator. The TRS Privacy and Data Protection Enhancements expenditures shall be reported in the section of the RSDR used by providers to report information the Administrator collects that is not factored into the cost of providing service and shall be labeled as TRS Privacy and Data Protection Enhancements.

22. **Civil Penalty**. Sorenson Communications, LLC and CaptionCall, LLC will pay a civil penalty to the United States Treasury, for which they are jointly and severally liable, in the amount of $5,000,000. Sorenson Communications, LLC and CaptionCall, LLC acknowledge and agree 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 (as defined below), all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. From July 2024 to January 2025, Sorenson Communications, LLC and CaptionCall, LLC shall pay a minimum of $200,000 per monthly installment (a minimum total of $1,200,000) towards the civil penalty; the balance of the civil penalty shall be paid in equal monthly installments and paid in full no later than the end of the period specified in paragraph 19. CaptionCall shall send electronic notification of payments to the Deputy Chief, Telecommunications Consumers Division (Accessibility), and to fccebaccess@fcc.gov on the date said payments are made. The payments must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),[24] 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.[25]

- 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[26] or printed CORES form[27] 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

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

[24] Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

[25] 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.

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

[27] 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).[28] 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**. Sorenson Communications, LLC and CaptionCall, LLC agree that an Event of Default shall occur upon the failure by CaptionCall to pay the full amount of the Civil Penalty the TRS Fund Reimbursement 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 TRS Fund Reimbursement 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 TRS Fund Reimbursement, 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 Sorenson Communications, LLC and CaptionCall, LLC.

25. **Waivers**. As of the Effective Date, CaptionCall 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. CaptionCall 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 CaptionCall nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and CaptionCall shall waive any statutory right to a trial *de novo*. CaptionCall hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act[29] 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

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

[29] *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.

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

29. **Successors and Assigns**. CaptionCall agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees that are the holder of certification.

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.

34. **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

_____
Shawn Troutt
Chief Legal Officer
CaptionCall, LLC

_____
Date

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

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	

ORDER

Adopted: July 3, 2024 **Released: July 3, 2024**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) extends, for an additional year, the waiver pausing both the phase-out of Lifeline support for voice-only services and the increase in Lifeline minimum service standards for mobile broadband data capacity. Without this decision, support for services that meet only the voice minimum service standard, which currently stands at $5.25 per month, would be eliminated in most areas on December 1, 2024.[1] Additionally, absent a pause, the minimum service standard for mobile broadband data capacity would rise from 4.5 GB to 5.25 GB per month beginning December 1, 2024.[2]

2. As discussed below, we again find good cause to pause these changes for an additional year. This action occurs at a time when the marketplace for affordable broadband services is undergoing significant changes as a result of the end of the Affordable Connectivity Program (ACP).[3] This action will avoid any changes that could potentially result in the disruption of communications for Lifeline

[1] *See Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3989-97, paras. 73-98 (2016) (*2016 Lifeline Order*); 47 CFR §§ 54.403(a)(2)(iv)-(v).

[2] Because the relevant available data that would be needed to compile the mobile updates for 2024 was released more than 18 months ago, the formula for determining the minimum service standards for mobile broadband data capacity will use the most recent year-over-year percentage change in smartphone data usage per subscriber, which yields an increase from the current 4.5 GB per month standard to 5.250 GB per month. *See 2016 Lifeline Order*, 31 FCC Rcd at 3997, para. 97; 47 CFR § 54.408(c)(2)(iii). The data used for this calculation is from the *Communications Marketplace Report*, which was released in December 2022. *Communications Marketplace Report*, GN Docket No. 22-203, Report, 37 FCC Rcd 15514 (2022) (*2022 Communications Marketplace Report*). If the data was newer than 18 months, the *2016 Lifeline Order* explains that instead of the calculation listed above, the minimum service level for mobile broadband capacity would be the product of 70 percent, the number of mobile-cellular subscriptions per household, the percentage of Americans who own a smartphone, and the average data used per mobile smartphone subscriber. *See 2016 Lifeline Order*, 31 FCC Rcd at 3995-3996, para. 94; 47 CFR § 54.408(c)(2)(ii).

[3] *See Wireline Competition Bureau Announces the Final Month of the Affordable Connectivity Program*, WC Docket No. 21-450, Public Notice, DA 24-195, 1 (WCB 2024) (*ACP Funding Public Notice*).

subscribers and will also provide the Commission additional time to consider the data found in the ACP Transparency Data Collection and *Future of USF Report*, which will help inform future Commission decisions on supporting voice-only service and setting Lifeline minimum service standards.[4] Moreover, minimizing changes to the Lifeline program will reduce burdens on providers to allow them to enroll new subscribers impacted by the wind-down of ACP.

II. BACKGROUND

3. In the *2016 Lifeline Order*, the Commission adopted Lifeline program revisions intended to promote low-income consumers' access to robust and affordable broadband services.[5] These changes included phasing-in higher mobile broadband data capacity minimum service standards while phasing-down Lifeline support for voice-only services.[6] In doing so, the Commission intended to "avoid undue consumer disruption and to allow Lifeline providers sufficient time to adjust operations as the Commission moves from a primarily voice-only Lifeline program to a Lifeline program embracing broadband services."[7]

4. The *2016 Lifeline Order* scheduled the first step of the phase-down in Lifeline support for voice-only services to begin on December 1, 2019, when support was reduced from $9.25 to $7.25.[8] The Commission took the second step, as instructed by the *2016 Lifeline Order*, on December 1, 2020, reducing support from $7.25 to $5.25.[9] The *2016 Lifeline Order* contemplated a complete phase-out of Lifeline support for voice-only services on December 1, 2021, when support for such services was to be eliminated in most areas.[10] Since then, however, the Bureau has paused the phase-out of voice-only services through one-year waiver extensions, recognizing the importance that voice service has to some Lifeline subscribers and the role it played in fulfilling consumers' heightened need to access emergency services during the pandemic.[11] Furthermore, the Bureau has recognized the need to understand how the ACP has impacted Lifeline, and to evaluate the future of USF programs in general.[12] The most recent temporary waiver is currently still in effect and ends on December 1, 2024.[13]

5. The mobile broadband data capacity minimum service standards were created to ensure consumers have access to modern communications services, without mandating the purchase of

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[4] *See Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Report, 37 FCC Rcd 10041 (2022) (*Future of USF Report*); *The Office of Economics and Analytics and the Wireline Competition Bureau Announce Publication of Affordable Connectivity Program Transparency Data Collection Summary*, WC Docket No. 21-450, Public Notice, DA 24-504 (WCB 2024), https://www.fcc.gov/document/oea-and-wcb-announce-publication-acp-transparency-data-collection (*ACP Transparency Data Collection Public Notice*).

[5] *2016 Lifeline Order,* 31 FCC Rcd at 3966-77, 3989-97, paras. 12-43, 73-98.

[6] *Id*. at 3985-86, paras. 62-65.

[7] *Id*. at 3985, para. 62.

[8] *Id*. at 3986, para. 64; 47 CFR § 54.403(a)(2)(ii).

[9] *See 2016 Lifeline Order*, 31 FCC Rcd at 3986, para. 64; 47 CFR § 54.403(a)(2)(iii).

[10] *2016 Lifeline Order*, 31 FCC Rcd at 3986, para. 64; 47 CFR § 54.403(a)(2)(iv).

[11] *See Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Order, 36 FCC Rcd 15539, 15545-15547, paras. 13-18 (WCB 2021) (*2021 Waiver Order*); *Lifeline and Link Up Reform and Modernization et al.*, WC Docket Nos. 11-42, Order, 37 FCC Rcd 7692, 7697-7699, 5-8, paras. 12-22 (WCB 2022) (*2022 Waiver Order*).

[12] *See 2022 Waiver Order*, 37 FCC Rcd at 7696-7699, paras. 13, 16-22; *Lifeline and Link Up Reform and Modernization et al.*, WC Docket Nos. 11-42 et al., Order, 38 FCC Rcd 6096, 6100-6102, paras. 11-17 (WCB 2023) (*2023 Waiver Order*).

[13] *See 2023 Waiver Order*, 38 FCC Rcd at 6099-6102, paras. 10-17.

prohibitively expensive offerings.[14] To accomplish this, the *2016 Lifeline Order* adopted a gradual increase in minimum service standards until December 1, 2019.[15] The *2016 Lifeline Order* instructed the Bureau to establish future annual minimum service standard increases for mobile broadband data capacity using a set formula and data contained in the Commission's annual *Mobile Wireless Competition Report* starting in 2019.[16] Because the *Mobile Wireless Competition Report* was discontinued, the *Communications Marketplace Report* is now used. Specifically, the formula requires the Bureau to: (1) divide the total number of mobile-cellular subscriptions in the United States by the total number of American households and round to the nearest hundredths place before multiplying by; (2) the percentage of Americans who own a smartphone, and rounding this number to the nearest hundredth before multiplying by; (3) the average data used per mobile smartphone subscriber. The product of (1)-(3) is rounded to the nearest hundredths and then multiplied by 0.7, and the result is rounded up to the nearest 250 MB.[17] However, the *2016 Lifeline Order* provided a default calculation, should "any of the data sources required by the calculations [be] older than 18 months," by which the minimum service level for mobile broadband data capacity would automatically increase from its previous level by the most recent year over year percentage change in smartphone data usage per subscriber.[18]

6. In 2019, the Commission found good cause to partially grant a petition from CTIA and others to waive the impending increase in the minimum service standard for mobile broadband data capacity and instead established a minimum service standard of 3 GB per month.[19] In 2020, the Bureau acted to partially grant a petition from the National Lifeline Association to waive the formula-defined increase and instead establish a minimum service standard of 4.5 GB per month.[20] More recently, the Bureau has found good cause to pause the increase for a year, and the standard is set to increase beginning December 1, 2024.[21] This year, based on the secondary approach for calculating increases because the data for the typical approach is older than 18 months, the minimum service standard for mobile broadband data capacity is set to increase to 5.25 GB per month beginning December 1, 2024.[22]

7. From January 2022 through May 2024, the Commission launched and ran the ACP, which grew to become the largest broadband affordability program in the nation's history, serving over 23 million households before the Commission needed to wind-down the program due to lack of additional funding from Congress.[23] The ACP provided a monthly discount of up to $30 for broadband service, and

[14] *See 2016 Lifeline Order*, 31 FCC Rcd at 3989, para. 71.

[15] *See* 47 CFR § 54.408(b)(2)(ii).

[16] *See 2016 Lifeline Order*, 31 FCC Rcd at 3995, para. 93; 47 CFR § 54.408(b)(2)(ii).

[17] *See 2016 Lifeline Order*, 31 FCC Rcd at 3995-96, paras. 93-94; 47 CFR § 54.408(c)(2)(ii).

[18] *See 2016 Lifeline Order*, 31 FCC Rcd at 3997, para. 97; 47 CFR § 54.408(c)(2)(iii).

[19] *See Lifeline and Link Up Reform and Modernization et. al.*, WC Docket No. 11-42, Order, 34 FCC Rcd 11020, 11020, 11024, paras. 2, 13 (2019) (*2019 Waiver Order*); *see also Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study*, WC Docket No. 11-42 (filed June 27, 2019).

[20] *See Lifeline and Link Up Reform and Modernization et. al.*, WC Docket No. 11-42, Order, 35 FCC Rcd 12958, para. 2 (WCB 2020) (*2020 Waiver Order*); *see also National Lifeline Association Petition for Waiver of Lifeline Mobile Broadband Minimum Service standard and Voice Support Phase-Down*, WC Docket No. 11-42 (filed Aug. 27, 2020).

[21] *See 2023 Waiver Order*, 38 FCC Rcd at 6101-6102, paras. 14-17; *see also 2022 Waiver Order*, 37 FCC Rcd at 7698-7699, paras. 18-22.

[22] *See* 47 CFR § 54.408(b)(2)(ii)(D).

[23] *See Affordable Connectivity Program*, WC Docket No. 21-450, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484, 484, para. 1 (2022) (*ACP Order*); *Affordable Connectivity Program*, WC Docket No. 21-450, Order, DA 24-23, at 1-2, paras. 1-3 (WCB 2024).

up to $75 a month for households on qualifying Tribal lands.[24] Under the ACP, in addition to providing an ACP-supported broadband service to the household, participating providers can also offer a reimbursement of up to $100 per household for a connected device if the household contributes more than $10 but less than $50 for a connected device.[25] Several, but not all, criteria that conferred ACP enrollment eligibility also confer Lifeline enrollment eligibility, and many Lifeline providers also participated in the ACP.[26]

8. The Infrastructure Act, which established the ACP, also instructed the Commission to launch the ACP Transparency Data Collection to collect information about the price and subscription rates of each internet service offering received by households enrolled in the ACP,[27] and to issue "a report [to Congress] on the options of the Commission for improving its effectiveness in achieving the universal service goals for broadband . . . ."[28] In November 2022, the Commission adopted final rules in its ACP Transparency Data Collection Order.[29] The Bureau and the Office of Economics and Analytics announced the publication of data from the data collection in May 2024.[30]

9. The *Future of USF Report*, which was adopted on August 12, 2022, found that a persistent minority of Lifeline consumers opt for voice-only Lifeline plans.[31] It also recommended that the Commission "initiate a rulemaking to evaluate how the Lifeline program can best operate with the Affordable Connectivity Program and examine lessons learned from implementation of the EBB Program and the Affordable Connectivity Program that may be able to be applied to Lifeline."[32] The *Report* further recommended that the Commission "consider continuing Lifeline support for voice-only service

[24] *See* 47 CFR § 54.1803(a).

[25] *See ACP Order*, 37 FCC Rcd at 538-539, paras. 110-12.

[26] *See* 47 CFR §§ 54.409, 54.1800(j), 54.1805. ACP and Lifeline eligibility are established by either having a household income below a certain threshold or participating in a federal assistance program. All federal assistance programs that establish Lifeline eligibility also establish ACP eligibility. These include Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income, Federal Public Housing Assistance, or Veterans and Survivors Pension Benefit. Consumers residing on qualifying Tribal lands may also establish Lifeline eligibility if a member of the household participates in Bureau of Indian Affairs General Assistance, Head Start (only those households meeting its income qualifying standard), Tribally administered Temporary Assistance for Needy Families (TANF), or the Food Distribution Program on Indian Reservations. Certain federal assistance programs confer ACP eligibility, but not Lifeline eligibility, including having a member of a subscriber's household that has been approved to receive meals as part of the National School Lunch and Breakfast Program, has received a federal Pell grant in the current award year, or receives assistance through the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). Similarly, a consumer is eligible for Lifeline if their household income is at or below 135% of the Federal Poverty Guidelines, while the ACP income-based eligibility standard is more expansive, extending ACP eligibility to a consumer if their household income is at or below 200% of the Federal Poverty Guidelines. A consumer may subscribe to both programs, but no more than one member of a household may subscribe to each, distinct program.

[27] *See* Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. F, tit. V, § 60502(c) (Infrastructure Act); *Affordable Connectivity Program*, WC Docket No 21-450, Notice of Proposed Rulemaking, 37 FCC Rcd 7216 (2022).

[28] Infrastructure Act, div. F, tit. I, § 60104(c).

[29] *See Affordable Connectivity Program*, WC Docket No. 21-450, Fourth Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 13773, 13827, paras. 120-130, 59 (2022) (*ACP Transparency Data Collection Order*).

[30] *See ACP Transparency Data Collection Public Notice.*

[31] *Future of USF Report*, 37 FCC Rcd at 10072-10073, 10078, paras. 55, 67.

[32] *See id*. at 10074-10075, para. 58.

based on strong support in the record"[33] and "consider how best to revisit the minimum service standards prescribed by the 2016 Lifeline Order."[34] The Commission has not had an opportunity to fully consider these recommendations in light of the end of ACP and recent data obtained through the ACP Transparency Data Collection.

III. DISCUSSION

10. The Bureau acts on its own motion to extend its waiver of the implementation of the phase-out in Lifeline support for voice-only services and the increase in the Lifeline minimum service standards for mobile broadband data capacity for one additional year, until December 1, 2025. In evaluating whether good cause exists for waiver of its rules,[35] the Commission considers whether the particular facts make strict compliance inconsistent with the public interest.[36] The Commission may also take into account concerns of hardship, equity, or more effective implementation of policy on an individual basis.[37] Waiver of the Commission's rules is therefore only appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.[38] As further discussed below, the Bureau finds good cause to act on delegated authority to waive the Lifeline rules as described herein.[39]

11. Our decision to further extend this waiver stems from careful consideration of how to continue to support a stable and robust affordable broadband market through the Lifeline Program. There is good cause to maintain Lifeline's status quo to minimize disruptions faced by households that subscribe to Lifeline—which is currently the only federal broadband affordability program.[40] Minimizing short-term changes to Lifeline is vital to ensuring Lifeline subscribers are best able to find affordable service options in the Lifeline program by avoiding the possibility of providers increasing prices to offset higher mobile data capacity requirements. This waiver also allows the Commission to better understand the availability of affordable broadband offerings in the current marketplace and allows the Commission additional time to consider the recommendations found in the *Future of USF Report*.[41] Thus, we find good cause to pause, until December 1, 2025, both the elimination of voice-only support and the increase in minimum service standards for mobile broadband data capacity.

12. *Voice Support Phase-Out*. Last year, we paused the scheduled phase-out in Lifeline support for voice-only services due in large part to a continued reliance on voice service.[42] We continue to see a persistent minority of households still relying on qualifying Lifeline voice service for their connection needs. Indeed, approximately 275,000 Lifeline households continue to subscribe to a voice-only qualifying plan.[43] It is unclear what effect the elimination of voice support would have on this population's ability to retain an affordable voice-service plan and whether this population has access to

[33] *See id*. at 10078-10079, paras. 67-68.

[34] *Id*. at 10080-10081, para. 69.

[35] *See* 47 CFR § 1.3.

[36] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[37] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

[38] *Northeast Cellular*, 897 F.2d at 1166.

[39] *See* 47 CFR § 0.291; *2016 Lifeline Order*, 31 FCC Rcd at 4120, para. 433.

[40] *See, e.g.* USAC, Board Materials for April 2024, High Cost & Low Income Committee Briefing Book at 53-54 (Apr. 2024), https://www.usac.org/wp-content/uploads/about/documents/leadership/materials/hcli/2024/2024-04-29-HCLI-Briefing-Book-Public.pdf (High Cost & Low Income Committee Briefing Book).

[41] *Future of USF Report*, 37 FCC Rcd at 10071-10080, paras. 58-74.

[42] *2023 Waiver Order*, 38 FCC Rcd at 6100, para. 12.

[43] *See* High Cost & Low Income Committee Briefing Book at 53-54.

any alternative communications service. Our action today ensures that these subscribers are not required to subscribe to broadband bundled plans to maintain their access to a Lifeline-supported service. Our action also permits these households to maintain access to voice service that bridges a gap in the pursuit of universal service.[44] We are particularly cognizant of the potential harm if a Lifeline subscriber loses their voice service and their access to services such as 911, 988, and other critical support hotlines.[45]

13. We also find that it is in the public interest to further pause the complete phase-out of voice-only support to allow the Commission to fully consider the future of its low-income affordability programs. The *Future of USF Report* made numerous suggestions about which portions of the Lifeline program the Commission should consider retaining and adjusting.[46] One of the *Future of USF Report*'s recommendations was for the Commission to consider continuing Lifeline support for qualifying voice services.[47] Pausing the phase-out of voice-only support honors this suggestion in the short-term, while also giving the Commission additional time to consider a more comprehensive approach for addressing this issue.

14. *Mobile Broadband Data Capacity Minimum Service Standard.* Last year, the Bureau paused the increase to the minimum service standard for mobile broadband data capacity, primarily due to potential cost barriers that an increase would bring to providers and subscribers, data showing that Lifeline subscribers may not benefit from an increase in the usage allowance, and the need for the Commission to review the results of the inaugural ACP Transparency Data Collection.[48] This rationale continues to support continuing to pause the increase in the mobile broadband data capacity standards.

15. The data capacity minimum service standard for mobile broadband aims to balance the dueling goals of access and affordability by ensuring consumers have access to the robust service needed to participate in modern society while also ensuring consumers are able to afford such access. Absent action, the current minimum service standard would increase from 4.5 GB to 5.25 GB per month.[49] While this increase is lower than the increases the Bureau has previously temporarily waived, it comes at a time when the affordable broadband market is undergoing significant changes due to the end of the ACP, therefore, there is a strong interest in avoiding any potential disruption of service to Lifeline subscribers in this environment. In this environment, an increase in this standard presents a potential risk that providers could raise the price of plans such that subscribers may not be able to afford a plan that offers qualifying broadband service, even with the Lifeline benefit, and may force providers to offer wasteful plans that subscribers are unlikely to fully utilize.[50] With this time-limited waiver, however, we do not intend to signal that all future increases in the Lifeline mobile broadband data capacity minimum service standard would warrant a waiver.

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[44] *See also 2021 Waiver Order*, 36 FCC Rcd at 15546, para. 16 (finding that "retail rates for bundled broadband plans that would meet the Lifeline program's current minimum service standards for broadband data capacity far exceed the cost of plans that would qualify as Lifeline voice-only plans," which could require some Lifeline subscribers "to either move to a more expensive bundled broadband plan, or forego voice service altogether.").

[45] *See, e.g., National Domestic Violence Hotline,* https://www.thehotline.org/ (last visited May 20, 2024).

[46] *See, e.g.*, *Future of USF Report*, 37 FCC Rcd at 10041 10072-10080, paras. 58-71.

[47] *See Future of USF Report*, 37 FCC Rcd at 10076-10077, paras. 67-68.

[48] *2023 Waiver Order*, 38 FCC Rcd at 6101-6102, paras. 14-17.

[49] *See 2016 Lifeline Order*, 31 FCC Rcd at 3997, para. 97; *2022 Communications Marketplace Report* 47 CFR § 54.408(c)(2)(iii).

[50] *See 2022 Waiver Order*, 37 FCC Rcd at 7695, para. 7 ("Relying on limited data provided by Lifeline service providers, the Marketplace Report found that 93 percent of Lifeline subscribers use less than 4 GB of data per month, and 76 percent of all reported Lifeline subscribers use less than 1 GB per month.").

16. Moreover, the *Future of USF Report* recommended that the Commission further consider revisions to the Lifeline program's minimum service standards.[51] Retaining the current minimum service standards for mobile broadband data capacity grants the Commission additional time to consider how to establish a minimum service standard that evolves with changing technology and usage patterns and to consider the data collected through the ACP Transparency Data Collection, which provides insight into the plans ACP subscribers purchased and can help inform future Commission decisions about the Lifeline minimum service standards.[52] Further, a temporary pause here will ensure that qualifying service is affordable and meets the connectivity needs of low-income consumers on an ongoing basis. For all of these reasons, we find good cause to pause the Lifeline minimum service standards for mobile broadband data capacity.

IV. ORDERING CLAUSES

17. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that section 47 CFR § 54.401(b), 47 CFR § 54.403(a)(2), and 47 CFR § 54.408(b)(2)(ii)(D) of the Commission's rules ARE WAIVED to the limited extent provided herein.

18. 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

[51] *See Future of USF Report*, 37 FCC Rcd at 10077-10078, para. 69.

[52] *See ACP Transparency Data Collection Public Notice.*

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 24-643
Released: July 3, 2024

WIRELESS TELECOMMUNICATIONS BUREAU AND OFFICE OF ENGINEERING AND TECHNOLOGY APPROVE CERTIFIED SAS ADMINISTRATORS TO USE MODIFIED AGGREGATE INTERFERENCE MODEL

GN Docket Nos. 17-258 and 15-319

With this Public Notice, the Wireless Telecommunications Bureau (WTB) and the Office of Engineering and Technology (OET) of the Federal Communications Commission (Commission or FCC) notify five certified Spectrum Access System (SAS) administrators[1]—Federated Wireless, Google, Key Bridge, RED Technologies, and Sony[2]—that they are now authorized to implement the changes to the existing aggregate interference model used to protect federal operations in the 3.55-3.7 GHz (3.5 GHz) band from Citizens Broadband Radio Service operations described in the National Telecommunications and Information Administration's (NTIA's) June 11, 2024 letter and the Commission's June 12, 2024 Public Notice.[3] Each of these five SAS administrators has demonstrated the ability to successfully implement the modified aggregate interference model, including system testing in a non-operational

[1] On January 27, 2020, WTB and OET approved four SAS administrators for full scale commercial deployment in the 3.5 GHz band. *See WTB And OET 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 (WTB/OET 2020). WTB and OET subsequently approved three more SAS administrators for commercial operations. *See Wireless Telecommunications Bureau and Office of Engineering and Technology Approve Spectrum Access Administrator Amdocs for Full Scale Commercial Deployment in the 3.5 GHz Band*, GN Docket No. 15-319, Public Notice, 35 FCC Rcd 3687 (WTB/OET 2020); *Wireless Telecommunications Bureau and Office of Engineering and Technology Approve 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); *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, Public Notice, DA 23-893, 2023 WL 6263552 (WTB/OET 2023).

[2] Federated Wireless, Google, Key Bridge, RED Technologies, and Sony submitted test reports and supporting documentation in GN Docket No. 15-319 between June 14 and July 1, 2024. Federated Wireless, Google, Sony, and RED Technologies requested confidential treatment for portions of their submissions. On July 2, 2024, Nokia Innovations LLC also submitted test reports and supporting documentation that will be addressed as part of WTB and OET's consideration of Nokia's Initial Commercial Deployment proposal. Amdocs did not submit a test report.

[3] *Wireless Telecommunications Bureau and Office of Engineering and Technology Announce Modified Aggregate Interference Model Used by Spectrum Access System Administrators*, GN Docket Nos 15-319 and 17-258, Public Notice, DA 24-553 (WTB/OET 2024) (WTB/OET Aggregate Interference Model Public Notice); Letter from Charles Cooper, Associate Administrator, Office of Spectrum Management, NTIA, to Ronald T. Repasi, Chief, OET, FCC, and Joel Taubenblatt, Chief, Wireless Telecommunications Bureau, FCC (June 11, 2024) (NTIA June 11, 2024 Letter) (footnotes excluded).

environment, as required by WTB and OET's Aggregate Interference Model Public Notice and described in NTIA's letter.[4]

Specifically, consistent with WTB and OET's Aggregate Interference Model Public Notice and NTIA's letter, WTB and OET authorize Federated Wireless, Google, Key Bridge, RED Technologies, and Sony to apply the following specific changes to the aggregate interference model used to protect federal operations in the 3.5 GHz band:

- The SAS administrators may assume an 80% TDD activity factor and 20% network loading factor for each CBSD in the aggregate interference calculation. The total impact will reduce, by 8 dB, the equivalent isotopically radiated power (EIRP) used in the aggregate interference calculations for each CBSD.
- The SAS administrators may use median Irregular Terrain Model (ITM) terrain dependent propagation loss (in dB)—using reliability and confidence factors of 0.5—to calculate the aggregate received power levels within a DPA.
- The SAS administrators may apply median clutter loss—calculated using the methodology described in Recommendation ITU-R P.2108,[5] section 3.2 —for any CBSD with an antenna height Above Ground Level (AGL) of less than or equal to six meters, that is operating at a distance of at least 250 meters from a DPA boundary.[6]

WTB and OET, in close collaboration with NTIA and Department of Defense, have reviewed the submissions made by Federated Wireless, Google, Key Bridge, RED Technologies, and Sony, and find that these five SAS administrators have demonstrated the capability to effectively implement the modified aggregate interference model parameters. Accordingly, Federated Wireless, Google, Key Bridge, RED Technologies, and Sony are authorized to provide commercial service using the revised aggregate interference model.

By the Chief, Wireless Telecommunications Bureau, and the Chief, Office of Engineering and Technology.

- FCC –

[4] WTB/OET Aggregate Interference Model Public Notice at 2-3; NTIA June 11, 2024 Letter.

[5] ITU, Recommendations, Rec. P.2108, "Prediction of Clutter Loss" (Sept. 2021), https://www.itu.int/rec/R-REC-P.2108/en.

[6] WTB/OET Aggregate Interference Model Public Notice at 2; NTIA June 11, 2024 Letter at 2.

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 24-644
Released: July 3, 2024

BROADCAST STATION TOTALS AS OF JUNE 30, 2024

The Commission has announced the following totals for broadcast stations licensed as of June 30, 2024:

AM STATIONS	4,413		
FM COMMERCIAL	6,620		
FM EDUCATIONAL	4,356		
TOTAL		**15,389**	
UHF COMMERCIAL TV	1,018		
VHF COMMERCIAL TV	366		
UHF EDUCATIONAL TV	267		
VHF EDUCATIONAL TV	115		
TOTAL		**1,766**	
CLASS A UHF STATIONS	349		
CLASS A VHF STATIONS	30		
TOTAL		**379**	
FM TRANSLATORS & BOOSTERS	8,906		
UHF TRANSLATORS	2,449		
VHF TRANSLATORS	651		
TOTAL		**12,006**	
UHF LOW POWER TV	1,511		
VHF LOW POWER TV	310		
TOTAL		**1,821**	
LOW POWER FM	1,965		
TOTAL		**1,965**	
TOTAL BROADCAST STATIONS			**33,326**

- FCC -

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

In the Matter of	)	
	)	
Veriwave Telco, LLC	)	EB-TCD-24-00036355
	)	EB Docket No. 22-174
	)	

INITIAL DETERMINATION ORDER

Adopted: July 8, 2024 **Released: July 8, 2024**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. By this Initial Determination Order, the Enforcement Bureau (Bureau) issues its initial determination that Veriwave Telco, LLC (Veriwave or Company) has not complied with section 64.1200(n)(2) of the Federal Communications Commission's (Commission or FCC) rules, which requires originating and gateway providers to investigate suspected illegal traffic following notification from the Commission and to block illegal traffic that they are originating or transmitting.[1] This Initial Determination Order follows the Bureau's April 4, 2024 Notification of Suspected Illegal Traffic (Veriwave Notice or Notice), which identified suspected illegal traffic Veriwave was originating and instructed Veriwave to investigate the traffic, block the traffic unless it determined that it had not originated the traffic or the traffic was not illegal, and provide a report to the Bureau within 14 days.[2] Veriwave failed to respond to the Notice, and as a consequence Veriwave is not in compliance with section 64.1200(n)(2)(i) of the Commission's rules.[3]

2. Pursuant to section 64.1200(n)(2)(ii) of the Commission's rules, Veriwave now has 14 days to respond to this Initial Determination Order with a final response to the Bureau's finding and to demonstrate compliance with the Commission's rules.[4] If Veriwave fails to provide an adequate response within 14 days or continues to originate or allow onto the U.S. network substantially similar illegal traffic, the Bureau will issue a Final Determination Order.[5] Any provider immediately downstream from Veriwave will then be required to block and cease accepting all traffic received directly from Veriwave beginning 30 days after release of the Final Determination Order.[6]

[1] *See* 47 CFR § 64.1200(n)(2).

[2] *See* Letter from Loyaan A. Egal, Chief, FCC Enforcement Bureau, to Felix Hernandez, Compliance Officer, Veriwave Telco, LLC, 2024 WL 1526701 (Apr. 4, 2024), https://docs.fcc.gov/public/attachments/DOC-401632A1.pdf (Veriwave Notice).

[3] *See* 47 CFR § 64.1200(n)(2)(i).

[4] *See id.* § 64.1200(n)(2)(ii).

[5] *See id.* § 64.1200(n)(2)(iii).

[6] *Id.* § 64.1200(n)(3).

II. BACKGROUND

A. Legal Framework for Mandatory Blocking Rules

3. Protecting consumers in the United States from the dangers and risks of unwanted and illegal robocalls is the Commission's top consumer protection priority.[7] Originating and gateway providers serve critical roles in the call chain and are best positioned to mitigate and block illegal robocall traffic—originating providers are closest to bad-actor callers that originate illegal robocalls, and gateway providers serve as critical choke points for reducing the number of illegal calls reaching consumers in the United States.[8] In recognition of this positioning, the Commission places critical obligations on originating and gateway providers to police their networks and imposes consequences on such providers that fail to do so.[9]

4. Once a provider receives a notification from the Bureau pursuant to section 64.1200(n)(2)(i)(A) (notice), the provider must comply with the notice by investigating and reporting the results of its investigation to the Bureau.[10] If the provider's investigation determines it served as the originating or gateway provider for the identified traffic, the provider must: (i) within the timeframe specified in the notice, block or cease accepting the identified traffic and substantially similar traffic on an ongoing basis; (ii) certify in its report to the Bureau that it is blocking the identified traffic and will continue to do so; and (iii) in its report to the Bureau, describe its plan to identify and block substantially similar traffic on an ongoing basis.[11] If the provider determines that the identified traffic is not illegal, it shall provide an explanation as to why the provider reasonably concluded that the identified traffic is not illegal and what steps it took to reach that conclusion.[12] If the provider concludes that it did not serve as the originating or gateway provider for the traffic, then it must provide an explanation as to how it

[7] Fed. Commc'ns Comm'n, *Stop Unwanted Robocalls and Texts*, https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts (last visited June 25, 2024) ("Unwanted calls – including illegal and spoofed robocalls - are the FCC's top consumer complaint and our top consumer protection priority.").

[8] *See Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Fourth Report and Order, 35 FCC Rcd 15221, 15332-33, para. 33 (2020) (*Call Blocking Fourth Report and Order*) ("Originating and gateway voice service providers are best positioned to prevent illegal calls by stopping them before they enter the network."); *see also Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Sixth Report and Order in CG Docket No. 17-59, Fifth Report and Order in WC Docket No. 17-97, Order on Reconsideration in WC Docket No. 17-97, Order, Seventh Further Notice of Proposed Rulemaking in CG Docket No. 17-59, and Fifth Further Notice of Proposed Rulemaking in WC Docket No. 17-97, FCC 22-37, 37 FCC Rcd 6865, 6875, para. 24 (*Gateway Provider Order*) (stating that "gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers"); *Advanced Methods to Target and Eliminate Unlawful Robocalls*, *Call Authentication Trust Anchor*, CG Docket No. 17-59, WC Docket No. 17-97, Seventh Report and Order in CG Docket 17-59 and WC Docket 17-97, Eighth Further Notice of Proposed Rulemaking in CG Docket 17-59, and Third Notice of Inquiry in CG Docket 17-59, 38 FCC Rcd 5404, 5416, para. 33 (2023) (*Originating Provider Blocking Order*) (noting that as "the first domestic voice service provider in the call path," the originating or gateway provider is best placed to block illegal traffic).

[9] *See* 47 CFR § 64.1200(n)(2) (setting forth investigation and blocking obligations for originating and gateway providers); *id*. § 64.1200(n)(3) (requiring downstream providers, when notified by the Bureau, to block all traffic from an upstream provider that has failed to comply with section 64.1200(n)(2)); *see also Gateway Provider Order*, 37 FCC Rcd at 6897-901, paras. 74-86; *Originating Provider Blocking Order*, 38 FCC Rcd at 5415-20, paras. 29-48.

[10] *See* 47 CFR § 64.1200(n)(2)(i)(A).

[11] *See id.*

[12] *See id.* § 64.1200(n)(2)(i)(B).

reached that conclusion and, if applicable, identify the upstream provider(s) from which it received the identified traffic, as well as take lawful steps, if possible, to mitigate such traffic.[13]

5. If the notified provider fails to respond to a notice, fails to respond sufficiently, continues to originate or transmit substantially similar traffic, or if the Bureau determines the identified traffic is illegal despite the notified provider's assertions to the contrary, the Bureau will issue an Initial Determination Order stating its initial determination that the provider is not in compliance with section 64.1200(n)(2) of the Commission's rules and providing the notified provider with at least 14 days to provide a final response.[14] If the Bureau determines that the notified provider's response to the Initial Determination Order is inadequate (including instances where the notified provider fails to respond),[15] or if it continues to originate or transmit substantially similar traffic, the Bureau will issue a Final Determination Order finding that the provider is not in compliance with section 64.1200(n)(2) of the Commission's rules and directing all immediately downstream providers to block and cease accepting all traffic that they receive from the notified provider starting 30 days after the release date of the Final Determination Order.[16] To provide notification to all downstream providers, the Bureau publishes each Final Determination Order in EB Docket No. 22-174.[17] Prior to complying with the mandatory blocking requirement, immediate downstream providers may initiate permissive blocking of all traffic from the identified provider pursuant to section 64.1200(k)(4) of the Commission's rules.[18]

B. Veriwave's Origination of Suspected Illegal Robocalls

6. The Bureau identified at least 23 calls placed between November 30, 2023, and January 29, 2024, that featured prerecorded messages and were placed without the requisite consent of the called party, in apparent violation of section 227(b)(1)(A) of the Communications Act of 1934, as amended, and the Commission's rules.[19] These calls purported to provide information about a "National Tax Relief Program" and, in some instances, also discussed a "Tax Dismissal Program."[20] The Bureau has found no evidence of the existence of either program. Many of the messages further appealed to recipients with the offer to "rapidly clear" their tax debt.[21]

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[13] *See id.*

[14] *Id.* § 64.1200(n)(2)(ii).

[15] *See One Eye LLC*, Final Determination Order, 38 FCC Rcd 4211, 4214, para. 8 (EB 2023) (finding that One Eye's failure to respond to the Bureau's Initial Determination Order was an inadequate response).

[16] 47 CFR § 64.1200(n)(2)(iii), (3). A Final Determination Order may be issued up to one year after release of the Initial Determination Order. *Id.* § 64.1200(n)(2)(iii).

[17] *See id*. § 64.1200(n)(3).

[18] *See id*. (citing *id*. § 64.1200(k)(4)).

[19] Veriwave Notice, *supra* note 2, at *1-2 & Attachment A (identifying calls); 47 U.S.C. § 227(b)(1)(A) (requiring callers obtain consent before placing certain types of pre-recorded calls); 47 CFR § 64.1200(a)(1)-(2) (same).

[20] *See* ITG Subpoena Response (Jan. 31, 2024) (on file at EB-TCD-24-00036355) (January ITG Subpoena Response); ITG Subpoena Response (Mar. 5, 2024) (on file at EB-TCD-24-00036355) (March ITG Subpoena Response); *see also* Veriwave Notice, *supra* note 2, at *1-2.

[21] *See* January ITG Subpoena Response; March ITG Subpoena Response; *see also* Veriwave Notice, *supra* note 2, at *1.

7. USTelecom's Industry Traceback Group (ITG)[22] conducted tracebacks on the calls and determined that Veriwave was the originating provider for the calls.[23] The ITG previously notified Veriwave of these calls and provided it access to supporting data identifying each call.[24] Veriwave did not provide the ITG with proof of the requisite consent for the calls and did not contest that it had originated the calls.[25]

III. DISCUSSION

8. The Bureau issued the Veriwave Notice to the Company on April 4, 2024.[26] The Veriwave Notice directed the Company to take the following actions: (i) promptly investigate the identified suspected illegal traffic; (ii) block the identified traffic within 14 days (and continue to block the identified traffic as well as substantially similar traffic on an ongoing basis) unless it determined that the traffic was not illegal; and (iii) report the results of the Company's investigation to the Bureau within 14 days.[27] The Veriwave Notice warned that a failure to comply with those obligations would ultimately result in the Bureau requiring all immediately downstream providers to block its traffic pursuant to section 64.1200(n)(2) and (3) of the Commission's rules.[28] Veriwave did not respond to the Notice.[29] The Bureau has received no response from the Company and no other information to indicate the Company has fulfilled any of these obligations.

9. The Bureau provides Veriwave the opportunity to file a final response to this Initial Determination Order. The final response should address whether the Company is in compliance with section 64.1200(n)(2) of the Commission's rules, including obligations triggered by the Veriwave Notice.[30] If it chooses to file a final response, the Company must file its response with the Bureau within 14 calendar days of the release date of this Initial Determination Order. Failure to respond to this Initial Determination Order with an adequate response, or continued origination or allowance onto the U.S. network of substantially similar traffic, will result in the Bureau issuing a Final Determination Order.[31] The Final Determination Order will be published in EB Docket No. 22-174 and will serve as notification

[22] The ITG is the registered industry consortium selected pursuant to the TRACED Act to conduct tracebacks. *See Implementing Section 13(d) of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act)*, EB Docket No. 20-22, Report and Order, DA 23-719, 2023 WL 5358422, at *1, para. 1 (EB Aug. 18, 2023); *see also* Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105, § 13(d), 133 Stat. 3274, 3287-88 (2019).

[23] *See* January ITG Subpoena Response; March ITG Subpoena Response; *see also* Veriwave Notice, *supra* note 2, Attachment A (noting the Company's role as the originating provider for each identified call).

[24] *See* January ITG Subpoena Response; March ITG Subpoena Response.

[25] *See* January ITG Subpoena Response; March ITG Subpoena Response; *see also* Veriwave Notice, *supra* note 2, at *2.

[26] Veriwave Notice, *supra* note 2.

[27] *Id.* at *4. The Veriwave Notice contained specific instructions based on the outcome of the Company's investigation. *Id.*

[28] *Id.*

[29] The Veriwave Notice also directed the Company to investigate and effectively mitigate the identified traffic within 48 hours of the delivery date of the Veriwave Notice, consistent with section 64.1200(k)(4). *Id.* at *3; *see* 47 CFR § 64.1200(k)(4); Veriwave Telco, LLC PS Form 3811, Domestic Return Receipt (Apr. 9, 2024) (on file at on file at EB-TCD-24-00036355). The Company did not meet that deadline either.

[30] *See* 47 CFR § 64.1200(n)(2)(ii)-(iii); *see also* Veriwave Notice, *supra* note 2 at *4 (describing the actions the Company must take in response to the Veriwave Notice).

[31] 47 CFR § 64.1200(n)(2)(iii).

to all immediately downstream providers that they must block and cease accepting all traffic received directly from Veriwave beginning 30 days after the release of the Final Determination Order.[32]

IV. ORDERING CLAUSES

10. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j), 227, 251(e), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 227, 251(e), 403; sections 0.111, 0.311, 1.1, and 64.1200(n) of the Commission's rules, 47 CFR §§ 0.111, 0.311, 1.1, 64.1200(n), Veriwave Telco, LLC **SHALL FILE** any written final response to this Initial Determination Order **within 14 calendar days** from the release date of this Initial Determination Order.[33]

11. Any response must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, ATTN: Enforcement Bureau – Telecommunications Consumers Division. The response must also be emailed to Kristi Thompson, Division Chief, Telecommunications Consumers Division, at kristi.thompson@fcc.gov, Daniel Stepanicich, Assistant Division Chief, Telecommunications Consumers Division, at daniel.stepanicich@fcc.gov, and Caitlin Barbas, Attorney Advisor, Telecommunications Consumers Division, at caitlin.barbas@fcc.gov.

12. **IT IS FURTHER ORDERED** that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Initial Determination Order **SHALL BE EFFECTIVE** upon release.

13. **IT IS FURTHER ORDERED** that copies of this Initial Determination Order shall be filed in EB Docket No. 22-174 and sent by email and certified mail, return receipt requested, to: michele@veriwavetelco.com[34] and Veriwave Telco, LLC, Felix Hernandez, Compliance Officer, 8 The Green, Suite A, Dover, DE 19901.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

[32] *Id.* § 64.1200(n)(3). "A provider that chooses to initiate blocking sooner than 30 days from the release date may do so consistent with [section 64.1200(k)(4) of the Commission's rules]." *Id.*

[33] *Id.* § 64.1200(n)(2)(ii).

[34] *See* Veriwave Telco, LLC Listing (No. RMD0015520), Fed. Commc'ns Comm'n, Robocall Mitigation Database (filed Nov. 8, 2023), https://fccprod.servicenowservices.com/rmd?id=rmd_form&table=x_g_fmc_rmd_robocall_mitigation_database&sys_id=c74be90f1b12395051e2c808624bcbd8&view=sp (listing Veriwave's robocall mitigation contact email address).

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 24-646
Released: July 3, 2024

WIRELINE COMPETITION BUREAU PROVIDES GUIDANCE FOR RDOF AND CAF PHASE II SUPPORT RECIPIENTS ON PROCEDURES FOR PROVIDER DEFAULTS TO ENSURE THAT BROADBAND NETWORKS ARE DEPLOYED TO ALL CONSUMERS

AU Docket No. 20-34
AU Docket No. 17-182
WC Docket No. 19-126
WC Docket No. 10-90

With this Public Notice, the Wireline Competition Bureau (WCB or Bureau) provides guidance to Rural Digital Opportunity Fund (RDOF) and Connect America Fund (CAF) Phase II support recipients and other stakeholders regarding the processes for provider defaults.[1] Support recipients are showing significant progress in meeting their deployment milestones, as noted below, and there is no demonstrated need for widespread relief from the RDOF and CAF Phase II default penalties. Given the flexibility available under the existing default processes and other Commission rules and the lack of demonstrated need for broad relief, as well as our strong interest in preserving the integrity of the Commission's broadband deployment programs, we decline to provide a blanket amnesty.

However, we recognize that certain carriers may not be able to meet their broadband deployment obligations[2] or have experienced changed circumstances that may impact their deployment. To ensure that high-speed broadband is deployed across the country, close coordination between the Commission's high-cost programs and other federal broadband deployment programs is critically important. In recent months, the Bureau has quickly responded to default requests for these high-cost programs, has approved transfers of deployment obligations to other carriers which avoids support payment recovery and default penalties, and has waived Commission rules where warranted to reduce support payment recovery and default penalties. The Bureau also has the ability, where good cause exists based on individual circumstances, to waive other non-compliance rules for defaults in these high-cost programs.

[1] This Public Notice builds on previously issued guidance regarding engagement with states and Tribal governments. *See 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 (WCB Nov. 29, 2023).

[2] *See* Letter Seeking RDOF and CAF II Amnesty from 69 Internet Service Providers, Trade Associations, State and Local Officials, School Districts, and Civil Society Organizations from Gigi Sohn, Executive Director, American Association for Public Broadband, to Jessica Rosenworcel, Chairwoman, WC Docket No. 19-126 et al. (filed Feb. 28, 2024) (Entity Letter) (requesting broad amnesty from default penalties for RDOF and CAF Phase II participants to encourage early defaults).

To ensure federal deployment funds reach the locations where they are needed, we strongly encourage carriers contemplating defaulting on their deployment obligations under the Commission's competitively bid high-cost programs to reach out to the Bureau, and to the relevant state or territory broadband offices or Tribal governments, about their situation as soon as possible. Earlier defaults can limit the support recovery and penalty costs to the carrier and also ensure that states and territories timely receive the necessary information for their Broadband Equity, Access, and Deployment (BEAD) planning. Earlier defaults also ensure that our sister federal agencies timely receive this information to target funding for their broadband deployment programs.[3]

Background

The Commission's high-cost programs are designed to support broadband deployment in rural, insular, and high-cost areas. To promote universal access to high-speed broadband in these areas, the Commission's rules for RDOF and CAF Phase II give carriers an incentive to fulfill their deployment obligations and a disincentive to "cherry pick" only the least expensive locations for service. The Commission adopted support recovery mechanisms for authorized RDOF and CAF Phase II recipients that provide a strong financial incentive for carriers to fulfill their buildout obligations in full as quickly as possible. Commission rules also permit support recipients to transfer their deployment obligations to other carriers, and a few CAF Phase II and RDOF support recipients have successfully transferred USF public interest obligations, ensuring that these locations receive service while also allowing the original carrier to avoid support recovery and default penalties.[4] Under sections 54.320(d) and 54.806(c)(1) of the Commission's rules,[5] RDOF and CAF Phase II support recipients are subject to interim service milestones by which they must serve a defined number of locations across all of the eligible census blocks in each state.[6] If a support recipient does not meet an interim service milestone, the support recipient is subject to the non-compliance measures associated with the relevant non-compliance tiers that scale with the size of the compliance gap, and which include reporting, the withholding of an increasing percentage of support, support recovery, and drawing on the support recipient's letter of credit if it cannot pay back the relevant support by the applicable deadline.[7]

At the end of the deployment period, if the support recipient has not served the required number of locations after an opportunity to cure, we will recover support provided to the recipient for all defaulted locations on an average support per location basis across census block groups (CBGs) in the support recipient's service area in a state.[8] We also will recover average support received for the unserved locations multiplied by a factor to reflect that the areas being defaulted on are likely some of the higher cost areas in the support recipient's service area, plus, in most circumstances, an additional percentage of

[3] 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.*) (BICA) (requiring the Federal Communications Commission, the Department of Agriculture, and the National Telecommunications and Information Administration to "enter into an interagency agreement requiring coordination between the covered agencies for the distribution of funds for broadband deployment . . . .").

[4] 47 U.S.C. § 214(a), 47 CFR §§ 63.03-04. *See, e.g.*, *Domestic Section 214 Application Granted For The Acquisition Of Certain Assets Of BroadLife Communications, Inc. by Yellowhammer Networks, LLC*, Public Notice, 38 FCC Rcd 5078, 5081 (WCB 2023); *Domestic Section 214 Application Granted for the Transfer of Control of Certain Authorizations of Point Broadband Fiber Holding, LLC to R.M. Greene, Inc. AKA Beam*, WC Docket No. 22-344, Public Notice, DA 23-537 (WCB June 21, 2023).

[5] 47 CFR §§ 54.320(d)(1) & (2), 54.806(c)(1).

[6] 47 CFR §§ 54.310(c), 54.802(c)(1).

[7] 47 CFR §§ 54.320(d)(1), 54.804(c)4, 54.806(c).

[8] 47 CFR §§ 54.320(d)(2), 54.806(c)(1).

support that the Commission imposed to discourage non-compliance.[9] Support is recovered sooner for support recipients in Tier 4 of the non-compliance tiers that have failed to serve more than 50% of the required number of locations after having 50% of their support withheld for six months.[10]

On February 28, 2024, a wide-ranging group of stakeholders filed a letter with the Commission seeking broad "RDOF and CAF II Amnesty."[11] These entities assert that because of the onset of new federal broadband deployment programs, particularly the BEAD program, and increases in costs from post-COVID-19 pandemic inflation and labor shortages, RDOF and CAF II support recipients should be allowed to default early on their public interest obligations with greatly reduced or eliminated penalties.[12] The entities argued that "lowering the penalties for default will incentivize awardees to relinquish their areas sooner rather than later, making the areas eligible for BEAD funding."[13] The Bureau sought comment on the Entity Letter, and comments were due on March 26, 2024, with reply comments due on April 9, 2024.[14]

Discussion

There is no demonstrated need for broad relief from the RDOF and CAF II default penalties. RDOF and CAF Phase II support recipients have shown significant progress toward meeting deployment obligations, with only 4% of CAF Phase II carriers reporting not timely meeting buildout milestones, and with 71% of RDOF carriers reporting locations served a full year prior to the first deployment milestones required by the program.[15] Nevertheless, situations may arise where a carrier seeks to default on its deployment obligations.

[9] 47 CFR § 54.320(d)(2), 54.806(c). For the final 100% service milestone, if a CAF Phase II support recipient fails to serve at least 95% of its required number of locations, the Commission requires that we recover "an amount of support that is equal to 1.89 times the average amount of support per location received in the state over the six-year period for the relevant number of locations the ETC has failed to offer service to, plus 10 percent of the ETC's total Phase II support received in the state over the six-year period for deployment." 47 CFR § 54.320(d)(2); *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6017, para. 191 (2016) (*CAF Phase II Auction Order*). If a CAF Phase II support recipient serves at least 95% of its total number of required locations but less than 100%, it will be required to return support for the unserved locations that is equal to the average support per location in the state times 1.89. 47 CFR § 54.310(c)(2). For the RDOF support recipient's sixth year 100% service milestone, the amount of support recovery scales with the size of the non-compliance gap. 47 CFR § 54.806(c)(1)(i)(A)-(C). If the support recipient has deployed to 95% or more of its required locations but less than 100%, we must recover an amount of support that is equal to 1.25 times the average amount of support per location received in the state over the support term for the unserved locations. If the support recipient has deployed to 90% or more of its required locations but less than 95%, we must recover an amount of support that is equal to 1.5 times the average amount of support per location received in the state over the support term for the unserved locations, plus 5% of total authorized support. If the carrier has deployed to fewer than 90% of its required locations, we must recover an amount of support that is equal to 1.75 times the average amount of support per location received in the state over the support term for the unserved locations, plus 10% of total authorized support. *Id.*

[10] 47 CFR § 54.320(d)(1)(iv)(B) (requiring the Bureau to recover a percentage of support that is equal to the support recipient's compliance gap plus 10% of the ETC's support that has been disbursed to that date).

[11] *See* Entity Letter.

[12] *Id*.

[13] Entity Letter at 2.

[14] *See* Request for Comment on Letter From 69 Internet Service Providers, Trade Associations, State and Local Officials, School Districts, Unions, and Civil Society Organizations, AU Docket No. 20-34 et al., Public Notice, DA 24-202 (WCB Mar. 5, 2024).

[15] The first RDOF buildout milestone for carriers authorized in 2021 is 40% of locations by December 31, 2024, and for those authorized in 2022, the 40% milestone is December 31, 2025.

The Commission's existing processes allow for early defaults in the CAF Phase II and RDOF programs,[16] and in recent defaults the Bureau has waived certain rules to reduce the support recovery amount and penalties associated with defaulting. The Bureau also has the ability to waive other non-compliance rules based on individual circumstances, as well as other RDOF and CAF II requirements, where good cause is shown. For these reasons, broad amnesty from the RDOF and CAF Phase II support recovery and penalty rules, as requested in the Entity Letter, is not warranted. Individual providers contemplating a default should contact the Bureau, as well as the relevant state or territory broadband offices and Tribal governments, as soon as possible to discuss their specific situation.

The following examples illustrate the Commission's existing processes and the Bureau's actions, in conjunction with other agencies and/or carriers, to work with providers that defaulted on their RDOF or CAF Phase II deployment obligations in whole or in part and to provide flexibility with respect to certain RDOF and CAF II requirements, including waiving certain rules to reduce support recoveries and default penalties:

- The Commission coordinates regularly with state broadband offices, Tribal representatives, and relevant federal agencies concerning potential and actual defaults. We also encourage carriers to work closely with these entities concerning any potential defaults.[17] As soon as a carrier notifies us that it will not serve certain identified winning bid census block groups, we notify other federal agencies and the relevant state broadband office that the eligible census blocks within those areas are no longer subject to an enforceable commitment to deploy qualifying broadband, making the locations eligible for funding from other federal and state funding programs.[18] In addition, we remove these census blocks from the support recipients' service areas on the Broadband Funding Map.[19]

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[16] *Wireline Competition Bureau Announces Certain RDOF and CAF Phase II Auction Census Block Groups are Eligible for Other Funding Programs*, AU Docket No. 20-34 et al., Public Notice, DA 24-181 (WCB Feb. 28, 2024) (*Feb. 2024 Post-Authorization Default Public Notice*); *Wireline Competition Bureau Announces Certain RDOF and CAF Phase II Auction Census Block Groups are Eligible for Other Funding Programs*, AU Docket No. 20-34 et al., Public Notice, DA 24-357 (WCB Apr. 15, 2024) (*Apr. 2024 Post-Authorization Default Public Notice*); *Wireline Competition Bureau Announces Certain RDOF Census Block Groups are Eligible for Other Funding Programs*, AU Docket No. 20-34 et al., Public Notice, DA 24-449 (WCB May 10, 2024) (*May 2024 Post-Authorization Default Public Notice*).

[17] *See, e.g.*, *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 (WCB Nov. 29, 2023) (providing guidance on how carriers should engage directly with state broadband offices by "participating in BEAD Program challenge processes and otherwise provide information requested by the states in furtherance of the BEAD Program.").

[18] *See, e.g.*, Department of Commerce, National Telecommunications and Information Administration, Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity at 36-37 & n.52 (May 13, 2022), https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf (BEAD Program NOFO) (explaining that any location that is already subject to an enforceable commitment for the deployment of qualifying broadband cannot be treated as unserved or underserved); Department of Commerce, National Telecommunications and Information Administration, Tribal Broadband Connectivity Program Round 2 Notice of Funding Opportunity at 10-11, 28 (July 27, 2023), https://www.ntia.gov/sites/default/files/2023-07/ntia-tbcp-round2-nofo.pdf ("A Tribal Government may not certify Tribal Lands covered under an Enforceable Buildout Commitment as defined [in the NOFO] . . ., as Unserved"); Department of Agriculture, Rural Utilities Service, Corrected Notice of Funding Opportunity for the Community Connect Grant Program for Fiscal Year 2023, 88 Fed. Reg. 87750, 87751 (Dec. 19, 2023) ("Areas receiving, or areas that have received final approval for, other federal funding to construct terrestrial facilities providing at least 10/1 Mbps service in the project Proposed Funded Service Area as of the date of this notice, and which have been reported to the agency, are ineligible."); Department of Agriculture, Rural Utilities Service, Rural eConnectivity (ReConnect) Program Notice of Funding Opportunity, 89 Fed. Reg. 13035, 13036

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- The Bureau and the Commission's Office of Native Affairs and Policy have been working collaboratively with NTIA, high-cost support recipients, and Tribal governments to facilitate engagement between high-cost support recipients and Tribal governments concerning build-out plans, and also to maximize the use of federal broadband funding for Tribal lands.

- We waived pre-authorization default forfeitures for certain RDOF long-form applicants that agreed to default on some of their winning bids when another federal agency had planned to fund a different service provider's deployment in the relevant area after the auction had ended but prior to us authorizing the RDOF long-form applicants.[20] We are likely to find good cause to grant similar waivers of non-compliance measures for authorized carriers, if they can demonstrate that federal or state funding has been awarded for the same locations, and will review such requests on a case-by-case basis.

- The Bureau has waived certain Commission rules where good cause exists, to reduce support recovery and penalties associated with defaults. We have provided, or are considering, limited waivers of the Commission's rules to accommodate early defaults where carriers identified certain CBGs in their service areas that they would not serve, but they remained committed to serving the remaining CBGs in their service areas:
  - Specifically, we found good cause to grant a limited waiver of sections 54.320(d) and 54.806(c)(1) of the Commission's rules that was narrowly tailored to stop payments of future support to the identified CBGs.[21] These waivers adjust support amounts to the carrier to reflect that some areas will not be served, while ensuring that the carrier will otherwise remain subject to RDOF and CAF Phase II measures for remaining areas subject to the terms and conditions of support, including support recovery for all unserved locations at the end of the deployment term.[22] Stopping support for these default areas can reduce the support amount the provider must pay back and the associated penalties.

- The Bureau also has the ability to waive other rules governing the timing and amount of support to be recovered, and eligibility of areas for other Commission broadband deployment programs for good cause shown.

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(Feb. 21, 2024) (defining an enforceable commitment to mean "a legally enforceable obligation by any federal, state, or local agency, utilizing Federal Funds, to provide broadband service with speeds of at least 100 megabits per second (Mbps) downstream and 20 (Mbps) upstream"); Department of Treasury, Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States, at 3-4 (Sept. 2021), https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf ("To the extent Recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable wireline service at speeds of at least 100 Mbps of download speed and 20 Mbps of upload speed, the Recipient should ensure that the Capital Projects Fund grant funding will not be used for costs that will be reimbursed by the other federal or state funding stream(s). That is, Capital Projects Fund grant funds must be used only for complementary purposes.").

[19] Federal Communications Commission, National Broadband Map, https://broadbandmap.fcc.gov/home (last visited May 14, 2024).

[20] *Rural Digital Opportunity Fund Support for 2,072 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-911, at 7 n.49 (WCB Aug. 31, 2022); *Rural Digital Opportunity Fund Support for 1,764 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-1321, at 5 n.26 (WCB Dec. 16, 2022).

[21] 47 CFR §§ 54.320(d), 54.806(c)(1); *see also Feb. 2024 Post-Authorization Default Public Notice* at 3-6; *Apr. 2024 Post-Authorization Default Public Notice* at 4-5*; May 2024 Post-Authorization Default Public Notice* at 3-5.

[22] *See, e.g.*, 47 CFR §§ 54.320(c), (d), 54.806(b), (c).

- For example, the Bureau granted a limited waiver of the CAF Phase II rules to allow a carrier that had defaulted on some CBGs in its funded service area to pay early a portion of the required support recovery associated with its defaulted census blocks rather than waiting until the end of the deployment period.[23] If the carrier pays the portion of the required support recovery within six months, the Bureau will remove the defaulted locations from the carrier's required location total so the provider can come into compliance with its deployment obligations based on the remaining locations and therefore be able to continue receiving support for the remaining areas.[24]
- As a reflection of "coordination with our sister federal agencies and state broadband offices to ensure the efficient use of federal broadband funding to provide access to all Americans," the Bureau waived the Commission's rules to include in West Side Telephone Company's Enhanced A-CAM offer locations that had been excluded from the offer because, as of the date of the Enhanced A-CAM offer, they were subject to an enforceable commitment to deploy pursuant to a Community Connects Grant by the Department of Agriculture's Rural Utility Service (RUS).[25] Because RUS subsequently determined that the grantee would not be able to meet the terms of the grant and reduced the scope, the Bureau waived the rules to ensure that West Side would receive Enhanced A-CAM support to deploy broadband to those locations.[26]

- Carriers that default can request payment plans for the support recovery amounts and related penalties for defaults.[27]
- Carriers contemplating default may also request Commission approval to enter into transactions to transfer RDOF and CAF Phase II authorizations to other carriers. This relieves the original provider of its deployment obligations and avoids support recovery and default payments, while also ensuring that deployment will occur in the impacted areas.
  - The Bureau granted an application involving the transfer of RDOF obligations where, due to unanticipated changes to its business circumstances in Alabama, the support recipient would have been unable to assume the costs and obligations of the RDOF program. The parties explained that the transfer was a "more beneficial outcome than [the carrier] defaulting on its RDOF obligations and the recovery of associated support."[28]
  - The Bureau and the Virginia Department of Housing and Community Development worked closely with a carrier in an effort "to facilitate the coordination of federal and state funding programs to ensure that funds are being used most efficiently to provide

[23] *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, DA 24-560 (WCB June 12, 2024).

[24] *Id.* at 6-7, para. 14.

[25] *Connect America Fund*, WC Docket No. 10-90, Order, DA 24-424 (WCB May 3, 2024).

[26] *Id.*

[27] *See, e.g.*, *73 Applicants for Rural Digital Opportunity Fund In Default*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 9009, 9017, para. 21 (2023), "Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.62 Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov."

[28] *Domestic Section 214 Application Granted For The Acquisition Of Certain Assets Of BroadLife Communications, Inc. by Yellowhammer Networks, LLC*, Public Notice, 38 FCC Rcd 5078, 5081 (WCB 2023).

service to as many unserved consumers living in Virginia as possible."[29] These coordinated efforts have facilitated a proposed transaction where a new carrier has sought to acquire the CAF Phase II deployment obligations in counties where it was awarded funding through the Virginia Telecommunication Initiative.[30]

- Similar transactions have also been approved for other RDOF and CAF Phase II support recipients.[31]

- CAF Phase II and RDOF support recipients are required to obtain and maintain Letters of Credit (LOC) of a certain value from banks with a Weiss bank safety rating of B- or higher in order to receive support. Providers and banking institutions raised concerns about this requirement because of the significant number of banks that have seen their Weiss bank safety rating fall below a B- and the resources required to find a new qualifying bank to issue an LOC. The Bureau issued a temporary one-year waiver of the bank safety rating standard rule,[32] allowing CAF Phase II and RDOF support recipients to conserve resources and maintain their existing LOCs instead of acquiring new ones.
  - The Commission recently sought comment on potential changes to the LOC rules that could allow more CAF Phase II and RDOF support recipients to maintain their LOCs with their existing banks.
  - The Commission also sought comment on allowing CAF Phase II support recipients that meet all of their deployment obligations to continue to follow the RDOF LOC rules and maintain LOCs at a lower value than required under the CAF Phase II rules, and it sought comment on allowing RDOF providers that had deployed service to 10%, instead of 20%, of eligible locations in a given area by the end of their second year of support to lower the value of their LOC to one year of support.[33]

The above examples demonstrate that the Commission's existing processes are sufficient to address early defaults, and provide sufficient flexibility with respect to certain requirements for RDOF and CAF Phase II including: closely coordinating with state, territory, Tribal governments and other federal agencies; permitting carriers to transfer their deployment obligations to other carriers; and waiving Commission rules to reduce provider support recoveries and penalty payments associated with defaults. While the Entity Letter advocates for broad amnesty relief, the record does not demonstrate that broad amnesty is needed. In fact, the record notably lacks any support recipients stating that they cannot afford to continue with the program obligations but also cannot afford to meet the support recovery requirements under our existing default procedures.[34] Moreover, as commenters NTCA and ACA Connects -

[29] *See Domestic Section 214 Application and Waiver Requests Filed for the Acquisition of Connect America Fund Phase II Auction Funding and Related Buildout and Service Obligations of RiverStreet Communications of Virginia, Inc. by EMPOWER Broadband, Inc.*, WC Docket Nos. 24-145, 10-90, Public Notice, DA 24-477, at 7 (WCB May 20, 2024).

[30] *Id*. at 7, n.46.

[31] *See, e.g.*, *Domestic Section 214 Application Granted For The Acquisition Of Certain Assets Of Echo Wireless Broadband, Inc. by Resound Networks, LLC*, Public Notice, 38 FCC Rcd 4328 (WCB 2023); *Domestic Section 214 Application Granted for the Transfer of Control of Certain Authorizations of Point Broadband Fiber Holding, LLC to R.M. Greene, Inc. AKA Beam*, WC Docket No. 22-344, Public Notice, DA 23-537 (WCB June 21, 2023).

[32] *Connect America Fund et al.,* WC Docket No. 10-90 et al., Order, DA 24-244 (WCB Mar. 12, 2024) (*Weiss Waiver Order*).

[33] *Connect America Fund et al.,* WC Docket No. 10-90 et al, Notice of Proposed Rulemaking, FCC 24-64 (June 7, 2024) (*LOC NPRM*).

America's Communications Association point out, the Commission's rules already create a financial incentive to default at the earliest opportunity if a carrier discovers it cannot meet its obligations, because defaulting earlier in the RDOF process reduces the support recovery amount in most situations as the support recovery formula is based on a percentage of support received, similar to CAF Phase II support recovery.[35] Further, numerous parties opposed broad relief from program obligations in the event of a default.[36] There is also strong support in the record for not allowing "gaming" of the auction system by

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[34] *See, e.g.*, comments and replies filed by service providers, some of which are CAF Phase II or RDOF participants, Daviess-Martin County Rural Telephone Cooperative Comments, AU Docket No. 20-34 et al. (rec. Mar. 26, 2024); Irby Company LLC Irby Utilities et al. Comments, AU Docket No. 20-34 et al. (rec. Mar. 26, 2024) (Irby Providers); Mediacom Communications Corporation Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); West Carolina Rural Telephone Cooperative et al. Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); New Hampshire Electric Cooperative Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); East Central Vermont Telecommunications District (dba ECFiber) Comments, AU Docket 20-34 et al. (rec. Mar. 26, 2024); Palmetto Broadband Coalition Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Empower Broadband, Inc. and Choptank Fiber, LLC Comments, WC Docket No. 10-90 et al. (rec. Mar. 25, 2024); Luminate Fiber and Co-Mo Comm, Inc. Comments, WC Docket No. 10-90 et al. (rec. Mar 25, 2024); Coalition of RDOF Winners Comments, AU Docket No. 20-34 et al. (rec. Mar. 22, 2024); ATN International Reply, WC Docket No. 10-90 et al. (rec. Apr. 9, 2024); BARConnects, LLC Reply, WC Docket No. 10-90 et al. (rec. Apr. 9, 2024); North Alabama Electric Cooperative Reply, WC Docket No. 10-90 et al. (rec. Apr. 9, 2024) (NAEC Reply) (supporting varying levels of relief for defaulting RDOF and CAF Phase II recipients, and in some cases rejecting offering relief, but the recipients supporting relief do not provide evidence to suggest that they are unwilling to default due to an inability to pay the required support recovery).

[35] *See Ex Parte* Letter from Michael Romano, Executive Vice President, NTCA-The Rural Broadband Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, AU Docket No. 20-34, *et al*., at 3 (rec. Mar. 8, 2024); ACA Connects—America's Communications Association Comments, WC Docket No. 10-90 et al. at 3, fn.6 (rec. Mar. 26, 2024) (voicing support for this idea in NTCA's *ex parte*). *See also* 47 CFR § 54.320(d)(2), *CAF Phase II Auction Order*, 31 FCC Rcd at 6017, para. 191 (requiring the Bureau to recover "an amount of support that is equal to 1.89 times the average amount of support per location *received* in the state over the six-year period for the relevant number of locations the [recipient] has failed to offer service to, plus 10 percent of the [recipient's] total [CAF Phase II] support *received* in the state over the six-year period for deployment") (emphasis added), 47 CFR § 54.806(c)(1)(i) (requiring the Bureau to recover an amount of support that is equal to the amount of support the recipient *received* in the state times a multiplier, plus, in most cases, an additional percentage of total authorized support depending on the number of defaulted locations). For carriers that fully withdraw from RDOF or CAF Phase II in a state, we stop the carrier's support in the state immediately and recover support soon after the default is announced, which in most situations leads to recovering less support than if the carrier waited until it received six years of support during the deployment term before withdrawing. *Apr. 2024 Post-Authorization Default Public Notice*, at 5 & n.25. For carriers that default early on only certain CBGs in a state, we will recover support at the end of the six-year deployment period absent a waiver. *Id.* at 5. However, because we will immediately stop support for the CBGs where the carrier is defaulting upon announcing the default, the carrier will in most situations receive less support over the six-year deployment period for those CBGs than if it had waited to notify the Bureau that it is defaulting in those CBGs at the end of the deployment period. *Id.* at 4.

[36] *See, e.g.,* ACA Connects—America's Communications Association Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); ACLP at New York Law School Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Citizens Against Government Waste Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Digital Liberty Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Free State Foundation Comments, AU Docket No. 20-34 et al. (rec. Mar. 26, 2024); GTBA-Georgia's Rural Telephone and Broadband Association Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Illinois Office of Broadband Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); James Bellina Comments, AU Docket No. 20-34 et al. (rec. Mar. 25, 2024); Jeffrey Westling Comments, AU Docket No. 20-34 et al. (rec. Mar. 26, 2024); National Rural Electric Cooperative Association Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); NTCA—The Rural Broadband Association Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); National Rural Telecommunications Cooperative Comments, WC Docket No. 10-90 et al. (rec. Mar. 25, 2024); NEK Community Broadband Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Taxpayer Protection Alliance Comments WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); WTA—Advocates for Rural Broadband Comments, WC Docket No. 10-90 et al. (rec. Mar. 12,

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carriers seeking release from their FCC obligations to pursue increased funding for some of the same areas from other funding programs.[37]

While some parties, including certain parties to the Entity Letter, supported offering a brief window during which CAF Phase II and RDOF support recipients could default, in some cases without explanation or justification, and with established support recovery procedures reduced, these parties failed to demonstrate that there is a need for broad amnesty relief among RDOF and CAF Phase II providers.[38] In fact, while some comments offered various options for reduced default recovery, including using the lesser forfeiture structure available to all RDOF participants pre-authorization,[39] most commenters rejected the concept of allowing defaults with no support recovery as thwarting the reverse auction system, encouraging bad actors, and undermining certainty in future support programs.[40] As illustrated

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2024); American Consumer Institute Reply, WC Docket No. 10-90 et al. (rec. Mar. 29, 2024); Foundation for American Innovation Reply, WC Docket No. 10-90 et al. (rec. Apr. 9, 2024); Mississippi Center for Justice Reply, WC Docket No. 10-90 et al. (rec. Apr. 9, 2024) (generally opposing broad relief for defaulting RDOF and CAF Phase II recipients, although some of the commenters offer suggestions for providing narrowly tailored relief in certain scenarios).

[37] ACLP at NYLS Comments at 5; Georgia TBA Comments at 15; Irby Providers Comments at 7; Palmetto Broadband Coalition Comments at 4 (all of which support barring defaulters from bidding in BEAD); (but see, e.g., East Central Vermont Telecommunications District Comments at 2, an authorized RDOF support recipient that would like to default on 10% of its winning bid area because it is in another telecommunications district's territory (not because it cannot afford to serve), which comments that defaulting RDOF winners may be the only providers willing to provide service and should be able to bid again in BEAD for areas on which those providers defaulted in RDOF).

[38] *See, e.g.*, American Association for Public Broadband Comments, AU Docket No. 20-34 et al. (rec. Mar. 26, 2024); Coalition of RDOF Winners Comments, AU Docket No. 20-34 et al. (rec. Mar. 22, 2024) and Reply, AU Docket No. 20-34 et al. (rec. April 9, 2024); Colorado Broadband Office Comments, WC Docket No. 20-34 et al. (rec. Mar. 25, 2024); Connect the Future Comments, WC 10-90 et al. (rec. Mar. 26, 2024); Eagle County Colorado Comments, WC Docket No. 10-90 et al. (rec. Mar. 13, 2024); Etheric Communications LLC Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Monster Broadband Inc. Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); NC Rural Center Comments, WC Docket No. 19-126 (rec. Mar. 13, 2024); Nebraska Public Service Commission Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Next Century Cities Comments, WC Docket No. 10-90 et al. (rec. Mar. 26, 2024); Quitman County Board of Supervisors Comments, WC Docket No. 19-126 (rec. Mar. 26, 2024); Upper Rio Grande Regional Working Group and the Rio Grande Council of Governments Comments, WC Docket No. 10-90 et al. (rec. Mar. 25, 2024); County Supervisors Association of Arizona Comments, WC Docket No. 10-90 et al. (rec. Mar. 22, 2024); Texas Rural Funders Comments, AU Docket No. 20-34 et al. (rec. Mar. 25, 2024); USTelecom—The Broadband Association Comments, WC Docket No. 19-126 et al. (rec. Mar. 26, 2024); Kittitas County Board of Commissioners Reply, AU Docket No. 20-34 et al. (rec. Apr. 9, 2024); Office of Broadband Access and Expansion (New Mexico) Reply, WC Docket No. 19-126 et al. (rec. Apr. 9, 2024); Utilities Technology Council Reply, WC Docket No. 10-90 et al. (rec. Apr. 9, 2024); Inter Mountain Cable, Inc. Reply, WC Docket No. 10-90 et al. (rec. Apr. 9, 2024) (generally supporting some form of relief for defaulting RDOF and CAF Phase II recipients, although some of the commenters propose limitations on the type of relief provided).

[39] Nebraska Public Service Commission Comments at 6-7, citing *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686, 735, para. 115 (2020)(*RDOF Order*), (noting that the Commission could apply the $3,000 per violation pre-authorization default forfeiture, subject to adjustment based on the Commission's forfeiture criteria); NAEC Reply at 5.

[40] *See, e.g.*, Free State Foundation (FSF) Comments at 1 (granting the request for "amnesty" "would further delay the connection of unserved households" and creates "a classic "moral hazard," [which] would encourage irresponsible behavior that threatens the efficacy of reverse auctions"); Digital Liberty Comments at 2 (early defaults/amnesty would invite waste, delay broadband deployment, put undue strain on funding available for buildout, and undermine the integrity of future reverse auctions); and ACLP at NYLS Comments at 4 (misleading to claim that allowing early defaults now would make those areas eligible for BEAD, because some states have
(continued….)

above, and by commenters Georgia Rural Telecom and Broadband Association (Georgia TBA)[41] and Jeffrey Westling,[42] support recipients already have the opportunity to seek waiver of non-compliance measures, and the Bureau may waive rules related to support recovery and penalties for defaults if the carrier demonstrates good cause.

Some governmental entities expressed concern that because the RDOF initial 40% buildout milestones will occur after BEAD eligibility determinations, RDOF carrier defaults due to non-performance would not be revealed until too late for those areas to be included in BEAD eligibility and funding.[43] However, none of these comments noted concerns about specific RDOF carriers. Moreover, the Bureau, as part of the Rural Broadband Accountability Plan,[44] monitors carrier deployment and is in contact with carriers that may be at risk of not meeting their deployment milestones. Recently, the Bureau contacted the small number of RDOF carriers with an upcoming buildout milestone that have not yet reported service to any locations in their RDOF areas. The Bureau directed those carriers to file in the Commission's Electronic Comment Filing System by May 15, 2024, public information regarding their plans to meet their December 31, 2024 buildout milestone requirement and is now reviewing those responses for follow up as needed with carriers and state broadband offices.

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(Continued from previous page)
completed or are near completing BEAD eligibility determinations, and even if areas are able to be included in BEAD eligibility they wouldn't necessarily receive BEAD funding); but *see*, *e.g.*, MediaCom Comments at 8-9 and NC Rural Center Comments at 1, which advocate for allowing authorized recipients to default quickly with no penalties, and Monster Broadband Comments at 1-3, also advocating for removing penalties for prior RDOF defaulters like Monster that can argue that default was to avoid duplicative funding or waste; and the Coalition of RDOF Winners Reply at 2, arguing that imposing the established default support recovery on defaulting RDOF participants would be "tantamount to blaming and penalizing them" for rising costs.

[41] GTBA-Georgia's Rural Telephone and Broadband Association Comments, WC Docket No. 10-90 et al., at 15 (rec. Mar. 26, 2024).

[42] Jeffrey Westling Comments, AU Docket No. 20-34 et al., at 3 (rec. Mar. 25, 2024).

[43] *See, e.g.*, Eagle County Colorado Comments, WC Docket No. 10-90 et al., at 1 (rec. Mar. 13, 2024); Quitman County Board of Supervisors Comments, WC Docket No. 19-126, at 1 (rec. Mar. 26, 2024); County Supervisors Association of Arizona Comments, WC Docket No. 10-90 et al., at 1 (rec. Mar. 22, 2024); Colorado Broadband Office Comments, WC Docket No. 20-34 et al., at 1-2 (rec. Mar. 25, 2024); Upper Rio Grande Regional Working Group and the Rio Grande Council of Governments Comments, WC Docket No. 10-90 et al., at 2 (rec. Mar. 25, 2024); NC Rural Center Comments, WC Docket No. 19-126, at 1 (rec. Mar. 13, 2024); Kittitas County Board of Commissioners Reply, AU Docket No. 20-34 et al., at 1-2 (rec. Apr. 9, 2024) (expressing general concern that CAF Phase II and RDOF recipients may not meet their obligations in the commenters' respective states and localities).

[44] Federal Communications Commission, Rural Broadband Accountability Plan, https://www.fcc.gov/rbap (last visited May 21, 2024).

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. 24-647

Report No. SAT-01835 **Friday July 5, 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-ASG-20240617-00136 E Sirius XM Radio LLC
Assignment
Grant of Authority Effective Date: 06/18/2024

Current Licensee: Sirius XM Radio Inc.
FROM: Sirius XM Radio Inc.
TO: Sirius XM Radio LLC

No. of Station(s) listed: 3

SAT-MOD-20231013-00250 E S2386 Intelsat License LLC
Modification 07/02/2024 - 12/31/2025
Grant of Authority Effective Date: 07/02/2024

Nature of Service: Fixed Satellite Service

On July 2, 2024, the Satellite Programs and Policy Division granted, with conditions, Intelsat License LLC's request for modification of Galaxy 13's license to: (1) incorporate the satellite's Japan-licensed Ku-band operations, known as Horizons-1, into the U.S. license for Galaxy 13, resulting in the satellite name changing to Galaxy 13/Horizons-1; and (2) operate the satellite at the 150.0° W.L. orbital location in the fixed satellite service using the 3700-4200 MHz and 11.7-12.2 GHz (space-to-Earth), and 5925-6425 MHz and 14.0-14.5 GHz (Earth-to-space) frequency bands. Galaxy 13/Horizons-1 performs telemetry, tracking, and command operations at 150.0° W.L. using the following center frequencies: 4198.5 MHz and 4199.5 MHz (space-to-Earth); and 5926.75 MHz and 6420.75 MHz (Earth-to-space).

SAT-STA-20240507-00095 E S3032 BlackSky Global LLC
Special Temporary Authority
Grant of Authority Effective Date: 07/03/2024

Application listed as granted in ICFS to reflect operations pursuant to Section 1.62 of the Commission's rules.

SAT-STA-20240604-00123 E S3032 BlackSky Global LLC
Special Temporary Authority
Grant of Authority Effective Date: 07/03/2024

Nature of Service: Earth Exploration Satellite Service

On July 3, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to BlackSky Global LLC, for a period of up to thirty days, to continue to operate the BlackSky Global 15 satellite in orbits at altitudes ranging between 340 km and 385 km.

SAT-STA-20240624-00140 E S3092 Astranis Projects USA LLC
Special Temporary Authority
Grant of Authority Effective Date: 07/02/2024

On July 2, 2024, the Satellite Programs and Policy Division granted, with conditions, special temporary authority to Astranis Projects USA LLC, for a period of up to 30-days, to continue to perform telemetry, tracking and command (TT&C) necessary to maintain the Arcturus space station at the 78° E.L. orbital location. TT&C is performed using the 19701-19703 MHz and 19704-19706 MHz (space-to-Earth), and 28351-28353 MHz and 28354-28356 MHz (Earth-to-space) frequency bands.

SAT-T/C-20240531-00118 E AT&T Enterprises, LLC
Transfer of Control
Grant of Authority Effective Date: 07/03/2024

Current Licensee: Alascom, Inc
FROM: AT&T Corp.
TO: AT&T Enterprises, LLC

No. of Station(s) listed: 1

SAT-T/C-20240617-00134 E Sirius XM Radio LLC
Transfer of Control
Grant of Authority Effective Date: 06/18/2024

Current Licensee: Satellite CD Radio LLC
FROM: Sirius XM Radio Inc.
TO: Sirius XM Radio LLC

No. of Station(s) listed: 1

SAT-T/C-20240617-00135 E Sirius XM Radio LLC
Transfer of Control
Grant of Authority Effective Date: 06/18/2024

Current Licensee: XM Radio LLC
FROM: Sirius Satellite Radio Inc.
TO: Sirius XM Radio LLC

No. of Station(s) listed: 2

INFORMATIVE

SAT-STA-20240522-00108 Space Exploration Holdings, LLC

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 July 5, 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 §§ 1.1200(a), 1.1206 and 1.1208 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 No. 24-648

Report No. TEL-02376 **Friday July 5, 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-214-20230822-00105 E fliggs mobile Inc.

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action: 07/03/2024

fliggs mobile Inc. (fliggs mobile) has filed an application for authority to provide resale services in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2). The Applicant filed a supplement on October 31, 2023.

fliggs mobile, a Delaware corporation, is wholly owned by fliggs AG which, in turn, is wholly owned by moflix AG, both Switzerland entities. The 10% or greater direct owners of moflix AG are: Modum Holding AG (54%), Bohemian Investment AG (10%), and Yann Duponchel, a citizen of Switzerland (20%). eFirst Consulting GmbH, which is wholly owned by Marc Ciril Degen, a citizen of Switzerland, has a 26% ownership in Modum Holding AG, both Switzerland entities. Bohemian Investment AG, a Switzerland entity, is wholly owned by Milo Stössel, a citizen of Switzerland. According to the Applicant, no other person or entity has a 10% or greater direct or indirect ownership interest in fliggs mobile.

On June 27, 2024, the National Telecommunications and Information Administration informed the Commission that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) "has reviewed the application and has no recommendation at this time to the Commission approving the application and no objection to the Commission granting it" and that the Committee "reserves the right to review any resulting authorization in the future to identify any additional or new risks to U.S. national security or law enforcement interests."

ITC-214-20231005-00135 E RGTN USA Inc.

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action: 07/03/2024

RGTN USA Inc. (RGTN USA) has filed an application for authority to provide resale services in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2).

RGTN USA is a wholly owned subsidiary of RGTN Americas Inc., both Delaware corporations. RGTN Americas Inc. is wholly owned by RGTN Corporation B.V., which, in turn, is wholly owned by Herps Corporate Holding B.V. (Herps), both Netherlands entities. Herps is owned by two citizens of The Netherlands: Leonardus Aldegonda Johannes (83%) and Katrin Herps-Oskomic (17%).

On June 27, 2024, the National Telecommunications and Information Administration informed the Commission that the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) "has reviewed the application and has no recommendation at this time to the Commission approving the application and no objection to the Commission granting it" and that the Committee "reserves the right to review any resulting authorization in the future to identify any additional or new risks to U.S. national security or law enforcement interests."

ITC-214-20240403-00060 E Really Communications, Inc.

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action: 06/28/2024

Really Communications, Inc. (Really Communications) filed an application for authority to provide resale services in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2). The Applicant filed supplements on May 13, 2024 and June 11, 2024.

Really Communications is a Delaware corporation. The 10% or greater direct interest holders in Really Communications are Adam Lyons (65%), a U.S. citizen, and Polychain Ventures III LP (10%), a Delaware limited partnership. Polychain Venture Partners III LLC, a Delaware limited liability company, holds a 15% indirect interest in Really Communications as the general partner for Polychain Ventures III LP and Polychain Ventures III (Parallel) LP, a Delaware limited partnership, which holds a 5% direct interest in Really Communications. Polychain VC II LP, a Delaware limited partnership, is the investment manager for Polychain Ventures III LP and Polychain Ventures III (Parallel) LP. Polychain Meta LLC, a Delaware limited liability company, is the general partner of Polychain VC II LP. Olaf Carlson-Wee, a U.S. citizen, is the managing member of Polychain Meta LLC and Polychain Venture Partners III LLC. According to the Applicant, no other individual or entity holds a 10% or greater interest in Really Communications.

ITC-214-20240607-00101 E Schurz Communications, Inc.

International Telecommunications Certificate

Service(s): Global or Limited Global Resale Service

Grant of Authority Date of Action: 06/28/2024

Schurz Communications, Inc. (SCI) filed an application for authority to provide resale services in accordance with section 63.18(e)(2) of the Commission's rules. 47 CFR § 63.18(e)(2). SCI filed a supplement on June 11, 2024.

SCI is an Indiana corporation. The Schurz Communications, Inc. Voting Trust Agreement (Voting Trust) holds a 75.17% direct interest in SCI. The following U.S. citizens are trustees of the Voting Trust, none of whom holds a 10% or greater voting interest in the Voting Trust: Todd F. Schurz, Scott C. Schurz, Jr., John D. Schurz, Hayne M. Schurz, John W. Schurz, Mary Ann Schurz, and Nicholas Mohar-Schurz. The following beneficiaries hold a 10% or greater beneficial interest in the Voting Trust: Franklin D. Schurz, Jr. (28%); Kathryn F. Schurz (19%); and Mary Ann Schurz (19%). Laura E. Ray is a trustee for various trusts that collectively hold a 15% interest in SCI but none of which individually holds a 10% or greater interest. According to the Applicant, no other individual or entity holds a 10% or greater direct or indirect interest in SCI.

ITC-ASG-20240621-00109 E Impact Telecom, LLC

Assignment

Grant of Authority Date of Action: 06/25/2024

Current Licensee: Lingo Management, LLC

FROM: Lingo Management, LLC

TO: Impact Telecom, LLC

On June 21, 2024, Impact Telecom, LLC (Impact Telecom), a Nevada limited liability company, filed a notification of the pro forma assignment of an international section 214 authorization to provide global facilities-based and resale service (ITC-214-20160630-00180), from Lingo Management, LLC (Lingo Management) to Impact Telecom, effective June 21, 2024. The Applicants filed a supplement on June 25, 2024.

Impact Telecom is a wholly owned subsidiary of Lingo Management, a Delaware limited liability company. In a corporate reorganization, Lingo Management assigned its international 214 authorization to Impact Telecom. This authorization is without prejudice to the Commission's action in any other related pending proceedings.

INFORMATIVE

ITC-STA-20240610-00102 DASH LIGHT TELECOM LLC

We grant the request for special temporary authority (STA) filed on June 10, 2024 by Dash Light Telecom (Dash Light), a New York limited liability company that holds an international section 214 authorization to provide global resale service (ITC-214-20230424-00052), to continue to provide international service to its customers at its own risk while the Commission considers the application for the transfer of control of Dash Light from Jeffrey Wasserman to Henry Bergmann and Dashmir Dalipi (see ITC-T/C-20240423-00066). Dash Light acknowledges that grant of such STA will not prejudice action by the Commission on the underlying application and that the STA is subject to cancellation or modification upon notice without a hearing.

Grant of this STA is without prejudice to any enforcement action by the Commission for non-compliance with the Communications Act of 1934, as amended, or the Commission's rules.

The STA expires on December 31, 2024.

SURRENDER

ITC-214-20000203-00053 DELGADO COMMUNICATIONS, INC.

DELGADO COMMUNICATIONS, INC. 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	)	
	)	
Protecting Consumers from SIM Swap and Port-Out Fraud	)	WC Docket No. 21-341
	)	

ORDER

Adopted: July 5, 2024 **Released: July 5, 2024**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Federal Communications Commission's (Commission) Wireline Competition Bureau (Bureau) grants in part and denies in part the petition for limited waiver or other relief submitted by CTIA, Competitive Carriers Association, and NCTA – The Internet & Television Association (jointly, Petitioners).[1] Petitioners request that the Commission temporarily waive or suspend enforcement of all of the new rules adopted in the *SIM Swap and Port-Out Fraud Order*[2] until the later of (1) March 10, 2025 or (2) after the Office of Management and Budget (OMB) completes review of any information collection requirements associated with the Order under the Paperwork Reduction Act (PRA).[3]

2. For the reasons discussed below, we find that waiver of the Commission's rules until March 10, 2025 would not serve the public interest, and accordingly deny the request. We find, however, that good cause exists to waive compliance with the rules adopted in the *SIM Swap and Port-Out Fraud Order* that are not subject to OMB review until the effective date of the rules that are subject to OMB approval. This will effectively result in a single synchronized timeframe: compliance with the rules in their entirety, including those not subject to the PRA, will not be required until OMB completes review of the information collection requirements associated with the Order, and the Commission publishes a notice in the Federal Register announcing the compliance date.

II. BACKGROUND

3. On November 15, 2023, the Commission adopted the *SIM Swap and Port-Out Fraud Order* to provide greater protections to customers from SIM swap and port-out fraud.[4] Specifically, the

[1] *See* CTIA, Competitive Carriers Association, and NCTA – The Internet & Television Association, Joint Petition for Limited Waiver or Other Relief, WC Docket No. 21-341 (filed Jun. 26, 2024) (Petition).

[2] *Protecting Consumers from SIM Swap and Port-Out Fraud*, WC Docket No. 21-341, Report and Order and Further Notice of Proposed Rulemaking, FCC 23-95 (Nov. 15, 2023) (*SIM Swap and Port-Out Fraud Order*).

[3] *See* Petition at 1-2.

[4] *See SIM Swap and Port-Out Fraud Order* at 2, para. 2. A subscriber identity module (SIM) facilitates the proper routing of texts and calls to a customer's cell phone, so long as the SIM associated with the customer's phone number is assigned to the customer's phone. SIM swap fraud is a scam in which a bad actor convinces a victim's wireless provider to transfer the victim's mobile service and number from the victim's cell phone to a cell phone in the bad actor's possession. Port-out fraud involves a bad actor, posing as the victim, opening an account with a wireless provider other than the victim's current provider, and then arranging for the victim's phone number to be transferred (or "ported out") to the account with the new wireless provider controlled by the bad actor. *See id.* at 2, para. 1.

Commission revised its Customer Proprietary Network Information (CPNI) and Local Number Portability (LNP) rules to require wireless providers to adopt secure methods of authenticating a customer before redirecting a customer's phone number to a new device or provider.[5] The Commission also adopted additional rules to reinforce that requirement, including that wireless providers adopt processes for responding to failed authentication attempts,[6] institute employee training for handling SIM swap and port-out fraud,[7] and establish safeguards to prevent employees who interact with customers from accessing CPNI until after customers have been authenticated.[8] In addition, the Commission adopted rules that will enable customers to act to prevent and address fraudulent SIM changes and number ports, including requiring that wireless providers notify customers regarding SIM change and port-out requests,[9] offer customers the option to lock their accounts to block processing of SIM changes and number ports,[10] and give advanced notice of available account protection mechanisms.[11] The Commission further established requirements to minimize the harms of SIM swap and port-out fraud when it occurs, including requiring wireless providers to maintain a clear process for customers to report fraud, promptly investigate and remediate fraud, and promptly provide customers with documentation of fraud involving their accounts.[12] Finally, to ensure wireless providers track the effectiveness of authentication measures used for SIM change requests, the Commission required that they keep records of SIM change requests and the authentication measures they use.[13]

4. The *SIM Swap and Port-Out Fraud Order* required wireless providers to comply with the requirements six months after the effective date of the *Report and Order* or, for those requirements subject to review by OMB, upon completion of that review, whichever is later.[14] The Order was published in the Federal Register on December 8, 2023, with an effective date of January 8, 2024, which then results in a compliance date of July 8, 2024 for rules not subject to the PRA.[15] The final rules adopted by the Commission, codified at sections 52.37 and 64.2010(h) of the Commission's rules, each contain provisions expressly delaying the respective compliance deadlines until OMB approves the new

[5] *See SIM Swap and Port-Out Fraud Order* at 16-21 & 35-37, paras. 26-30 & 54-57.

[6] *Id.* at 21-23, paras. 31-34.

[7] *Id.* at 43-44, paras. 69-71.

[8] *Id.* at 31-33, paras. 50-51.

[9] *Id.* at 23-27 & 37-39, paras. 35-40 & 58-60.

[10] *Id.* at 27-40 & 39-41, paras. 41-45 & 61-64.

[11] *Id.* at 42-43, paras. 67-68.

[12] *Id.* at 44-47, paras. 72-77.

[13] *Id.* at 30-31, paras. 46-49.

[14] *Id.* at 48-49, para. 83.

[15] 88 Fed. Reg. 85794 (Dec. 8, 2023). The Commission stated that "this *Report and Order* SHALL BE EFFECTIVE 30 days after publication in the Federal Register, and that compliance with the rules adopted herein shall be required six months after the effective date of the *Report and Order*, except that the amendments to sections 52.37(c), 52.37(d), 52.37(e), 52.37(g), 64.2010(h)(2), 64.2010(h)(3), 64.2010(h)(4), 64.2010(h)(5), 64.2010(h)(6), and 64.2010(h)(8) of the Commission's rules, 47 CFR §§ 52.37(c), 52.37(d), 52.37(e), 52.37(g), 64.2010(h)(2), 64.2010(h)(3), 64.2010(h)(4), 64.2010(h)(5), 64.2010(h)(6), and 64.2010(h)(8), which may contain new or modified information collection requirements, will not become effective until the later of i) six months after the effective date of this *Report and Order*; or ii) after the Office of Management and Budget completes review of any information collection requirements associated with this *Report and Order* that the Wireline Competition Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Wireline Competition Bureau to announce the compliance date for sections 52.37(c), 52.37(d), 52.37(e), 52.37(g), 64.2010(h)(2), 64.2010(h)(3), 64.2010(h)(4), 64.2010(h)(5), 64.2010(h)(6), and 64.2010(h)(8) by subsequent Public Notice and to cause 47 CFR § 52.37 and § 64.2010 to be revised accordingly." *SIM Swap and Port-Out Fraud Order* at 62, para. 121.

rules. Specifically, the rules state that compliance with "this section [52.37]" will not be required until this paragraph is removed or contains a compliance date, which will not occur until the later of:" i) July 8, 2024; or "ii) after the Office of Management and Budget completes review of any information collection requirements in this section that the Wireline Competition Bureau determines is required under the Paperwork Reduction Act or the Wireline Competition Bureau determines that such review is not required."[16]

5. In setting the timeframe, the Commission concluded that providing six months to achieve compliance with rules that are not subject to OMB review "accounts for the urgency of safeguarding customers from these fraudulent schemes, and will allow wireless providers to coordinate any updates needed to their systems and processes to comply with the Safe Connections Act and the rules" adopted to implement that statute.[17] The Commission went on to explain that "SIM swap and port-out fraud can result in substantial harm to the customer, including loss of service on their devices. Fraudulent SIM swaps and port-outs allow bad actors to perpetrate greater fraud by giving them the means to complete text and voice authentications to access the victim's other accounts, and as such, we find that an aggressive implementation timeframe is appropriate to provide these important consumer protections without substantial delay."[18] The Commission also found the implementation timeframe to be consistent with other proceedings and regulatory frameworks adopted by the Commission where consumer protection and numbering requirements were at issue.[19]

6. Petitioners assert that "certain operational realities have made it clear that significantly more time is necessary for providers to develop fully tested, comprehensive compliance solutions," and that "uncertainty surrounding when compliance will be required has created additional challenges."[20] As such, Petitioners request that the Commission either temporarily waive or suspend enforcement of all of the new SIM swap and numbering porting rules until the later of (1) March 10, 2025, or (2) after OMB completes review of any information collection requirements associated with the Order under the PRA.[21]

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[16] *See SIM Swap and Port-Out Fraud Order*, Appx A, § 52.37(h). Similarly, regarding the revisions to the CPNI rules pertaining to protections to SIM swap fraud in 64.2010(h), the Commission rules state that "Compliance with paragraph (h) will not be required until this subparagraph is removed or contains a compliance date, which will not occur until the later of:" i) July 8, 2024; or ii) after the Office of Management and Budget completes review of any information collection requirements in paragraph (h) that the Wireline Competition Bureau determines is required under the Paperwork Reduction Act or the Wireline Competition Bureau determines that such review is not required. *See id.*, Appx. A, § 64.2010(h)(9).

[17] *SIM Swap and Port-Out Fraud Order* at 49, para. 83. Compliance with the line separation requirements adopted by the Commission in the *Safe Connections Act Report and Order* is required by July 15, 2024. *Wireline Competition Bureau Announces Compliance Date of July 15, 2024 for Safe Connections Act Rules*, WC Docket Nos. 22-238, 11-42, 21-450, Public Notice, DA 24-503 (WCB May 29, 2024) (citing *Supporting Survivors of Domestic and Sexual Violence et al*., WC Docket No. 22-238 et al., Report and Order, FCC 23-96 (2023) (*Safe Connections Act Report and Order*)).

[18] *Id.*

[19] *Id.* at 50, para. 83 (citing *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information, et al.*, CC Docket Nos. 96-115 et al., 22 FCC Rcd 6927, 6958, para. 61 (2007) (*2007 CPNI Order*) (concluding that six months was sufficient for carriers to implement the revised CPNI rules to address pretext (except for certain small carriers) "in light of the importance of this issue to the public interest"); *Telephone Number Requirements for IP-Enabled Services Providers et al.*, WC Docket No. 07-243 et al., Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking 22 FCC Rcd 19531, 19552, 19557, paras. 40, 48 (2007) (concluding that 90 days was sufficient time for carriers to comply with LNP validation requirements and requiring interconnected VoIP providers and their numbering partners to comply with LNP obligations 30 days after Federal Register publication, subject to OMB review and approval)).

[20] Petition at 3-4.

[21] *Id.* at 4. Petitioners also request this relief "on an expedited basis and at a minimum before July 8, 2024." *Id.*

III. DISCUSSION

7. A provision of the Commission's rules "may be waived by the Commission on its own motion or on petition if good cause therefor is shown."[22] The Commission may find good cause to extend a waiver, "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."[23] In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[24] We conclude that the petitioners failed to demonstrate that a temporary waiver of the rules until March 10, 2025 is in the public interest.[25] Accordingly, we deny that component of the Petitioners' request. However, we find that there is good cause, and that it would be in the public interest, to waive the July 8, 2024 compliance date for the rules that are not subject to OMB review until the effective date of the rules that are subject to OMB review. This will allow wireless providers to comply with all of the rules in their entirety, including those specifically subject to PRA and those that would otherwise go into effect on July 8, 2024, under a single synchronized timeframe, and we grant Petitioners' request to such an extent.

8. Petitioners assert that granting the requested relief would serve the public interest by affording covered wireless providers "sufficient time to make the complex technical and process changes necessary to implement the new rules, ensuring that the systems they adopt can be designed and tested to maximize consumer benefit and avoid the risks of rushed implementation."[26] Petitioners also assert that granting their petition "will provide certainty to covered providers by establishing a clear date for providers to target for comprehensive compliance."[27] Petitioners argue that a temporary waiver will not adversely impact consumers, "who can rely on the robust, effective anti-fraud program that covered providers will operate while they are working to implement the new rules."[28] Finally, Petitioners assert that a uniform extended timeframe applicable to *all* rules is "consistent with the Commission's obligation to abide by the plain text of its codified regulations" and "preferable as a matter of policy given the close relationship between authentication and training requirements and the other new rules."[29]

9. We disagree with Petitioners that a temporary waiver of compliance with the rules until March 10, 2025 would be in the public interest. The Commission is not unaware of the complexities of implementing the requirements adopted in the *SIM Swap and Port-Out Order* and has previously considered Petitioners' concerns about the complexity of updating their systems; it concluded that "providing six months after the effective date of the *Report and Order* to implement these revisions to our CPNI and number porting rules strikes the right balance between time for wireless providers to implement these changes and accounting for the urgency of safeguarding customers from these fraudulent

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[22] 47 CFR § 1.3.

[23] *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*citing WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972)).

[24] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

[25] *See* 47 CFR § 1.3; *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

[26] Petition at 7-10 (asserting that "many of the new rules require completely new systems and processes," that existing systems and processes cannot be easily replicated to all customers and contexts without significant planning, development, integration with other systems, and testing, and that implementation of the new rules will impact 30 to nearly 100 applications, systems, or platforms, including those operated by outside vendors); *see also id.* at 11-13 (arguing that additional time will result in "better, more effective anti-fraud programs;" will allow providers to better balance anti-fraud measures will timely accommodating valid SIM change and number port requests; and will mitigate risks associated with rushed implementation, including detecting security issues and operationalizing the overlap with the new rules implementing the Safe Connections Act).

[27] *Id.* at 7, 15-16.

[28] *Id.* at 7, 14-15.

[29] *Id.* at 17-18.

schemes."[30] We do not find the complexities outlined by Petitioners persuasive to overcome the Commission's stated concerns regarding the urgency of addressing these types of pernicious fraudulent schemes. The Commission also acknowledged industry's concerns that implementing these new rules will be a multistep process for many providers,[31] but noted that providers themselves acknowledged the necessity of implementing revisions to the CPNI and LNP rules concurrently with the rules implementing the Safe Connections Act, given how both frameworks address many of the same actions (e.g., account locks, customer notifications, customer authentication).[32] The *SIM Swap and Port-Out Fraud Order* recognized that some providers already employ authentication and notification measures but that additional work would be needed.[33] Contrary to the Petitioners' claim that the Commission underestimated the work associated with implementing the new rules,[34] it in fact cited to the same steps that Petitioners state they are currently undertaking, including design, development, and testing of expanded IT systems and platforms.[35] It found that accomplishing this work and achieving compliance under an "aggressive implementation timeframe is appropriate to provide substantial consumer protections without delay."[36] Even with this urgency, we also observe that Petitioners will have significantly more time than what may have been initially anticipated to work through implementation complications pertaining to the rules subject to the PRA—Petitioners have had over seven months since the release of the *SIM Swap and Port-Out Order* to work on implementing the requirements adopted therein, even before the information collection review process has begun.

10. While we are sympathetic to Petitioners' assertions for a need for the Commission to set a date certain for compliance, the timeframes for the OMB's review under the Paperwork Reduction Act are publicly-available and presumably well-known to Petitioners.[37] Since the initial 60-day PRA public comment period commenced on June 25, 2024,[38] and is the first of two PRA public comment periods, wireless providers can reasonably assume that the new rules would be under OMB review for six-to-nine months, and that OMB approval would come, at the earliest, in late November 2024.[39] Wireless providers could conservatively use this date as a date certain from which to base their implementation and testing of systems to implement the requirements of the *SIM Swap and Port-Out Fraud Order*. This timeframe will ultimately provide wireless providers with at least a full 12 months from adoption of the rules to implement them, a sufficient timeframe in line with, or exceeding, other items requiring implementation

[30] *SIM Swap and Port-Out Order* at 50, para. 83.

[31] *See, e.g.*, Letter from CTIA to Marlene Dortch, Secretary, FCC, WC Docket No. 21-341, at 2-3 (filed Nov. 8, 2023).

[32] *SIM Swap and Port-Out Fraud Order* at 50, para. 83. The line separation requirements under the *Safe Connections Act Report and Order*, which involve CPNI and LNP obligations, become effective on July 15, 2024. *See supra* note 17.

[33] *Id.* at 49-50, para. 83.

[34] Petition at 8.

[35] Petition at 8-9.

[36] *SIM Swap and Port-Out Fraud Order* at 49, para. 83 and n.304.

[37] *See* https://pra.digital.gov (explaining that the Office of Management and Budget's review of rules subject to the Paperwork Reduction Act typically takes 6-9 months, which includes, at a minimum, 60 days for public comment published in the Federal Register, a second 30-day public comment period published in the Federal Register, and an additional 60 days for OMB review and approval).

[38] Fed. Commc'ns Comm'n, *Information Collections Being Reviewed by the Federal Communications Commission*, 89 Fed. Reg. 53079, 53080 (June 25, 2024) (requiring written PRA comments to be submitted on or before August 26, 2024).

[39] Since the initial public comment period began June 25, 2024, calculating, at a minimum, 60 days for public comment, 30 days for a second public comment period, and 60 days for OMB review and approval would result in OMB completing its review at the earliest, 150 days from June 25, 2024, or in late November.

of revised or new CPNI requirements.[40] Further, Petitioners' own request would result in an unknown compliance date, as they request March 10, 2025 or upon OMB approval, *whichever is later*.[41] Were OMB to complete its review of these rules after March 10, the compliance date would be no more certain than the Commission's established timeframe. Given the strong public interest considerations in protecting consumers from these types of fraud, we believe it warrants a more cautious approach to extending the timeframe.

11. Petitioners arguments that a waiver would not adversely impact consumers because consumers can rely on existing fraud-prevention programs also fall short. Had the Commission determined that providers' existing anti-fraud programs were sufficient, it arguably would not have found that new, comprehensive rules were necessary in the *SIM Swap and Port-Out Fraud Order*.

12. We do find, however, that good cause exists, and that it would be in the public interest, to waive compliance with the rules adopted in the *SIM Swap and Port-Out Fraud Order* that are not subject to OMB review (e.g., authentication requirements and training requirements on how to use new systems), which are substantively tied to requirements subject to the PRA, until the effective date of the rules that are subject to OMB approval. This will effectively result in a single synchronized timeframe for all the rules in their entirety, including those that do not implicate the PRA. Petitioners have demonstrated that allowing providers to come into compliance with all of the rules on the same schedule "will ensure harmonious implementation and avoid unnecessary burdens."[42] We therefore grant Petitioners' limited request to waive compliance with the rules adopted in the *SIM Swap and Port-Out Fraud Order* that are not subject to OMB review until after OMB completes its review of the information collection requirements under the PRA, and the Commission publishes notice of OMB's approval in the Federal Register. We encourage Petitioners to keep the Commission apprised as to their progress in implementing the rules adopted in the *SIM Swap and Port-Out Order*.

IV. ORDERING CLAUSES

13. Accordingly, IT IS ORDERED that, pursuant to Sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, 1.3, the Joint Petition for Limited Waiver or Other Relief filed by CTIA, Competitive Carriers Association, and NCTA – The Internet & Television Association filed on June 26, 2024 is DENIED IN PART and GRANTED IN PART to the extent described herein.

[40] *See 2007 CPNI Order* (released April 2, 2007, received OMB approval December 2007); *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information* et al., CC Docket No. 96-115 et al., Third Report and Order and Third Further Notice of Proposed Rulemaking, 17 FCC Rcd 14860 (2002) (*Third CPNI Order*) (released July 25, 2002, received OMB approval Feb. 24, 2003).

[41] Petition at 2, 21.

[42] *See* Petition at 20 (explaining that the "authentication requirements in Sections 52.37 and 64.2010(h) are not easily disentangled from the remainder of the rules, several of which govern actions that must be taken when authentication succeeds or fails," and that "as providers work to operationalize the other requirements[,] . . . the authentication procedures may need to be adjusted accordingly"); *see also id.* (asserting that "[a]dopting new training programs for employees in the short term on new procedures that have not been implemented and will change in the medium-term risks creating employee and customer confusion on the availability and status of new security tools and processes").

14. 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
Federal Communications Commission

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

In the Matter of	)	
	)	
Titus County, Texas	)	
	)	
For Modification of the Cable and Satellite Television Markets of Stations	)	MB Docket No. 24-166
	)	CSR-9017-A
	)	
KLTV (ABC), Tyler, Texas; KETK-TV (NBC), Jacksonville, Texas; KFXK-TV (FOX), Longview, Texas; and KYTX (CBS), Nacogdoches, Texas	)	

ORDER

Adopted: July 8, 2024 **Released: July 8, 2024**

By the Senior Deputy Chief, Policy Division, Media Bureau:

1. Titus County, Texas (County or Petitioner) filed the above-captioned Petition seeking to modify the cable and satellite television markets of Stations KLTV, Tyler, Texas; KETK-TV, Jacksonville, Texas; KFXK-TV, Longview, Texas; and KYTX, Nacogdoches, Texas to permit carriage in Titus County, Texas.[1]

2. Petitioner has requested that the Bureau dismiss its Petition so that it may correct errors.[2] Therefore, we dismiss the petition without prejudice.

3. Accordingly, **IT IS ORDERED,** that pursuant to sections 338 and 614 of the Communications Act, as amended, 47 U.S.C. §§ 338 and 534, and sections 76.55 and 76.66 of the Commission's rules, 47 CFR §§ 76.55 and 76.66, the Petition filed in this docket **IS DISMISSED**. This action is taken pursuant to authority delegated by section 0.283 of the Commission's rules.[3]

FEDERAL COMMUNICATIONS COMMISSION

Steven Broeckaert
Senior Deputy Chief, Policy Division
Media Bureau

[1] Titus County, Texas, For Modification of the Cable and Satellite Television Markets of Stations KLTV, Tyler, Texas; KETK-TV, Jacksonville, Texas; KFXK-TV, Longview, Texas; and KYTX, Nacogdoches, Texas, Petition for Special Relief, MB Docket No. 24-166 (filed June 4, 2024) (Petition). The Media Bureau placed the Petition on Public Notice, Report No. 0512 (MB June 7, 2024) (Public Notice).

[2] Letter from Michelle Whorton, Elections Administrator, Titus County, Texas, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 24-166 (filed July 2, 2024).

[3] 47 CFR § 0.283.

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 24-651
Released: July 8, 2024

OET ANNOUNCES CONDITIONAL APPROVAL OF C3SPECTRA'S 6 GHZ BAND AUTOMATED FREQUENCY COORDINATION SYSTEM AND SEEKS COMMENT ON AXON NETWORKS' PROPOSED AFC SYSTEM

ET Docket No. 21-352

Comments on Axon Networks' AFC Proposal Due By: July 29, 2024

By the Chief, Office of Engineering and Technology:

I. INTRODUCTION

1. The Office of Engineering and Technology (OET) conditionally approves C3Spectra to operate an automated frequency coordination (AFC) system to manage access to 6 GHz band spectrum by standard-power unlicensed devices. Under this conditional approval, C3Spectra will not be permitted to begin commercial operation of its AFC system until it completes a rigorous testing process, which may begin immediately. This process will require that C3Spectra's AFC system undergo both lab testing and a public trial. Once C3Spectra's conditionally approved AFC system has successfully completed the testing process, OET will approve the system for full commercial operation.

II. BACKGROUND

1. On April 23, 2020, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking (*6 GHz Report and Order*) that made broad swaths of the 6 GHz band available for expanded unlicensed operations.[1] The *6 GHz Report and Order* adopted rules for two different types of unlicensed operations—standard-power operations and low-power indoor operations.[2] Standard-power access points and fixed client devices are required to operate under the control of AFC systems in two portions of the 6 GHz band—the U-NII-5 band (5.925-6.425 GHz) and the U-NII-7 band (6.525-6.875 GHz).[3] The U-NII-5 and U-NII-7 bands are also used by licensed fixed and temporary-fixed point-to-point microwave systems.[4] In addition, the 6.65-6.6752 GHz portion of the U-NII-7 band is used for

[1] *Unlicensed Use of the 6 GHz Band*, ET Docket No. 18-295, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3852 (2020) (*6 GHz Report and Order*).

[2] *Id*. at 3860, paras. 17-18.

[3] 47 CFR §§ 15.403, 15.407(k)(1); *6 GHz Report and Order*, 35 FCC Rcd at 3860, 3862, 3923, paras. 17, 22, 192. A fixed client device is "intended as customer premise equipment that is permanently attached to a structure, operates only on channels provided by an AFC, has a geolocation capability, and complies with antenna pointing angle requirements." *Id.* § 15.403.

[4] *6 GHz Report and Order*, 35 FCC Rcd at 3855, 3865-66, paras. 7, 32.

radio astronomy observations at a limited number of observatories.[5] The AFC systems will manage spectrum access for standard-power access points and fixed client devices to prevent harmful interference from occurring to fixed microwave systems and certain radio astronomy observatories.[6]

2. On September 28, 2021, the Commission issued a Public Notice requesting proposals from prospective AFC system operators.[7] In response to the Public Notice, the Commission received fourteen applications to operate AFC systems, as well as eight comments regarding the applications.[8] One applicant, Amdocs, later withdrew its application.[9] On November 2, 2022, OET issued a Public Notice (*2022 Public Notice*) conditionally approving the thirteen remaining applicants to operate AFC systems: Broadcom, Google, Comsearch, Sony, Kyrio, Key Bridge Wireless, Nokia Innovations, Federated Wireless, Wireless Broadband Alliance, Wi-Fi Alliance, Qualcomm, Plume Design, and RED Technologies.[10] OET indicated in the *2022 Public Notice* that these conditionally approved AFC systems will not be available for commercial operations until they receive final approval from OET.[11]

3. On August 24, 2023, OET issued a Public Notice (*2023 Public Notice*) announcing that the conditionally approved AFC systems could commence testing and outlining the testing process.[12] This AFC system testing process consists of two parts, lab testing and a public trial, which the AFC systems must successfully complete before OET will approve them for commercial operation.[13] OET permits the lab test to be conducted either by an FCC-recognized accredited testing laboratory that has also been approved through the Wireless Innovation Forum's (WInnForum) Citizens Broadband Radio Service Device (CBSD) testing and certification program or by a test lab that has been accredited by WInnForum to conduct AFC system lab testing.[14] The test lab must conduct the tests specified in the AFC system test plan developed by the Wi-Fi Alliance.[15] In conducting these tests, the test lab is required to use a set of

[5] *Id*. at 3884, para. 87.

[6] 47 CFR § 15.407(l), (m); *6 GHz Report and Order*, 35 FCC Rcd at 3862, para. 22.

[7] *The Commission Begins the Process for Authorizing 6 GHz Band Automated Frequency Coordination Systems*, ET Docket No. 21-352, Public Notice, 36 FCC Rcd 14098, 14098, 14101-02, 14103, paras. 2, 7, 10 (2021).

[8] See the 14 applications to operate AFC systems filed in ET Docket No. 21-352 between October 28, 2021, and November 11, 2021. APCO International; the Utilities Technology Council and Edison Electric Institute; Wi-Fi Alliance; Dynamic Spectrum Alliance; Verizon; AT&T Services; Apple, Broadcom et al.; and the Fixed Wireless Communications Coalition (FWCC) filed comments in ET Docket No. 21-352 on December 21, 2021.

[9] Letter from Robert A. Silverman, Counsel to Amdocs, Inc., to Marlene H. Dortch, Secretary, FCC, ET Docket No. 21-352, at 1 (filed Mar. 25, 2022).

[10] *OET Announces Conditional Approval for 6 GHz Band Automated Frequency Coordination Systems*, ET Docket 21-352, Public Notice, 37 FCC Rcd 13071, 13071, para. 1 (OET 2022) (*2022 Public Notice*).

[11] *Id*. at 13073-74, para. 5.

[12] *OET Announces Commencement of Testing of the 6 GHz Band Automated Frequency Coordination Systems*, ET Docket 21-352, Public Notice, DA 23-759 (OET Aug. 24, 2023) https://www.fcc.gov/edocs/search-results?t=advanced&daNo=23-759 (*2023 Public Notice*).

[13] *Id.* at 1, 3-7, 12-13, paras. 1, 6-18, 36; *see also 6 GHz Report and Order*, 35 FCC Rcd at 3871, para. 49; *2022 Public Notice*, 37 FCC Rcd at 13090-92, paras. 41-47.

[14] *2023 Public Notice* at 5-6, paras. 11-12. A list of FCC recognized accredited testing laboratories can be found at https://apps.fcc.gov/oetcf/eas/reports/TestFirmSearch.cfm. A list of WInnForum-approved CBSD test labs can be found at https://cbrs.wirelessinnovation.org/cbsd-certification-program. The WInnForum accreditation process can be found at *Wireless Innovation Forum Authorized AFC System Test Lab Requirements*, Version 1.0.0, Aug. 4, 2022, https://6ghz.wirelessinnovation.org/assets/WINNF-TS-5009-V1.0.0%206%20GHz%20AFC%20System%20ATL%20Requirements%20Specification.pdf.

[15] *2023 Public Notice* at 3-4, paras. 7-8; *see Wi-Fi Alliance AFC System (SUT) Compliance Test Plan Version 1.5*, available at https://www.wi-fi.org/discover-wi-fi/6-ghz-afc-resources.

test vector inputs and corresponding test vector outputs jointly developed by the Wi-Fi Alliance and the WInnForum.[16] The AFC applicant is required to submit a test report created by the test lab describing the results of each test performed.[17]

4. For the public trial, the AFC system applicant is required to make its AFC system available on the Internet to provide any interested member of the public an opportunity to test the AFC system functionality.[18] The Internet-based test portal must permit the user to specify test locations anywhere within the United States and return a list of the frequency ranges on which a standard-power device at that location would be able to transmit and the corresponding maximum power level for each frequency range.[19] The test portal must also provide a means for users to submit challenges to the AFC system applicant if the user believes that the available frequency ranges and power levels are not in compliance with the Commission's rules.[20] The Internet-based test portal must be available for a minimum of forty-five days with challenges accepted for fifteen days after the forty-five day period concludes.[21] After the public trial is complete, the AFC applicant is required to submit a public trial report describing the public trial, including statistics on the number of public tests conducted, a summary of each challenge received, and an explanation detailing why each challenge did or did not raise a valid concern with the functionality of the AFC system, along with a description of any actions it took in response to any challenges.[22]

5. On February 23, 2024 OET issued a Public Notice (*2024 Public Notice*) approving seven AFC operators for commercial operations.[23] These seven AFC operators successfully completed the testing program, as directed by OET, which included both lab testing and a public trial.[24] The results from this testing indicate that these seven AFC systems operate in conformance with the Commission's 6 GHz band (5.925-7.125 GHz) unlicensed rules, which are designed to prevent harmful interference from standard power access devices and fixed client devices to licensed microwave receivers and certain radio astronomy observatories in the 6 GHz band. These seven AFC systems are now permitted to manage access to spectrum in the U-NII-5 (5.925-6.425 GHz) and U-NII-7 (6.525-6.875 GHz) portions of the 6 GHz band for standard power access points and fixed client devices in accordance with the Commission's rules.

6. The *2024 Public Notice* also sought comment on C3Spectra's proposal to operate an AFC system.[25] The *2024 Public Notice* requested that comments be provided by March 15, 2024. The Commission received no comments regarding C3Spectra's AFC system proposal. On April 23, 2024

[16] *2023 Public Notice* at 4-5, paras. 8-9; *see AFC System (SUT) Compliance Test Vectors v1.2*, Wi-Fi Alliance, available at https://www.wi-fi.org/discover-wi-fi/6-ghz-afc-resources.

[17] *2023 Public Notice* at 5, para. 9.

[18] *Id*. at 6, para. 13.

[19] *Id*. at 6, para. 14.

[20] *Id*. at 6, para. 15.

[21] *Id*. at 7, para. 17.

[22] *Id*. at 7, para. 18.

[23] *OET Announces Approval of Seven 6 GHz Band Automated Frequency Coordination Systems for Commercial Operation and Seeks Comment on C3Spectra's Proposed System*, ET Docket 21-352, Public Notice, DA 24-166 (OET Feb. 23, 2024) (*2024 Public Notice*).

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

[25] *Id*. at 10, para. 20.

C3Spectra provided supplemental information regarding its AFC application in response to a set of questions provided by OET.[26]

III. CONDITIONAL APPROVAL OF C3SPECTRA'S AFC SYSTEM

7. Based on review of the C3Spectra's AFC proposal and the supplemental information it submitted, OET conditionally approves C3Spectra's pending application to operate an AFC system, subject to the conditions described below. C3Spectra has sufficiently demonstrated that it has the technical capability and knowledge to operate an AFC system and may now move to the testing phase of the AFC system approval process. Our approval of C3Spectra's AFC system application is subject to the following conditions:

- C3Spectra must comply with all current and future Commission rules, instructions, and procedures.
- C3Spectra must comply with all instructions issued by OET pursuant to section 0.241(k) of the Commission's rules.[27]
- C3Spectra must attend workshops and meetings convened by the Commission or OET. Workshop or meeting topics may include: (1) AFC system development and operations; (2) AFC system testing and certification procedures; or (3) other topics relevant to the ongoing development of the AFC systems.
- If C3Spectra relies on third party or proprietary specifications or protocols for its AFC system, these specifications or protocols must be consistent with the relevant Commission rules. All such specifications and protocols must be provided to, and will be reviewed by, OET to ensure consistency with the Commission's rules.
- C3Spectra must undertake steps to have its AFC system undergo lab testing as described in the *2023 Public Notice*.[28]
- C3Spectra must undertake steps to have its AFC system undergo a public trial as described in the *2023 Public Notice*.[29]
- C3Spectra must respond to all inquiries from OET staff during OET's examination of the testing data and make any modifications to its AFC system requested by OET staff as part of the testing process;
- C3Spectra must promptly respond to any requests for information or direction from the Commission, including the Enforcement Bureau.[30]
- C3Spectra may not make its AFC system available for commercial operations until it receives final approval from OET.

IV. C3SPECTRA'S AFC PROPOSAL

8. C3Spectra's AFC proposal and supplemental information provide a strong basis for concluding that C3Spectra's AFC system will comply with the Commission's 6 GHz unlicensed rules. C3Spectra indicates that its AFC system will fully adhere to the *Functional Requirements for the U.S. 6 GHz Band under the Control of an AFC System* specification developed by the WInnForum.[31] This specification details how the AFC systems will calculate the available frequencies and power levels for

[26] *Response to Questions from OET on C3Spectra's AFC Proposal*, C3Spectra, ET Docket No. 21-352, filed April, 23, 2024 (*C3Spectra Response*).

[27] 47 CFR § 0.241(k).

[28] *2023 Public Notice* at 3-6, paras. 7-12.

[29] *Id*. at 6-7, paras. 13-18.

[30] *See* 47 CFR § 15.407(k)(15)(vi); *6 GHz Report and Order*, 35 FCC Rcd at 3883, para. 83.

[31] *C3Spectra Response* at 1; *Functional Requirements for the U.S. 6 GHz Band under the Control of an AFC System*, WINNF-TS-1014 V1.4.0, WInnForum, (Oct. 6, 2023) (*WINNF-TS-1014*).

standard-power devices in conformance with the Commission's rules.[32] It was developed by an industry consortium which included members of the unlicensed community, wireless carriers, and 6 GHz microwave licensees. The specification includes many implementation details such as the microwave receiver antenna patterns the AFC system should use when the actual antenna pattern is not available, how to implement the 95% location uncertainty requirement specified in the rules, and how to model microwave passive reflectors.[33] In most aspects, the WInnForum functional requirements specification complies with the Commission's AFC rules.[34] The fact that C3Spectra's AFC system will operate in conformance with this technical specification provides a strong indication that that its AFC system will comply with the Commission's rules.

9. C3Spectra indicates that it will base its AFC system on software developed by the Open AFC Software Group—i.e. the open AFC code.[35] Three of the AFC systems which have been approved for commercial operation use the open AFC code.[36] These three AFC systems were approved for commercial operation after undergoing a thorough testing process. Consequently, C3Spectra's use of the open AFC code provides additional evidence that its AFC system will operate in conformance with the Commission's rules.

10. C3Spectra's AFC proposal provides further evidence that it will be able to successfully operate an AFC system. C3Spectra has assembled a team which includes engineers with significant experience in radio propagation and wireless systems.[37] C3Spectra explains that it will implement its AFC system to be fault tolerant with operation across multiple hardware servers in a commercial cloud network which will allow switching to an alternative instance of the AFC system in case of interruption to a specific data center.[38] It also intends to employ industry standard security protocols within the AFC system.[39]

11. The information in C3Spectra's AFC proposal and supplemental information provide every indication that its AFC system will operate in compliance within the Commission's rules in a secure and reliable manner. Therefore, we approve operation of C3Spectra's AFC system, subject to the conditions listed above.

[32] *WINNF-TS-1014* at 22-23, 24-27.

[33] *WINNF-TS-1014* at 31-32, 26-27, 49-54.

[34] One aspect where the WInnForum functional requirements document varies from the Commission's rules concerns indoor operation of standard-power access points and fixed client devices. The functional requirements document permits an adjustment of the power received at a microwave receiver from an indoor standard-power access point to account for building loss while the Commission's rules do not permit such an adjustment. *WINNF-TS-1014* at 26. Consequently, C3Spectra's AFC system will not be permitted to take into account building loss for indoor standard-power access points in its calculations.

[35] *Application for Approval as an AFC System Operator*, C3Spectra, ET Docket No. 21-352 at 8 (filed Dec. 1, 2023) (*C3Spectra Application*); Telecom Infra Project, Open AFC, https://telecominfraproject.com/open-afc/ (last visited June 20, 2024).

[36] Broadcom Inc. Proposal to be Approved at an Automated Frequency Coordination System Operator at 6; Proposal of Wi-Fi Alliance at 9; Qualcomm Incorporated Application to be Authorized as 6 GHz Band Automated Frequency Coordination System Operator at 6-7; Wireless Broadband Alliance Ltd. Application to Become an Automated Frequency Coordination (AFC) System Operator at 5-7.

[37] *C3Spectra Application* at 10-11.

[38] *C3Spectra Application* at 12-13.

[39] *C3Spectra Application* at 14.

V. TESTING SCHEDULE

12. Now that we have conditionally approved C3Spectra's AFC system, C3Spectra may commence testing its AFC system. Consistent with the process outlined in the *2023 Public Notice,* C3Spectra may conduct the required lab testing and the public trial concurrently.[40] C3Specra will be required to submit separate reports describing the results of the lab testing and the public trial to OET for consideration.

13. Six of the seven AFC operators who previously conducted public trials established a common web portal where members of the public could concurrently submit test locations to all of the AFC systems.[41] These test locations were then distributed by the common web portal to the different AFC systems and the AFC systems returned the corresponding available frequency ranges and permitted power levels to the submitters via email. C3Spectra is a participant in this common web portal.[42] The common web portal website is designed such that AFC systems may begin public trials on different dates and that each AFC system is provided all queries submitted to the common web portal. Each AFC system is then required to run each of these queries.[43] Consequently, we will require C3Spectra to run the test inputs submitted to the common web portal during the previous public trials in its AFC system as well as any new input sets that may be submitted during the public trial period and return the results by email to the original submitter of each test input.[44] Because running all of these test locations will provide a thorough test of C3Spectra's AFC system consistent with the public testing for all currently approved AFCs, we believe that C3Spectra's public trial can be shortened without any adverse consequences to a minimum of 20 days rather than the 45 days that was required for the previously tested AFC systems.[45] As with the previous public trials, we will require C3Spectrra to file a notice in ET Docket number 21-352 stating when its test portal will become available and provide a URL for accessing it at least one week prior to beginning its public trial period. To ensure that the parties who previously submitted test cases to the common web portal have sufficient time to review C3Spectra's results and submit follow-up test cases, we will require C3Spectra to provide results for these previously submitted test locations to the original submitters prior to filing the notice stating when the test portal will become available. Other than shortening the length of the public trial period and requiring C3Spectra to return results for the test locations previously submitted to the common web portal, we are not changing any of the requirements for the public trial described in the *2023 Public Notice.* C3Spectra will be required to accept challenges to the available frequencies and/or permitted power levels returned by its AFC system for fifteen days after the end of the public trial period, respond to each challenge with an explanation of why it either believes the challenge raises a valid concern or is without merit, and prepare and submit a report describing the public trial.[46]

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[40] *2023 Public Notice* at 3-6, paras. 7-12.

[41] 6 GHz AFC System Public Trial Test Portal, https://docs.google.com/forms/d/e/1FAIpQLSd4QXhP8PABCqqjNedzBOq2wCejjOiiDfxJJBbqrANLYOPAag/viewform (last visited June 28, 2024).

[42] *Id*.

[43] *Id*.

[44] Already approved AFCs are not required to run any new input sets submitted after the date upon which they were approved by the Commission for providing commercial service.

[45] *2023 Public Notice* at 7, para. 17.

[46] *2023 Public Notice* at 6-7, paras. 15, 17, 18.

VI. ADDITIONAL AFC SYSTEM APPLICATION

14. The Commission has received an application from Axon Networks to operate an AFC system.[47] Consistent with the process specified in the *6 GHz Report and Order*, the public will have an opportunity to review and comment on Axon Networks' AFC proposal.[48] OET requests that any comments regarding Axon Networks' AFC proposal be submitted in ET Docket No. 21-352 by July 29, 2024. OET will examine Axon Networks' proposal along with any comments received and conditionally approve the proposal if it demonstrates that the proposed system would comply with all AFC requirements.[49] If Axon Networks' proposal is conditionally approved, it may then begin the testing process that OET specified in the *2023 Public Notice*.[50] Once testing is complete, OET will examine the Axon Networks test report and public trial report to determine if its AFC system can be approved for commercial operations.

15. *Further Information*. Questions regarding this Public Notice may be directed to Nicholas Oros, Office of Engineering and Technology, at (202) 418-0636 or Nicholas.Oros@fcc.gov.

-FCC-

[47] Proposal: Automated Frequency Coordination System for Commercial Operation, Axon Networks, ET Docket No. 21-352 (filed June 27, 2024).

[48] *6 GHz Report and Order*, 35 FCC Rcd at 3871, para. 49.

[49] *Id.*

[50] *2023 Public Notice* at 3-7, paras. 6-18; *see 6 GHz Report and Order*, 35 FCC Rcd at 3871, para. 49.

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

In the Matter of	)	
	)	
Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules	)	GN Docket No. 15-319

ORDER

Adopted: July 8, 2024 **Released: July 8, 2024**

By the Mobility Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. By this Order, the Wireless Telecommunications Bureau ("Bureau"), Mobility Division, conditionally grants Federated Wireless' (Federated or Petitioner)[1] request for a precautionary, limited, and conditional emergency waiver of sections 96.67(c)(2) and (3) of the Commission's rules governing the Citizens Broadband Radio Service.[2] Federated requests that the Commission grant emergency waiver relief of sections 96.67(c)(2) and (3) to relieve them of the requirement for Environmental Sensing Capabilities ("ESC") to detect and protect federal incumbent users in the 3550-3700 MHz band ("3.5 GHz band") from harmful interference for Dynamic Protection Areas ("DPAs") that may be impacted by Hurricane Beryl, including DPAs E3, E22, E23, E24, E25, and E26 (the DPAs, together with the affected ESCs in such DPAs, the "Impacted Systems"). Hurricane Beryl, currently a category 1 hurricane, made landfall on the coast of Texas in the early hours of Monday morning, July 8, 2024, bringing with it hurricane-force winds and life-threatening storm surge.[3] For the reasons discussed below, we grant Petitioner's Waiver Request subject to the conditions described herein.

II. BACKGROUND

2. In 2015, the Commission adopted rules for shared commercial use of the 3.5 GHz band.[4] The Commission established the Citizens Broadband Radio Service and created a three-tiered access and authorization framework to accommodate shared federal and non-federal use of the band.[5] Access and

[1] *See* Federated Wireless Expedited Request for Emergency Waiver of CBRS Incumbent Protection Rules, GN Docket No. 15-319 (filed Jul. 5, 2024) (Waiver Request), https://www.fcc.gov/ecfs/document/10705248782426/1.

[2] 47 CFR § 96.67(c)(2)-(3).

[3] *See* National Hurricane Center and Central Pacific Hurricane Center, Key Messages for Hurricane Beryl Advisory 39: 4:00 AM CDT Mon Jul 08, 2024, https://www.nhc.noaa.gov/graphics_at2.shtml?start. *See also* Acting Governor Dan Patrick Adds 81 Texas Counties to Hurricane Beryl Disaster Declaration (Jul. 6, 2024), https://www.ltgov.texas.gov/2024/07/06/acting-governor-dan-patrick-adds-81-texas-counties-to-hurricane-beryl-disaster-declaration/.

[4] *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, 3975, paras. 44-45 (2015) (*2015 Report and Order*).

[5] *Id.*

operations are managed by a Commission-approved, automated frequency coordinator, known as a Spectrum Access System ("SAS"). SASs coordinate operations between federal and non-federal users by relying on ESCs in DPAs to detect and protect federal incumbent users in the 3.5 GHz band from harmful interference. When there are federal incumbent users operating in the band, ESCs detect their signals and activate the DPA. When the DPA is activated, federal incumbent users are given priority over the other two tiers of users: Priority Access Licensees ("PALs") and General Authorized Access ("GAA") users. In the case that an ESC cannot accurately determine whether federal incumbents are active in the band, they must automatically activate the DPAs.[6]

3. Federated seeks a temporary conditional waiver of sections 96.67(c)(2) and (3) of the Commission's rules to relieve it of the requirement to detect the presence of a signal from a federal system in the 3.5 GHz Band and adjacent frequencies and to communicate information about the presence of such a signal to one or more approved SASs.[7] This waiver would allow Federated to treat the subject DPAs as "inactive" for the duration of the waiver authority and thus avoid the need for the ESCs to automatically activate the DPAs in areas affected by Hurricane Beryl. Federated seeks a waiver of these requirements in the interest of providing uninterrupted service to thousands of Citizens Broadband Radio Service Devices (CBSDs) that provide critical broadband, voice, and data services to millions of customers in areas that have been impacted by Hurricane Beryl.[8]

III. DISCUSSION

4. Section 1.925(b)(3) of the Commission's rules states that the Commission may grant a waiver when either (i) "[t]he underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest," or (ii) "[i]n view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."[9] Further, section 1.3 allows the Commission, on its own motion, to waive rules for good cause shown.[10]

5. Here, we find that Petitioner's showing, when considered with the conditions established herein, meets the second prong of the Commission's waiver standard. Federated asserts that "the intense winds and rainfall could cause widespread power outages."[11] If such outages occur, the Impacted Systems will lose commercial power and will be unable to operate normally.[12] Federated also asserts that the availability of backhaul may also be impacted.[13] Federated contends that these power outages may cause DPAs in the affected areas to be activated, impacting approximately 15,200 CBSDs, potentially disconnecting millions of customers—including consumer, residential and enterprise customers, schools, and oil and gas companies—from critical broadband, voice, and data services.[14] According to Federated, "[m]any of these customers will be relying on these services to stay apprised about ongoing dangers in the aftermath of the storm, while others will leverage connectivity to aid in the restoration of

[6] *See Promoting Investment in the 3550-3700 MHz Band*, GN Docket Nos. 15-319, 17-258, Order, 33 FCC Rcd 4987, 4990-91, paras. 6, 9 (2018).

[7] 47 CFR § 96.67(c)(2)-(3). Additionally, to the extent necessary, we also waive applicable sections of 96.15(a)(2), (a)(3), (b)(3), 96.45(b), 96.53(a), (e)-(g), and 96.57(d).

[8] *See* Waiver Request at 1-2.

[9] 47 CFR § 1.925(b)(3).

[10] 47 CFR § 1.3.

[11] *See* Waiver Request at 1.

[12] *See id.*

[13] *Id*.

[14] *Id.*

critical services, such as water and electricity."[15] Accordingly, we grant a waiver of section 96.67(c)(2) and (3) of the Commission's rules, subject to the conditions set forth herein, and consistent with the ESC waiver orders that the Bureau issued in response to Hurricanes Ian and Fiona, Typhoon Mawar, and Tropical Storms Nicole and Idalia,[16] to allow the Federated SASs to treat the subject DPAs as "inactive" for the duration of this waiver and thereby obviate their ESCs from the obligation to detect the presence of a signal from a federal system in the 3.5 GHz Band and adjacent frequencies and to communicate information about the presence of such a signal to one or more approved SASs.

6. Specifically, we find the following conditions are required: (1) this waiver only applies to periods where the subject ESC sensors are unable to communicate with the Federated SASs due to a power outage or backhaul outage; (2) this waiver is limited to the earlier of either July 22, 2024, or when commercial power and backhaul service is restored to the subject ESC sensors; (3) Federated must provide confirmation to the Commission, the Department of Defense ("DoD"), and the Navy within three business days of power restoration to the subject ESC sensors and restoration of backhaul service; (4) extension requests must be justified through demonstration of the specific steps taken to reactivate the subject ESC sensors and the remaining steps necessary to reactivate, and such requests must be filed no later than three business days before expiration of this waiver; and (5) the ESC operator must immediately activate the subject DPAs upon notification from the Commission, the National Telecommunications and Information Administration, or the DoD.

7. In consideration of the emergency presented by Hurricane Beryl, we find that these are unique circumstances that make application of the rules inequitable, unduly burdensome, and contrary to the public interest. For these reasons, we find it is in the public interest to conditionally grant Petitioner's request for an emergency waiver of sections 96.67(c)(2) and (3), on a time-limited basis and subject to conditions described herein.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 1.3 and 1.925 of the Commission's rules, 47 CFR §§ 1.3, 1.925, that the request filed by Federated Wireless for emergency waiver of sections 96.67(c)(2) and (3) of the Commission's rules, 47 CFR §§ 96.67(c)(2) and (3) is GRANTED to the extent described, and with the conditions specified, herein.

9. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 1.3 and 1.925 of the Commission's rules, 47 CFR §§ 1.3, 1.925, that the Wireless Telecommunications Bureau GRANTS ON ITS OWN MOTION a waiver of sections 96.15(a)(2), (a)(3), 96.45(b), 96.53(a), (e)-(g), and 96.57(d) of the Commission's Rules, 47 CFR §§ 96.15(a)(2), (a)(3), 96.45(b), 96.53(a), (e)-(g), 96.57(d), to the extent described, and with the conditions specified, herein.

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[15] *Id.* at 2.

[16] *See Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-999 (rel. Sept. 22, 2022); *Federated Wireless, CommScope, Inc., and Google LLC's Expedited Requests for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-1042 (rel. Sept. 30, 2022); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 22-1165 (rel. Nov. 9, 2022); *Federated Wireless Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 23-453 (rel. May 30, 2023); *Google LLC's Expedited Request for Emergency Waiver of Citizens Broadband Radio Service Incumbent Protection Rules*, GN Docket No. 15-319, Order, DA 23-789 (rel. Aug. 30, 2023).

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

FEDERAL COMMUNICATIONS COMMISSION

Roger Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

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 24-653
Released: July 8, 2024

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON SEAS OF SOLUTIONS dba MCMURDO LIMITED'S EXPEDITED WAIVER REQUEST OF SECTION 80.7(f)(2)

WT Docket No. 24-206

Comments Due: July 29, 2024

Reply Comments Due: August 8, 2024

By this Public Notice, the Wireless Telecommunications Bureau seeks comment on Seas of Solutions DBA McMurdo Limited's (McMurdo Ltd.'s) request for an expedited waiver[1] of section 80.7(f)(2) of the Commission's rules, regarding performance standards of its Emergency Position Indicating Radiobeacons (EPIRBs).[2]

Section 80.7(f)(2) requires EPIRBs to meet a certain industry standard before the devices are used by the maritime community.[3] In particular, McMurdo Ltd. seeks a waiver of that standard, allowing the manufacturer to sell and market some of its EPIRBs. McMurdo Ltd. explains that its EPIRBs currently meet an updated standard that is not referenced in the FCC's rules.[4] McMurdo Ltd. states that the updated standard is "as at least equivalent to the version cited in the current FCC regulations."[5]

Accordingly, the Bureau seeks comment on McMurdo Ltd.'s waiver request for the aforementioned EPIRBs. The manufacturer filed its request electronically in the Commission's Electronic Comment Filing System (ECFS). We have opened a new docket, **WT Docket No. 24-206**, to facilitate consideration of the Request and have moved McMurdo Ltd.'s Request into this docket. Parties should file all comments and reply comments in **WT Docket No. 24-206**.

Procedural Matters

The proceeding this Notice initiates 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).

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[1] 47 CFR § 1.925(b).

[2] McMurdo Ltd. manufactures SMARTFIND PLUS EPIRB type(s) Z711, Z712. Seas of Solutions dba McMurdo Limited Request, WT Docket No. 24-206, at 1 (submitted June 24, 2024).

[3] Section 80.7(f)(d) incorporates by reference a June 2012 performance standard issued by The Radio Technical Commission for Maritime Services (RTCM) entitled, "406 MHz Satellite Emergency Position Radiobeacons (EPIRBs)." This performance standard is also referred to as RTCM Standard 11000.3.

[4] RTCM Standard 11000.3 has since been updated by RTCM. Specifically, on April 14, 2022, RTCM issued Standard 11000.5, which is currently in effect and is not referenced in section 80.7.

[5] Seas of Solutions dba McMurdo Limited Request, WT Docket No. 24-206, at 1 (submitted June 24, 2024).

[6] 47 CFR §§ 1.1200 *et seq.*

Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in 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.

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.

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 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 -

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 24-654
Released: July 8, 2024

FCC TO CONVENE DIRECT VIDEO CALLING FORUM

CG Docket Nos. 03-123, 10-51

By this Public Notice, the Federal Communications Commission (FCC or Commission) invites members of the public and federal agencies to attend a forum on Direct Video Calling (DVC) on Tuesday, July 30, 2024, from 1:00 p.m. until 4:00 p.m. EST. The DVC Forum will be held in the Commission Meeting Room at FCC Headquarters, located at 45 L Street NE, Washington, DC 20554, and live-streamed at www.fcc.gov/live.

DVC is an Internet-based communication service that allows conversations to occur between two callers using American Sign Language (ASL), without the need for translation services.[1] The Commission has recognized that effective communications is ensured by the use of direct video communications with individuals with hearing and speech disabilities who use sign language.[2]

The DVC Forum features an overview of relevant Executive Orders regarding accessible Federal customer services, panel discussions on the benefits of DVC and how federal agencies can implement DVC, and exhibits by DVC providers. Technical and policy experts will be on-site to answer any questions about this service, including questions about how to set up direct video calling capability in call centers.

Open captioning and sign language interpreting will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requesters of such accommodations may contact the Consumer and Governmental Affairs Bureau at fcc504@fcc.gov, or (202) 418-0530. Such requests should include a detailed description of the accommodation needed and how the requester can be contacted. Last-minute requests will be accepted but may not be possible to accommodate.

General information about DVC is available at www.fcc.gov/dvc. For information about this event and the agenda, please visit https://www.fcc.gov/news-events/events/2024/07/direct-video-calling-forum. For questions, please email the DVC team at DVC@fcc.gov, or call 202-418-2517 (voice) or 844-432-2275 (videophone).

– FCC –

[1] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program,* CG Docket Nos. 03-123 and 10-51, Order and Declaratory Ruling, 32 FCC Rcd 775 para. 1 n.1 (WTB CGB 2017) (*VTCSecure Waiver Order*).

[2] *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP-Enabled Service Providers,* CG Docket No. 03-123, CC Docket No. 98-67, and WC Docket No. 05-196, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 821-22, para. 67 (2008) (*Second TRS Numbering Order*).

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

In the Matter of	)	
	)	File No.: EB-FD-23-00035328
K20 Wireless LLC and Krandon Wenger	)	NAL Acct. No.: 202432200005
	)	FRN: 0032086167
	)	
	)	WC Docket No. 21-450

REMOVAL ORDER

Adopted: July 10, 2024 **Released: July 10, 2024**

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau (Bureau) of the Federal Communications Commission (FCC or Commission) issues this Removal Order (Order) pursuant to section 54.1801(e)(2)(iii)(D) of the Commission's rules to provide written notice to K20 Wireless LLC (K20 or Company) and Krandon Wenger (Wenger) that the Enforcement Bureau (Bureau) has considered the limited information K20 and Wenger provided in response to the Commission's Notice of Apparent Liability for Forfeiture and Order Initiating Removal Proceeding (NAL and Order);[1] that their request to stay this removal proceeding[2] is **DENIED**; and that K20's authorization to participate in the Affordable Connectivity Fund (ACP) is **REVOKED** and K20 and Wenger are hereby **REMOVED** from the ACP and barred from participation in any successor program.[3] This action continues Commission efforts previously initiated in April 2023 to protect program integrity by preventing K20 and its agents from continued participation in ACP, directing the Universal Service Administration Company (USAC) to place a hold on any disbursements to K20 and suspending K20's ability to enroll and/or transfer new subscribers.[4]

I. BACKGROUND

2. On May 10, 2024, following an extensive investigation by the Bureau, the Commission released an NAL and Order alleging that K20 and Wenger engaged in serious, willful misconduct in violation of multiple ACP rules and explaining that this apparent misconduct harms ACP and its participants and warrants removal from the program under ACP removal procedures in section

[1] *K20 Wireless LLC, Krandon Wenger*, Notice of Apparent Liability for Forfeiture and Order Initiating Removal Proceeding, WC Docket No. 21-450, FCC 24-54, 2024 WL 2288963, paras. 73-77 (May 10, 2024) (K20 NAL and Order).

[2] *K20 Wireless LLC, Krandon Wenger,* Request for Consent Decree Negotiations and Stay to Removal Proceedings for Purpose of Global Settlement, filed by Edward A. Maldonado, Esq, counsel for K20 and Wenger, WC Docket No. 21-450, dated June 3, 2024, received June 5, 2024 (K20 Request for Consent Decree Negotiations and Stay).

[3] Most of K20's filing constitutes a request for consent decree negotiations in the enforcement proceeding against it, arguments in support of such negotiations, and a request that any civil penalty applied in that proceeding be adjusted downward. This Order concerns the distinct removal and revocation process under the ACP rules, and we do not consider requests related to the separate enforcement proceeding here. Moreover, any actions taken here do not prejudge any future steps the Commission might take in that proceeding.

[4] On April 11, 2023, the Commission directed USAC to lock out all agents associated with K20, including K20's President and CEO, Wenger, from the National Lifeline Accountability Database (NLAD), preventing them from enrolling or transferring additional subscribers in ACP. Also in April 2023, USAC placed a hold on all ACP disbursements to K20, preventing K20 from receiving ACP funds for service months March 2023 forward.

54.1801(e)(2)(iii).[5] The Commission proposed a forfeiture penalty of $8,083,992 for apparent willful and repeated violations of the Commission's ACP rules and the federal wire fraud statute.[6] In the NAL and Order, the Commission identified substantial evidence showing K20 apparently violated ACP rules and took actions indicating "a lack of business integrity or business honesty that seriously and directly affects the provider's responsibilities" under ACP and harms prospective and existing program participants.[7] Specifically, as described in the NAL, the Commission found that K20 and Wenger apparently willfully and repeatedly: (i) improperly transferred ACP subscribers using false information, including changing subscriber addresses located in non-Tribal areas to false locations in Tribal lands such as empty lots, restaurants, and office buildings;[8] (ii) improperly claimed Tribal lands ACP reimbursement for such subscribers for whom K20 did not and could not confirm eligibility;[9] (iii) falsely certified that the Company was in compliance with all ACP rules when it submitted reimbursement requests to USAC;[10] (iv) transmitted, via interstate wires, certified reimbursement requests containing false information;[11] and (v) failed to respond to the Bureau's Letter of Inquiry (LOI).[12] The NAL and Order finds K20 and Wenger jointly and severally liable for these apparent violations.[13]

3. The Bureau's investigation determined that K20 changed the non-Tribal residential addresses associated with subscribers to false addresses on Tribal lands when it transferred the subscribers to its ACP service in NLAD and stopped doing so only when the Commission took action to prevent K20 from engaging in this conduct.[14] These subscriber addresses were changed in NLAD back to non-Tribal addresses when they were subsequently transferred from K20 back to their prior ACP provider or to a new provider.[15] K20 transferred in ACP subscribers without notice or consent, changed the subscribers' existing non-Tribal lands home addresses to false addresses on Tribal lands, and then requested Tribal lands support for such subscribers for whom it did not confirm eligibility.[16] On May 11, 2023, K20, through its owner and CEO Wenger, submitted a reimbursement request seeking ACP Tribal lands support of $75 per month for 1,603 subscribers that K20 apparently improperly transferred from another ACP provider and assigned false Tribal lands addresses in NLAD.[17] K20 submitted this reimbursement request electronically via interstate wires in apparent violation of the federal wire fraud statute. On June 7, 2023, the Bureau sent an LOI, a Commission order directing K20 to produce documents and information relevant to the investigation, to K20 via first class mail requesting documents supporting K20's customer enrollments and transfers. Despite the Bureau's request in its LOI, and despite evidence that K20 received and signed for the LOI, K20 produced no eligibility documentation for any of its subscribers.[18] K20's conduct apparently violated multiple ACP rules (including, but not limited to,

[5] *See generally* K20 NAL and Order, *supra* note 1.

[6] *Id.* at para. 71.

[7] *See generally id.*

[8] 47 CFR §§ 54.1806, 54.1810(i).

[9] *Id.* § 54.1806(b).

[10] *Id.* §§ 54.1808(e)(3), 54.1810(i).

[11] 18 U.S.C. § 1343.

[12] 47 U.S.C. § 503(b)(1)(B).

[13] K20 NAL and Order, *supra* note 1, at paras. 53-60.

[14] *See id.* at section III.B.

[15] *Id*.

[16] *See id.* at sections III.B-C.

[17] *Id.* at para. 7.

[18] *See id.* at para. 43.

sections 54.1806, 54.1808(e)(3) and 54.1810(i))[19] designed to ensure only eligible subscribers receive the ACP benefit and to prevent fraud, waste and abuse in the program.

4. The Bureau also subpoenaed and reviewed bank statements for the bank account identified by K20 to USAC to receive ACP reimbursement payments.[20] The Bureau's investigation showed that while more than 99 percent of the deposits into this account were ACP disbursements from the United States Treasury, the majority of the outgoing transactions appeared to be for non-business related expenses, including payments to Wenger, his family members and a co-habitant; a mortgage payoff and tax and utility payments on personal residences; Amazon, Walmart, and Giant food store purchases; and wine, spirits, cigars, streaming, and gaming purchases.[21]

5. Based on the above evidence, the Commission found cause to initiate proceedings to remove K20 and Wenger from participating in ACP, in accordance with ACP removal rules in section 54.1801(e)(2).[22] Section 54.1801(e)(2)(ii) of the Commission's ACP rules permits removal of a participating provider from ACP for "[v]iolations of the rules or requirements of the Affordable Connectivity Program [or] the Emergency Broadband Benefit Program . . . [or for committing] [a]ny action that indicates a lack of business integrity or business honesty that seriously and directly affects the provider's responsibilities under the Affordable Connectivity Program, that undermines the integrity of the Affordable Connectivity Program, or that harms or threatens to harm prospective or existing program participants, including without limitation fraudulent enrollments."[23] The Enforcement Bureau and/or the Wireline Competition Bureau are empowered to initiate a removal proceeding "[i]f the Commission develops information from Commission-led or sponsored investigations . . . or from other credible sources that yields credible allegations of misconduct[.]"[24] The Bureau's investigation, as described above and in the NAL and Order, showed apparent violations of the Commission's ACP rules and also conduct by K20 and Wenger indicating a lack of business integrity and honesty that harms the program.

6. The NAL and Order provided K20 and Wenger with notice that the Commission was commencing proceedings to remove K20 and Wenger from participating in ACP and ordered them to respond within 30 days with any relevant evidence demonstrating that a rule violation or other conduct warranting removal had not in fact occurred and that they should not be removed from the program.[25]

7. On June 5, 2024, K20 and Wenger filed a "Request for Consent Decree Negotiations and Stay to Removal Proceedings for Purpose of Global Settlement."[26] The filing requested consideration of, among other things, Wenger's "unique circumstances in that his age and educational background be considered with the alleged violations; that his inexperience in telecommunications industry, or any similar business, prior to operation of K20 Wireless LLC; his reliance, to his detriment, on information and feedback from those in the industry and/or other professionals who directly or indirectly participate in the ACP Program(s) or had knowledge of the Program and the Commission's Rules."[27] K20 and Wenger did not file a substantive response to the NAL and Order nor did they request an extension of time to

[19] *Id.* at paras. 41-47.

[20] *Id.* at para. 29.

[21] *Id*.

[22] *Id*. at paras. 73-75.

[23] 47 CFR § 54.1801(e)(2)(ii)(A)-(B).

[24] *Affordable Connectivity Program*, WC Docket No. 21-450, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 484, 596, para. 242 (2022).

[25] K20 NAL and Order, *supra* note 1, at para. 77. Pursuant to para. 76 of the NAL and Order, the requisite notice under 54.1801(e)(2)(iii)(A) was provided when a copy of the a copy of the NAL and Order was sent to K20 and Krandon Wenger by certified and first class mail on May 10, 2024.

[26] K20 Request for Consent Decree Negotiations and Stay, *supra* note 2.

[27] *Id*. at 4.

respond to the NAL and Order. To date, K20 and Wenger have not provided any evidence that K20 and Wenger did not engage in the conduct described in the NAL and Order.

II. NOTIFICATION AND ORDER

8. The Commission's rules provide that K20 and Wenger were required to respond to the NAL and Order within 30 days with any relevant evidence demonstrating that a rule violation or other conduct warranting removal has not occurred.[28] Thereafter, if the Bureau determines by a preponderance of the evidence that there has been conduct warranting removal, K20's authorization to participate in the ACP will be revoked and K20 shall be immediately removed from the program and barred from participation in any ACP successor programs.[29] After fully considering the statements and limited information in K20 and Wenger's "Request for Consent Decree Negotiations and Stay," we find that K20 and Wenger have not provided any evidence demonstrating that a rule violation or other conduct warranting removal has not occurred.

9. K20 and Wenger do not refute any of the Commission's allegations in the NAL and Order regarding their participation in the ACP or that K20 and Wenger appear to be one and the same for legal purposes and so should be held jointly and severally liable for the misconduct described in the NAL and Order that is the basis for this removal proceeding. K20 and Wenger fail to provide any evidence or explanation regarding K20's pattern of repeatedly transferring ACP subscribers to its service and changing their addresses to false ones on Tribal lands. Nor do the parties offer any explanation for the bank records showing K20 made large transfers from its account used to receive ACP reimbursement to Wenger and his family for personal use, without any apparent business justification. In their "Request for Consent Decree Negotiations and Stay," K20 and Wenger state only that they "stand ready to . . . accept liability" for purposes of engaging in consent decree negotiations, and not in response to any specific allegations in the NAL and Order. The only facts K20 sets forth in its filing (and does not provide evidence to support) are intended to support K20's request for consent decree negotiations and leniency in the related enforcement proceeding.

10. Based on the findings in the Bureau's investigation, as described in the NAL and Order, a preponderance of the evidence[30] demonstrates that K20 and Wenger violated sections 54.1806, 54.1808, and 54.1810 of the Commission's rules and the federal wire fraud statute and took actions indicating a lack of business integrity and business honesty that seriously and directly affects the Company's responsibilities under ACP and that harms prospective and existing program participants. Accordingly, the evidence warrants removal of K20 and Wenger from the ACP and any successor programs.

III. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to section 54.1801(e)(2)(iii)(D), 47 CFR § 54.1801(e)(2)(iii)(D), K20 Wireless LLC and Krandon Wenger's authorization to participate in the Affordable Connectivity Program is **REVOKED**, and K20 Wireless LLC and Krandon Wenger are **IMMEDIATELY REMOVED** from the program and barred from any successor program.[31] K20

[28] 47 CFR § 54.1801(e)(2)(iii)(C).

[29] *Id.* § 54.1801(e)(2)(iii)(D).

[30] *Id.* § 54.1801(e)(2)(iii)(D).

[31] A provider must issue notices to its existing subscribers regarding its removal from the program. 47 CFR § 54.1801(e)(4)(ii). The first notice must be issued within 30 days of the removal determination and the second notice at least 15 days prior to the effective date of the provider's removal from ACP. 47 CFR § 54.1801(e)(4)(ii)(A). However, the Commission announced the wind-down of the Affordable Connectivity Program due to a lack of additional funding from Congress. *Affordable Connectivity Program*, WC Docket No. 21-450, Order, DA 24-23 (WCB Jan. 11, 2024). Effective June 1, 2024, the ACP is no longer offering the benefit to eligible households. *See* Fed. Commc'ns Comm'n, *Affordable Connectivity Program*, www.fcc.gov/acp (last visited Jun. 24, 2024). Should ACP be extended, K20 is required to abide by the notice requirements outlined in 47 CFR § 54.1801(e)(4).

Wireless LLC and Krandon Wenger, and any entity Krandon Wenger owns, manages or controls, are **BARRED** from seeking to rejoin, and from participating in, the Affordable Connectivity Program for five (5) years. K20 Wireless LLC and Krandon Wenger, and any entity Krandon Wenger owns, manages or controls, similarly are barred from participation in any Affordable Connectivity Program successor program for five (5) years. K20 Wireless LLC and Krandon Wenger may seek reconsideration or a stay of this determination as provided under section 54.1801(e)(2)(iii)(E), 47 CFR § 54.1801(e)(2)(iii)(E), of the Commission's rules.

12. **IT IS FURTHER ORDERED** that copies of this Removal Order shall be filed in WC Docket No. 21-450 and sent by email and first class mail to: Edward A. Maldonado, Esq., Counsel for K20 Wireless LLC and Krandon Wenger, 2850 South Douglas Road, Suite 303, Coral Gables, FL 33134, eam@maldonado-group.com.

13. Any questions may be directed to Meghan Ingrisano, Chief, Fraud Division, Enforcement Bureau, at meghan.ingrisano@fcc.gov and/or Noah Stein, Deputy Bureau Chief, Wireline Competition Bureau, at noah.stein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

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

In the Matter of	)	
	)	
Cause Based Commerce, Inc.	)	File No.: EB-IHD-23-00035753
	)	NAL/Acct. No.: 202432080021
	)	FRN: 0015173503

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 10, 2024 **Released: July 10, 2024**

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (NAL), the Enforcement Bureau (Bureau) proposes a penalty of $100,000 against Cause Based Commerce, Inc. (Cause Based Commerce or Company) for its failure to cooperate with Telecommunications Reporting Worksheets (Worksheets) documentation requirements in apparent violation of section 54.711(a) of the Commission's rules.[1]

2. Under the rules and orders of the Federal Communications Commission (Commission or FCC), telecommunications carriers providing interstate telecommunications services and certain interstate telecommunications providers (collectively, Service Providers) are required to file Worksheets with the Universal Service Administrative Company (USAC) in furtherance of the Commission's universal service and other federal payment requirements implemented under the Communications Act of 1934, as amended (Act). The Commission has directed USAC, pursuant to Commission oversight and guidance, to administer the collection and disbursement of the Universal Service Fund (USF). USAC relies on the accuracy of information in Worksheets to determine the Service Providers' USF contribution obligations. The Commission also relies on accurate Worksheets to ensure Service Providers are fully assessed for the Telecommunications Relay Service (TRS) Fund, Local Number Portability (LNP), North American Numbering Plan (NANP), and federal regulatory fee contribution requirements.

II. BACKGROUND

A. Legal Background

3. The Act codifies Congress's long-standing commitment to promoting universal service to ensure that consumers in all regions of the nation have access to affordable, quality telecommunications services. In particular, section 254(d) of the Act requires, among other things, that "[e]very telecommunications carrier [providing] interstate telecommunications services . . . contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."[2] In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate telecommunications services to contribute to the USF based on their interstate and international end-user

[1] 47 CFR § 54.711.

[2] 47 U.S.C. § 254(d).

telecommunications revenues.[3] The Commission also requires certain providers of interstate telecommunications to contribute to the USF.[4]

4. The Commission has established specific procedures to administer the USF in furtherance of the Congressional mandate. Each Service Provider, with certain exceptions, is required to contribute to the USF, file annually an FCC Form 499-A (Annual Worksheet),[5] and file quarterly an FCC Form 499-Q (Quarterly Worksheet).[6] USAC, as the Commission's administrator of the USF, uses the revenue projections submitted in the Quarterly Worksheets to determine and invoice each Service Provider's monthly universal service contribution obligation.[7] Monthly USF contributions that were invoiced based on projected revenues reported in a Service Provider's Quarterly Worksheets are then subject to an annual true-up based on actual revenues reported in the Service Provider's Annual Worksheet.[8] Each Service Provider's Annual Worksheet for 2022 revenues was due by April 3, 2023[9] The Commission's rules require that Service Providers report accurate information in the Annual Worksheets.[10] The Commission's rules also explicitly warn Service Providers that the failure to file timely and accurate Worksheets or submit timely USF payments potentially subjects them to enforcement action.[11]

5. To ensure that the information submitted to USAC by Service Providers is complete, timely, and accurate, the Commission's rules grant USAC the authority to verify any information

[3] 47 CFR § 54.706(b).

[4] *Id.* § 54.706(a) ("Entities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee will be considered telecommunications carriers providing interstate telecommunications services and must contribute to the universal service support mechanisms.").

[5] *See* 47 CFR § 54.711; *Telseven, LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 6636, 6637, para. 2 (2012) (*Telseven NAL*), Forfeiture Order, 31 FCC Rcd 1629 (2016) (*Telseven Forfeiture Order*). Within 30 days of beginning to provide service, new service providers must register with the Commission by obtaining an FCC registration number (FRN) from the Commission Registration System (CORES) and obtaining a FCC Form 499 Filer ID Number (FCC Filer ID Number) from USAC's E-File system. *Wireline Competition Bureau Releases the 2023 Telecommunications Reporting Worksheets & Accompanying Instructions*, Public Notice, 37 FCC Rcd 12124, 12148 (WCB 2022) (*2023 Annual Worksheet Instructions*).

[6] *See* 47 CFR § 54.711; *Telseven NAL*, 27 FCC Rcd at 6637, para. 2; *2023 Annual Worksheet Instructions*, 37 FCC Rcd at 12198-99.

[7] *E.g.*, *2023 Annual Worksheet Instructions*, 37 FCC Rcd at 12184.

[8] *See Federal-State Joint Board on Universal Service*, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748, 5752-53, para. 12 (2001); 47 CFR § 54.711.

[9] *See 2023 Annual Worksheet Instructions*, 37 FCC Rcd at 12148; Quarterly Worksheet filings are due on February 1, May 1, August 1, and November 1 of each year. *See, e.g.*, *id.* at 12198-99. Since April 1, 2023, fell on a Saturday, the Annual Worksheet would then be due on Monday, April 3, 2023. *See also 2023 Annual Worksheet Instructions*, 37 FCC Rcd at, 12148, n.32 ("In 2023, April 1 is a Saturday. Accordingly, in 2023, FCC Forms 499-A, as well as any accompanying traffic studies or filer certifications, will be due on Monday, April 3, 2023.").

[10] 47 CFR §§ 54.711(a), 54.713. An officer of a company completing an Annual Worksheet must certify, in part, as follows: "I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named company for the previous calendar year." *E.g.*, 2023 FCC Form 499-A, Line 606. While the Commission requires revisions to Worksheets when errors are discovered, the requirement does not affect the separate requirement to submit accurate information in the first instance to the best of the filer's knowledge, information and belief. *See 2023 Annual Worksheet Instructions*, 37 FCC Rcd at 12148-49; 2023 FCC Form 499-A, Line 606.

[11] 47 CFR § 54.713.

contained in Annual and Quarterly Worksheets.[12] Filers are required to maintain records and documentation for a period of three years to justify the information reported in the Worksheets, including the methodology used to determine revenue projections, and to provide it to the Commission or USAC upon request.[13] The recordkeeping requirement is necessary to verify that contributors report correct information in the Worksheets.[14] The Commission and USAC can review records and documentation underlying revenue reported in a Service Provider's Worksheets to determine whether the contributor is properly reporting revenues, and thus contributing its fair share to the costs of the universal service program and other cost recovery requirements implemented under the Act.

6. Section 225 of the Act, which codifies Title IV of the Americans with Disabilities Act of 1990, directs the Commission to "ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States."[15] To that end, the Commission established the TRS Fund to reimburse TRS providers for the costs of providing interstate TRS.[16] The Commission implemented TRS capability rules to enable persons with hearing and speech disabilities to communicate by telephone with voice-telephone users.[17] Such services provide telephone access to a significant number of Americans who without it might not be able to make calls to or receive calls from voice-telephone users.[18] Pursuant to section 64.604(c)(5)(iii)(A) of the Commission's rules, certain Service Providers[19] must contribute to the TRS Fund based on their interstate end-user revenues.[20] Under the Commission's rules, the TRS Fund administrator, Rolka Loube Associates, LLC (Rolka Loube), uses Annual Worksheet filings to determine each Service Provider's annual or monthly TRS Fund contribution amounts.[21]

7. Section 251(e)(1) of the Act directs the Commission to oversee the administration of telecommunications numbering to ensure the availability of telephone numbers on an equitable basis.[22]

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[12] *Id.* § 54.711(a); *see also id.* § 54.707 (providing that USAC has the authority to audit contributors reporting data to USAC).

[13] *Id.* § 54.711(a). Additionally, under section 54.706(e) of the Commission's rules, any entity required to contribute to the USF shall retain, for at least five years from the date of the contribution, all records that may be required to demonstrate to auditors that the contributions made were in compliance with the universal service Commission's rules. These records include without limitation the following: financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation. *Id.* § 54.706(e).

[14] *Federal-State Board on Universal Service*, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 25791, para. 34 (2002).

[15] 47 U.S.C. § 225(b)(1).

[16] *See Telecommunications Relay Servs. & the Ams. with Disabilities Act of 1990*, Third Report and Order, 8 FCC Rcd 5300, 5301, para. 7 (1993).

[17] *See Telecommunications Relay Servs. and Speech-to-Speech Servs. for Individuals with Hearing and Speech Disabilities*, Report and Order, 15 FCC Rcd 5140, 5143, para. 5 (2000).

[18] *Id.*

[19] Every carrier providing interstate or intrastate telecommunications services (including interconnected VoIP service providers pursuant to 47 CFR § 64.601(b)), and every provider of non-interconnected VoIP service, must contribute to the TRS Fund. *See* 47 CFR § 64.604(c)(5)(iii)(A).

[20] *Id*. Under the Commission's rules, service providers must contribute at least $25 per year, and service providers whose annual contributions are less than $1,200 must pay the entire amount at the beginning of the contribution period. Otherwise, if their account is in good standing, service providers are permitted to divide their contributions into 12 equal monthly payments. *See id*. § 64.604(c)(5)(iii)(B).

[21] *Id*. Rolka Loube replaced the National Exchange Carrier Association as the TRS Fund administrator effective July 1, 2011. *See Interstate Telecomms. Relay Serv. (TRS) Fund Adm'r Transition*, Public Notice, 26 FCC Rcd 8436 (2011).

[22] 47 U.S.C. § 251(e)(1).

Section 251(e)(2) of the Act requires that "[t]he cost of establishing telecommunications numbering administration arrangements and numbering portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."[23] In carrying out these statutory directives, the Commission adopted sections 52.17 and 52.32 of the Commission's rules,[24] which require Service Providers[25] to contribute to the costs of numbering administration and LNP on the basis of their end-user telecommunications revenues.[26] The NANP administrator's billing and collection agent, Welch LLP (Welch),[27] and the LNP administrator, iconectiv, LLC (iconectiv),[28] use Annual Worksheet filings to determine Service Providers' required payments for covering, respectively, the costs of NANP and LNP administration.[29]

8. The Act directs the Commission to "assess and collect regulatory fees to recover the costs of carrying out" the functions of the Commission,[30] including "enforcement activities, policy and rulemaking activities, user information services, and international activities."[31] Consistent with this directive, the Commission has implemented rules for annual regulatory fees for entities regulated by the

[23] *Id.* § 251(e)(2). "Number Portability" means "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." *Id.* § 153(37). The inability of customers to retain their telephone numbers when changing local Service Providers would hamper the development of local competition. *Telephone Number Portability*, Third Report and Order, 13 FCC Rcd 11701, 11702, para. 3 (1998), *aff'd*, Memorandum Opinion and Order on Reconsideration and Order on Application for Review, 17 FCC Rcd 2578 (2002).

[24] 47 CFR §§ 52.17, 52.32.

[25] All telecommunications carriers and interconnected VoIP providers in the United States shall contribute to meet the costs of establishing numbering administration and LNP. *See id.* §§ 52.17, 52.32.

[26] *See id.* § 52.17(a) ("Contributions to support numbering administration shall be the product of the contributors' end-user telecommunications revenues for the prior calendar year and a contribution factor determined annually [with] such contributions to be no less than twenty-five dollars ($25)."); *see also id.* § 52.32(a) (stating that Service Providers that have no intrastate, interstate, or international end-user telecommunications revenues derived from providing telecommunications service in areas a regional database serves must pay $100 contributions for LNP, and if Service Providers derive intrastate, interstate, or international end-user telecommunications revenues in areas a regional database serves, the Service Providers must pay a charge that recovers the remaining shared costs of long-term number portability attributable to each Service Provider on a proportional basis.)

[27] In 2004, the Commission selected Welch & Company, LLP as the billing and collection agent for the NANP. New Release, Fed. Commc'ns Comm'n, Federal Communications Commission Selects Welch & Co., LLP as the Next North American Numbering Plan Billing & Collection Agent (WCB Apr. 12, 2004), https://www.fcc.gov/document/federal-communications-commission-selects-welch-company-llp-next. In 2007, the billing and collection agent changed its name to Welch LLP. *See* Welch LLP, https://welchllp.com (last visited Apr. 8, 2024); Ottawa Business Journal, *Welch LLP celebrates 100th anniversary in Ottawa* (Feb. 8, 2018), https://obj.ca/welch-llp-celebrates-100th-anniversary-in-ottawa.

[28] *See Third Local Number Portability Administrator Selection Process*, Order, DA 24-104, 2024 WL 488170, at *4 (WCB Feb. 6, 2024) (extending the North American Numbering Council (NANC) contract with iconectiv to serve as the LNP administrator until May 2031).

[29] 47 CFR §§ 52.17(b), 52.32(b).

[30] 47 U.S.C. § 159(a); *see also id.* § 156(a).

[31] *2023 Annual Worksheet Instructions*, *supra* note 5, at 12140.

Commission.[32] Service Providers[33] must pay federal regulatory fees annually based on interstate and international end-user revenues as reported in Annual Worksheets.[34]

9. Because USAC, Rolke Loube, iconectiv, Welch, and the Commission rely on Worksheets to determine respective payment requirements for administration of the USF, TRS Fund, LNP, NANP, and federal regulatory fees, the accuracy and timeliness of Worksheet filings are vital. The Commission, through USAC, must be able to verify that each Service Provider is fully compliant with the Commission's Worksheet reporting requirements, including the ability of USAC and the FCC to review documents that support the accuracy of information reported in Worksheets.[35] In order to further the goals of truthfulness and accuracy, section 54.711(a) of the Commission's rules provides that USAC has the authority to verify any information contained in Annual and Quarterly Worksheets.[36] Filers are required to maintain records and documentation to justify the information reported in the Worksheets, including the methodology used to determine revenue projections, for a period of three years and to provide it to the Commission or USAC upon request.[37]

10. When a Service Provider underreports its revenues in its Worksheets, and then exacerbates the problem by not complying with USAC's attempts to verify the reported revenues through supporting documentation, the Service Provider could prevent administrators from fully invoicing the Service Provider for its USF, TRS Fund, LNP, NANP, and federal regulatory fee payment obligations.[38] A Service Provider's failure to comply with the Worksheet reporting and documentation functions can impede the very purpose for which Congress enacted section 254(d)—to ensure that every required contributor to the USF "contribute[s], on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."[39] The effects on the administration of TRS, LNP, NANP and on the Commission's assessment of federal regulatory fees are similar. Indeed, a Service Provider that impedes the Commission and USAC from verifying the revenue information submitted in Worksheets can evade its federal obligations to contribute fully toward the vital programs linked to the reporting rules.[40] As a consequence of this evasion, other Service Providers carry an unfair burden of funding the USF and the other federal regulatory requirements arising under the Act.[41] Delinquent Service Providers obtain an unfair competitive advantage over Service Providers that comply with the reporting provisions, and fully pay

[32] *See* 47 CFR §§ 1.1152–1.1156, 1.1157(b).

[33] *See* Fed. Commc'ns Comm'n, *Regulatory Fees*, https://www.fcc.gov/licensing-databases/fees/regulatory-fees (identifying Commission licensees and other regulated entities that must pay federal regulatory fees) (last visited Apr. 8, 2024).

[34] *See* 47 CFR § 1.1154.

[35] *See id.* § 54.711(a).

[36] *See id.*

[37] *See id.*

[38] *See id*; *Telseven NAL*, *supra* note 5, 6643-44, 6646-48, paras. 15, 23-25, *Telseven Forfeiture Order*, *supra* note 5, at 1636, para. 20; *Telrite Corp*., Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7231, 7241-42, para. 24 (2008), *consent decree adopted*, Order, 27 FCC Rcd 4110 (2012).

[39] 47 U.S.C. § 254(d).

[40] *See, e.g.*, *Telseven NAL*, *supra* note 5, at 6638-39, para. 6; *Globalcom, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 3479, 3484, para. 12 (2010) (*Globalcom NAL*), *consent decree adopted,* Order, 29 FCC Rcd 2593 (2014); *Local Phone Services, Inc*., Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 9974, 9977-78, para. 9 (2006) (*LPSI NAL*), *forfeiture issued*, Order of Forfeiture, 23 FCC Rcd 8952 (2008).

[41] *See Telseven NAL*, *supra* note 5, at 6638-39, para. 6; *Globalcom NAL*, 25 FCC Rcd at 3484, para. 12; *LPSI NAL*, 21 FCC Rcd at 9977-78, para. 9.

USF, TRS Fund, LNP, NANP, and federal regulatory fee assessments, required under the Commission's rules.[42]

B. Factual Background

11. Cause Based Commerce is a "privately held business corporation" that was incorporated in the state of Ohio on June 13, 1996.[43] The Company provides and "markets toll services directly to the public under its corporate name, [Cause Based Commerce]" and mobile voice and data services directly to the public under its trade name, Charity Mobile."[44] The Company is headquartered in Walton, Kentucky,[45] and it began providing interstate telecommunications services "in late 2006."[46]

12. Between March 23, 2021, and September 26, 2023, USAC repeatedly tried to verify the accuracy of data reported in Cause Based Commerce's Annual Worksheet filings for 2021 through 2023.[47] As detailed below, however, the Company repeatedly failed to respond, responded late, or submitted non-responsive documents to USAC over the course of three years, thereby repeatedly preventing USAC from verifying the accuracy of the Annual Worksheet filings during that period. Cause Based Commerce did not provide USAC the documentation needed to complete the verification process for the Annual Worksheets for 2021 through 2022, and it did not produce sufficient documentation to verify the 2023 Annual Worksheet until September 26, 2023.[48]

1. Failures to Provide Documentation Supporting the 2021 Annual Worksheet

13. On March 23, 2021, Cause Based Commerce filed its 2021 Annual Worksheet.[49] On March 24, 2021, USAC first emailed the Company to request documentation "to determine the interstate and international revenue reported on [L]ine 414.1" on its Annual Worksheet by March 31, 2021.[50] Cause Based Commerce did not respond to USAC's initial directive.[51] This was the Company's *first* failure to comply with a response deadline between March 23, 2021, and May 12, 2023. On April 12, 2021, USAC emailed a second directive to the Company for the same documentation with a deadline of April 26, 2021.[52] Cause Based Commerce again failed to respond.[53] This was the Company's *second* failure to comply with a response deadline between March 23, 2021, and May 12, 2023. On June 11, 2021, USAC emailed Cause Based Commerce, notifying the Company that it was under "Final USAC Review" to determine whether it was in compliance with FCC rules and Annual Worksheet Instructions and to determine possible next enforcement actions.[54] On July 8, 2021, USAC informed Cause Based

[42] *Id.*

[43] *See* Response to Letter of Inquiry, from Leon Nowalsky, Nowalsky & Gothard, Counsel to Cause Based Commerce, Inc., to Patrick M. McGrath, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, at 1, Response to Question 1 (Jan. 16, 2024) (on file in EB-IHD-23-00035753) (LOI Response).

[44] *Id*. at 2, 6, Responses to Questions 5 and 15.

[45] *Id.* at 3, Response to Question 7.

[46] *Id.* at 10, Response to Question 20.

[47] Letter from Fred Theobald, Director of Contributor Operations, USAC, to Hellen Papavizas, Investigations & Hearings Division, FCC Enforcement Bureau, at 1-2 (July 3, 2024) (on file in EB-IHD-23-00035753) (USAC Letter).

[48] *Id.* at 1.

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] *Id*.

[54] *Id.*

Commerce that it was considered non-compliant with the FCC rules and Annual Worksheet instructions and that the Company may be referred to the Bureau.[55] Cause Based Commerce never responded to any of these communications by USAC, and it failed to meet the two deadlines set by USAC.

2. Failures to Provide Documentation Supporting the 2022 Annual Worksheet

14. On March 21, 2022, Cause Based Commerce filed its 2022 Annual Worksheet.[56] On March 21, 2022, USAC emailed the Company asking for documentation to support revenues reported on its Annual Worksheet, including financial statements showing total gross billed revenues for all services, not merely telecommunication or VoIP services; the Company's income statement; certain company reports as well as documentation showing how each revenue number reported was determined; documentation used to determine interstate and international revenues reported on Line 414.1; and copies of invoices from the Company's five largest customers dated April 2021, all to be submitted by March 28, 2022.[57] Cause Based Commerce did not respond to this USAC directive.[58] This was the Company's *third* failure to comply with a response deadline between March 23, 2021, and May 12, 2023. On April 21, 2022, USAC emailed another request to the Company for submission of the same documentation by May 16, 2022.[59] Cause Based Commerce again failed to respond to USAC's request.[60] This was the Company's *fourth* failure to comply with a response deadline between March 23, 2021, and May 12, 2023. On June 3, 2022, USAC emailed Cause Based Commerce to alert the Company that it was under "Final USAC Review" to determine whether it was in compliance with the FCC rules and Annual Worksheet instructions, and to determine next enforcement actions, including referral to FCC's Enforcement Bureau.[61]

15. On June 12, 2022, Cause Based Commerce provided copies of the "Revenue Section of the company's income statement" and "3 customer invoices for 1Q2021, 2Q2021, 3Q2021, and 4Q2021" to USAC.[62] On June 14, 2022, USAC notified the Company that its "reply fail[ed] to address the issue outlined in the original email, dated 3/21/22," in which USAC requested documentation supporting Line 414.1, specifically showing how interstate and international revenues were calculated.[63] Additionally, USAC asked the Company to revise its 2022 Annual Worksheet.[64] On July 15, 2022, USAC informed Cause Based Commerce that it was not in compliance with the FCC rules and Annual Worksheet instructions, and that it may refer the Company to the Bureau.[65] Despite USAC's warning, the Company still failed to provide all documentation requested by USAC, and it failed to respond to two deadlines set by USAC regarding the 2022 Annual Worksheet.

3. Failures to Provide Documentation Supporting the 2023 Annual Worksheet

16. On March 29, 2023, Cause Based Commerce filed its 2023 Annual Worksheet.[66] On March 30, 2023, USAC emailed the Company for documentation "to determine the interstate and

[55] *Id.*

[56] *Id*.

[57] *Id*. at 1-2.

[58] *Id.* at 2.

[59] *Id.*

[60] *Id.*

[61] *Id.*

[62] *Id*.

[63] *Id.*

[64] *Id.*

[65] *Id.*

[66] *Id.*

international revenue on [L]ine 414.1" on its Annual Worksheet by April 6, 2023.[67] The Company did not respond.[68] This was the Company's *fifth* failure to comply with a response deadline between March 23, 2021, and May 12, 2023. On April 12, 2023, USAC directed the Company to submit the same by May 12, 2023.[69] As before, Cause Based Commerce failed to respond to USAC's requests.[70] This was the Company's *sixth* failure to comply with a response deadline between March 23, 2021, and May 12, 2023. On June 12, 2023, USAC emailed Cause Based Commerce to alert the Company that it was under "Final USAC Review" to determine whether it was in compliance with Annual Worksheet filing requirements, and to determine possible enforcement actions.[71] On July 13, 2023, USAC alerted the Company that it was not compliance with these requirements.[72]

17. On September 15, 2023, Cause Based Commerce asked USAC to resend the email that USAC first sent on March 30, 2023, which USAC forwarded again to the Company on September 22, 2023, almost six months after it was initially sent.[73] On September 26, 2023, the Company provided certain financial data to USAC in response to the March 30, 2023 USAC email, and it asked USAC to look to the Company's traffic analysis for 2022, among other things, for USAC's analysis.[74] The Company's document submission was finally complete as of this date, over five months after it was originally due to USAC.[75] That same day, USAC asked the Company to revise the 2023 Annual Worksheet to match the "traffic study."[76] On December 7, 2023, Cause Based Commerce submitted its revised 2023 Annual Worksheet to USAC.[77]

18. In August 2023, USAC referred this matter to the Bureau for investigation of the Company's failures to respond timely to USAC's March and April 2023 directives to provide documentation supporting the Company's 2023 Annual Worksheets.[78] On November 16, 2023, the Bureau issued a Letter of Inquiry (LOI) concerning the Company's compliance with requirements arising under the Act and the Commission's rules.[79] On January 16, 2024, Cause Based Commerce submitted a response to the LOI.[80]

III. DISCUSSION

19. Based on evidence developed through the Bureau's investigation, Cause Based Commerce apparently willfully and repeatedly violated section 54.711(a) of the Commission's rules by failing to

[67] *Id.*

[68] *Id.*

[69] *Id*.

[70] *Id.*

[71] *Id.*

[72] *Id.*

[73] *Id.*

[74] *Id.*

[75] *Id.*

[76] *Id*.

[77] *Id.*

[78] *Id.* at 3.

[79] *See* Letter from Patrick M. McGrath, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to David Condit, President, Cause Based Commerce, Inc. (Nov. 16, 2023) (regarding compliance with 47 U.S.C. §§ 214, 222, 251(e)(2), 254(d), and 310; 47 CFR §§ 1.1154, 1.1157, 1.7001-02, 1.8002, 52.17, 52.32, 54.706, 54.711, 54.712, 54.713, 63.11-63.18, 63.21-63.24, 64.604, 64.2009(e), and 64.2115) (on file in EB-IHD-23-00035753).

[80] *See generally* LOI Response, *supra* note 43.

comply, or timely comply, with six USAC directives to provide documentation supporting the accuracy of the Company's 2021, 2022, and 2023 Annual Worksheets.[81] In 2023, Cause Based Commerce twice failed to submit supporting documentation for revenues reported in the Company's 2023 Annual Worksheet filing by deadline to USAC on April 6, 2023, and May 12, 2023, with the latter deadline falling within the current statute of limitations.[82] Cause Based Commerce also failed to respond to the 2021 and 2022 Annual Worksheet filing deadlines set by USAC on March 31, 2021; April 26, 2021; March 28, 2022; and May 16, 2022.[83]

20. Service Providers that file Worksheets are required to maintain documentation to justify the information reported in the Worksheets and provide it to the Commission or USAC upon request.[84] This obligation is clearly stated in the Commission's rules and orders, is reiterated in the instructions to the Worksheets, and has been the subject of prior enforcement actions.[85] A Service Provider must timely respond to each directive by USAC to provide documentation supporting information reported in a Worksheet.[86] Service Providers have an obligation to respond in a timely, full, and accurate manner in every instance, regardless of the number of times USAC must follow up to obtain or clarify a response.[87] As described more fully above, providers that fail to comply with this obligation frustrate various congressional and FCC policies.[88] We consider each individual failure to respond fully and accurately by a deadline to be a separate violation of section 54.711(a) of the Commission's rules.[89]

21. In 2021, USAC twice requested documentation from Cause Based Commerce to verify the accuracy of the interstate and international revenue reported on line 414.1 on the Company's 2021

[81] 47 CFR § 54.711(a).

[82] Cause Based Commerce and the Commission agreed to toll the one-year statute of limitations for 60 days. *See* Tolling Agreement executed by Patrick M. McGrath Chief, Investigations and Hearings Division, FCC Enforcement Bureau, and David Condit, President, Cause Based Commerce, Inc. (Dec. 13, 2023) (on file in EB-IHD-23-00035753) (Tolling Agreement). The 12 month statute of limitations for the May 12, 2023 violation therefore expires on July 11, 2024.

[83] USAC Letter, *supra* note 47, at 1.

[84] *See* 47 CFR § 54.711(a) ("Contributors shall maintain records and documentation to justify information reported in the Telecommunications Reporting Worksheet, including the methodology used to determine projections, for three years and shall provide such records and documentation to the Commission or the Administrator upon request."); *id*. § 54.706(e) ("Any entity required to contribute to the federal universal service support mechanisms shall retain, for at least five years from the date of the contribution, all records that may be required to demonstrate to auditors that the contributions made were in compliance with the Commission's universal service rules.").

[85] *See, e.g.*, 47 CFR § 54.711(a); *PayG, LLC*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11021, 11026-27 para. 38 (2022) (*PayG NAL*) (forfeiture paid); *Correct Solutions, LLC*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 4468, 4479, para. 27 (EB 2022) (*Correct Solutions NAL*) (forfeiture paid); *2023 Annual Worksheet Instructions*, *supra* note 5, at 12144, n.23, 12149; *US South Commc'ns, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 12668, 12676, para. 22 (EB 2020) (*US South NAL*) (forfeiture paid); *Compu-Phone Voice & Data, Inc.,* Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6573, 6583, para. 23 (EB 2020) (*Compu-Phone NAL*) (forfeiture paid); *Blue Casa Tel., LLC*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6333, 6344, para. 25 (EB 2020) (*Blue Casa NAL*) (forfeiture paid); *see also Enhanced Communications Group, LLC*, Notice of Apparent Liability for Forfeiture, 38 FCC Rcd 6482, 6499, para. 38 (2023) (*Enhanced NAL*); *RevTel Communications, LLC*, Notice of Apparent Liability for Forfeiture, 38 FCC Rcd 4753, 4761, para. 18 (EB 2023) (*RevTel NAL*).

[86] *Enhanced NAL*, 38 FCC Rcd at 6500, para. 39; *Revtel NAL*, 38 FCC Rcd at 4761, para. 19.

[87] *Id.*

[88] *See supra* para. 10.

[89] *E.g.*, *Enhanced NAL*, 38 FCC Rcd at 6500, para. 39; *Revtel NAL*, 38 FCC Rcd at 4761, para. 19; *PayG NAL*, 37 FCC Rcd at 11030, para. 22; *Correct Solutions NAL,* 37 FCC Rcd at 4474-75, para. 16; *US South NAL*, 35 FCC Rcd at 12674, para. 14.

Annual Worksheet with responses due by March 31, 2021 and April 26, 2021.[90] Additionally, USAC emailed the Company two more times in 2021 to notify the Company that it was under "Final USAC Review" for Annual Worksheet filing compliance and then to inform the Company it was not in compliance.[91] Cause Based Commerce failed to respond to any of USAC's communications, including two USAC directives to respond by specific deadlines.[92]

22. In 2022, USAC also twice contacted Cause Based Commerce for documentation to verify the accuracy of the Company's 2022 Annual Worksheet with responses due by March 29, 2022, and May 16, 2022, requesting numerous documents such as financial statements showing total gross billed revenues for all services, the Company's income statement, documentation showing each revenue number reported, and documents showing how interstate and international revenues reported on line 414.1 were determined, among other things.[93] Cause Based Commerce failed to meet these deadlines, and USAC notified the Company that it was not in compliance with Annual Worksheet requirements.[94] On June 12, 2022, Cause Based Commerce provided some, but not all, documentation requested by USAC, such that USAC was forced to request the missing documentation again and ask the Company to revise its 2022 Annual Worksheet.[95] Cause Based Commerce failed to respond to this follow-up request.[96]

23. In 2023, USAC again attempted to obtain documentation from Cause Based Commerce to verify the accuracy of the Company's interstate and international revenue on line 414.1 of the Company's 2023 Annual Worksheets. USAC informed the Company that its responses were due by April 6, 2023, and May 12, 2023.[97] Because the Company did not respond to either request, USAC notified Cause Based Commerce that the Company was under "Final USAC Review" in June 2023 and that it was not in compliance with Annual Worksheet filing requirements in July 2023.[98] The Company failed to respond until September 15, 2023, when it asked USAC to resend its March 30, 2023 email.[99] It was not until September 26, 2023, that the Company finally provided the documentation requested by USAC.[100] That same day, USAC directed Cause Based Commerce to submit a revised 2023 Annual Worksheet, which the Company submitted on December 7, 2023.[101]

24. In its LOI Response, Cause Based Commerce denies that the Company failed to respond "fully and timely to USAC correspondence concerning the Company's 2021, 2022, and 2023" Annual Worksheet filings.[102] Cause Based Commerce admits that it had submitted the documentation for line 414.1 late because information is compiled by various sources—the Company's billing company, compliance company, accounting firm, and the underlying carrier—and because "information provided by the underlying carrier is never accurate and often results in credits being sought and obtained by Cause

[90] USAC Letter, *supra* note 47, at 1.

[91] *Id.*

[92] *Id.*

[93] *Id.* at 1-2.

[94] *Id.* at 2.

[95] *Id.*

[96] *Id.*

[97] *Id.*

[98] *Id.*

[99] *Id.*

[100] *Id.*

[101] *Id.*

[102] LOI Response, *supra* note 43, at 21, Response to Question 49.

Based Commerce for inaccurate billing."[103] Consequently, Cause Based Commerce claims that the Company must carefully review the accuracy of the information received from these sources and provided to USAC, which "requires substantial effort and time to prepare and cannot be reasonably prepared in one (1) week."[104] Finally, Cause Based Commerce emphasized that that the requested documents were submitted to USAC on September 26, 2023.[105]

25. Cause Based Commerce's arguments do not constitute a valid justification for their late response to USAC's two requests for supporting documentation for the 2023 Annual Worksheet in March and April 2023. The Company's explanations refer to issues within its own organization, as well as its underlying carrier, and its internal processes for compiling and verifying the documentation required to support its 2023 Annual Worksheet. These matters, however, do not change or mitigate Cause Based Commerce's requirement to respond timely to USAC directives by the deadlines set by USAC.[106] Moreover, if Cause Based Commerce was unable to obtain timely and accurate information from its underlying carrier, it is the Company's responsibility to resolve those business issues.[107] Because "[i]t is well-established that entities regulated by the Commission are responsible for the acts or omissions of their agents,"[108] any inability to respond to USAC's directives by the entities serving Cause Based Commerce is imputed to the Company.[109]

26. Upon filing an Annual Worksheet, a Service Provider is obligated to respond to USAC's documentation requests by the deadlines set by USAC.[110] Here, Caused Based Commerce filed its 2023 Annual Worksheet on March 29, 2023. USAC first asked the Company to provide supportive documentation by deadline on March 30, 2023, and then again on April 12, 2023, yet the Company failed to respond to USAC or provide any documentation by the respective stipulated deadlines of April 6, 2023, and May 12, 2023.[111] Indeed, Cause Based Commerce did not provide the requested documentation until September 26, 2023, nearly six months after USAC's initial directive on March 30, 2023.[112] At no time after any of the USAC requests did the Company request any extension of time.[113] The fact that Cause Based Commerce submitted documentation prior to the issuance of the LOI does not negate the fact that its document submissions were months late, nor does it absolve the Company of its obligation to respond timely to USAC's directives.

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[103] *Id.* at 21-22.

[104] *Id.* at 22.

[105] *Id.*

[106] Cause Based Commerce must ensure that USAC obtains supporting documentation upon request under section 54.711(a) of the Commission's rules. *See* 47 CFR § 54.711(a).

[107] *PayG NAL*, *supra* note 85, at 11031, para. 25.

[108] *Id*; *see* 47 U.S.C. § 217; *Telecom Mgmt., Inc.*, Order of Forfeiture, 21 FCC Rcd 10470, 10474, para. 11 (2006) (finding telecommunications provider liable for failure of its designated agent to comply with USF payment obligations on its behalf); *Eure Family LP*, Memorandum Opinion and Order, 17 FCC Rcd 21861, 21864, para. 7 (2002) ("Further, the Commission has explained that under long established principles of common law, statutory duties are nondelegable and that employers are routinely held liable for breach of statutory duties by their independent contractors"); *see also MTD, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 34, 34, para. 5 (1991); *Wagenvoord Broadcasting Co.*, Memorandum Opinion and Order, 35 FCC Rcd 361, 361-62, para. 3 (1972) (both cases stating that responsibility is not lessened when independent contractors are used).

[109] *See Correct Solutions*, *supra* note 85, at 4475, para. 18 & n.57.

[110] *See* 47 CFR § 54.713.

[111] USAC Letter, *supra* note 47, at 2.

[112] *Id.*

[113] *See id.*

27. Finally, Cause Based Commerce did not explain why it never responded to USAC's requests in 2021 or why it failed to timely respond and provide all documentation requested by USAC in 2022, despite the explicit directives to do so.[114] Even if it were the case that the Company's failures to respond to USAC's 2021 and 2022 requests were similarly due to problems getting information from its underlying carrier, and problems with the Company's internal processes for compiling and verifying the documentation, not only would these excuses be unavailing, but they also suggest an ongoing regulatory compliance problem for the Company.[115]

28. Consequently, we find that the Company apparently violated section 54.711(a) of the Commission's rules by willfully and repeatedly failing to respond timely to a total of six USAC directives to provide documentation supporting the accuracy of the Company's Annual Worksheets from 2021 to 2023.[116]

IV. PROPOSED FORFEITURE

29. Of Caused Based Commerce's six failures to respond timely to USAC directives since 2021, the most recent—its failure to respond by the May 12, 2023 deadline—falls with the applicable one-year statute of limitations.[117] We propose a forfeiture of $100,000 for that apparent willful violation. That amount reflects a base forfeiture of $50,000, which we adjust upward by an additional $50,000 to reflect the Company's pattern of apparently willfully and repeatedly violating section 54.711(a) on at least five occasions prior to May 12, 2023.

30. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission[.]"[118] Here, section 503(b)(2)(B) of the Act authorizes us to assess a forfeiture against Cause Based Commerce of up to $244,958 for each violation or each day of a continuing violation, up to a statutory maximum of $2,449,575 for a single act or failure to act.[119] In exercising our forfeiture authority, we must consider 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."[120] In addition, the Commission has established forfeiture guidelines; they establish base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.[121] The forfeiture guidelines listed in section 1.80 of the Commission's rules specifically "are intended as a guide for frequently recurring violations" and not "a complete or exhaustive list of violations."[122]

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[114] *See id.* at 1-2.

[115] *See* LOI Response, *supra* note 43, at 21-22, Response to Question 49.

[116] USAC Letter, *supra* note 47, at 1-2.

[117] 47 U.S.C. § 503(b)(6). *See supra* note 82 (noting that the one-year limitations period for this violation has been tolled until July 11, 2024).

[118] 47 U.S.C. § 503(b).

[119] *See* 47 U.S.C. § 503(b)(2)(B); 47 CFR § 1.80(b)(2). *See 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 January 15, 2024 as the effective date for the increases).

[120] 47 U.S.C. § 503(b)(2)(E).

[121] 47 CFR § 1.80(b)(11), Note 2 to paragraph (b)(11); *Comm'n's Forfeiture Policy Statement & Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, CI Docket No. 95-6, Report and Order, 12 FCC Rcd 17087, 17116-17, para. 27 (1997) (*1997 Forfeiture Guidelines Order*), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

[122] *1997 Forfeiture Guidelines Order*, 12 FCC Rcd at 17109-10, para. 53 (citing 47 U.S.C. § 503(b)(2)(E)).

31. The Commission may adopt upward or downward adjustments to forfeitures when appropriate.[123] Under section 1.80 of the Commission's rules, we may adjust a forfeiture upward for egregious misconduct, ability to pay and relative disincentive, an intentional violation, substantial harm, prior violations of Commission requirements, substantial economic gain, or repeated or continuous violations.[124] We may adjust a forfeiture downward for a minor violation, good faith or voluntary disclosure, a history of overall compliance, or an inability to pay.[125]

32. Section 503(b)(6)(B) of the Act provides that no forfeiture penalty shall be imposed if "the violation charged occurred more than 1 year prior to the date of issuance of the required notice or notice of apparent liability."[126] In this case, we propose a forfeiture for the Company's failure to submit timely and complete responses to USAC's directives to provide supporting documentation by the May 12, 2023 response deadline.

33. As the Commission observed in another USF enforcement action,[127] "the size and scope of the universal service and [other federal regulatory] programs impose a monumental burden on the Commission [and] USAC . . . to verify that each and every carrier has complied with the revenue reporting requirements. By necessity, the Commission and the other entities must rely on carriers' compliance with our rules."[128] To assist the Commission and USAC in this endeavor, the Commission's document retention and production rules were adopted to ensure the accuracy of each Worksheet and thus ensure compliance with the Commission's contributions requirements.[129] The Commission has previously imposed a $50,000 base forfeiture for a Service Provider's failure under section 54.711(a) of the Commission's rules to maintain documentation that supports revenues reported in Worksheets and to provide it to USAC upon request.[130] We thus propose a $50,000 base forfeiture against Cause Based Commerce for its failure to submit timely and complete responses to USAC by the response deadline of May 12, 2023.

34. In assessing a forfeiture amount here, we also consider the nature, extent and gravity of the failure to comply with USAC's verification functions to be very serious.[131] USAC's verification of Worksheets through supporting documentation, and USAC's ability to audit a Service Provider that files Worksheets, are vital components of ensuring the integrity of the USF. We have also considered the degree of the Company's culpability.[132] Contributors have an important obligation to comply with USAC verification functions, and the Company is thus highly culpable for its consistent failures to respond to

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[123] *See id.* at 17110, para. 53 (citing 47 U.S.C. § 503(b)(2)(E)).

[124] 47 CFR § 1.80(b)(11), Tbl. 3 to Para. (b)(10). *See also 1997 Forfeiture Guidelines Order*, 12 FCC Rcd at 17098-99, para. 22 (noting that "[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act").

[125] 47 CFR § 1.80(b)(11), Tbl. 3 to Para. (b)(11).

[126] 47 U.S.C. § 503(b)(6)(B).

[127] *Globcom, Inc.,* Notice of Apparent Liability for Forfeiture and Order, 18 FCC Rcd 19893 (2003) (*Globcom NAL*), *forfeiture issued*, Order of Forfeiture, 21 FCC Rcd 4710 (2006) (*Globcom Forfeiture Order*).

[128] *Globcom NAL*, 18 FCC Rcd at 19904, para. 30.

[129] *See Federal-State Board on Universal Serv.*, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952, 24971, para. 34 & n.99 (2002) (noting that "persons willfully making false statements in the Worksheets can be punished by fine or imprisonment under title 18 of the United States Code, and citing 18 U.S.C. § 1001) (*2002 Report and Order and Second Further Notice of Proposed Rulemaking*).

[130] *See PayG NAL*, *supra* note 85, at 11026, para. 37*; see also US South NAL*, *supra* note 85, 12676, para. 22; *Compu-Phone NAL*, *supra* note 85, at 6583, para. 23; *Blue Casa NAL*, *supra* note 85, at 6344, para. 25; *see also Enhanced NAL*, *supra* note 85, at 6504, para 50; *RevTel NAL*, *supra* note 85, at 4763, para. 25.

[131] *See* 47 U.S.C. § 503(b)(2)(E).

[132] *See id.*

USAC verification directives, which were repeated in this case over multiple years. We find that Cause Based Commerce's failure to comply with USAC's documentation directives by the May 12, 2023 deadline within the applicable statute of limitations, coupled with the Company's five prior missed deadlines set by USAC from 2021 through April 6, 2023, constitute egregious misconduct.

35. Section 1.80 of the Commission's rules provides for an upward adjustment to forfeiture amounts for prior violations of any FCC requirements and for repeated or continuous violations.[133] As the Commission has previously stated,[134] given the accumulating record of non-compliance with section 54.711(a) of the Commission's rules, Service Providers contemplating failures to comply with the requirements of the rule have been on notice that we are prepared to impose higher upward adjustments in future enforcement actions for prior violations and for repeated or continuous violations. Although the Commission has recently issued several enforcement actions specifically involving Service Providers' failures to comply with the Worksheet documentation requirements under section 54.711(a) of the Commission's rules,[135] Cause Based Commerce nonetheless repeatedly violated the documentation requirements and prevented USAC from verifying the accuracy of their Worksheets for over two years.[136] In this case, we therefore apply an upward adjustment of $50,000, or 100 percent of the proposed base forfeiture, because of the repeated nature of the Company's apparent violations.[137]

36. Thus, we propose a forfeiture for the Company's failure to submit timely and complete responses to USAC's directives to provide supporting documentation by the May 12, 2023 response deadline established by USAC. Therefore, after applying the *Forfeiture Policy Statement*, section 1.80 of the Commission's rules, and the statutory factors, we propose a total forfeiture of $100,000 for which Cause Based Commerce is apparently liable.[138]

V. CONCLUSION

37. We have determined that Cause Based Commerce apparently willfully and repeatedly violated section 54.711(a) of the Commission's rules by willfully and repeatedly failing to respond to a USAC documentation directive due by May 12, 2023. As such, Cause Based Commerce is apparently liable for a forfeiture of $100,000.

VI. ORDERING CLAUSES

38. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, Cause Based Commerce, Inc., is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of one hundred thousand dollars ($100,000) for willful and repeated violations of section 54.711(a) of the Commission's rules, 47 CFR § 54.711(a).[139]

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[133] 47 CFR § 1.80(b)(11), Tbl. 3 to para. (b)(11).

[134] *E.g.*, *Conquest Operator Servs. Corp.*, Order of Forfeiture, 14 FCC Rcd 12518, 12528, para. 20 (1999) (forfeiture paid).

[135] *See supra* note 85 and accompanying text.

[136] *See* USAC Letter, *supra* note 47, at 1-2.

[137] *See PayG NAL*, *supra* note 85, at 11036-37, para. 38 (providing notice of future upward adjustments of 100 percent or more of the $50,000 base forfeiture for repeated or continuous violations of section 54.711(a) of the Commission's rules); *Correct Solutions NAL*, *supra* note 85, at 4477, para. 26; *see also Enhanced NAL*, *supra* note 85, at 6504-05, para. 52 (providing notice of higher upward adjustments in future enforcement actions for prior violations and for repeated or continuous violations).

[138] Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

[139] *See* 47 CFR § 54.711(a).

39. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules,[140] within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Cause Based Commerce, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 42 below.

40. In order for Cause Based Commerce, Inc. to pay the proposed forfeiture, Cause Based Commerce, Inc. shall notify Patrick.McGrath@fcc.gov, Kalun.Lee@fcc.gov, Georgina.Feigen@fcc.gov, Hellen.Papavizas@fcc.gov, Pam.Slipakoff@fcc.gov, and of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at https://apps.fcc.gov/cores/userLogin.do. Upon payment, Cause Based Commerce, Inc. shall send electronic notification of payment to Patrick McGrath, Kalun Lee, Georgina Feigen, Hellen Papavizas, and Pam Slipakoff, Enforcement Bureau, Federal Communications Commission, at Patrick.McGrath@fcc.gov, Kalun.Lee@fcc.gov, Georgina.Feigen@fcc.gov, Hellen.Papavizas@fcc.gov, and Pam.Slipakoff@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card using CORES at https://apps.fcc.gov/cores/userLogin.do, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:[141]

- 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[142] or printed CORES form[143] 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).[144] 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 NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a $24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at https://apps.fcc.gov/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

[140] 47 CFR § 1.80.

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

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

[143] 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.

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

FRNs | FRN Financial | Bills & Fees" on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the "Open Bills" tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

41. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554.[145] Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

42. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission's rules.[146] The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Investigations & Hearings Division, and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to Patrick McGrath, Kalun Lee, Georgina Feigen, Hellen Papavizas, and Pam Slipakoff, at Patrick.McGrath@fcc.gov, Kalun.Lee@fcc.gov, Georgina.Feigen@fcc.gov, Hellen.Papavizas@fcc.gov, Pam.Slipakoff@fcc.gov, and EnforcementBureauIHD@fcc.gov.

43. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.[147] Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.[148]

[145] *See* 47 CFR § 1.1914.

[146] *Id.* §§ 1.16, 1.80(g)(3).

[147] 47 U.S.C. § 503(b)(2)(E).

[148] *See, e.g.*, *Ocean Adrian Hinson, Surry County, North Carolina,* Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18-21 (2019); *Fabrice Polynice, Harold Sido and Veronisep Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860-62, paras. 21-25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-04, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

44. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to David Condit, President/Treasurer/Secretary and Director, Cause Based Commerce, Inc., 237 Beaver Road, Suite A, Walton, KY 41094 and to Leon L. Nowalsky, Esq., Nowalsky & Gothard, 1420 Veterans Memorial Boulevard, Metairie, LA 70005.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Chief
Enforcement Bureau

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-657
Released: July 8, 2024

THE PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES THE ACTIVATION OF THE DISASTER INFORMATION REPORTING SYSTEM FOR COMMUNICATIONS IMPACTED BY HURRICANE BERYL IN TEXAS

The Public Safety and Homeland Security Bureau (PSHSB) of the Federal Communications Commission (Commission), in coordination with the Cybersecurity and Infrastructure Security Agency and the Federal Emergency Management Agency, has announced the activation of the Disaster Information Reporting System (DIRS) in response to communications impacted by Hurricane Beryl. DIRS is a voluntary, web-based system that communications providers, including wireless, wireline, broadcast, cable and Voice over Internet Protocol providers, and satellite providers can use to report communications infrastructure status and situational awareness information during times of crisis.

The Commission requests that communications providers that provide service to any areas listed below expeditiously submit and update information through DIRS regarding, *inter alia*, the status of their communications equipment, restoration efforts, and power (*i.e.*, whether they are using commercial power or back-up power). Communications providers can accomplish this by accessing DIRS at https://www.dirs.fcc.gov. If any user has any problems accessing DIRS, please contact any of the numbers listed below.

In DIRS, this activation will have the following name: HURRICANE BERYL. Communications providers are reminded that for providers that participate in DIRS, the separate Network Outage Reporting System (NORS) obligations are suspended for the duration of the DIRS activation with respect to outages in the municipalities where DIRS has been activated. **Reports are requested at 10:00 a.m. (CDT) on Tuesday, July 9th and every day after that by 10:00 a.m. (CDT) until DIRS is deactivated.**

Communications providers that serve an area listed below and that have already provided contact information in DIRS will be sent an e-mail requesting that they provide the above-referenced status information through DIRS. For any communications providers that have not already logged onto DIRS to input their contact information, the Commission encourages them to do so as soon as possible.

COUNTIES OF INTEREST FOR THIS ACTIVATION INCLUDE THE FOLLOWING COUNTIES IN TEXAS:

Texas: Brazoria, Chambers, Fort Bend, Galveston, Harris, and Matagorda

The FCC continues to monitor this event and may amend the DIRS activation area in the coming days.

For further information, please contact:

Michael Caiafa (202) 418-1311, michael.caiafa@fcc.gov
John Healy (215) 847-8094 john.healy@fcc.gov
David Ahn (202) 418-0853, david.ahn@fcc.gov
FCC 24/7 Operations Center – 202-418-1122

For more information on the FCC's response to Hurricane Beryl in Texas, please go to https://www.fcc.gov/beryl

- 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-24-658
Released: July 8, 2024

THE PUBLIC SAFETY AND HOMELAND SECURITY BUREAU, IN COORDINATION WITH MULTIPLE OTHER BUREAUS, ISSUES PROCEDURES FOR PROVIDING EMERGENCY COMMUNICATIONS IN AREAS IMPACTED BY HURRICANE BERYL IN TEXAS

The Public Safety and Homeland Security Bureau, in coordination with the Media Bureau, Office of International Affairs, Space Bureau, Wireless Telecommunications Bureau, and Wireline Competition Bureau, announces procedures to help communications service providers initiate, resume, and maintain operations in response to Hurricane Beryl in Texas. Bureau-specific guidance is provided below. For additional information, applicants should contact the appropriate Bureau-specific staff identified below.

Those seeking special temporary authority (STA) are reminded of the need to conform to the requirements of section 1.2002 of our rules implementing the Anti-Drug Abuse Act of 1988.[1] Specifically, requests must include the following certification: "Neither the applicant nor any party to this application is subject to a denial of federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862." Presentations that directly relate to the emergency posed by Hurricane Beryl are exempt from the restrictions of the Commission's *ex parte* rules, subject to the provisions of section 1.1204(a)(3) of those rules.[2]

- **Media Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for STA prompted by the effects of Hurricane Beryl and filed pursuant to section 73.1635 of the Commission's rules[3] may be submitted by informal letter or email or, if necessary, by telephone. Licensees of AM & FM radio stations and TV stations may file requests electronically through the Licensing Management System (LMS). All requests must provide the technical parameters of the proposed operation and a point of contact. These requests will be handled as expeditiously as possible. To file STA requests via email or fax, or to receive an oral STA during regular business hours, licensees may contact the following personnel:
  - **Media Bureau Contact During Business Hours:**
    - **Part 73 (Radio Broadcast Services) Subparts A-H; J (as applicable):**
      - For Television Services, Kevin Harding, 202-418-7077, Kevin.Harding@fcc.gov
      - For FM Radio Services, Dale Bickel, 202-418-2706, Dale.Bickel@fcc.gov
      - For AM Radio Services, Jerome Manarchuck, 202-418-7226, Jerome.Manarchuck@fcc.gov
    - **Part 76 (Multichannel Video and Cable Television Service):**

[1] 47 CFR § 1.2002.

[2] 47 CFR § 1.1204(a)(3).

[3] 47 CFR § 73.1365.

- Sean Mirzadegan, 202-418-7111, Sean.Mirzadegan@fcc.gov
- **Part 78 (Cable Television Relay Service):**
  - Jeffrey Neumann, 202-418-2046, Jeffrey.Neumann@fcc.gov

- **Media Bureau Contact During Non-Business Hours:**
  - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov
- Licensees are reminded that the Commission's rules address operations during periods of emergency for licensees authorized under each of the rule parts for Broadcast Television Services, Broadcast Radio Services, and Multichannel Video and Cable Services. These service-specific rules allow licensees to provide emergency communications during a period of emergency in a manner or configuration not specified in the station authorization or in the rules governing such stations.[4]

- **Office of International Affairs Guidance**
  - **Special Temporary Authority (Submarine Cables, International 214s, and International High Frequency Broadcast Station):** Emergency requests for STA related to this event may be submitted by e-mail or, if necessary, by telephone. Applicants also may file requests electronically through the ICFS at http://licensing.fcc.gov/myibfs. The Office will handle all STA requests as expeditiously as possible.
  - To ensure the Office has a complete record of the action, applicants who do not file through the ICFS should follow-up the initial request with an electronic version submitted through the ICFS as soon as possible. In this filing, operators shall note in the first description field on the electronic STA form that this is a Hurricane Beryl request and the date the initial request was granted.
  - **Office of International Affairs Contact During Business Hours:**
    - **Submarine Cables and International 214s**:
      - Stacey Wise-Ashton, 202-418-2214, Stacey.Ashton@fcc.gov
      - Gabrielle Kim, 202-418-0730, Gabrielle.Kim@fcc.gov
      - Karen Johnson, 202-418-7706, Karen.Johnson@fcc.gov
    - **International High Frequency Broadcast Station**:
      - James McLuckie, 202-418-2149, James.McLuckie@fcc.gov
      - Shawna Prebble, 202-418-0740, Shawna.Prebble@fcc.gov
  - **Office of International Affairs Contact During Non-Business Hours:**
    - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Public Safety and Homeland Security Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for STA prompted by the effects of Hurricane Beryl and filed pursuant to section 1.931 of the Commission's rules may be submitted by email or, if necessary, by telephone. Licensees may file requests electronically through the Universal Licensing System (ULS). All requests shall provide the technical parameters of the proposed operation and a point of contact. These requests will be handled as expeditiously as possible. To file STA requests via email or to receive an oral STA during regular business hours, licensees may contact the following personnel: After business hours, contact the FCC Operations Center, below.

[4] 47 CFR §§ 73.1250, 73.1680, 73.3542.

- **Public Safety and Homeland Security Bureau Contact During Business Hours:**
  - **Parts 90 (Public Safety only) and 101 (Public Safety only):**
    - Tracy Simmons, 717-338-2657 or 202-391-2363, Tracy.Simmons@fcc.gov
    - Troy Sieg, 717-338-2567, Troy.Sieg@fcc.gov
- **Public Safety and Homeland Security Bureau Contact During Non-Business Hours:**
  - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Space Bureau Guidance**
  - **Special Temporary Authority (Satellite Earth and Space Stations):** Emergency requests for STA related to this event may be submitted by letter, e-mail or, if necessary, by telephone. Applicants also may file requests electronically through the International Communications Filing System (ICFS) at https://licensing.fcc.gov/myibfs. All requests shall provide the technical parameters of the proposed operation and a point of contact. The Bureau will handle all STA requests on an expedited basis. Consistent with section 309(c)(2)(G) of the Communications Act, as amended, the Bureau may grant STA requests for up to 30 days.[5]
  - **Space Bureau Contact During Business Hours:**
    - **Satellite Space Stations and Earth Stations**:
      - Kathyrn Medley, 202-418-1211, Kathyrn.Medley@fcc.gov
      - Merissa Velez, 202-418-0751, Merissa.Velez@fcc.gov
      - Franco Hinojosa, 202-418-7274, Franco.Hinojosa@fcc.gov
  - **Space Bureau Contact During Non-Business Hours:**
    - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Wireline Competition Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for relief, including STA, prompted by the effects of Hurricane Beryl may be submitted by email or, if necessary, by telephone. Providers may file requests electronically through the Electronic Comment Filing System (ECFS) but should also provide copies of any submissions simultaneously via email to the appropriate FCC staff identified below. Requests shall include supporting details concerning the relief requested, including any technical parameters and contact information.
  - **Wireline Competition Bureau Contact During Business Hours:**
    - **Emergency Requests Pertaining to Discontinuance Under Section 214 of the Communications Act, or to Network Change Notification Requirements:**
      - Rodney McDonald, 202-418-7513, Rodney.McDonald@fcc.gov
    - **Emergency Requests Pertaining to Transfer of Control Under Section 214 of the Communications Act:**
      - Michele Berlove, 202-418-1477, Michele.Berlove@fcc.gov
    - **Emergency Requests Pertaining to Numbering Resources:**
      - Michelle Sclater, 202-418-0388, Michelle.Sclater@fcc.gov
    - **All Other Wireline Provider Requests:**

[5] 47 USC § 309(c)(2)(G).

- FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Wireline Bureau Contact During Non-Business Hours:**
  - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

- **Wireless Telecommunications Bureau Guidance**
  - **Special Temporary Authority:** Emergency requests for STA prompted by the effects of Hurricane Beryl filed pursuant to section 1.931 of the Commission's rules may be submitted by informal letter or email or, if necessary, by telephone. Licensees may file requests electronically through the Universal Licensing System (ULS). All requests shall provide the technical parameters of the proposed operation and a point of contact. These requests will be handled as expeditiously as possible. To file STA requests via email or fax, or to receive an oral STA during regular business hours, licensees may contact the following personnel:
  - **Wireless Telecommunications Bureau Contact During Business Hours:**
    - **Parts 22, 24, and 27 (excluding the Broadband Radio Service and Educational Broadband Service):**
      - Keith Harper, 202-418-2759, Keith.Harper@fcc.gov
    - **Parts 27 (Broadband Radio Service and Educational Broadband Service only), 74, and 101 (excluding Public Safety):**
      - Paul Malmud, 202-418-0006, Paul.Malmud@fcc.gov
    - **Parts 80, 87, 90 (excluding Public Safety), 95, and 97:**
      - Joshua Smith, 717-338-2502 or 202-436-6222, Joshua.Smith@fcc.gov
    - **Parts 90 (Public Safety only) and 101 (Public Safety only):**
      - Tracy Simmons, 717-338-2657 or 202-391-2363, Tracy.Simmons@fcc.gov
      - Troy Sieg, 717-338-2567, Troy.Sieg@fcc.gov
  - **Wireless Telecommunications Bureau Contact During Non-Business Hours:**
    - FCC Operations Center, 202-418-1122, FCCOPS@fcc.gov

Licensees are reminded that sections 22.307, 90.407, and 101.205 of the Commission's rules address operations during periods of emergency for licensees authorized under these rule parts. These rules allow licensees to provide emergency communications during a period of emergency in a manner or configuration not specified in the station authorization or in the rules governing such stations.

In addition, during evening hours, weekends, and holidays, licensees needing FCC emergency assistance or STA requests can call the FCC's Operations Center, which is open 24 hours a day, 7 days a week, at 202-418-1122 or by email at FCCOPS@fcc.gov. 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).

Questions and information requests may be directed to the Commission's main telephone numbers:

- Voice (toll-free): 1-888-225-5322 (1-888-CALL-FCC)
- American Sign Language Videophone (toll-free): 1-844-432-2275

-FCC-

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
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TTY: 888-835-5322

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THE FEDERAL COMMUNICATIONS COMMISSION PROVIDES 24/7 EMERGENCY CONTACT INFORMATION RELATED TO HURRICANE BERYL IN TEXAS

The Federal Communications Commission (FCC) is available to address emergency communications needs 24 hours a day, including throughout the weekend, especially relating to the effects of Hurricane Beryl in Texas.

The Public Safety and Homeland Security Bureau reminds emergency communications providers, including broadcasters, cable service providers, wireless and wireline service providers, satellite service providers, emergency response managers and first responders, and others needing assistance to initiate, resume, or maintain communications operations to contact the FCC Operations Center for assistance at 202-418-1122 or by e-mail at FCCOPS@fcc.gov.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
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DA-24-660
Released: July 8, 2024

THE PUBLIC SAFETY AND HOMELAND SECURITY BUREAU REMINDS ENROLLED USERS ABOUT THE AVAILABILITY OF PRIORITY SERVICES IN AREAS IMPACTED BY HURRICANE BERYL IN TEXAS

The Public Safety and Homeland Security Bureau (PSHSB) reminds enrolled users about the availability of priority services, which help support communications and continuity of operations. Current users should understand how to activate the priority treatment so they are prepared to use the services, if necessary, during emergency response activities related to Hurricane Beryl in Texas.

The Department of Homeland Security's Cybersecurity and Infrastructure Security Agency manages three programs that enable National Security and Emergency Preparedness (NSEP) personnel to effectively communicate when networks are damaged, degraded, or congested. These programs include:

- Government Emergency Telecommunications Service (GETS) for wireline voice communications;
- Wireless Priority Service (WPS) for wireless communications; and
- Telecommunications Service Priority (TSP) for prioritized restoration and provisioning of communications facilities.

PSHSB reminds current users of the following information and best practices, which will increase the effectiveness of the programs:

- Make regular practice/test calls for GETS and WPS.
- Preprogram *272 for key numbers in your phone's contact list.
- Download the GETS/WPS dialer application for smartphones.
- Do *not* use GETS or WPS to dial 911.
- Test WPS after all phone changes.
- Keep your GETS card with you at all times.
- You may experience silence after entering your destination number.
- Using WPS and GETS together may help in certain circumstances.

For other helpful information, please see CISA's Helpful Tips for Users of WPS and GETS.

PSHSB also encourages other entities and organizations that are not currently enrolled, but that may qualify, to consider participating in the priority services programs. These programs are available to qualified personnel from both the public and private sectors that perform NSEP functions. Entities from the following categories may qualify to participate:

- All levels of government (federal, state, local, tribal, territorial);

- Non-governmental organizations; and
- Organizations within critical infrastructure sectors, including certain private sector entities.

For more information about the priority services programs, please visit: https://www.fcc.gov/general/public-safety-homeland-security-policy-areas-priority-services and https://www.cisa.gov/priority-telecommunications-services.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

News Media Information 202-418-0500
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DA-24-661
Released: July 8, 2024

THE FEDERAL COMMUNICATIONS COMMISSION ENCOURAGES DEBRIS REMOVAL AND UTILITY REPAIR TEAMS TO AVOID DAMAGING COMMUNICATIONS INFRASTRUCTURE IN AREAS AFFECTED BY HURRICANE BERYL IN TEXAS

The Public Safety and Homeland Security Bureau (PSHSB) encourages all entities involved with debris clearing operations and utility repairs related to the effects of Hurricane Beryl in Texas to take all steps necessary to avoid damaging critical communications facilities and infrastructure.

Hurricane Beryl may have caused widespread damage and significant impacts to communications services and infrastructure in Texas. Hurricanes and other natural disasters present numerous challenges for those working to restore essential phone and Internet services. For example, debris clearing operations to remove trees, replace damaged utility poles, and open roadways often result in significant, non-disaster related damage to critical communications infrastructure. Such damage can disrupt communications that support the safety and life and property, including 911 calls and first responder communications.

PSHSB encourages those entities working to clear debris, repair utility lines, and restore services to ensure their activities do not damage critical communications. Crews clearing debris should exercise caution to not cut or damage telephone or television cables that may be entangled in the debris. Similarly, entities conducting debris and restoration efforts that require digging (including trenching) are reminded to coordinate with appropriate authorities to ensure buried utilities can be located to avoid damage. Teams on the ground should take proactive steps to preserve and maintain critical communications and take immediate action, if necessary, to mitigate the effects of any damage that may occur to facilities or infrastructure.

For assistance, please contact the FCC Operations Center at 202-418-1122 or by e-mail at FCCOPS@fcc.gov.

PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-662
Released: July 8, 2024

THE FEDERAL COMMUNICATIONS COMMISSION ANNOUNCES THE ACTIVATION OF THE MANDATORY DISASTER RESPONSE INITIATIVE (MDRI) FOR COMMUNICATIONS IMPACTS FROM HURRICANE BERYL IN TEXAS

The Public Safety and Homeland Security Bureau (PSHSB) of the Federal Communications Commission (Commission) hereby notifies the public of the activation of the Mandatory Disaster Response Initiative (MDRI) in the following locations as a result of a Disaster Information Reporting System (DIRS) activation[1] and a request from the State of Texas as a result of Hurricane Beryl:[2]

COUNTIES OF INTEREST FOR THIS MDRI ACTIVATION INCLUDE THE FOLLOWING:

Texas: Brazoria, Chambers, Fort Bend, Galveston, Harris, and Matagorda

Upon the release of this Public Notice, all facilities-based mobile wireless providers operating in the above-referenced areas are hereby notified and required to: (1) provide for reasonable roaming under disaster arrangements when technically feasible;[3] (2) activate mutual aid arrangements with other facilities-based mobile wireless providers for providing aid upon request to those providers during emergencies;[4] (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.[5]

Facilities-based mobile wireless providers that serve the above-referenced areas and that have provided contact information in DIRS prior to Hurricane Beryl will be individually notified that the MDRI has been activated in their area.

PSHSB will announce when the MDRI has been deactivated by subsequent Public Notice. Such Public Notice will also announce any deadlines for facilities-based mobile wireless providers to report the

[1] *Public Safety And Homeland Security Bureau Announces The Activation of the Disaster Information Reporting System for Communications Impacted Hurricane Beryl in Texas*, Public Notice, DA 24-657 (PSHSB) (rel. Jul. 8, 2024).

[2] Section 4.17(a)(3) authorizes the Chief of the Public Safety and Homeland Security Bureau to issue a Public Notice activating the MDRI in response to a state request. 47 CFR § 4.17(a)(3).

[3] *See* 47 CFR § 4.17(a)(3)(i) (detailing criteria for activating roaming under disaster arrangements).

[4] *See* 47 CFR § 4.17(a)(3)(ii) (explaining what mutual aid arrangements must include).

[5] 47 CFR § 4.17(a)(3)(i)-(v); *see also* FCC, *Wireless Network Resiliency During Disasters* (June 4, 2024), https://www.fcc.gov/wireless-network-resiliency-during-disasters.

timing and effectiveness of their MDRI provisions to the Commission.[6] Providers should familiarize themselves with the Commission's MDRI requirements.[7]

Details on the Mandatory Disaster Response Initiative can be found on the FCC website at https://www.fcc.gov/wireless-network-resiliency-during-disasters. For further information concerning this MDRI activation, please contact the following PSHSB staff and the FCC 24/7 Operations Center:

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, fccoperationcenter@fcc.gov

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[6] *See* 47 CFR § 4.17(c).

[7] 47 CFR § 4.17.

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 24-663
Released: July 9, 2024

COMMENTS INVITED ON SECTION 214 APPLICATION(S) TO DISCONTINUE DOMESTIC NON-DOMINANT CARRIER TELECOMMUNICATIONS SERVICES

WC Docket No(s). 24-188

Comments Due: July 24, 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 **August 9, 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 action, as

[1] 47 CFR § 63.71.

[2] 47 U.S.C. § 214.

[3] 47 CFR § 63.71.

[4] *See* 47 CFR § 63.71(f) (stating, in relevant part, that an application filed by a non-dominant carrier "shall be automatically granted on the 31st day… unless the Commission has notified the applicant that the grant will not be automatically effective.").

applicable. Should no petitions for reconsideration, applications for review, or petitions for judicial review be timely filed, the proceeding(s) listed in this Public Notice shall be terminated, and the docket(s) will be closed.

Comments objecting to any of the applications listed in the Appendix must be filed with the Commission on or before **July 24, 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.

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Appendix

1) **Applicant(s): SEI Data, Inc. d/b/a SEI Communications (SEI)**
WC Docket No. 24-188, Comp. Pol. File No. 1924
Link – https://www.fcc.gov/ecfs/search/search-filings/results?q=(proceedings.name:(%2224-188%22))
Affected Service(s) – TDM-based voice service and Lifeline service
Service Area(s) – Indiana (zip code 47250)
Authorized Date(s) – on or after August 9, 2024
Contact(s) – Kimberly Jackson, (202) 418-7393 (voice), Kimberly.Jackson@fcc.gov, of the Competition Policy Division, Wireline Competition Bureau
Note: On July 8, 2024, SEI filed a supplemental letter to clarify certain details regarding the proposed discontinuance.

PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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

DA 24-665
Released: July 10, 2024

OFFICE OF ENGINEERING AND TECHNOLOGY SEEKS COMMENT ON KONTUR, AS PETITION FOR WAIVER OF SECTIONS 15.503(D), 15.31(C), AND 15.521(D) OF THE COMMISSION'S RULES

ET Docket No. 24-209

Comment Date: August 9, 2024
Reply Comment Date: September 10, 2024

By this public notice, we seek comment on a request by Kontur, AS (Kontur) to waive Sections 15.503(d), 15.31(c), and 15.521(d) of the Commission's rules to permit Kontur to certify and market an ultra-wideband (UWB) device that would operate as stepped-frequency, continuous-wave-modulated ground penetrating radar (GPR) transmitter.[1]

Kontur states this device, which is an iteration of and closely resembles a previously approved GPR device, integrates the radar unit into the multichannel antenna array along with other features that would improve the quality and quantity of information used by a variety of industries such as critical infrastructure, transportation, mining, and construction.[2] Kontur states that because the device is a frequency-hopping UWB device it cannot meet the strict definition of a UWB device in the Commission's rules.[3] Kontur further states that the stepped, or frequency-hopping, modulated emissions would not comply with the Commission's rules regarding fractional bandwidth or minimum bandwidth requirements for UWB devices.[4]

Section 15.503(d) of the Commission's rules contains the technical requirements for operating as a UWB device.[5] Section 15.503(d) defines a UWB device as an intentional radiator with either (i) a fractional bandwidth of 0.20 or greater or (ii) a UWB bandwidth of 500 megahertz or greater, regardless of the fractional bandwidth.[6] As use of frequency-hopping by a UWB device such as the proposed Kontur device does not comply with Commission's UWB definition, Kontur seeks a waiver of section 15.503(d) to allow operation of the GPR device.[7]

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[1] *Kontur, AS Petition for Waiver of Sections 15.503(d), 15.31(c), and 15.521(d) of the Commission's Rules*, ET Docket No. 24-209 (filed Jan.. 23, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/10123226735873 (Kontur Waiver Request).

[2] Kontur Waiver Request at 1-3.

[3] *Id.* at 4-6, *See also* 47 CFR § 15.503(d).

[4] Kontur Waiver Request at 6-7. *See also* 47 CFR § 15.31(c) and 15.521(d).

[5] 47 CFR § 15.503(d).

[6] 47 CFR § 15.503(d).

[7] Kontur Waiver Request at 4-6.

Section 15.31(c) and 15.521(d) of the Commission's rules require UWB device emissions to be measured with the transmitter operating with the stepping function stopped.[8] Kontur states that with the sweep, step function, or hopping stopped, it is unlikely swept frequency or stepped frequency modulated emissions would comply the fractional bandwidth or minimum bandwidth requirements.[9] Kontur states use of frequency-hopping modulation will improve the performance and speed of the device, while also not increasing the potential for interference.[10] Consequently, Kontur seeks a waiver of sections 15.31(c) and 15.521(d).[11]

We seek comment on Kontur's Waiver Request. To develop a complete record on the issues presented by this request, this proceeding will be treated, for *ex parte* purposes, as "permit-but-disclose" in accordance with Section 1.1200(a) of the Commission's rules, subject to the requirements under Section 1.1206(b). Kontur filed its petition electronically as a non-docketed proceeding in the Commission's Electronic Comment Filing System. We have opened a new docket, **ET Docket 24-209** to facilitate consideration of this request and have moved Kontur's submission into this docket. Parties should file all comments and reply comments in **ET Docket 24-209**.

Filing Requirements. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.149, interested parties may file comments in ET Docket No. 24-209 on or before the date indicated on the first page of this document and should reference this public notice. 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://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 overnight courier, or by First-Class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
    - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. 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 overnight deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
    - U.S. Postal Service First-Class, Express, and Priority mail must be addressed to Secretary, Federal Communications Commission, 45 L St. NE, Washington, DC 20554.

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[8] 47 CFR §§ 15.31(c), 15.521(d).

[9] Kontur Waiver Request at 6-7.

[10] *Id.* at 6.

[11] *Id.*

Parties should also send a copy of their filings to Hugh Van Tuyl, Office of Engineering and Technology, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20002, or by e-mail to hugh.vantuyl@fcc.gov.

Documents associated with this docket will be available for public inspection through the Commission's ECFS.

By the Chief, Office of Engineering and Technology

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PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-666
Released: July 10, 2024

WIRELINE COMPETITION BUREAU REMINDS SECURE AND TRUSTED COMMUNICATIONS NETWORKS REIMBURSEMENT PROGRAM RECIPIENTS OF THEIR AUGUST 12, 2024 SPENDING REPORT FILING OBLIGATION

WC Docket No. 18-89

By this Public Notice, the Wireline Competition Bureau (Bureau) reminds recipients[1] in the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) of their obligation to file reimbursement spending reports with the Federal Communications Commission (Commission) "[w]ithin 10 days after the end of January and July . . . starting with the recipient's initial draw down of reimbursement funds."[2] Accordingly, all recipients who have been notified of the approval of a reimbursement claim request must submit their next spending report by Monday, August 12, 2024.[3] For additional information about Reimbursement Program spending report requirements, please refer to the *Initial Spending Report PN*,[4] as well as the User Guide for submitting spending reports, available at https://www.fcc.gov/document/updated-user-guide-supply-chain-reimbursement-program-spending-reports.

Recipients must submit their spending reports through the Supply Chain Reimbursement Program Online Portal, https://fccprod.servicenowservices.com/scrp by completing FCC Form 5640 Part L: Spending Reports. Requests for confidential treatment must be submitted by filing a written request

[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(l)(1); *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, 14360, para. 188 (2020) (*2020 Supply Chain Order*). This reporting obligation terminates once the recipient has filed a "final spending report showing the expenditure of all funds received as compared to the estimated costs" submitted. 47 CFR § 1.50004(l)(2). The final spending report is due after the filing of a final certification by the recipient. *2020 Supply Chain Order*, 35 FCC Rcd at 14360, para. 188.

[3] The due date is August 12 because the normal due date, August 10, falls on a Saturday.

[4] *Wireline Competition Bureau Reminds Secure and Trusted Communications Networks Reimbursement Program Recipients of Their Spending Report Filing Obligation*, WC Docket No. 18-89, Public Notice, DA 23-25 (WCB Jan. 11, 2023).

electronically in WC Docket No. 18-89 in the Commission's Electronic Comment Filing System (ECFS), https://www.fcc.gov/efcs.

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.

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PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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

DA 24-667
Released: July 11, 2024

WIRELINE COMPETITION BUREAU ANNOUNCES ADDITIONAL 120 RATE-OF-RETURN CARRIER STUDY AREAS ELECTING INCENTIVE REGULATION FOR THEIR BUSINESS DATA SERVICES

WC Docket No. 17-144

By this Public Notice, the Wireline Competition Bureau (Bureau) announces that an additional 120 rate-of-return local exchange carrier (carrier) study areas in 33 states elected to move their business data services (BDS) offerings to incentive regulation effective July 2, 2024 pursuant to section 61.50 of the Commission's rules[1] and the *Rate-of-Return BDS Order*[2] and *Enhanced A-CAM Order*.[3]

In the *Rate-of-Return BDS Order*, the Commission permitted rate-of-return carriers receiving Alternative Connect America Cost Model (A-CAM) or fixed high-cost universal service support to voluntarily elect to transition certain BDS offerings from rate-of-return to incentive regulation.[4] The Commission provided eligible carriers with two initial opportunities to elect BDS incentive regulation in 2019 and 2020.[5] The Commission also provided eligible carriers that accept future offers of A-CAM support or that otherwise transition away from legacy support mechanisms with an additional opportunity to elect incentive regulation for their BDS offerings effective July 1 in the tariff year following their election.[6]

In the *Enhanced A-CAM Order*, the Commission adopted the Enhanced A-CAM program as a voluntary path for A-CAM carriers and legacy rate-of-return carriers to elect to receive Enhanced A-CAM support beginning January 1, 2024.[7] The Commission acknowledged that, "[p]ursuant to the *Rate-of-Return BDS Order*, Enhanced A-CAM recipients that have not already done so will also be eligible to move their business data services offerings to incentive regulation."[8] Enhanced A-CAM recipients

[1] 47 CFR § 61.50. Ordinarily, incumbent local exchange carriers are required to submit annual access charge tariff filings to be effective July 1. This year, however, because of the way in which the filing deadlines fell on the calendar, the Bureau established an effective date of July 2, 2024. *July 1, 2024 Annual Access Charge Tariff Filings*, WC Docket No. 24-41, Order, DA 24-294, at 2-3, paras. 4-5 (WCB Mar. 27, 2024).

[2] *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers et al.*, WC Docket No. 17-144 et al., Report and Order, Further Notice of Proposed Rulemaking, and Second Further Notice of Proposed Rulemaking, 33 FCC Rcd 10403, 10404, para. 1 (2018) (*Rate-of-Return BDS Order*).

[3] *Connect America Fund et al*., WC Docket No. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 38 FCC Rcd 7040, FCC 23-60, at 2, para. 1 (Jul. 24, 2023) (*Enhanced A-CAM Order*).

[4] *Rate-of-Return BDS Order*, 33 FCC Rcd at 10404, para. 1; 47 CFR §§ 61.50, 69.801 *et seq*.

[5] *Rate-of-Return BDS Order*, 33 FCC Rcd at 10412-13, para. 23.

[6] *Id*. at 10411, para. 20; 47 CFR § 61.50(l)(3).

[7] *See Enhanced A-CAM Order* at 2, para. 2.

[8] *See id*. at 39, para. 91 (citing *Rate-of-Return BDS Order*, 33 FCC Rcd 10421-22, para. 44).

electing BDS incentive regulation this year were required to notify the Bureau by May 1, 2024 that they elect BDS incentive regulation effective July 2024.[9] There were 120 rate-of-return carrier study areas that elected BDS incentive regulation effective July 2, 2024. As a result of the 2019, 2020, and 2024 elections, a total of 348 rate-of-return carrier study areas have elected BDS incentive regulation.[10]

Carriers electing BDS incentive regulation this year were eligible to begin detariffing their high capacity (above DS3) business data services and low capacity (DS3 and below) end user channel termination in study areas deemed competitive beginning in tariff filings effective July 2, 2024 and must detariff these BDS offerings no later than July 1, 2027.[11] Enhanced A-CAM recipients electing BDS incentive regulation are also required to detariff their low capacity (DS3 and below) end user channel termination services in competitive study areas within 36 months after those services are deemed competitive by the competitive market test pursuant to sections 61.50(j) and 69.803(c) of the Commission's rules.[12]

For further information about this Public Notice, please contact Christopher Koves, Associate Division Chief, Pricing Policy Division, Wireline Competition Bureau, Christopher.Koves@fcc.gov.

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[9] 47 CFR § 69.3(i)(6), (i)(1); *Rate-of-Return BDS Order*, 33 FCC Rcd at 10445, para. 119; *Wireline Competition Bureau Authorizes 368 Companies in 44 States to Receive Enhanced Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, DA 23-1025, at 3-4 (WCB Oct. 30, 2023) (*Enhanced A-CAM Authorizations PN*).

[10] *See Wireline Competition Bureau Announces Rate-of-Return Carriers Electing Incentive Regulation for their Business Data Services*, WC Docket No. 17-144, Public Notice, 35 FCC Rcd 7037, 7037 (WCB 2020) (noting that as of 2020, a total of 227 rate-of-return carrier study areas were subject to BDS incentive regulation).

[11] *Enhanced A-CAM Authorizations PN* at 4; *see* 47 CFR § 61.50(k)(3) (BDS offerings provided by rate-of-return carriers electing BDS incentive regulation that are subject to mandatory detariffing); *id*. § 61.50(j) (competitive market test for rate-of-return carriers electing BDS incentive regulation).

[12] 47 CFR § 61.50(k)(3); *Rate-of-Return BDS Order*, 33 FCC Rcd at 10452-53, paras. 140-145. The next triennial update to the competitive market test results is in 2026. *See Wireline Competition Bureau Releases Results of Tests Required by Sections 61.50(j) and 69.803(c) of the Commission's Rule*s, WC Docket Nos. 21-17 and 17-144, Public Notice, 38 FCC Rcd 457, 457 (WCB 2023); 47 CFR §§ 61.50(j)(2), 69.803(c).

APPENDIX

Rate-of-Return Carriers Electing Incentive Regulation for Business Data Services
Effective July 2, 2024

Rate-of-Return Carrier Study Area Name	State	Study Area Code
Albany Mutual Telephone Association	MN	361347
Alma Communications Company	MO	421860
Alteva of Warwick LLC	NY	150135
Alteva of Warwick LLC	NJ	160135
Arkwest Communications	AR	401734
Arlington Telephone Company	NE	371517
Arrowhead Communications Corporation	MN	361374
Arthur Mutual Telephone Company, Inc.	OH	300586
Barnardsville Telephone Company	NC	230469
Ben Lomand Rural Telephone Cooperative, Inc.	TN	290553
Benkelman Telephone Co. Inc.	NE	372455
Bixby Telephone Company	OK	431969
Bledsoe Telephone Cooperative, Inc.	TN	290554
Bloomingdale Telephone Company Inc.	MI	310679
Bluffton Telephone Company	SC	240512
Blue Valley Tele-Communications, Inc.	KS	411746
Buckland Telephone Company	OH	300591
Callaway Telephone Company	MN	361365
Cameron Telephone Company, L.L.C.	TX	440425
Cameron Telephone Company, L.L.C.	LA	270425
Carr Telephone Company	MI	310683
Chazy and Westport Telephone Corporation	NY	150079
Clements Telephone Company	MN	361372
Conneaut Telephone Company, Inc.	OH	300606
Consolidated Telephone Company	MN	361373
Dalton Telephone Company	NE	371537
DeKalb Telephone Cooperative, Inc.	TN	290562
Direct Communications Cedar Valley	UT	500758
Dobson Technologies, Inc.	OK	431988
DTC Holding Company	NE	371540
Eagle Valley Telephone Company	MN	361383
East Otter Tail Telephone Company	MN	361385
Eastern Nebraska Telephone Company	NE	371542
Elizabeth Telephone Company, L.L.C.	LA	270430
Ellerbe Telephone Company	NC	230478
Elsie Telephone Company	NE	371518
Emily Cooperative Telephone Company	MN	361387
Empower Telecom, Inc.	VA	190219

Rate-of-Return Carrier Study Area Name	State	Study Area Code
Farmers Telecommunications Cooperative, Inc.	AL	250290
Farmers' Telephone Company	IA	351175
Felton Telephone Company	MN	361391
Filer Mutual Telephone Company	ID	472220
Filer Mutual Telephone Company	NV	552220
Flat Rock Telephone Company	IL	341012
Foothills Rural Telephone Cooperative Corporation, Inc.	KT	260406
Fort Mojave Telecommunications, Inc.	AZ	452200
Ganado Telephone Co., Inc d/b/a YK Communications	TX	442076
Germantown Telphone Company, Inc.	NY	150097
Goldfield Telephone Company	IA	351188
Granite State Telephone	NH	120039
Great Plains Communications LLC	NE	371577
Hancock Rural Telephone Corporation d/b/a NineStar Connect	IN	320775
Hancock Telephone Company	NY	150099
Hargray Telephone Company	SC	240523
Hartman Telephone Exchanges, Inc.	NE	371557
Highland Telephone Cooperative	VA	190237
Holway Telephone Company	MO	421929
Home Telephone Company	MN	361408
Interior Telephone Company	AK	613011
K & M Telephone Company, Inc.	NE	371565
K.L.M. Telephone Company	MO	421900
Kasson & Mantorville Telephone Company	MN	361412
Lakeland Communications	WI	330902
Lavaca Telephone Company-AR	AR	401704
Lavaca Telephone Company-OK	OK	431704
Loretel Systems, Inc.	MN/ND	361443
Manawa Telephone Co.	WI	330905
McDonald County Telephone Company	MO	421912
McLoud Telephone Company	OK	432006
Mediapolis Telephone Company	IA	351251
Melrose Telephone Company	MN	361430
Midwest Telephone Company	MN	361431
Miller Telephone Company, Inc	MO	421920
Minburn Telecommunications, Inc.	IA	351158
Minburn Telephone Company	IA	351245
Molalla Telephone Company	OR	532383
Moundville Telephone Company, Inc.	AL	250307
Mukluk Telephone Company, Inc.	AK	613016
Nelson Communications Cooperative	WI	330918

Rate-of-Return Carrier Study Area Name	State	Study Area Code
New Hope Telephone Cooperative	VA	190239
New Lisbon Telephone Company, Inc.	IN	320796
Northeast Louisiana Telephone Co., Inc. d/b/a Pelican Broadband	LA	270435
Nunn Telephone Company	CO	462194
Ontario Telephone Company	NY	150112
Osakis Telephone Company	MN	361448
Panora Communications Cooperative	IA	351271
Peoples Mutual Telephone Company	VA	190244
Peoples Rural Telephone Coop	KY	260415
Redwood County Telephone Company	MN	361472
Richland-Grant Telephone Cooperative, Inc.	WI	330942
Rock County Telephone Company	NE	371586
Royal Telephone Company	IA	351283
S&A Telephone Company	KS	411829
Saluda Mountain Telephone Company	NC	230498
Scio Mutual Telephone Association	OR	532397
Service Telephone Company	NC	230500
Siren Telephone Company	WI	330949
South Park Telephone Company	CO	462195
South Slope Cooperative Telephone Company	IA	351298
Southeast Nebraska Communications, Inc.	NE	371591
Sunman Telecommunications LLC	IN	320825
Swisher Telephone Company	IA	351304
The Blair Telephone Company	NE	371524
The Farmers Mutual Telephone Company of Stanton, Iowa	IA	351174
The Peoples Telephone Company of Bigfork	MN	361453
The Rye Telephone Company	CO	462203
Tri-County Telephone Membership Corporation	NC	230505
Trumansburg Telephone Company	NY	150131
Twin Lakes Telephone Cooperative Corporation	TN	290579
Twin Valley-Ulen Telephone Company	MN	361491
Union Springs Telephone Company	AL	250322
Venture Communications Cooperative	SD	391680
Wamego Telephone Company, Inc.	KS	411845
Wauneta Telephone Company	NE	371597
West Side Telephone Company, Inc	PA	170277
West Side Telephone Company, Inc	WV	200277
Wilkes Telephone Membership Corporation	NC	230510
Wood County Telephone Co.	WI	330974
Yadkin Valley Telephone Membership Corporation	NC	230511
Zenda Telephone Company, Inc.	KS	411852

PUBLIC NOTICE

Federal Communications Commission
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DA 24-668
Released: July 10, 2024

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON SDF, INC.'S CONTRABAND INTERDICTION SYSTEM CERTIFICATION APPLICATION

GN Docket No. 13-111

Comment Deadline: August 9, 2024

On July 13, 2021, the Commission released the *Second Report and Order* in this proceeding, which adopted a framework requiring the disabling of contraband wireless devices detected in correctional facilities upon satisfaction of certain criteria.[1] On December 17, 2021, the Wireless Telecommunications Bureau (Bureau) issued the *Guidance Public Notice*, which established the minimum criteria that must be demonstrated in and provided guidance on the submission of a Contraband Interdiction System (CIS) certification application.[2] Specifically, phase one of the CIS certification application process requires an applicant to describe the legal and technical qualifications of and provide a test plan for the system that the applicant seeks to use as the basis for qualifying requests for contraband device disabling.[3] Per the *Second Report and Order*, stakeholders will have an opportunity to review and comment on the CIS certification applications prior to testing or deploying at a correctional facility.[4]

By this Public Notice, the Bureau announces that the CIS application listed in Attachment A hereto has been found complete, and stakeholders are invited to review the application and file comments using the Commission's Electronic Comment Filing System (ECFS).[5] All filings must reference **GN Docket 13-111 and the relevant file number**, as listed in Attachment A. Stakeholders seeking review of confidential filings are required to follow the procedures set forth in the Protective Order.[6] We call attention to a change to the Commission's typical protective order provisions that is being adopted for this proceeding. Under this Protective Order, experts employed by wireless providers participating in the proceeding will be permitted to have access to Confidential Information. Experts employed by other commercial entities will continue to be prohibited from such access. We urge all parties who plan to seek

[1] *See Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, GN Docket No. 13-111, Second Report and Order and Second Further Notice of Proposed Rulemaking, 36 FCC Rcd 11813, 11814, para. 2 (2021) (*Second Report and Order*); *see also Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, GN Docket No. 13-111, Erratum (rel. Aug. 3, 2021).

[2] *Wireless Telecommunications Bureau Provides Guidance for Filing Contraband Interdiction System Certification Applications and Self-Certifications*, GN Docket No. 13-111, Public Notice, DA 21-1572, 2-4, paras. 5-6, 9-10 (WTB 2021) (*Guidance Public Notice*).

[3] *Guidance Public Notice*, at 2-4, paras. 5-10.

[4] *Second Report and Order*, 36 FCC Rcd at 11822, 11824, paras. 24, 27.

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

[6] *See Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, GN Docket No. 13-111, Protective Order, DA 23-223 (Mar. 24, 2023).

access to confidential information in this proceeding (and who have filed or have a good faith intention to file material comments) to promptly file an Acknowledgement of Confidentiality, as set forth in the Protective Order.

Additional Information. For further information regarding this Public Notice, please contact Halie Peacher, Attorney Advisor, WTB, Mobility Division at (202) 418-0514 or Halie.Peacher@fcc.gov.

-FCC-

ATTACHMENT A

CIS Certification Application Name and Associated File Number

CIS Certification Applicant	File Number
SDF, Inc.[7]	0007

[7] Application of SDF, Inc. for Certification of Contraband Interdiction System Under 47 CFR Section 20.23, GN Docket No. 13-111 (filed Apr. 17, 2024); First Supplement to Application of SDF, Inc. for Certification of Contraband Interdiction System Under 47 CFR Section 20.23, GN Docket No. 13-111 (filed July 10, 2024); Second Supplement to Application of SDF, Inc. for Certification of Contraband Interdiction System Under 47 CFR Section 20.23, GN Docket No. 13-111 (filed July 10, 2024).

PUBLIC NOTICE

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DA 24-669
Released: July 10, 2024

WIRELINE COMPETITION BUREAU ANNOUNCES CERTAIN RDOF CENSUS BLOCK GROUPS ARE ELIGIBLE FOR OTHER FUNDING PROGRAMS

AU Docket No. 20-34
WC Docket No. 19-126
WC Docket No. 10-90

By this Public Notice, the Wireline Competition Bureau (WCB) announces that certain Rural Digital Opportunity Fund (RDOF) census block groups (CBG) are now eligible for other funding programs. Specifically, Charter Fiberlink – Michigan, LLC (Charter Fiberlink Michigan) (Study Area Code (SAC) 319053), Charter Fiberlink – Missouri, LLC (Charter Fiberlink Missouri) (SAC 429051), Charter Fiberlink OR-CCVII, LLC (Charter Fiberlink OR) (SAC 539021) and Charter Fiberlink CCO, LLC (Charter Fiberlink CCO) (SAC 339064) (collectively Charter) have notified the Commission that they will not fulfill their commitment to offer voice and broadband service to certain additional CBGs within their RDOF supported service areas in Michigan, Missouri, Oregon, and Wisconsin.[1] Co-Mo Comm, Inc. d/b/a Co-Mo Connect (Co-Mo Connect) (SAC 429038) has also notified the Commission that it will not fulfill its commitment to offer voice and broadband service to certain CBGs within its

[1] Letter from Luke Platzer, Counsel to Charter Communications, to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, WC Docket No. 19-126 et al. (filed May 31, 2024). CCO Holdings, LLC assigned its Michigan, Missouri, Oregon, and Wisconsin winning bids to Charter Fiberlink Michigan, Charter Fiberlink Missouri, Charter Fiberlink OR, and Charter Fiberlink CCO. *Long-Form Applicants in the Rural Digital Opportunity Fund Phase I Auction (Auction 904)*, AU Docket No. 20-34 et al., Public Notice, 36 FCC Rcd 4140 (WCB/OEA 2021) (*Auction 904 Long-Form Applicants Public Notice*). Charter Fiberlink Michigan was authorized to receive $21,332,041.40 in RDOF support over 10 years to serve 35,571 locations in Michigan, Charter Fiberlink Missouri was authorized to receive $48,155,020.70 in RDOF support over 10 years to serve 60,640 locations in Missouri, Charter Fiberlink Oregon was authorized to receive $33,534,210.20 in RDOF support over 10 years to serve 15,139 locations in Oregon, and Charter Fiberlink CCO was authorized to receive $163,258,003.60 in RDOF support over 10 years to serve 140,238 locations in Wisconsin. *Rural Digital Opportunity Fund Support Authorized for 5,657 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, 37 FCC Rcd 3570 (WCB/OEA 2022); *Rural Digital Opportunity Fund Support Authorized for 1,345 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, 37 FCC Rcd 4897 (WCB/OEA 2022). On May 10, 2024, the Bureau announced that Charter had defaulted on the eligible census blocks within CBGs covering 1,675 locations in Michigan, 10,438 locations in Missouri, and 11,322 locations in Wisconsin. *Wireline Competition Bureau Announces Certain RDOF Census Block Groups are Eligible for Other Funding Programs*, AU Docket No. 20-34 et al., Public Notice, DA 24-449 (WCB May 10, 2024) (*Charter Post-Authorization Default Public Notic*e). With this additional notification, Charter Fiberlink Michigan is defaulting on 2,253 additional locations in Michigan, Charter Fiberlink Missouri is defaulting on 5,115 additional locations in Missouri, Charter Fiberlink OR is defaulting on 820 locations in Oregon, and Charter Fiberlink CCO is defaulting on 3,661 additional locations in Wisconsin. Charter remains obligated to deploying service to the remaining CBGs in its RDOF auction supported areas.

RDOF-supported service area in Missouri.[2] Additionally, Coleman County Telephone Cooperative, Inc. (CCTC) (SAC 442057) has notified the Commission of its decision to withdraw from the RDOF support program in all the CBGs covered by its authorized winning bids in Texas.[3] The carriers will be subject to penalties, as described below, for their defaults. Finally, we grant Charter's request that we revise the public notice we released on May 10, 2024 to reauthorize Charter in 16 CBGs it "inadvertently included" in a previous default.[4] Accordingly, the eligible census blocks within these CBGs will be added back to Charter's service area and Charter will again have an enforceable commitment to serve the census blocks with voice and broadband service pursuant to its RDOF obligations.

By announcing that 1) Charter will not serve the identified eligible census blocks within the defaulted CBGs in Michigan, Missouri, Oregon, and Wisconsin, 2) Co-Mo Connect will not serve the identified eligible census blocks within the defaulted CBGs in Missouri, and 3) CCTC is defaulting on the eligible census blocks within the CBGs covered by all its authorized winning bids in Texas,[5] we notify stakeholders that the relevant census blocks are eligible for funding from other federal and state funding programs subject to the rules of the other programs, furthering our responsibility to coordinate with other agencies to maximize the deployment of high-quality broadband service across the United States.[6] To promote the efficient use of broadband funding, a number of funding programs make areas ineligible for broadband deployment funding where a service provider is already subject to an enforceable commitment

[2] Letter from Jordan Fischer, Chief Financial Officer, Co-Mo Comm, Inc. d/b/a Co-Mo Connect, to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, WC Docket No. 19-126 et al. (filed June 28, 2024). The Rural Electric Cooperative Consortium assigned some of its Missouri winning bids to Co-Mo Connect. *Auction 904 Long-Form Applicants Public Notice.* Co-Mo Connect was authorized to receive $14,091,983.40 in RDOF support over 10 years to serve 16,869 locations in Missouri. *Rural Digital Opportunity Fund Support Authorized for 830 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, 37 FCC Rcd 6072 (WCB/OEA 2022). Co-Mo Connect is defaulting on 2,014 locations in Missouri. Co-Mo Connect remains obligated to deploying service to the remaining CBGs in its RDOF auction supported areas.

[3] Letter from Rodney Dean, Board of Directors President, Coleman County Telephone Cooperative, Inc., to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, WC Docket No. 19-126 et al. (filed Jul. 1, 2024). CCTC was authorized to receive $3,142.80 in RDOF support over 10 years to serve 11 locations in Texas. *Rural Digital Opportunity Fund Support Authorized for 2,008 Winning Bids*, AU Docket No. 20-34 et al., Public Notice, 36 FCC Rcd 17198 (WCB 2021) (*CCTC Authorization Public Notice*).

[4] *See generally Charter Post-Authorization Default Public Notice*; *see also* Letter from Luke Platzer, Counsel to Charter Communications, to Trent Harkrader, Chief, Wireline Competition Bureau, FCC, WC Docket No. 19-126 et al. (filed May 31, 2024) (*Charter Erratum Request*).

[5] 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).

[6] 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.*) (BICA) (requiring the Federal Communications Commission, the Department of Agriculture, and the National Telecommunications and Information Administration to "enter into an interagency agreement requiring coordination between the covered agencies for the distribution of funds for broadband deployment . . . ."). On June 25, 2021, the agencies announced that they had entered into an agreement. 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-sign-interagency-pact-broadband-funding-deployment. In an effort to further facilitate broadband deployment funding coordination, on May 9, 2022, the FCC, USDA, and NTIA entered into an interagency agreement with the Department of Treasury. 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.

to serve.[7] Our announcement avoids leaving these areas unserved for the duration of the RDOF deployment terms,[8] because providers may now have access to alternative funding to serve these areas.

These carriers remain subject to all eligible telecommunications carrier (ETC) obligations unless and until they follow the relevant procedures to relinquish their designations.[9] Additionally, they cannot discontinue voice service without Commission approval.[10]

Co-Mo Connect Defaults and Additional Charter Defaults. In Appendix A, we provide a list of all the additional RDOF eligible census blocks contained within the CBGs that Charter will not serve in Michigan, Missouri, Oregon, and Wisconsin, and the RDOF eligible census blocks contained within the CBGs that Co-Mo Connect will not serve in Missouri. In addition, we will also update the Broadband Funding Map to remove these census blocks from Charter and Co-Mo Connect's service areas.[11] Below, we provide a limited waiver of the Commission's non-compliance rules to adjust support to reflect that these areas will not be served. Charter and Co-Mo Connect otherwise remain subject to RDOF non-compliance measures for failure to meet the terms and conditions of support, including support recovery for all unserved locations at the end of the deployment term.[12] We will continue to use the available tools to monitor Charter and Co-Mo Connect's compliance with the applicable deployment obligations in their

[7] *See, e.g.*, Department of Commerce, National Telecommunications and Information Administration, Broadband Equity, Access, and Deployment (BEAD) Program Notice of Funding Opportunity at 36-37 & n.52 (May 13, 2022), https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf (BEAD Program NOFO) (explaining that any location that is already subject to an enforceable commitment for the deployment of qualifying broadband cannot be treated as unserved or underserved); Department of Commerce, National Telecommunications and Information Administration, Tribal Broadband Connectivity Program Round 2 Notice of Funding Opportunity at 10-11, 28 (July 27, 2023), https://www.ntia.gov/sites/default/files/2023-07/ntia-tbcp-round2-nofo.pdf ("A Tribal Government may not certify Tribal Lands covered under an Enforceable Buildout Commitment as defined [in the NOFO] . . ., as Unserved"); Department of Agriculture, Rural Utilities Service, Corrected Notice of Funding Opportunity for the Community Connect Grant Program for Fiscal Year 2023, 88 Fed. Reg. 87750, 87751 (Dec. 19, 2023) ("Areas receiving, or areas that have received final approval for, other federal funding to construct terrestrial facilities providing at least 10/1 Mbps service in the project Proposed Funded Service Area as of the date of this notice, and which have been reported to the agency, are ineligible."); Department of Agriculture, Rural Utilities Service, Rural eConnectivity (ReConnect) Program Notice of Funding Opportunity, 89 Fed. Reg. 13035, 13036 (Feb. 21, 2024) (defining an enforceable commitment to mean "a legally enforceable obligation by any federal, state, or local agency, utilizing Federal Funds, to provide broadband service with speeds of at least 100 megabits per second (Mbps) downstream and 20 (Mbps) upstream"); Department of Treasury, Guidance for the Coronavirus Capital Projects Fund for States, Territories, and Freely Associated States, at 3-4 (Sept. 2021), https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf ("To the extent Recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable wireline service at speeds of at least 100 Mbps of download speed and 20 Mbps of upload speed, the Recipient should ensure that the Capital Projects Fund grant funding will not be used for costs that will be reimbursed by the other federal or state funding stream(s). That is, Capital Projects Fund grant funds must be used only for complementary purposes.").

[8] RDOF recipients authorized in 2021 and 2022 must offer the required service to 100% of their original location total by December 31, 2027 and December 31, 2028, respectively. *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*). If more locations than the original estimated are identified during the support term, recipients will have an additional two years to serve the additional locations subject to limited exceptions. *Id.* at 710, para. 49.

[9] 47 U.S.C. § 214(e)(4).

[10] 47 U.S.C. § 214(a); 47 CFR § 63.71.

[11] Federal Communications Commission, Broadband Funding Map, https://fundingmap.fcc.gov/home (last visited June 28, 2024).

[12] *See, e.g.*, 47 CFR §§ 54.320(c), (d), 54.806(b), (c).

remaining supported service areas.[13]

While Charter and Co-Mo Connect notified the Commission that they will not serve the identified census blocks, Charter and Co-Mo Connect are not withdrawing from RDOF. The RDOF support program rules do not provide for partial withdrawals from the program. The Commission takes compliance with the terms and conditions of its high-cost programs seriously and imposes non-compliance measures if the requirements are not met.[14] Charter and Co-Mo Connect remain subject to the program rules, including the applicable non-compliance measures,[15] for the duration of the support term except as explained below, and remain committed to serve the eligible census blocks within the remaining CBGs in their supported service areas with voice and broadband service meeting program requirements.

On our own motion, we find good cause to waive in part sections 54.320(d) and 54.806(c)(1) of the Commission's rules for the census blocks identified in Appendix A consistent with precedent,[16] and instruct the Universal Service Administrative Company (USAC) to stop paying support for the identified census blocks pursuant to section 54.320(c) of the Commission's rules.[17] Generally, the Commission's rules may be waived for good cause shown.[18] 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.[19]

Despite our limited waiver, which is narrowly limited to stopping payments of future support for the identified census blocks, Charter and Co-Mo Connect otherwise remain subject to section 54.320(d) and 54.806(c)(1) of the Commission's rules.[20] If Charter or Co-Mo Connect fail to meet their interim service milestones by not serving the required number of locations based on their original authorized location totals, they will be placed in the associated non-compliance tier.[21] If the applicable non-compliance tier requires that we withhold an amount of support that exceeds the amount of support we

[13] *See, e.g.*, 47 CFR §§ 54.316, 54.320(d)(1).

[14] *See, e.g.,* 47 CFR §§ 54.320(c), (d), 54.806(b), (c); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15694-700, paras. 142-54 (2014) (*2014 Connect America Order*) (adopting a framework for support reductions, support recovery, and reporting obligations that are calibrated to the extent of a support recipient's non-compliance with service milestones); *RDOF Order*, 35 FCC Rcd at 710, para. 48 (explaining that compliance with RDOF deployment obligations would be determined at the state level).

[15] *See, e.g*., 47 CFR §§ 54.320(c), (d), 54.806(b), (c).

[16] *Wireline Competition Bureau Announces Certain RDOF and CAF II Auction Census Block Groups are Eligible for Other Funding Programs*, AU Docket No. 20-34 et al., Public Notice, DA 24-181 (WCB Feb. 28, 2014).

[17] 47 CFR §§ 54.320(c), (d), 54.806(b), (c)(1). Section 54.320(c) of the Commission's rules states that support recipients that "fail to comply with public interest obligations or any other terms and conditions may be subject to further action, including . . . reductions in support amounts . . . ." 47 CFR § 54.320(c). Future monthly support payments will be reduced pro rata based on the number of locations associated with the CBGs that the support recipient is defaulting on and calculated as follows, subject to any applicable non-compliance tiers: ((total monthly authorized support/total authorized locations) x (total authorized locations – defaulted locations)). Subject to support withholding pursuant to any applicable non-compliance tiers, Charter's monthly support for RDOF will be approximately $159,236 in Michigan, $304,529 in Missouri, $264,315 in Oregon, and $1,231,485 in Wisconsin, and Co-Mo Connect's monthly support for RDOF will be approximately $103,412 in Missouri.

[18] 47 CFR § 1.3.

[19] *See Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), *cert. denied*, 93 S.Ct. 461 (1972) (*WAIT Radio)*) (*Northeast Cellular*).

[20] 47 CFR §§ 54.320(d), 54.806(c)(1).

[21] 47 CFR §§ 54.320(d)(1), 54.806(c).

have stopped paying for the identified census blocks, we will withhold an amount of additional support that equals the difference between: 1) the amount of support required to be withheld pursuant to section 54.320(d)(1), and 2) the amount of support we stopped paying for the identified census blocks.[22] If the applicable non-compliance tier requires that we withhold less support than the amount of support we have stopped paying for the identified census blocks pursuant to our limited waiver, we will make no further adjustments to Charter's or Co-Mo Connect's monthly disbursement, i.e., we will withhold no support other than the support we stopped paying for the identified census blocks.[23] At the end of the deployment period, we will apply section 54.806(c)(1) to recover support for all unserved locations, including the locations covered by the identified census blocks.[24] Any additional issues related to the support recovery required by section 54.806(c)(1) of the Commission's rules will be addressed in a separate release.[25]

CCTC. We consider CCTC to have defaulted on its RDOF service milestones in Texas. CCTC will receive no further RDOF auction support payments[26] and is subject to support recovery and non-compliance measures consistent with the Commission's rules.[27] We will also remove its RDOF service areas from the Broadband Funding Map.

Charter's Requested Correction. We grant Charter's request to issue a correction to the *Charter Post-Authorization Default Public Notice* to remove from its previous list of defaulted CBGs, 16 CBGs in Michigan, Missouri, and Wisconsin.[28] Charter claims that the 16 CBGs were "inadvertently included"

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[22] *Id.* As a simplified example, if a carrier receiving $100 per month in support is required to serve 100 locations and has indicated it will not serve eligible census blocks within CBGs covering 20 of those locations, we will reduce the carrier's ongoing monthly support by a pro rata amount to stop future payments for the defaulted census blocks so that the carrier is now receiving $80 per month (i.e., the Commission will no longer pay the $20 per month associated with the identified census blocks) (($100/100) x (100-20) = $80 a month). If the carrier is in non-compliance Tier 3 so that we are required to withhold 25% of support (i.e., $25; .25 x $100), we would withhold an extra $5 a month so that we are not paying the carrier $25 in total each month (i.e., $20 for the defaulted census blocks + $5 additional). If the carrier comes back into compliance so that it is entitled to have its support restored, we would only restore the additional monthly amount of support that we withheld (i.e., $5 a month) and would not restore the $20 we have stopped paying for the identified census blocks. 47 CFR § 54.320(d)(1)(iii).

[23] Assuming the same simplified example as in the prior footnote, if the carrier is in non-compliance Tier 2 so that we are required to withhold 15% a month (i.e., $15, .15 x $100), we would not withhold any additional monthly support since we have already stopped paying the carrier $20 a month for defaulted census blocks, and $20 exceeds the $15 we are required to withhold. 47 CFR § 54.320(d)(1)(ii).

[24] 47 CFR § 54.806(c)(1).

[25] *Id.*

[26] *See* 47 CFR § 54.804(c)(4) ("Authorization to receive Rural Digital Opportunity Fund support is conditioned upon full and timely performance of all of the requirements set forth in this section, and any additional terms and conditions upon which the support was granted."). *See also CCTC Authorization Public Notice*, 36 FCC Rcd at 17198-03 (providing a non-comprehensive summary of the RDOF requirements). After CCTC notified WCB of its intent to withdraw from the RDOF support program, WCB instructed USAC to suspend CCTC's RDOF support payments. 47 CFR §§ 54.320(c), 54.806(b).

[27] 47 CFR §§ 54.804(c)(4), 54.320, 54.806(c). CCTC's decision to withdraw from the RDOF support program and not pursue further support constitutes notification that it will not meet the final service milestone and that it will not come into compliance after a 12-month grace period or at any point during the support term. If a support recipient does not repay the required support recovery amount within six months of receiving an invoice from USAC, the Bureau will authorize USAC to draw on the support recipient's letter of credit. 47 CFR § 54.804(c)(4)(i). Carriers seeking relief from applicable support recovery measures have the option of submitting a request for waiver. 47 CFR § 1.3.

[28] *Charter Erratum Request.*

when it notified the Commission of certain CBGs it did not intend to serve.[29] Consistent with the FCC's coordination with our sister federal agencies and state broadband offices concerning federal broadband deployment funding, the Bureau consulted with each of the affected state broadband offices, along with staff from NTIA, RUS, and the U.S. Treasury, and confirmed that this correction will not result in duplicate funding, necessitate changing the results of a challenge process that has been finalized, or lead to overly burdening the administration of other broadband funding programs due to the Bureau's prior announcement regarding defaults on the eligible census blocks within these CBGs. Appendix B reflects Charter's requested correction and we have added these census blocks back to Charter's service areas in Michigan, Missouri and Wisconsin. We will also correct the Broadband Funding Map to add these census blocks back to Charter's service areas.[30] As a result, Charter again has an enforceable commitment to serve the census blocks in Appendix B pursuant to its RDOF obligations.

We urge all carriers to conduct thorough due diligence prior to notifying the Bureau of any defaults to ensure they are correctly identifying the CBGs where they plan to default. Failure to timely provide accurate information about areas covered under a default could leave these areas without federal deployment funding.

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[29] *Id.*

[30] Federal Communications Commission, Broadband Funding Map, https://fundingmap.fcc.gov/home (last visited June 28, 2024).

Appendix A

Charter Fiberlink – Michigan, LLC

RDOF Defaulted Census Blocks

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003000
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003002
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003003
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003004
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003005
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003006
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003008
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003012
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003013
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003021
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003041
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003042
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Cheboygan	260319608003044
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Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Ottawa	261390220013056
Charter Fiberlink – Michigan, LLC	0010069342	Michigan	319053	Ottawa	261390221061000

Charter Fiberlink – Missouri, LLC

RDOF Defaulted Census Blocks

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Benton	290154601001000
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Benton	290154601001002
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Benton	290154601001003
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Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003094
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003096
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003097
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003098
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003104
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003108
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003114
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003116
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003118
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003121
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003137
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003138
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Madison	291239603003144
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001002
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001003
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001006
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001011
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001012
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001013
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001015
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001016
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001019
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001020
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001021
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001022
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001023
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001026
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001028
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001032
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001035
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001057
Charter Fiberlink – Missouri, LLC	0005793922	Missouri	429051	Wayne	292236903001062

Charter Fiberlink CCO, LLC

RDOF Defaulted Census Blocks

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206003017
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206003060
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206002015

Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206002026
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206002028
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206002032
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206002034
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206002062
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Brown	550090206002064
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Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Dane	550250133021003
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Dane	550250133021004
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Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Dodge	550279612001001
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Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001027
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001033
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001034
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001053
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001070
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001071
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001072
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001074
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001075
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201001077
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201002000
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201002002
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201002005
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201002021
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Ozaukee	550896201002032
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002022
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002030
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002034
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002037
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002038
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002043
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002049
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002050
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002051
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002053

Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002054
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002058
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002061
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002062
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Portage	550979611002066
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704001000
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704001001
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704001002
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704001075
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704001076
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704001078
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704001079
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704002012
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704002013
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704002014
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Richland	551039704002038
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Shawano	551151009002040
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Shawano	551151009002043
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Shawano	551151009002045
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Shawano	551151009002054
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Shawano	551151009002083
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Shawano	551151009002095
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170101001169
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170103002007
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170103002010
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170103002051
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170103002082
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170103002083
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170103002106
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002000
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002010
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002019
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002024
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002028
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002073
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002074
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002078
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002089
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002092
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002093
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002094
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002101
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002103
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002106
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Sheboygan	551170110002114

Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Washington	551314401051006

Charter Fiberlink OR-CCVII, LLC

RDOF Defaulted Census Blocks

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002002
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002057
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002058
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002059
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002060
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002061
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002065
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002066
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002067
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002068
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002069
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002070
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002072
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002073
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002074
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002075
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002078
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002082
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002086
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002089
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002091
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002092
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002093
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002094
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002095
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002096
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002097
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002098
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002099
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002100
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002102
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002104
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002108
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002109
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002110
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002112
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002114
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002125

Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279501002204
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003000
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003001
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003005
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003007
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003010
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003015
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003016
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003017
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003018
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003019
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003020
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003023
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003025
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003026
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003028
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003029
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003030
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003031
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003032
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003033
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003035
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504003036
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004000
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004001
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004002
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004003
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004006
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004007
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004008
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004009
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004011
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004012
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004013
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004014
Charter Fiberlink OR-CCVII, LLC	0010111946	Oregon	539021	Hood River	410279504004020

Co-Mo Comm, Inc. d/b/a Co-Mo Connect

RDOF Defaulted Census Blocks

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003002
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003003
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003005

Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003012
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003014
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003016
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003019
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003020
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003022
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003023
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003027
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003034
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003035
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003037
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003039
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003040
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003041
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003042
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003044
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003046
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003049
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003050
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003051
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003054
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003055
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003059
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003060
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003062
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003063
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003065
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003072
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003073
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003109
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003113
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003115
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003117
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003120
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003121
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003129
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003131
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003132
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003136
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003138
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854701003139
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001006
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001008
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001010
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001014

Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001018
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001020
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001022
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001028
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001030
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001032
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001034
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001035
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001036
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001038
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001040
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001042
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001043
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001044
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001048
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Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001055
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001060
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001061
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001064
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001065
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001066
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001067
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001068
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001069
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001070
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Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001074
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001090
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001091
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001093
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001094
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Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001100
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001104
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001106
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Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001110
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001111
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001112
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001113
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001114
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001115

Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001118
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001119
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001120
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001121
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001122
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001124
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001127
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001128
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001130
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001131
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705001132
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003000
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003002
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003003
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003006
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003008
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003009
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003010
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003011
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003012
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003014
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003018
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003022
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003024
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003027
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003028
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003029
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003030
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003033
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003037
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003038
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003039
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003044
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003045
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003047
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003048
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003050
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003051
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003052
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003053
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003055
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003057
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003058
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003059
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003060

Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003061
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003062
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003063
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003065
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003066
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003068
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003069
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003075
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003077
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003078
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003079
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003080
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003081
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003082
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003084
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003085
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003087
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003090
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003091
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003093
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003095
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003097
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003099
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003100
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003101
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003102
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003103
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003108
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003111
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003118
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003119
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003121
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003122
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003123
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003124
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003125
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003127
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003128
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003129
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003130
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003131
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003134
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003137
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003138
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003139

Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003140
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003141
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003142
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003146
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003147
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Hickory	290854705003148
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001003
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001004
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001005
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001006
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001007
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001010
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001016
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001018
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001027
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001029
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001034
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001047
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001048
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001049
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001052
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001058
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001063
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001067
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001069
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001080
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001086
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001094
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001096
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001097
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001098
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001099
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001100
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001101
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001103
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001104
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001105
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001108
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001109
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001112
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001115
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001116
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001120
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001121
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001137

Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001139
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001141
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001143
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001148
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001152
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001153
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001157
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001158
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001160
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001162
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001163
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001173
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001177
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001178
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001182
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001191
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001194
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001198
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001203
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602001218
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602003086
Co-Mo Comm, Inc.	0021854278	Missouri	429038	Polk	291679602003090

Appendix B

Charter Fiberlink – Michigan, LLC

Census Blocks Removed from Appendix A of Charter Post-Authorization Default Public Notice (DA 24-449)

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001004
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001019
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001025
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001026
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001027
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001030
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001031
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001032
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550302001036
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001000
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001001
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001002
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001004
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001006
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001007
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001008
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001009
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001010
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001011
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001014
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001027
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001031
Charter Fiberlink - Michigan, LLC	0010069342	Michigan	319053	Shiawassee	261550303001042

Charter Fiberlink – Missouri, LLC

Census Blocks Removed from Appendix A of Charter Post-Authorization Default Public Notice (DA 24-449)

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001014
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001022
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001025
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001028
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001029
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001030
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001032
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001035

Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001036
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001040
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001187
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001188
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001189
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001190
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001191
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001192
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001193
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001197
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001199
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001201
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001205
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001210
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001211
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001243
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Audrain	290079502001251
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001011
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001015
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001023
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001026
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001028
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001031
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001038
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001039
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001046
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001048
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001055
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001058
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001060
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001062
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001074
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001075
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001084
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001085
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001087
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001088
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001095
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001096
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001110
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001113
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001116
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001117
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001118
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001119

Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001120
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001131
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001133
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001135
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001136
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001137
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001140
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001142
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001143
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001144
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001145
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001148
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001150
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001154
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001155
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001156
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001157
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001162
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001163
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001165
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001166
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001168
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001172
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001173
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001174
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001175
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Clinton	290499604001176
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Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Franklin	290718001002096
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Franklin	290718001002097
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Jackson	290950134053015
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Jackson	290950134053037
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Jefferson	290997003042017
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Jefferson	290997003042037
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Johnson	291019609001000

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Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	Johnson	291019609001193
Charter Fiberlink - Missouri, LLC	0005793922	Missouri	429051	St. Louis	291892215021014

Charter Fiberlink CCO, LLC

Census Blocks Removed from Appendix A of Charter Post-Authorization Default Public Notice (DA 24-449)

Authorized Support Recipient	FRN	State	Study Area Code	County	Census Block Number
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Clark	550199505003001
Charter Fiberlink CCO, LLC	0009958109	Wisconsin	339064	Clark	550199505003002
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PUBLIC NOTICE

Federal Communications Commission
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DA [24-670]
July 10, 2024

WORLD RADIOCOMMUNICATION CONFERENCE ADVISORY COMMITTEE SCHEDULES SECOND MEETING FOR AUGUST 5, 2024

OIA Docket No. 24-30

The second meeting of the World Radiocommunication Conference Advisory Committee (WRC Advisory Committee) will be held on August 5, 2024, at 9:30 a.m. in person in the Commission Meeting Room of the FCC, 45 L Street, N.E., Washington, D.C. A draft agenda of the meeting is attached.

The second meeting of the WRC Advisory Committee will consider status reports and recommendations from its Informal Working Groups (IWG) concerning preparation for the 2027 World Radiocommunication Conference (WRC-27). This meeting is open to the public. The meeting will be broadcast live with open captioning over the Internet from the FCC Live web page at www.fcc.gov/live. There will be audience participation available; send live questions to livequestions@fcc.gov during this meeting.

The Commission's WRC-27 website (www.fcc.gov/wrc-27) contains the latest updated information and agendas on all scheduled meetings and WRC Advisory Committee matters. Comments may be presented at the WRC Advisory Committee meeting or in advance of the meeting by email to: WRC-27@fcc.gov.

For additional information please contact Gregory Baker, the Designated Federal Official for the Advisory Committee, Gregory.Baker@fcc.gov, telephone (202) 919-0758.

AGENDA

Second Meeting of the 2027 World Radiocommunication Conference Advisory Committee
Federal Communications Commission
August 5, 2024; 9:30 a.m.

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the First Meeting
4. IWG reports and Documents Relating to Preliminary Views
5. Future Meetings
6. Other Business

- FCC -

Federal Communications Commission
Washington, D.C. 20554

July 11, 2024

DA 24-671
In Reply Refer to:
1800B3-SDW
Released: July 11, 2024

Latino Public Radio of Palm Beach Corp
c/o Danilda Astacio
1500 N Congress Ave. #B14
West Palm Beach, FL 33401
astacio194@gmail.com

HMDF, LLC
c/o Scott Woodworth, Esq.
Edinger Associates PLLC
1725 I Street, NW, Suite 300
Washington, DC 20006
swoodworth@edingerlaw.net

In re: Latino Public Radio of Palm Beach Corp
New LPFM, West Palm Beach, Florida
Facility ID No. 788472
Application File No. 0000232517

Petition to Deny

Dear Applicant and Petitioner:

We have before us the above-referenced application (Application) for a construction permit for a new low power FM (LPFM) station at West Palm Beach, Florida (Station), filed by Latino Public Radio of Palm Beach Corp (LPR).[1] We also have before us a Petition to Deny (Petition) the Application, filed by HMDF, LLC (HMDF) and related pleadings.[2] For the reasons set forth below, we grant the Petition and dismiss the Application.

Background. LPR filed the Application during the 2023 LPFM filing window.[3] In the Application, LPR certifies that it qualifies as local because it is physically headquartered, and has 75% of

[1] Application File No. 0000232517 (filed Dec. 12, 2023).

[2] Pleading File No. 0000239514 (filed Feb. 20, 2024). On March 3, 2024, LPR filed an opposition to the Petition (Opposition). Pleading File No. 0000240298. HMDF filed a reply to the Opposition (Reply) on March 12, 2024. Pleading File No. 0000240719. On May 13, 2024, LPR filed an additional pleading titled "Reply." Pleading File No. 0000244724. This pleading is unauthorized and, therefore, will not be considered here. *See* 47 CFR § 1.45; *see also Reier Broad. Co., Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 14270, 14270, para. 1, n. 4 (MB 2011) (declining to consider unauthorized pleadings pursuant to section 1.45 of the Rules).

[3] *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*

its board members residing, within 10 miles of its proposed transmitter site.[4] LPR lists its local address as "1500 N Congress Ave., B14, West Palm Beach, Florida 33401 (Congress Avenue)."[5] LPR also lists the Congress Avenue address for each of its three board members.[6]

In its Petition, HMDF states that the Congress Avenue address is a one bedroom, 625 square foot townhouse/apartment, and that public records do not demonstrate that any of the three board members resides at this address.[7] HMDF further argues that the Congress Avenue address is more than 10 miles from the proposed transmitter site, and thus does not meet the localism requirements for LPFM stations.[8] HMDF thus urges the Commission to dismiss the Application.

In its Opposition, LPR provides documentation, including banking and utility bills, demonstrating that one of its board members resides at the Congress Avenue address.[9] LPR also states that it will amend its Application to "confirm the presence of studios and offices within 10 miles" of the transmitter site.[10]

In its Reply, HMDF reiterates its argument that the Congress Avenue address is more than 10 miles from the proposed transmitter site.[11] HMDF further notes that LPR has provided documentation to indicate that only one board member resides at the Congress Avenue address, but has failed to address the residency of the remaining two board members.[12] HMDF concludes that LPR failed to meet the local criteria at the time of its Application filing and cannot amend to establish its basic eligibility.[13]

On May 13, 2024, LPR filed an amendment to its Application to change its address to: 4951 Seminole Pratt Whitney Rd. # 1100, Westlake, FL 33470 (Seminole Pratt).[14] The Amendment also

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Announces Extension of LPFM New Station Application Filing Window, Public Notice, DA 23-1150 (MB Dec. 11, 2023).

[4] Application, Legal Certifications Section, Community-Based Criteria questions. As discussed below, because the transmitter is located in the West Palm Beach radio market, which is a top 50 urban market, either LPR's headquarters must be within 10 miles of the proposed site for the transmitting antenna, or, alternatively, 75% of LPR's board members must reside with 10 miles of the proposed site for the transmitting antenna. 47 CFR § 73.853(b)(1) and (2).

[5] *See* Application, Applicant Information Section.

[6] *Id*., Parties to the Application Section.

[7] Petition at 1.

[8] HMDF also alleges that LPR falsely certified in the Application that it has existed as a nonprofit educational institution or organization for at least two years prior to the date of the Application, despite obtaining nonprofit status in Florida on July 18, 2023. Petition at 3. Because we dismiss the Application on the basis that LPR does not qualify as local, we will not address this allegation.

[9] Opposition at 1 and Exhibits.

[10] *Id*.

[11] Reply at 2.

[12] *Id*.

[13] *Id*. at 3.

[14] Amendment to Application File No. 0000232517 (May 13, 2024) (Amendment).

sought to change the proposed antenna location and channel.[15] The Bureau dismissed the Amendment on May 15, 2024, because it was a prohibited major amendment.[16]

Discussion. Pursuant to section 309(d) of the Communications Act of 1934, as amended (Act),[17] petitions to deny and informal objections must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with the public interest.[18] HMDF has met this burden.

We find that LPR fails to meet the localism requirements of either sections 73.853(b)(1) or 73.853(b)(2) of the Commission's rules (Rules).[19] An LPFM applicant must qualify as a "local" entity at the time that it files its FCC Form 2100, Schedule 318 application (LPFM Application).[20] In order to qualify as local, a nonprofit educational organization LPFM applicant, such as LPR, will be deemed local if it can certify, at the time of filing its application, that either:

> (1) The applicant, its local chapter or branch is physically headquartered or has a campus within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets; [or][21]
>
> (2) It has 75% of its board members residing within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets . . . .[22]

Because the West Palm Beach-Boca Raton Nielsen Radio Metro is ranked number 48 among urban markets,[23] an LPFM applicant for a station in West Palm Beach must demonstrate that either its headquarters is located, or 75% of its board members reside, within 10 miles of the proposed site for the

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[15] *Id*. at Antenna Location Data Section and Channel and Facility Information Section.

[16] The Amendment changed the proposed station's channel from Channel 280 to Channel 250. *See Media Bureau Provides Guidance on the Processing of Schedule 318 Applications Filed in the LPFM Window*, Public Notice, DA 24-92, 3 (MB Feb. 1, 2024) ("all pending LPFM applicants may only file "minor" amendments, which include . . . channel changes of no more than +/- three channels or to an intermediate frequency (+/- 53 or 54) channel"); *Media Bureau Identifies Groups of Mutually Exclusive Applications Submitted in the December 2023, LPFM Window; Opens Window to Accept Settlements and Technical Amendments,* DA 24-256, 3 (MB Mar. 15, 2024) (same).

[17] 47 U.S.C. § 309(d).

[18] *See, e.g*., *WWOR-TV, Inc*., Memorandum Opinion and Order, 6 FCC Rcd 193, 197 n.10 (1990), *aff'd sub nom. Garden State Broad. L.P. v. FCC*, 996 F. 2d 386 (D.C. Cir. 1993), *rehearing denied* (Sep. 10, 1993); *Gencom, Inc. v. FCC*, 832 F.2d 171, 181 (D.C. Cir. 1987); *Area Christian Television, Inc*., Memorandum Opinion and Order, 60 RR 2d 862, 864, para. 6 (1986) (petitions to deny and informal objections must contain adequate and specific factual allegations sufficient to warrant the relief requested).

[19] 47 CFR § 73.853(b)(1), (2).

[20] *See* Instructions for LPFM Application, Legal Certifications, Eligibility Certifications, and Community-Based Criteria Certifications. *See also* LPFM Application, Legal Certifications, Eligibility Certifications, and Community-Based Criteria Certifications.

[21] 47 CFR § 73.853(b)(1).

[22] *Id*. at § 73.853(b)(2). *See also Creation of Low Power Radio Service*, MM Docket No. 99-25, Report and Order, 15 FCC Rcd 2205, 2219, para. 33 (2000).

[23] *See* The Nielsen Company (US) LLC, Radio Market Survey Population & Information, Spring 2024, at 2 (2024) https://www.nielsen.com/wp-content/uploads/sites/2/2024/04/Populations_Rankings.pdf.

transmitting antenna.[24] In the original Application, LPR certified that it satisfies the local applicant criteria claiming it has both its physical headquarters, and 75% of its board members residing, within 10 miles of its proposed transmitting antenna site.[25]

We find that LPR does not satisfy either of the requirements of section 73.853(b). The transmitter site that LPR identifies in its original Application is located at 26° 48' 40.3" N, 080° 17' 23.6" W.[26] The Congress Avenue address, listed in the original Application as LPR's headquarters, is over 13 miles from the designated transmitter site, and thus beyond the 10 mile limit specified in section 73.853(b)(1). LPR specified the same Congress Avenue address that is 13 miles from the designated transmitter site as the residential address for its three board members,[27] and thus fails to satisfy the requirements of section 73.353(b)(2). Therefore, we conclude that LPR does not qualify as local under section 73.853(b) of the Rules.[28] Accordingly, we find LPR ineligible to hold an LPFM license.[29]

Conclusion/Actions. For the reasons set forth above, **IT IS ORDERED** that the Petition to Deny filed by HMDF, LLC, on February 20, 2024 (Pleading File No. 0000239514) **IS GRANTED**.

IT IS FURTHER ORDERED that the application for a construction permit for a new LPFM station at West Palm Beach, Florida, filed by Latino Public Radio of Palm Beach Corp on December 12, 2023 (Application File No. 0000232517) **IS DISMISSED**.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

[24] 47 CFR § 73.853(b).

[25] *See* Application at Legal Certifications, Community-Based Criteria Certifications.

[26] Application at Antenna Location Data Section, Coordinates question. *See supra* note 16 (noting that the Bureau dismissed LPR's Amendment).

[27] We note that LPR's Opposition demonstrates that only one of its board members—Danilda Astacoio— resides at the Congress Avenue address and fails to substantiate the addresses of the remaining two board members.

[28] *See, e.g., Bump FM Inc.*, Letter Order, DA 24-243, at 4 (MB Mar. 13, 2024). We will not consider the Seminole Pratt address, which was designated as LPR's headquarters address in its dismissed Amendment. We note that each LPFM applicant must qualify as local *at the time* it submits its initial application. Moreover, we note that the Seminole Pratt address corresponds to a shopping center, and public records do not show LPR as a tenant at that location. *See* Konover South, Shoppes of Westlake Landings, https://konoversouth.com/properties/shoppes-of-westlake-landings/ (accessed June 28, 2024).

[29] 47 CFR § 73.853(b). .

PUBLIC NOTICE

Federal Communications Commission
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DA 24-672
Released: July 11, 2024

MEDIA BUREAU ANNOUNCES AVAILABILITY OF RECALCULATED PRE-SUNRISE AND POST-SUNSET AUTHORIZATIONS FOR AM RADIO STATIONS

Section 73.99(a) through (d) of the Commission's rules permits certain qualifying AM broadcast stations to operate at increased power during the two hours immediately preceding local sunrise (pre-sunrise authorization or PSRA) and the two hours immediately following local sunset (post-sunset authorization or PSSA).[1] Prior to March 11, 2007, the Media Bureau (Bureau), Audio Division calculated the authorized pre-sunrise and post-sunset operating powers for all eligible AM stations, pursuant to section 73.99(e) and (j) of the rules.[2] By public notice dated March 1, 2007, the Bureau withdrew all PSRAs and PSSAs issued before February 1, 2007, in order to recalculate the permissible operating powers for such authorizations following enactment of the US Energy Policy Act of 2005,[3] which lengthened the duration of Daylight Savings Time and, consequently, changed the local sunrise and sunset times for most parts of the country.[4] However, due to an unanticipated computer problem that produced erroneous power levels on certain of these recalculated authorizations, the Bureau suspended use of its recalculated PSRAs and PSSAs until correct power levels could be computed.[5]

The Audio Division has implemented new tools to determine the permissible pre-sunrise and post-sunset operating parameters for eligible AM stations, pursuant to section 73.99(e) and (j) of the rules.[6] The Bureau recognizes that, for practical or technical reasons, not all eligible AM stations will elect to operate with pre-sunrise and post-sunset authority.[7] Therefore, effective immediately and pursuant to section 73.99(e), the Audio Division will accept letter requests from AM stations intending to operate PSRA or PSSA. The licensee should submit the letter request to Joseph Szczesny or Jerome Manarchuck of the Audio Division AM engineering staff, at PSRPSS@fcc.gov. The request must include (1) the licensee name, station callsign, facility ID, frequency, location, and the file number of the licensed daytime facility; (2) an indication as to whether the licensee intends PSRA operation, PSSA operation, or both; and (3) a description of the method whereby any necessary power reduction will be achieved.

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[1] 47 CFR § 73.99(a) - (d).

[2] *Id*. § 73.99(e) and (j).

[3] Pub. L. 109-58, 119 Stat. 615. The Act revised 15 U.S.C. § 260a(a), which sets forth the beginning and end dates for Daylight Savings Time.

[4] *Media Bureau Modifies Pre-sunrise and Post-sunset Authorizations for AM Radio Stations*, Public Notice, 22 FCC Rcd 4141 (MB 2007).

[5] *Suspension of Use of Recently Recalculated Pre-Sunrise and Post-Sunset Service Authorizations and Directions for Continued Pre-Sunrise and Post-Sunset Operation During March 2007 by AM Stations in Areas with Daylight Saving Time*, Public Notice, 22 FCC Rcd 4567 (MB 2007).

[6] 47 CFR § 73.99(e) and (j).

[7] *See id*. § 73.99(h) (operation under a PSRA or PSSA is not mandatory).

Once an AM station requesting PSRA and/or PSSA has received the operating parameters calculated by the Audio Division for such authorized operation, it may commence such operation immediately.[8] The PSRA/PSSA operating parameters break down permissible pre-sunrise and post-sunset operating powers into 15-minute (quarter-hour) increments.

Licensees are reminded that, if a station is authorized for greater nighttime operating power than the value shown on the PSRA or PSSA, the licensed value takes precedence. Permissible powers for PSRA and PSSA operation will be calculated using the daytime antenna system or critical hours antenna systems when specified on the license.

For additional information, contact Joseph Szczesny (Joseph.Szczesny@fcc.gov), Jerome Manarchuck (Jerome.Manarchuck@fcc.gov), or Son Nguyen (Son.Nguyen@fcc.gov) of the Audio Division at (202) 418-2700. Direct press inquiries to Nancy Murphy (Nancy.Murphy@fcc.gov) at (202) 418-1043.

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

We have estimated that each response to this collection of information will take 0.25 hours. Our estimate includes the time to read the public notice, look through existing records, gather and maintain the required data, and actually complete and review the response. If you have any comments on this burden estimate, or on how we can improve the collection and reduce the burden it causes you, please e-mail them to pra@fcc.gov or send them to the Federal Communications Commission, OMD-PPM, Paperwork Reduction Project (3060-0157), Washington, DC 20554. Please DO NOT SEND COMPLETED LETTER REQUESTS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number of if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0157.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

- FCC -

[8] Upon receipt of the station's calculated PSRA and/or PSSA operating parameters, the licensee shall place the Notice of Parameters for Operation Under Pre-Sunrise Authority (PSRA) or Post-Sunset Authority (PSSA) into the FCC Authorizations folder of the station's Online Public Inspection File (OPIF). *See* 47 CFR § 73.3526(e)(1) (requiring that the OPIF include "[a] copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization.").

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 24-673
Released: July 11, 2024

REGISTRATION UPDATE – PUBLIC PREVIEW OF NEW INTERNATIONAL COMMUNICATIONS FILING SYSTEM (ICFS)

Registration Process Change

On July 3, 2024, the Space Bureau and the Office of International Affairs released a public notice announcing a public preview of the new International Communications Filing System (ICFS), which is being upgraded to a cloud-based platform.[1]

The public notice included a registration link. Due to unexpected server issues, the registration process could not be completed for those who submitted their information. As a result, anyone who has previously registered through the link – and all new registrations – should send an email to ICFSDemo@fcc.gov with the following information: (1) the session(s) for which you would like to register; and (2) the email address that we should use to send you the link to the public preview. In order to participate in the live preview sessions, you must register.

As a reminder, these sessions will provide a guided tour of the enhanced look and functionality of the new ICFS. All preview sessions will be recorded and posted to the Commission website for later review. During and after these sessions, interested parties can submit questions and comments to the Commission at ICFSDemo@fcc.gov. The Commission staff will review these submissions, and consider them when developing future refinements to the new ICFS.

ICFS contains applications, supporting documents, pleadings, comments, public notices, Commission actions, and final authorizations for services regulated by the Space Bureau and the Office of International Affairs. These include:

- Satellite Earth Stations
- Satellite Space Stations
- International Section 214 Authorizations
- Submarine Cable Landing Licenses
- Section 310(b) Petitions for Declaratory Ruling
- Signaling Point Codes
- Data Notification Identification Codes
- Foreign Carrier Affiliation Notifications
- Recognized Operating Agency filings
- International High Frequency Broadcast Stations
- Section 325(c) (Permit to Deliver Programs to Foreign Broadcast Stations)

[1] *Space Bureau and Office of International Affairs Announce Public Preview of New International Communications Filing System (ICFS); New ICFS Scheduled to be Released in August*, Public Notice, DA 24-635 (rel. Jul. 3, 2024).

The public preview for the new ICFS will occur on the following schedule:

July 17, 2024	10:00AM	Data Notification Identification Codes
	1:00PM	RTL (International Route List)
July 18, 2024	10:00AM	Submarine Cable Landing License Applications
July 19, 2024	10:00AM	Satellite Earth Stations - Part 1
	1:00PM	Schedule B - Part 1
July 22, 2024	10:00AM	SAT (satellite space stations)
	1:00PM	Schedule S
July 23, 2024	10:00AM	ISP (Section 310(b) Petitions for Declaratory Ruling)
	1:00PM	Signaling Point Codes (SPC)
July 24, 2024	10:00AM	Section 325(c) (Permit to Deliver Programs to Foreign Broadcast Stations)
	1:00PM	International Section 214 Authorizations (ITCs)
July 25, 2024	10:00AM	International High Frequency Broadcast Stations
July 26, 2024	10:00AM	Satellite Earth Station Applications – Part 2
	1:00PM	Schedule B – Part 2

The new ICFS is scheduled to be deployed in August 2024. In the next few weeks, the Space Bureau and the Office of International Affairs will release another public notice providing additional details about the transition from the current ICFS to the new system.

Additional Information. For further information, please send an email to ICFSDemo@fcc.gov, contact Adrienne McNeil (202) 418-0412, or contact the ICFS Help Line at ICFSInfo@fcc.gov or (202) 418-2222.

- 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 24-675
Released: July 11, 2024

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ANNOUNCES EFFECTIVE DATE OF NEW WIRELESS EMERGENCY ALERT TESTING RULES

PS Docket Nos. 15-94 and 15-91

By this Public Notice, the Federal Communications Commission's Public Safety and Homeland Security Bureau (Bureau) announces that beginning on July 17, 2024,[1] Participating Commercial Mobile Service (CMS) Providers may participate in no more than two Wireless Emergency Alert (WEA) tests per county (or county equivalent) per calendar year that the public receives by default. The entity conducting such a test must:

- Conduct outreach and notify the public before the test that live event codes will be used, but that no emergency is, in fact, occurring;
- To the extent technically feasible, state in the test message that the event is only a test;
- Coordinate the test among Participating CMS Providers, and with state and local emergency authorities, the relevant State Emergency Communications Committee (or Committees, if the test could affect multiple states), and first responder organizations, such as Public Safety Answering Points (PSAPs), police, and fire agencies; and
- Provide in widely accessible formats the notification to the public required that the test is only a test and not a warning about an actual emergency.

These requirements are set forth in Section 10.350(d) of the rules as adopted in the Commission's *Third Report and Order*.[2] Questions regarding WEA testing should be directed to David Kirschner, Attorney-Advisor, Public Safety and Homeland Security Bureau, Cybersecurity and Communications Reliability Division at (202) 418-0695 or david.kirschner@fcc.gov.

-FCC-

[1] *See* FCC, Emergency Alert System; Wireless Emergency Alerts, 89 Fed. Reg. 51265 (June 17, 2024).

[2] 47 CFR § 10.350(d); *Wireless Emergency Alerts; Amendments to Part 11 of the Commission's Rules Regarding the Emergency Alert System*, PS Docket Nos. 15-91 and 15-94, Third Report and Order, FCC 23-88, 2023 WL 8543463 (Oct. 20, 2023).

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Review of the Commission's Assessment and	)	MD Docket No. 24-86
Collection of Regulatory Fees for Fiscal Year 2024	)	

SECOND NOTICE OF PROPOSED RULEMAKING

Adopted: June 12, 2024 **Released: June 13, 2024**

Comment Date: July 15, 2024
Reply Comment Date: July 29, 2024

By the Commission:

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I. INTRODUCTION

1. For fiscal year (FY) 2024, the Commission is required to collect $390,192,000 in regulatory fees, an amount equal to our annual salaries and expenses (S&E) appropriation, pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act),[1] and the Commission's FY 2024 Further Consolidation Appropriations Act.[2] In this annual Notice of Proposed Rulemaking (NPRM), we seek comment on the Commission's proposed methodology and regulatory fees for FY 2024, as set forth in Appendices A, B, and E.[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.[4] In light of these actions, we reviewed the FY 2023 reallocations to determine if any changes are warranted, and propose to slightly revise the FY 2023 reallocations to the core bureaus, including the new Space Bureau and the new Office of International Affairs, for FY 2024, as further detailed below.

2. We also seek 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 coronavirus disease 2019 (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.

II. BACKGROUND

3. Section 9 of the Communications Act of 1934 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

[1] 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).

[2] 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. *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). 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).

[3] FY 2024 started on October 1, 2023, and ends on September 30, 2024. The proposed regulatory fee schedule for FY 2024 is set forth in Appendices A and B. The proposed regulatory fee rates for space and earth station payors for FY 2024 is set forth at Appendix E. Additionally, for comparison purposes, the FY 2023 regulatory fee schedule is provided in Appendix G. On March 13, 2024, we commenced a separate rulemaking proceeding seeking comment on changes to the methodology for assessing regulatory fees for space and earth station payors. *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*). We initiated this proceeding ahead of our annual Commission-wide proceeding this fiscal year in order to adopt amendments to the existing space and earth station fee categories, or to adopt new fee categories, in time for those changes to be effective for FY 2024. *Id*. at paras. 5-6; 47 U.S.C. §§ 159A(b)(2), 159(d) (requiring 90-days prior notification to Congress before changes to the regulatory fee categories can become effective). We will address any comments raised in response to the *Space and Earth Station Regulatory Fees NPRM* in a subsequent Report and Order. In this proceeding, we seek comment on the proposed regulatory fee rates for space and earth station payors for FY 2024. *See* Appendix E.

[4] *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 (2023) (*Space Bureau Order*).

S&E appropriation.[5] Thus, the Commission has no discretion regarding the total amount to be collected in any given fiscal year. For FY 2024, the Commission must recover $390,192,000 as set forth in the FY 2024 Further Consolidation Appropriations Act.[6] Regulatory fees recover all of the Commission's 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 regulatee, but instead benefit the Commission and the industry as a whole; and support costs such as rent, utilities, and equipment.[7] Regulatory fees must recover the total amount of the appropriation; therefore, they also cover the Commission's costs incurred in oversight and regulation of entities that are statutorily exempt from paying regulatory fees (i.e., governmental and nonprofit entities, amateur radio operators, and noncommercial radio and television stations),[8] entities that are exempt from payment of regulatory fees because their total assessed annual regulatory fees fall below the annual de minimis threshold,[9] and entities whose regulatory fees are waived.[10] Pursuant to section 9(d) of the Communications Act, the Commission's methodology for assessing regulatory fees must "reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities."[11]

4. In section 9 of the Communications Act, Congress prescribed a method of collecting an amount equal to the full S&E appropriation by keying the regulatory fee assessment to the Commission's FTE burden.[12] As a result, the fee assigned to each regulatory fee category relates to the FTE burden

[5] 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.

[6] *See* FY 2024 Further Consolidation Appropriations Act; *supra* n.2; 47 U.S.C. § 159.

[7] *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, MD Docket No. 21-190, Report and Order and Notice of Proposed Rulemaking, 36 FCC Rcd 12900, 12991, para. 2 (2021) (*FY 2021 Report and Order*). We note that auction costs are not funded by the FCC's S&E appropriations and thus auction costs are not included in our regulatory fee calculation. 47 U.S.C. § 309(j)(8)(B) (providing that "the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection."). Each year, Congress provides a cap on such offsetting collection. Section 309(j)(11) ("Termination") of the Communications Act provides an expiration date for the "authority of the Commission to grant a license or permit under this subsection" and includes a list of exceptions to the expiration date. 47 U.S.C. § 309(j)(11). Congress issued a series of extensions to the expiration date, the last of which expired on March 9, 2023. Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 4459 (December 29, 2022) (further extending spectrum auction authority through March 9, 2023).

[8] 47 U.S.C. § 159(e)(1); 47 CFR § 1.1162.

[9] 47 U.S.C. § 159(e)(2).

[10] 47 U.S.C. § 159(d); 47 CFR § 1.1166.

[11] 47 U.S.C. § 159(d).

[12] *See* 47 U.S.C. § 159(d). One FTE, a "Full Time Equivalent" or "Full Time Employee," is a unit of measure equal to the work performed annually by a full-time person (working a 40-hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget. See generally Executive Office of the President, Office of Management and Budget, Circular No. A-11, Preparation, Submission, and Execution of the Budget (August 2022), https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf (last visited Mar. 28, 2024). See section 85.5(c) for a detailed explanation of how FTEs are calculated. Thus, in the fee proceeding when we state the 1.5 FTEs work on a particular subject matter, that might mean three individuals spend 50% of their time on that area. Moreover, in this NPRM when we discuss FTEs and any change in allocation, it is solely for regulatory fee purposes and does not reflect proposals of the change of personnel in the various organizational work units.

associated with oversight and regulation of each regulatory fee category by the relevant core bureaus.[13] Because the total amount the Commission must collect in an offsetting collection generally changes each fiscal year, payors' regulatory fees will also typically change each fiscal year as a mathematical consequence of the changes in the total amount to be collected,[14] the number of FTEs, and projected unit estimates for each regulatory fee category.[15] Beyond those changed collection requirements, in considering changes, additions, or deletions to the regulatory fee schedule the Commission focuses on direct FTE cost burden related to the regulatory fee category at issue within each core bureau.[16] The Commission has explained that, consistent with its statutory directive, it bases regulatory fees on the direct FTEs in core bureaus.[17] The Commission has stated that, given the Communication Act's explicit language that fees must reflect FTEs, the FTE counts are by far the most administrable starting point for regulatory fee allocations.[18]

5. The Commission does not assign direct FTEs within a bureau to specific fee categories by rote or at random, but rather in a manner that reflects the time spent by FTEs on a regulatory fee category,

[13] *Id*. *See also Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, MD Docket No. 19-105, Notice of Proposed Rulemaking, 34 FCC Rcd 3272, 3275-77, paras. 6-10 (2019) (*FY 2019 NPRM*). The phrase "core bureaus" was first adopted in the *FY 2012 Regulatory Fee Reform NPRM* where the Commission explained that, under (prior) section 9(b)(1)(A) of the Communications Act, the Commission was instructed to calculate the regulatory fees by determining the FTEs performing the activities enumerated in section 9(a)(1) of the Communications Act within the Private Radio Bureau, Mass Media Bureau, Common Carrier Bureau, and other offices of the Commission; those bureaus subsequently were renamed the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and a new International Bureau. *See Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2012,* 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*. Effective April 10, 2023, we have a new Space Bureau and an Office of International Affairs replacing the International Bureau. *See Space Bureau Order*. Therefore, the current core bureaus include the Wireless Telecommunications Bureau, the Media Bureau, the Wireline Competition Bureau, the Office of International Affairs, and the Space Bureau. For purposes of the regulatory fee proceeding, we also refer to the Office of International Affairs as a core "bureau" for consistency reasons.

[14] As indicated above, the offsetting collection for FY 2024 has not changed from the FY 2023 appropriated level. *Supra* n.2.

[15] Section 9(c)(1)(B) of the Communications Act contemplates such changes to the fee schedule necessary to result in the collection of the amount required by subsection 159(b). 47 U.S.C. § 159(c)(1)(B). For example, if the number of units in a regulatory fee category increases, the amount due per unit may decrease, depending on other factors. This would also include proportionate increases in a given fee category to reflect an overall increase in the annual FY appropriation. It is rare, however, for the Commission to solely propose adjustments under section 9(c). Such changes under section 9(c) of the Communications Act fall under the section 9A(b)(1) Congressional notification requirements. 47 U.S.C. §§ 159A(b)(1), 159(c).

[16] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking, 36 FCC Rcd 12990, 12999, para. 17 (2021) (*FY 2021 Report and Order*). Changes under section 9(d) of the Communications Act fall under the section 9A(b)(2) 90-day notification to Congress. 47 U.S.C. §§ 159A(b)(2), 159(d).

[17] *FY 2019 Report and Order*, 34 FCC Rcd at 8192-93, paras. 7, 9 (in which the Commission concluded that "the fee assessment structure dictated by the statute fundamentally remains unchanged" by the RAY BAUM'S Act modifications to section 9 of the Act and that the Commission would "continue to apportion regulatory fees across fee categories based on the number of direct FTEs in each core bureau and the proportionate number of indirect FTEs and to take into account factors that are reasonably related to the payor's benefits.") As such, our prior decisions to add to, delete from, or amend the regulatory fee schedule are instructive of the detailed analysis that generally accompanies a change to the FTE allocation as direct or indirect, the attribution of FTEs to a regulatory fee category, and the allocation of fees within a regulatory fee category based on the unit measure adopted.

[18] *FY 2019 Report and Order*, 34 FCC Rcd at 8193, para. 8.

which is in itself a reflection of "benefit" to the fee category.[19] 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.[20]

6. *Full Time Equivalent (FTE) Allocation and Fee Calculation*. The Commission allocates FTEs according to the nature of the work performed by its different organizational units. If the work performed by a group or office is directly related to our oversight and regulation of a regulatory fee category or categories in one of the five core licensing bureaus, then such FTEs are counted as a direct FTE.[21] If the work cannot be allocated to one of the bureau's designated regulatory fee categories, the work performed is counted as an indirect FTE.[22] Under this framework, the Commission, therefore, assesses the allocation of FTEs by first determining the number of direct FTEs, those non-auctions FTEs that work in each of the Commission's core bureaus (i.e., the Wireless Telecommunications Bureau, the Media Bureau, part of the Wireline Competition Bureau, the Office of International Affairs, and the Space Bureau).[23] 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."[24]

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[19] The Commission has stated that "Section 9 is clear, however, that regulatory fee assessments are based on the burden imposed on the Commission, not benefits realized by regulatees." *Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712, 15719, para. 19 (2007).

[20] *FY 2019 Report and Order*, 34 FCC Rcd at 8193, para. 9. What this means in practice is that we allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau with indirect FTEs allocated in proportion to the direct FTEs. Those proportions are then subdivided within each core bureau into fee categories among the regulatees served by the core bureau. Finally, within each regulatory fee category, the amount to be collected is divided by a unit that allocates the regulatory fee payor's proportionate share based on an objective measure. *Id*.

[21] *See, e.g.*, *FY 2019 Report and Order,* 34 FCC Rcd at 8195, para. 14 ("we have long relied on direct FTE allocations because the Commission has found those allocations best reflect the 'benefits provided to the payor of the fee by the Commission's activities' — in the case of broadcast licensees, the work the Media Bureau does to grant licenses and oversee and regulate their operations."); *FY 2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8461, para. 8; *Assessment and Collection of Regulatory Fees for Fiscal Year 2014*, MD Docket No. 14-92, Report and Order, 29 FCC Rcd 10767, 10768, para. 2 (2014) (*FY 2014 Report and Order*) (explaining the reliance on direct FTEs for purposes of determining regulatory fee calculations).

[22] *See FY 2021 Report and Order*, 36 FCC Rcd at 30001, para. 22.

[23] *See FY 2019 Report and Order*, 34 FCC Rcd at 8193, paras. 8-9 (finding that, given "the Act's requirement that fees must 'reflect' FTEs before adjusting fees to take into account other factors"… "FTE counts [are] by far the most administrable starting point for regulatory fee allocations" and indicating that the first step in apportioning regulatory fees is to allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau (with indirect FTEs allocated in proportion to the direct FTEs)); *FY 2021 Report and Order*, 36 FCC Rcd at 12991-92, para 3; *FY 2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8460, para. 5 & n.5; *Procedures for Assessment and Collection of Regulatory Fees for Fiscal Year 2012*, Report and Order, 27 FCC Rcd 8390, 8392, paras. 4-5 (2012) (*FY 2012 Report and Order*). Other factors the Commission takes into consideration include the annual appropriation and the projected unit estimates.

[24] *See, e.g.*, *FY 2019 Report and Order*, 34 FCC Rcd 8189, 8195, para. 14 ("we have long relied on direct FTE allocations because the Commission has found those allocations best reflect the 'benefits provided to the payor of the fee by the Commission's activities'—in the case of broadcast licensees, the work the Media Bureau does to grant licenses and oversee and regulate their operations."); *2012 Regulatory Fee Reform NPRM*, 27 FCC Rcd at 8461, para. 8 ("The Commission allocates FTEs according to the nature of the employees' work. If the work performed by an employee can be assigned to a regulatory fee category in one of the four core licensing bureaus—Wireless Telecommunications, Media, Wireline Competition, and International—that employee's time is counted as a direct FTE. If the work cannot be assigned to one of the bureau's designated fee categories, the employee's time is

(continued….)

7. The FTE time devoted to developing and implementing the Commission's spectrum auctions is not included in the calculation of regulatory fees and is not offset by the collection of regulatory fees. Instead, such FTE time is offset by the auction proceeds that the Commission is permitted to retain pursuant to section 309(j)(8)(B) of the Communications Act and the Commission's annual appropriation.[25] Thus, spectrum auctions FTEs are not included in the calculation of regulatory fees and the Commission's methodology excludes all spectrum auction-related FTEs and their overhead from the regulatory fee calculations.[26] 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.[27]

8. Early in each fiscal year, the Commission receives FTE data from its Human Resources Management office and identifies FTEs at the core bureau level (i.e., direct FTEs), which is then used to determine the FTE allocations for the five core bureaus. This FTE data is then validated through consultation with the bureaus and apportioned to the various fee categories within each core bureau based on FTE time spent on each fee category. After the number of direct FTEs is determined for each core bureau of the Commission, the direct FTE numbers are used to calculate the percentage of the total amount of regulatory fees to be collected for a given fiscal year.[28] We allocate appropriated amounts to be recovered proportionally based on the number of direct FTEs within each core bureau.[29] Those proportions are then subdivided within each core bureau into fee categories among the regulatees served by the core bureau. Finally, within each regulatory fee category the amount to be collected is divided by a unit that allocates the regulatee's proportionate share based on an objective measure.

9. In prior regulatory fee proceedings, the Commission has categorized the FTEs in the Enforcement Bureau, Consumer and Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairwoman's and Commissioners' Offices, Office of the Managing Director, Office of General Counsel, Office of Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Workplace Diversity, Office of Media Relations, Office of Economics and Analytics, and Office of Administrative Law Judges, along with some FTEs in the Wireline Competition Bureau and the International Bureau as indirect for regulatory fee purposes.[30] Unlike the work of direct FTEs, the work of indirect FTEs in the non-core

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counted as an indirect FTE."); *FY 2014 Report and Order*, 29 FCC Rcd at, 10768, para. 2 (explaining the reliance on direct FTEs for purposes of determining regulatory fee calculations).

[25] 47 U.S.C. § 309(j)(8)(B) (providing that "the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection."). Each year, Congress provides a cap on such offsetting collection. FY 2023 Consolidated Appropriations Act (providing a cap of $132,231,000 for FY 2023). We are referring to spectrum auctions FTEs when we use the terms "auctions FTEs" and "non-auctions FTEs."

[26] *FY 2019 NPRM*, 34 FCC Rcd at 3276-77, para. 10.

[27] *FY 2021 Report and Order*, 36 FCC Rcd at 12999-13000, para. 20.

[28] 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.

[29] As a general matter, there is no additional calculation to attribute indirect costs. Instead, the proportional allocation of the whole S&E appropriation based on the number of direct FTEs effectively attributes all indirect costs among the core bureaus so that the Commission can recover its entire appropriation each year.

[30] The Commission has previously reallocated FTEs in the International Bureau and the Wireline Competition Bureau from direct to indirect for regulatory fee purposes, due to the nature of their work assignments. For example, in 2013, the Commission allocated as indirect all but 28 International Bureau FTEs. *Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, Report and Order, 28 FCC Rcd 12351, 12355-356, para.14 (2013) (*FY 2013 Report and Order*). Subsequently, in the *FY 2015 Report and Order*, the Commission reallocated, for regulatory fee purposes, four International Bureau FTEs working on market access requests for non-U.S. licensed space stations as indirect. *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Report and

(continued….)

bureaus and offices is not focused on the oversight and regulation of a specific category of regulatory fee payors, but instead benefits the Commission, the telecommunications industry, and the public as a whole.[31] The Commission's high percentage of indirect FTEs demonstrates that many of our activities and costs are not limited to a particular fee category.[32]

10. *Adjustments and Amendments to Regulatory Fee Schedule.* In accordance with the statute, each year, in an annual fee proceeding, the Commission proposes adjustments to the prior fee schedule under section 9(c) to "(A) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and (B) result in the collection of the amount required" by the Commission's annual appropriation.[33] The Commission will also propose amendments to the fee schedule under section 9(d) "if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.[34] Pursuant to section 9A(b)(1) of the Act, the Commission must notify Congress immediately upon adoption of any adjustment.[35] 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.[36]

11. In implementing our section 9 authority, we consider the adoption of a new regulatory fee category or a change in an existing regulatory fee category only when we develop a sufficient basis for making the change, and we work to ensure that all changes serve the goal of ensuring that our assessment of regulatory fees is fair, administrable, and sustainable.[37] The Commission has adopted new regulatory

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Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 10268, 10278, para. 24 (2015) (*FY 2015 Report and Order*). Those four indirect FTEs have since been reallocated as direct. *Assessment and Collection of Regulatory Rees for Fiscal Year 2020*, Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, 4991, para. 33 (2020) (*FY 2020 NPRM*), *affirmed*, *Telesat Canada, et al. v. FCC*, 999 F.3d 707 (D.C. Cir. 2021) (*Telesat*). In 2017, the Commission reallocated as indirect, for regulatory fee purposes, 38 FTEs in the Wireline Competition Bureau who work on non-high cost programs of the Universal Service Fund. *Assessment and Collection of Regulatory Fees for Fiscal Year 2017*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7057, 7061-64, paras. 10-15 (2017) (*FY 2017 Report and Order*).

[31] *See FY 2021 Report and Order*, 36 FCC Rcd at 30001, para 22.

[32] *Id.* at 12991-92, para 8; *FY 2013 Report and Order*, 28 FCC Rcd at 12357, para. 17.

[33] 47 U.S.C. § 159(c). For example, if the number of units in a regulatory fee category increases, the amount due per unit may decrease. This would also include proportionate increases in a given fee category to reflect an overall increase in the annual FY appropriation. It is rare, however, for the Commission to solely propose adjustments under section 9(c).

[34] 47 U.S.C. § 159(d).

[35] 47 U.S.C. § 159(A)(b)(1).

[36] 47 U.S.C. § 159(A)(b)(2).

[37] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2013*, MD Docket Nos. 12-201, 13-58, 08-65, 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).

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.[38] Most recently, in 2020, the Commission included non-U.S. licensed space stations with U.S. market access grants in the existing "Space Stations" fee category.[39] 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.[40]

III. NOTICE OF PROPOSED RULEMAKING

12. In this NPRM, we propose and seek comment on regulatory fees for FY 2024 as set forth in Appendices A, B, and E.[41] We also seek 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.

A. Assessment of Regulatory Fees

1. Methodology for Assessing Regulatory Fees

13. In FY 2024, the Commission is required to collect $390,192,000 in regulatory fees.[42] Section 9 of the Communications Act requires us to set regulatory fees to "reflect the full-time equivalent number

[38] For example, in 2009, after reviewing the issue and industry proposals for several years, the Commission adopted a new methodology for assessing regulatory fees to 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 oversight and regulation of this industry by Media Bureau FTEs. *FY 2015 Report and Order*, 30 FCC Rcd at 10276-77, paras. 19-20 (adding DBS as a regulatory fee category, based on Media Bureau FTEs); *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, MD Docket No. 15-121, Notice of Proposed Rulemaking, 30 FCC Rcd 5354, 5358, para. 9 (2015) (*FY 2015 NPRM*); *FY 2013 NPRM*, 28 FCC Rcd at 7810-11, paras. 50-52 (seeking comment on whether to adopt a new fee category for DBS, based on Media Bureau FTEs). In the *FY 2021 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.

[39] *FY 2020 NPRM*, 35 FCC Rcd at 4979-91, paras. 7-34.

[40] *Id.* at 4980-81, paras. 10-11. On appeal, the D.C. Circuit upheld the Commission's decision in *Telesat,* noting that "[i]t is undeniable that foreign satellites and their operators do benefit from the Commission's regulation in much the same way as their U.S.-licensed counterparts" and the Commission "reviews petitions for market ace ss 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.

[41] *See* Appendices A and B. As indicated above, we sought comment in the *Space and Earth Station Regulatory Fees NPRM* on the methodology for assessing space and earth station regulatory fees. *See supra* n.3. Any comments in response to the *Space and Earth Station Regulatory Fee NPRM* will be addressed as part of a subsequent Report and Order as part of the *Space and Earth Station Regulatory Fees* rulemaking proceeding.

[42] *See supra* n.2.

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."[43] Our first step in establishing our regulatory fee schedule is to take into consideration the adjustments necessitated by the more apparent changes from the prior fiscal year regulatory fee proceeding, e.g., changes in the (i) FY appropriation, (ii) FTE levels, and (iii) relevant unit measures for each regulatory fee category. Such adjustments are often considered ministerial. Our second step is a more substantive review where we look to the core bureaus within the Commission in order to identify the number of direct non-auction FTEs in each core bureau for purposes of the regulatory fee calculation.[44] After we determine the number of direct FTEs for each core bureau, we use these numbers to start our calculations of the percentage of the total amount of regulatory fees to be collected for a given fiscal year from each regulatory fee category within each core bureau. These proportional calculations allocate all Commission non-auction related costs across all regulatory fee categories.

a. Indirect FTE Reallocations

14. In FY 2023, the Commission found that the Commission's general methodology for establishing regulatory fees has been, and continues to be, appropriate and consistent with section 9 of the Communications Act.[45] The Commission therefore implemented this same methodology, but, in addition to looking at the current allocation of direct FTEs within the core bureaus, it also conducted a high-level analysis of the work of the Commission's indirect FTEs in non-core bureaus and offices and, where the Commission could determine with reasonable accuracy for FY 2023 that such work was spent on the regulation and oversight of a regulatory fee payor, the Commission reallocated the burden of that work as direct to a core bureau, solely for regulatory fee purposes.[46] As a result of this analysis, for FY 2023, 63 indirect 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 were allocated as direct FTEs to a core bureau, for regulatory fee purposes, based on the Commission's evaluation of the burden of their work.[47] In the *FY 2023 Report and Order*, the Commission explained that, while the Commission will continue to evaluate whether any FTEs should be reallocated for regulatory fee purposes each year when reviewing and validating the FTE data, the Commission will exercise its discretion regarding where to focus its analytical efforts each year to best respond to changes in the Commission's substantive work and organization, and changes in the telecommunications industry itself.[48] The Commission therefore indicated that where its analysis merits inclusion of proposed reallocations, it will seek comment on any such potential reallocation of FTEs in an annual proceeding.[49]

15. For FY 2024, we propose to employ the same methodology the Commission employed in FY 2023. We conclude, however, that changes within the Commission's organizational structure and additional staff resources merit a review of the FY 2023 reallocations. Specifically, effective on April 10, 2023,[50] the Commission eliminated the International Bureau, established a new Space Bureau and a new Office of International Affairs, and reallocated the International Bureau's authorities and functions

[43] 47 U.S.C. § 159(d).

[44] The remaining non-auction FTEs and other Commission costs are considered indirect and are not part of the regulatory fee calculation.

[45] *Review of the Commission's Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, MD Docket Nos. 23-159, 22-30, Report and Order, FCC 23-66, at para. 14 (2023) (*FY 2023 Report and Order*); 47 U.S.C. § 159(d).

[46] *Id.* at para. 15.

[47] *Id.*

[48] *Id.* at para. 19.

[49] *Id.*

[50] *See Space Bureau Order*.

between the Space Bureau and the Office of International Affairs.[51] In light of these organizational changes, we reviewed FTEs that were previously allocated to the International Bureau as direct for regulatory fee purposes and we analyzed the work done by those FTEs to determine whether such FTEs should be allocated to the Office of International Affairs or to the Space Bureau. In addition, FTE levels in the Public Safety and Homeland Security Bureau have increased during this fiscal year. In light of these changes, we analyzed the work of the new staff in the Public Safety and Homeland Security Bureau to determine whether any of their work should be allocated as indirect FTEs or allocated as direct FTEs to a core bureau for regulatory fee purposes. We also analyzed the work of the FTEs in the Office of General Counsel, the Office of Economics and Analytics, and the Public Safety and Homeland Security Bureau that we reallocated in FY 2023 as direct FTEs to core bureaus for regulatory fee purposes to determine whether their work assignments continue to merit allocation of those FTEs as direct to a core bureau for regulatory fee purposes.[52]

16. 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 Space Bureau. We limited our analytical efforts for FY 2024 to address the specific changes within the Commission and did not conduct a high-level analysis this fiscal year of all FTEs within the Commission as we believe the adjustments we make for FY 2024 reasonably reflect the major changes in the burden of work within the Commission. We thus utilize our discretion to ensure that we conduct our annual review in a manner that is fair, manageable, and sustainable.[53] As described in more detail below, we propose that, for FY 2024, approximately 69 indirect FTEs should be reallocated as direct FTEs to a core bureau for regulatory fee purposes, based on our evaluation of the burden of their work. We find that these proposed reallocations are consistent with section 9 of the Communications Act, which requires us to base our methodology on the number of FTEs in calculating regulatory fees.[54]

b. Space and Earth Station Regulatory Fee Rates

17. 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.[55] In this NPRM, we propose regulatory fee rates in Appendices A and B, based on our existing methodology,[56] and regulatory fee rates in Appendix E based on the proposals set forth in the *Space and Earth Station Regulatory Fees NPRM*.[57] Our proposed space and earth station regulatory fee rates are, however, estimates because we recognize that, ultimately, final space and earth station regulatory fee rates are dependent upon the outcome of the *Space and Earth Station Regulatory Fees NPRM* proceeding. We also recognize that there could be a combination of the proposals based upon commenters' feedback and the outcome of the *Space and Earth Station Regulatory*

[51] *See generally Space Bureau Order*; *see FY 2023 Report and Order* at para. 72, n.128 (noting that the 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.)

[52] 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, FCC 23-34, at para. 26 (2023) (*FY 2023 NPRM*).

[53] *FY 2023 Report and Order* at para. 19.

[54] 47 U.S.C. § 159(d).

[55] *Space and Earth Station Regulatory Fees NPRM*.

[56] *See* Appendices A and B.

[57] *See Space and Earth Station Regulatory Fees* NPRM; Appendix E.

Fees NPRM. Accordingly, we do not seek comment again in this proceeding on the specific proposals to adjust our existing methodology for assessing space and earth station regulatory fees, or to adopt an alternative methodology for assessing space station regulatory fees, which were set forth in the *Space and Earth Station Regulatory Fees NPRM*. Instead, comments pertaining to the proposals set forth in the *Space and Earth Station Regulatory Fees NPRM* regarding the categories and allocation of fees for space and earth stations should be submitted in the proceeding, MD Docket No. 24-85, and need not be submitted again in response to this NPRM.[58] In this item, we specifically seek comment on the proposed regulatory fee rates for space and earth station payors for FY 2024 based on the proposals set forth in the *Space and Earth Station Regulatory Fees NPRM*.[59]

18. The existing schedule of regulatory fees for space and earth station payors is contained in section 1.1156 of the Commission's rules.[60] There are four current categories of space station payors: Space Stations (Geostationary Orbit); Space Stations (Non-Geostationary Orbit)—Less Complex; Space Stations (Non-Geostationary Orbit)—Other; and Space Station (Small Satellites).[61] "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).[62] "Small Satellites" are space stations licensed pursuant to the streamlined small satellite process contained in section 25.122 of the Commission's rules.[63] The Space Stations (Small Satellites) category also includes "small spacecraft" licensed pursuant to the analogous streamlined procedures of section 25.123 of the rules.[64] In addition, there is a single category of earth station payors – Earth Stations: Transmit/Receive & Transmit only.[65] 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.[66]

19. Under the existing methodology of calculating regulatory fees for space and earth station payors, the Commission multiplies the space station and earth station FTE allocation percentages by the target goal of collections (overall total amount to collect), respectively, to determine the amount to be collected from each regulatory fee category. Since 2020, the space station allocation percentages reflect an 80/20 split between the GSO and NGSO regulatory fee categories, respectively.[67] The amount to be

[58] *Space and Earth Station Regulatory Fees NPRM* at para. 96.

[59] *See* Appendix E.

[60] 47 CFR § 1.1156.

[61] 47 CFR § 1.1156(a).

[62] *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).

[63] 47 CFR § 25.122.

[64] 47 CFR § 25.123.

[65] 47 CFR § 1.1156.

[66] *Assessment and Collection of Regulatory Fees for Fiscal Year 2020,* Report and Order and Further Notice of Proposed Rulemaking, 36 FCC Rcd 1731, 2020 WL 5247255 (2020) (*FY 2020 R&O and FNPRMI)*

[67] In 2019, the Commission sought comment on a proposal to examine the allocation of FTEs among GSO and NGSO space and earth station operators. *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8199, 8214, para. 67 (2019) (*FY 2019 Report and Order and FNPRM*). For FY 2019, the annual regulatory fee per unit for GSO space stations was $159, 625, and the comparable fee per unit for NGSO space stations was $154,875. *FY 2020 R&O and NPRM*, 35 FCC Rcd at 4993, para. 39.

collected by the space station and earth station regulatory fee categories, divided by the projected number of units, determines the fee rate. There are several space station regulatory fee categories – GSO, NGSO "other," NGSO "less complex," and small satellites – and each of these regulatory fee categories has its own respective FTE allocation percentage to determine the fee rate. The small satellite fee rate is calculated by taking the average of the calculated fee rate for space stations in the NGSO "other" and NGSO "less complex" categories. The average fee rate is then multiplied by 5% (1/20) and rounded to the nearest $5 to determine the small satellite fee rate. The small satellite fee rate is then multiplied by the number of small satellite units, and the amount derived is divided by an 80/20 split and reduced from the target goals of NGSO-Other and NGSO-Less Complex, respectively. After reducing the NGSO "other" and NGSO "less complex" target goal amounts, the fee rates for both of these NGSO regulatory fee categories are re-calculated (dividing the revised target goal by its respective unit count) to reflect a slightly lower fee rate. We calculate the proposed regulatory fees for space and earth station payors for FY 2024 under this existing methodology in Appendices A and B, taking into account the changes in the Commission's S&E appropriation for FY 2024, as well as the change in the percentage of direct FTEs allocated to the Space Bureau as a result of the elimination of the International Bureau and the establishment of a new Space Bureau and a new Office of International Affairs. We seek comment on these proposed regulatory fee amounts.

20. In the *Space and Earth Station Regulatory Fees NPRM*, we sought comment on a range of proposed changes related to the regulatory fee methodology for assessing space and earth station regulatory fees.[68] The space and earth station regulatory fees calculated under our existing methodology could change substantially if these proposed changes are adopted, in part or in whole, and are effective for FY 2024.[69] For example, if the proposal is adopted to amend the existing fee methodology to change the allocation of regulatory fee assessments for GSO and NGSO space stations from the current 80/20 split to a 60/40 split,[70] the proposed regulatory fees for NGSO space stations will be greater than the amount calculated under the existing methodology, and the proposed regulatory fees for GSO space stations will be less. Similarly, the change proposed in the *Space and Earth Station Regulatory Fees NPRM* to assess regulatory fees on authorized, not just operational, space stations may increase the number of units of space station payors, which in turn could decrease the calculated per unit regulatory fee for GSO and NGSO space station payors.[71] This and other proposed changes, such as the proposal to adopt regulatory fees for Rendezvous and Proximity Operations (RPO), On-Orbit Servicing (OOS), and Orbital Transfer Vehicles (OTV),[72] could assess fees on space station regulatees that may not be assessed regulatory fees under the existing methodology.[73] Furthermore, the earth station regulatory fees calculated for FY 2024 under the existing methodology would increase substantially if the proposals of the *Space and Earth Station Regulatory Fees NRPM* were adopted and effective for FY 2024,[74] which could also result in a decrease in the amount of regulatory fees calculated for space station payors. Finally, the alternative methodology for assessing regulatory fees proposed in the *Space and Earth Station Regulatory Fees NPRM* would replace the existing four categories of space station regulatory fees for GSO and NGSO

[68] *Space and Earth Station Regulatory Fees NPRM* at paras. 16-91.

[69] The effective date of any proposed amendments to the regulatory fee categories is based upon the adoption date of the *Space and Earth Station Regulatory Fees NPRM* and the required 90-day notification to Congress. 47 U.S.C. §§ 159A(b)(2), 159(d) (requiring 90-days prior notification to Congress before changes to the regulatory fee categories can become effective).

[70] *Space and Earth Station Regulatory Fees NPRM* at paras. 16-22.

[71] *Id.* at paras. 57-65.

[72] *Id.* at paras. 46-56.

[73] *See* Appendix E (Space and Satellite Charts for FY 2024 Regulatory Fees).

[74] *Id.* at paras. 67-75.

space stations with a single fee category for all space stations and a fee for small satellites.[75] This would also substantially change the regulatory fees calculated for FY 2024 under the existing methodology.

21. We provide calculations of possible space and earth station regulatory fees if the proposals of the *Space and Earth Station Regulatory Fees NPRM* were adopted and effective for FY 2024 in Appendix E. We acknowledge the difficulty of making these calculations while the *Space and Earth Station Regulatory Fees NPRM* proceeding is still ongoing and it is unknown whether the proposals will be adopted, in part, in whole, or a variation thereof, in time to be effective for FY 2024. In addition, the number of units per fee category depends on whether certain proposals in the *Space and Earth Station Regulatory Fees NRPM* are adopted or not. To address these difficulties, we explain, as part of our calculations within Appendix E, the methodology and the underlying assumptions for arriving at the calculated regulatory fees in order to provide as much information as reasonably possible at this time to potential commenters.[76] We seek comment on these calculations and the methodology and underlying assumptions that went into them.

22. Based on the foregoing, we seek comment on these proposals and on the proposed FY 2024 regulatory fees as set forth in Appendices A, B, and E.[77] We recognize that, due to the potential variations to our proposals as described in the *Space and Earth Station Regulatory Fees NPRM*, there could be slight changes to the proposed regulatory fee rates upon adoption of the regulatory fee rates in a subsequent Report and Order. Any proposals or comments requesting a change or modification to our proposed methodology in this NPRM and regulatory fees for FY 2024 should include a thorough analysis showing a sufficient basis for making the change.[78] Commenters should also provide alternative options for the Commission to meet its statutory obligation to collect the full amount of the appropriation by the end of the fiscal year, and indicate how such proposed alternative options are fair, administrable, and sustainable.

2. Adjustment of Reallocations, for Regulatory Fee Purposes, of Certain Indirect FTEs as Direct FTEs

23. According to information provided by our Human Resources Management office, there currently are 404 direct non-auctions FTEs for FY 2024 that are distributed among the core bureaus. In FY 2023, the Commission reallocated 63 indirect FTEs from the Office of Economics and Analytics, the Office of General Counsel, and the Public Safety and Homeland Security Bureau and added those FTEs as direct to the relevant core bureau solely for the purposes of collecting regulatory fees. Today, we revisit those reallocations in light of the elimination of the International Bureau and the creation of the Space Bureau and the Office of International Affairs, and additional hires in the Public Safety and Homeland Security Bureau. As a result of our analysis, for FY 2024 we proposed to reallocate 69 indirect FTEs from the Office of Economics and Analytics, the Office of General Counsel, and Public Safety and Homeland Security Bureau and add those FTEs as direct to the relevant core bureau solely for the purposes of collecting regulatory fees.

24. Our calculations of direct FTEs under our proposal, which are more fully detailed below, would be as follows: Office of International Affairs (8), Space Bureau (51), Wireless Telecommunications Bureau (121), Wireline Competition Bureau (153.25), and Media Bureau (140).[79]

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[75] *See* Appendix E, Table 3.

[76] Appendix E.

[77] *See* Appendices A, B, and E.

[78] As indicated above, comments pertaining to the specific proposals to adjust our existing methodology for assessing space and earth station regulatory fees, or to adopt an alternative methodology for assessing space station regulatory fees set forth in the *Space and Earth Station Regulatory Fees NPRM*, should be submitted in the proceeding, MD Docket No. 24-85, and need not be submitted again in response to this NPRM. *See supra* para. 17.

[79] As we discuss below, we are reallocating two Media Bureau FTEs from direct to indirect, for regulatory fee purposes. *See infra* para. 26, n.83.

Based on these proposed reallocations and after adjustments are made to these direct FTE counts to implement Commission precedent, we would collect approximately $6.59 million (1.69%) in fees from the Office of International Affairs regulatory fee payors; $42.14 million (10.80%) in fees from the Space Bureau regulatory fee payors; $100.05 million (25.64%) in fees from Wireless Telecommunications Bureau regulatory fee payors; $126.69 million (32.47%%) in fees from Wireline Competition Bureau regulatory fee payors; and $114.72 million (29.40%) in fees from Media Bureau regulatory fee payors.

25. For purposes of this determination for FY 2024, we used the same analysis as was done in FY 2023 and evaluated whether measurable FTE time for FY 2024 is primarily being spent on the regulation and oversight of regulatory fee payors.[80] Specifically, where the amount of work under consideration equaled .5 FTE or less, we rounded down to the nearest whole FTE and only proposed our reallocations in one full FTE increments.[81] The Commission concluded that less than a full-time FTE demonstrates that the work being done is appropriately considered to be indirect and should not be reassigned.[82] The table below summarizes the FY 2023 reallocations and the proposed FY 2024 reallocations.

CORE BUREAU FY 2023 FTE PERCENTAGES WITH FY 2024 PROPOSED FTE REALLOCATION ADJUSTMENTS

Core Bureau	FY 2023 FTE% With FTE Reallocations	FY 2023 Amount With FTE Reallocations (Millions)	FY 2024 Proposed FTE % With Adjusted FTE Reallocations	FY 2024 Amount With FTE Reallocations (Millions)
		FY 2023 Appropriation was $390.192		FY 2024 Appropriation is $390.192
Wireline Bureau	35.91%	$140.12	32.47%	$126.69
Media Bureau	31.76%	$123.9	29.40%	$114.72
Media Bureau; subcategory Broadcasters	14.12%	$55.10	13.09%	$51.08
Media Bureau; subcategory Cable	17.64%	$68.83	16.31%	$63.64
Wireless Bureau	24.56%	$95.83	25.64%	$100.05
International Bureau	7.77%	$30.32	N/A	N/A
Office of International Affairs	N/A	N/A	1.69%	$6.59
Space Bureau	N/A	N/A	10.80%	$42.14

26. Based upon our re-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 propose that 69 indirect FTEs should be reallocated as direct FTEs because they devote their time to the oversight and regulation of regulatory fee payors. We therefore propose to reallocate the FTE time as direct to the relevant core bureaus and office for calculating regulatory fees. Consistent with the Commission's determination in FY 2023, we propose to 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

[80] *FY 2023 Report and Order* at para. 23.

[81] *FY 2023 NPRM*, n.58.

[82] *FY 2023 Report and Order* at para. 23.

in the Enforcement Bureau, which has previously been categorized as indirect.[83] We find no reason at this time to alter this determination and conclude that the time of two FTEs in the Media Bureau should continue be considered indirect. We seek comment on this conclusion. Below, we discuss our analysis for the Office of Economics and Analytics, the Office of General Counsel, and the Public Safety and Homeland Security Bureau.

27. *Office of Economics and Analytics (OEA) FTEs*. In FY 2023, the Commission reallocated 30 indirect FTEs from OEA as direct to a core bureau for regulatory fee purposes as follows: two to the International Bureau, eight to the Wireless Telecommunications Bureau, 13 to the Wireline Competition Bureau, and seven to the Media Bureau.[84] Consistent with the Commission's analysis in the *FY 2023 Regulatory Fee Report and Order*, we continue to find that there is measurable work done by OEA that is being done directly in furtherance of the oversight and regulation of regulatory fee payors in certain industry segments.[85] For FY 2024, staff analysis of OEA's work, however, has slightly changed from FY 2023 to FY 2024 and rather than reallocating two FTEs as direct for regulatory fee purposes as was done in FY 2023, based on OEA staff analysis, specifically one FTE is reallocated to the Space Bureau based on OEA's work on satellite service related issues. We therefore propose to adjust the FY 2023 allocations for OEA and allocate 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. We seek comment on this proposed allocation for FY 2024.

28. *Office of General Counsel (OGC) FTEs*. In FY 2023, the Commission reallocated five indirect FTEs from OGC as direct to a core bureau for regulatory fee purposes as follows: one to the Wireline Competition Bureau, two to the Wireless Telecommunications Bureau, one to the Media Bureau, and one to the International Bureau.[86] Consistent with the Commission's analysis in the *FY 2023 Regulatory Fee Report and Order*, we continue to find that the majority of OGC's work is appropriately categorized as indirect, however, certain aspects of OGC's work are sufficiently linked to the oversight and regulation of individual regulatory fee categories such that, for FY 2024, four FTEs from OGC should be reallocated as direct FTEs to a relevant core bureau for regulatory purposes. For FY 2024, staff analysis of OGC's work has also slightly changed from FY 2023 to FY 2024 in that no OGC indirect FTEs will be reallocated to what was formerly the International Bureau (now, the Office of International Affairs and the Space Bureau). We make this proposal because OGC FTE time devoted to the Office of International Affair's efforts is for FY 2024 focused on Office of International Affair's matters other than the Office of International Affair's regulatory fee payors (satellite and international bearer circuits and submarine cables). We therefore propose to adjust the FY 2023 allocations for OGC and allocate four indirect FTEs from OGC as direct to a core bureau for regulatory fee purposes for FY 2024 as follows: one to the Wireline Competition Bureau, two to the Wireless Telecommunications Bureau, and one to the Media Bureau. We seek comment on this proposed allocation for FY 2024.

29. *Public Safety and Homeland Security Bureau (PSHSB) FTEs.* In FY 2023, the Commission reallocated 28 indirect FTEs from PSHSB as direct to a core bureau for regulatory fee purposes as follows: 13 to the Wireless Telecommunications Bureau, nine to the Wireline Competition Bureau, and six to the Media Bureau.[87] PSHSB advises and coordinates within the Commission on all matters

[83] *FY 2023 Report and Order* at 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.*

[84] *FY 2023 Report and Order* at para. 23.

[85] *Id.*

[86] *Id.* at paras. 31-34.

[87] *Id.* at paras. 35-46.

pertaining to public safety, homeland security, national security, cybersecurity, emergency management and preparedness, disaster management, and related matters.[88] Consistent with the Commission's analysis in the *FY 2023 Report and Order*, to the extent that the bureau leads initiatives that strengthen public safety and emergency response capabilities enabling the Commission to assist the public, first responders, law enforcement, hospitals, the communications industry and all levels of government in times of emergency, we continue to conclude that the majority of its work is best categorized as indirect.[89] In FY 2023, the Commission, however, concluded that specific aspects of the FTE work within PSHSB's three divisions—the Policy and Licensing Division, the Operations and Emergency Management Division, and the Cybersecurity and Communications Reliability Division—-is sufficiently linked to the oversight and regulation of individual regulatory fee categories such that certain FTE time should be reallocated as direct to a relevant core bureau for regulatory purposes.[90] For FY 2024, we continue to conclude that certain aspects of the of the FTE work in these divisions of PSHSB can be allocated as direct to a core bureau because such work provides direct oversight and regulation of specific regulatory fee categories. Staff therefore analyzed the work of the 28 indirect FTEs which were allocated as direct to a core bureau in FY 2023 and their analysis of the work performed of the 28 indirect FTEs remains unchanged. Since FY 2023, PSHSB has 11 additional FTEs. Consistent with the Commission's analysis in the FY 2023 Regulatory Fee Report and Order, we analyzed the work PSHSB was able to accomplish with the additional 11 FTE resources and determined it was directly in furtherance of the oversight and regulation of regulatory fee payors of a core bureau.[91] We therefore propose to adjust the FY 2023 allocations and allocate a total of 38 PSHSB FTEs as direct to a core for regulatory fee purposes for FY 2024 as follows: 16 to the Wireless Telecommunications Bureau, 11 to the Wireline Competition Bureau, and nine to the Media Bureau, and two to the Space Bureau. We seek comment on this proposal.

30. *Conclusion of the Proposal to Reallocate Certain Indirect FTEs from OEA, OGC, and PSHSB as Direct FTEs to a Relevant Core Bureau*. As represented above, FTE time associated with the proposed reallocations for regulatory fee purposes would be added to the relevant core bureau. Such a reallocation for regulatory fee purposes would result in increasing the number of direct FTEs in a core bureau and reducing the total number of indirect FTEs within the Commission. Because our underlying methodology for calculating regulatory fees remains unchanged, we conclude that our fee regulatory fee calculation continues to be consistent with section 9 of the Communications Act, which requires us to base our methodology on the number of FTEs in calculating regulatory fees.[92] We seek comment on this conclusion.

31. We continue to be mindful that our treatment of FTEs as direct or indirect can change over time based on our evaluation of the FTE burden associated with the Commission's work assignments, fluctuations within industry segments, and needs of specific regulatory fee payors. As depicted in the table below, the percentage of regulatory fees allocated to each core bureau has generally decreased due to the increase in the number of FTEs from FY 2023 within the core bureaus. The only exception to this is the FY 2024 allocation of direct FTEs to the Space Bureau. Because there are more direct FTEs in the Space Bureau attributable to space and earth station fee payors than there were in the International Bureau, the percentage of regulatory fees allocated to the Space Bureau in FY 2024 is larger than the FY

[88] 47 CFR §§ 0.191 (PSHSB functions); 0.392 (PSHSB delegation).

[89] *FY 2023 Report and Order* at para. 36.

[90] *Id.*

[91] We reiterate that when we discuss FTEs, we are not referring to any particular employee at the Commission but rather an amount of work performed annually by a full time employee. In analyzing the work performed by the additional FTEs in PSHSB, we applied conservative estimates to our proposed reallocations so as not to imply a false sense of precision in the proposed reallocation. Specifically, where the amount of work under consideration equaled .5 FTE or less, we rounded down to the nearest whole FTE and only proposed our reallocations in one full FTE increments.

[92] 47 U.S.C. § 159(d).

2023 allocation to the International Bureau.[93] The table below shows the proposed reallocations of a total of 69 FTEs to each of the core bureaus, as discussed above. Such reallocations, for regulatory fee purposes, would be proportionally distributed within the core bureau. We seek comment on these reallocations for FY 2024.

Core Bureau/Office	FY 2023 FTE Reallocations	Total # of Direct FY 2023 FTEs With FTE Reallocations	FY 2023 % After Reallocations	Total # of Direct FY 2024 FTEs Without FTE Reallocations	FY 2024 FTE Reallocations	Total # of Direct FY 2024 FTEs With FTE Reallocations	FY 2024 % After Reallocations
International Bureau (Reorganized in April 2023)	+2 from OEA + 1 from OGC Total additional FTEs +3	31	7.77%	N/A	N/A	N/A	N/A
Office of International Affairs (Submarine Cable and International Bearer Circuits)	N/A	N/A	N/A	8	+0 from OEA +0 from OGC Total additional FTEs +0	8	1.69%
Space Bureau (Space and Earth Stations)	N/A	N/A	N/A	48	+1 from OEA +2 from PSHSB Total additional FTEs +3	51	10.80%
Wireless Telecommunications Bureau	+8 from OEA +2 from OGC +13 from PSHSB Total additional FTEs +23	98	24.56%	95	+8 from OEA +2 from OGC +16 from PSHSB Total additional FTEs +26	121	25.64%
Wireline Competition Bureau	+13 from OEA +1 from OGC +9 from PSHSB Total additional FTEs +23	143.25	35.91%	128.25	+13 from OEA +1 from OGC +11 from PSHSB Total additional FTEs +25	153.25	32.47%
Media Bureau	+7 from OEA +1 from OGC +6 from PSHSB -2 from MB Reallocated as Indirect Total additional FTEs +12	128	31.76%	125	+7 from OEA +1 from OGC +9 from PSHSB -2 from EB Reallocated as Indirect Total additional FTEs +15	140	29.40%
Total	**63**	**400.25**	**100%**	**404.25**	**69**	**473.25**	**100%**

[93] *See Space and Earth Station Regulatory Fees NPRM* at para. 15.

32. As reflected in the table above, our proposals to adjust the reallocation of 63 indirect FTEs as direct for regulatory fee purposes in FY 2023 to 69 indirect FTEs as direct for regulatory fee purposes in FY 2024 will result in a 17.1% increase in our overall direct FTE count for FY 2024, and an increase of 18.2% in the overall direct FTE count from FY 2023. We continue to make these proposals consistent with our long standing regulatory fee methodology and conclude that our determinations are reasonably accurate for fiscal year 2024. We seek comment on our proposals and this tentative conclusion. While our proposals adjust the reallocations for regulatory fee purposes for FY 2024, we are mindful that FTE's work in OEA, OGC, and PSHSB can change from year to year and we want to avoid any unplanned shifts in regulatory fees on an annual basis that would undermine the goals of having a fair, administrable, and sustainable program. In light of the creation of the Space Bureau and Office of International Affairs and the expanded number of FTEs in PSHSB, it was necessary to review the Commission's FY 2023 allocations to ensure a reasonably accurate allocation of direct and indirect FTEs to the core bureaus for the calculation of regulatory fees for FY 2024.

B. Elimination of the International Bureau

33. In January 2023, the Commission eliminated the International Bureau and established: (1) a Space Bureau to handle policy and licensing matters related to satellite communications and other in-space activities under the Commission's jurisdiction; and (2) an Office of International Affairs to handle issues involving foreign and international regulatory authorities as well as international telecommunications and submarine cable licensing.[94] The reorganization became effective on April 10, 2023.[95] 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.[96] The Commission anticipated that the elimination of the International Bureau and the creation of the Space Bureau and the Office of International Affairs, could result in a change in the number of FTEs, due to increased oversight of various relevant industries.[97] Accordingly, the Commission stated that it would closely review the Space Bureau and Office of International Affairs FTEs to determine the appropriate number of FTEs in each entity as a result of the reorganization and how they will be apportioned among the different services.[98] Accordingly, for purposes of FY 2024 and going forward, we discuss the functions and FTE allocations of the Office of International Affairs and the Space Bureau below.

1. Office of International Affairs

34. The Office of International Affairs (OIA) is responsible for the Commission's engagement of foreign and international regulatory authorities, including multilateral and regional organizations.[99] OIA also facilitates through rulemaking and licensing 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.[100] In

[94] *See generally Space Bureau Order*.

[95] *See Space Bureau Order*; *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).

[96] *FY 2023 Report and Order* at para. 72.

[97] *Id.*

[98] *Id.* In addition, Intelsat previously observed that it would be immensely helpful for the Commission to provide as much information and guidance as possible regarding the reallocation of FTEs located in the International Bureau to the Space Bureau and Office of International Affairs. *Id.* at 22, n.127.

[99] Federal Communications Commission, International Affairs, https://www.fcc.gov/international-affairs (last visited Mar. 28, 2024).

[100] *Id.*

undertaking these functions, OIA 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.[101] OIA also is responsible for intergovernmental leadership, negotiation and international and inter-agency representational functions.[102] Additionally, OIA oversees and coordinates the Commission's global participation in international and multilateral conferences, regional organizations, cross-border negotiations and international standard setting efforts.[103] Further, OIA also oversees bilateral meetings with other countries and foreign government officials.[104]

35. OIA is composed of the Telecommunications and Analysis Division (TAD) and the Global Strategy and Negotiation Division (GSN).[105] Because the majority of OIA's work does not benefit specific regulatory fee payors, but rather the government as whole, consistent with Commission precedent, we conclude that the majority of the work of its FTEs is appropriately categorized as indirect. As the Commission discussed in the *FY 2023 Report and Order*, all FTEs in GSN are considered indirect FTEs.[106] Specifically, GSN 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)[107] as well as the Commission's International Visitors Program.[108] They also participate in various international and regional organizations such as the International Telecommunication Union (ITU),[109] the International Maritime Organization, the International Civil Aeronautics Organization, the Organization for Economic Cooperation and Development, the Asia Pacific Economic Cooperation, and the Inter-American Telecommunication Commission. GSN also coordinates cross-border issues with Mexico and Canada that involve a wide range of services, such as maritime, aeronautical, mobile and fixed satellite, broadcasting, mobile, and terrestrial wireless services. In addition, GSN's functions include international broadcasting station licensing and coordination of frequencies for International Broadcast licenses at the ITU.[110] GSN's multilateral and bilateral international work ultimately benefits all fee payors by

[101] *Id.*

[102] *Id.*

[103] *Id.*

[104] *Id.*

[105] *Id.*

[106] *FY 2023 Report and Order* at para. 73.

[107] *See* United States Telecommunications Training Institute, *Global Growth Through Communications Sharing*, available at https://ustti.org/ (last visited Mar. 28, 2024).

[108] 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 Mar. 28, 2024).

[109] The ITU is an agency of the United Nations responsible for matters related to information and communication technologies. *See* International Telecommunication Union, About ITU, https://www.itu.int/en/Pages/default.aspx (last visited Mar. 28, 2024). The ITU has three sectors, radiocommunications (ITU-R), telecommunications standardization (ITU-T), and telecommunications development (ITU-D). GSN staff cover all three sectors, with ITU-R work focused on spectrum allocations and related international regulations governing spectrum use, ITU-T work focused on international standards setting issues, numbering, and related policy issues, and ITU-D work focused on capacity building and digital inclusion.

[110] In FY 2009, the Commission eliminated two fee categories; International Public Fixed Radio and International High Frequency (HF) Broadcast Stations. *Assessment and Collection of Regulatory Fees for Fiscal Year 2009, Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket Nos. 08-65, 09-65, Notice of Proposed Rulemaking and Order, 24 FCC 5966, 5967, paras. 2-4 (2009) (*FY 2009 NPRM*). The Commission

(continued….)

maintaining and advancing the United States' global leadership and interests, which encompasses, among others, U.S. trade, foreign policy, and national security interests. Thus, the work of GSN does not benefit a specific fee payor, but rather the government as whole and is therefore appropriately categorized as indirect. There are, however, 8 FTEs within TAD that work on international bearer circuit 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. Therefore, we conclude, for FY 2024, that there are a total of 47 FTEs within OIA, 8 direct FTEs and 39 indirect FTEs. We seek comment on this conclusion.

2. Space Bureau

36. The Space Bureau plays a key role in advancing the Commission's Space Innovation Agenda to meet the needs of the next generation Space Age.[111] The Space Bureau promotes a competitive and innovative global communications marketplace by leading policy and licensing matters related to satellite and space-based communications and activities.[112] Among its responsibilities, the Space Bureau leads complex policy analysis and rulemakings; authorizes satellite and earth station systems used for space-based services; streamlines regulatory processes to provide maximum flexibility for operators to meet customer needs; and fosters the efficient use of scarce spectrum and orbital resources.[113] 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 OIA for consultations with other countries, international and multi-lateral organizations, and foreign government officials that involve satellite and space policy matters.[114]

37. The Space Bureau is comprised of the Satellite Licensing Division (SLD), Satellite Programs & Policy Division (SPPD), and the Earth Station Licensing Division (ESLD).[115] These new divisions have the responsibilities and authorities for the analysis and functions that were housed within the Satellite Division of the International Bureau, including its branches, the Policy Branch, the Engineering Branch, and the System Analysis Branch.[116] ESLD is responsible for the technical analysis, review, and licensing of applications and special temporary requests for satellite earth stations.[117] SLD is responsible for the engineering review of satellite systems applications, and for registering FCC-licensed satellite systems with the ITU.[118] SPPD develops and administers rules, regulations, and policies to support a competitive and innovative space-based global telecommunications marketplace.[119] Our Human Resources Management office has provided data identifying 54 FTEs in the Space Bureau to be counted for FY 2024. The Space Bureau anticipates that 48 of these FTEs will be categorized as direct FTEs, with

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observed that there was only one licensee in the International Public Fixed Radio category, it did not expect any additional licensees or applications, and eliminating the fee category would reduce the Commission's administrative burden. *FY 2009 NPRM*, 24 FCC Rcd at 5967, para. 3. In the International High Frequency Broadcast Stations category there were only 25 licensed stations of which most were tax-exempt, and only two entities made payments, totaling $1,720. *FY 2009 NPRM*, 24 FCC Rcd at 5967, para. 4. The Commission eliminated this category from the schedule of regulatory fees in order to reduce the administrative burden on the Commission in assessing this fee category. *Id.*

[111] Federal Communications Commission, Space, https://www.fcc.gov/space (last visited Mar. 28, 2024).

[112] *Id.*

[113] *Id.*

[114] *Id.*

[115] *Id.*

[116] *Space Bureau Order* at para. 7.

[117] *See* https://www.fcc.gov/earth-station-licensing-division (last visited Mar. 28, 2024).

[118] *See* https://www.fcc.gov/satellite-licensing-division-page (last visited Mar. 28, 2024).

[119] *See* https://www.fcc.gov/satellite-programs-and-policy-division (last visited Mar. 28, 2024).

the exception of six FTEs that work exclusively, or nearly exclusively, on matters that do not provide oversight and regulation of a specific category of regulatory fee payors. A number of space related activities indirectly benefit the existing fee categories, including space stations, commercial mobile services, and earth stations. For example, the Space Bureau coordinates with the National Aeronautics and Space Administration (NASA),[120] Federal Aviation Administration (FAA),[121] National Oceanic and Atmospheric Administration (NOAA),[122] State Department[123] on space sustainability, planetary protections, and on space innovation. Staff in ESLD, SLD, and SPPD assist the Office of Engineering & Technology in reviewing applications for experimental licenses for space-based activities. Lastly, the Space Bureau works closely with GSN staff in the Office of International Affairs to help cover certain ITU World Radiocommunications Conference (WRC) agenda items.[124] These six Space Bureau FTEs would therefore be considered indirect.

38. Of these six indirect FTEs, three FTEs work with the staff of the Office of International Affairs on covering ITU World Radiocommunications Conference (WRC) agenda items,[125] and three FTEs work with the staff of the Office of Engineering & Technology on experimental licenses involving space or earth stations.[126] Thus, we conclude that such FTEs are indirect since 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 subject to a regulatory fee.[127]

39. In addition to the 48 direct FTEs out of the 54 FTEs identified by our Human Resources Office, as indicated above, we also propose to reallocate one FTE from OEA and two FTEs from PSHSB as direct to the Space Bureau for regulatory fee purposes.[128] We therefore conclude, for regulatory fee purposes for FY 2024, there are a total of 54 FTEs within the Space Bureau, 48 direct FTEs and six indirect FTEs, and three indirect FTEs that are designated as direct for a total of 51 direct FTEs and six indirect FTEs. We recognize that the increase in number of direct FTEs allocated to the Space Bureau will directly result in a significant increase in regulatory fees for Space Bureau regulatory fee payors

[120] NASA is an independent agency of the U.S. federal government responsible for the civil space program, aeronautics research, and space research. *See* NASA, *About NASA*, https://www.nasa.gov/about/index.html (last visited Mar. 28, 2024).

[121] The FAA, part of the U.S. Department of Transportation, regulates civil aviation. *See* Federal Aviation Administration, https://www.faa.gov/ (last visited Mar. 28, 2024).

[122] NOAA, part of U.S. Department of Commerce, holds key leadership roles in shaping international ocean, fisheries, climate, space and weather policies. https://www.noaa.gov/ (last visited Mar. 28, 2024).

[123] U.S. Department of State, https://www.state.gov/ (last visited Mar. 28, 2024).

[124] *See* https://www.itu.int/en/ITU-R/Conferences/WRC/Pages/default.aspx (last visited Mar. 28, 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. https://www.itu.int/hub/publication/r-reg-rr-2020/ (last visited Mar. 28, 2024).

[125] *FY 2023 Report and Order* at para. 76.

[126] The Commission previously determined that staff work done on reviewing experimental license applications is indirect in nature. *FY 2023 Report and Order* at para. 60.

[127] *Assessment and Collection of Regulatory Fees for Fiscal Year 2022*, MD Docket Nos. 22-223, 22-301, Report and Order and Notice of Inquiry, 37 FCC Rcd 10845, 10882-84, paras. 76-80 (2022) (*FY 2022 R&O and NOI*).

[128] *See supra* paras. 27, 29.

between FY 2023 and FY 2024.[129] This is true even though the amount of appropriated S&E for FY 2024 remains the same as for FY 2023 due to the significant increase in the number of direct FTEs attributed to the Space Bureau. We seek comment on this conclusion.

C. Broadcast Television Stations

40. In the *FY 2020 Report and Order*,[130] we completed the transition to a population-based full-service broadcast television regulatory fee.[131] The population-based methodology conforms with the service authorized here—broadcasting television to the American people. For FY 2024, we propose to continue to assess fees for full-power broadcast television stations based on the population covered by a full-service broadcast television station's contour. Currently, we use 2010 U.S. Census data to assess fees for full-power broadcast television stations. In FY 2024, 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.[132] 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.[133] We seek comment on our mechanism, described below, for how we will calculate the regulatory fee based on the previously decided population-based methodology.[134] We propose adopting a factor of $.006598 per population served for FY 2024 full-power broadcast television station fees.[135] The population data for broadcasters' service areas are determined using the TVStudy software and the LMS database, based on a station's projected noise-limited service contour.[136] The population data for each licensee and the population-based fee (population multiplied by $.006598 for each full-power broadcast

[129] *See Space and Earth Station Regulatory Fees NPRM* at para. 15 ("This is chiefly because we anticipate there will be more direct FTEs in the Space Bureau attributable to space and earth station fee payors than there were in the International Bureau, due to the increased regulatory complexity and oversight required, which will result in a larger percentage of overall regulatory fees being allocated to the Space Bureau, assuming there is no offsetting increase in the number of FTEs in other core bureaus and offices.").

[130] *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, MD Docket No. 20-105, Report and Order and Further Notice of Proposed Rulemaking, 36 FCC Rcd 1731, 1738, para. 19 (2020) (*FY 2020 Report and Order*).

[131] 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).

[132] *See FY 2020 Report and Order*, 36 FCC Rcd at 1738-39, paras. 20-21 (adjusting the fees for Puerto Rico broadcasters).

[133] 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).

[134] In the *FY 2018 NPRM*, we sought comment on whether using the actual population covered by the station's contours instead of Designated Market Areas (DMAs) would more accurately reflect the market served by a full-power broadcast television station for purposes of assessing regulatory fees. *See Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Notice of Proposed Rulemaking, 33 FCC Rcd 5091, 5102, para. 28 (2018) (*FY 2018 NPRM*). In the *FY 2018 Report and Order*, the Commission adopted a new methodology for assessing regulatory fees for full-service broadcast stations. The Commission determined that it would fully transition to assessing regulatory fees for full-service television broadcast stations based on the population covered by the station's contour by FY 2020 and, in the interim, for FY 2019, adopted a blended fee based partly on the historical DMA methodology and partly on the new population-based methodology. *Assessment and Collection of Regulatory Fees for Fiscal Year 2018*, Report and Order and Order, 33 FCC Rcd 8497, 8501-502, para. 14 (2018) (*FY 2018 Report and Order*).

[135] 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.

[136] 47 CFR § 73.622(e).

television station[137] is listed in Appendix F. We seek comment on these proposed fees.

D. Digital Equity and Inclusion

41. The Commission, as part of its continuing effort to advance digital equity for all,[138] 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[139] and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, we seek comment on how our proposals for collecting regulatory fees for FY 2024 may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority. We note that diversity and equity considerations, however, do not allow the Commission to shift fees from one party of fee payors to another nor to fees under section 9 of the Act for any purpose other than as an offsetting collection in the amount of our annual S&E appropriation.

E. Temporary Relief Measures Due to Economic Effects of COVID-19 Pandemic

42. 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.[140] As we explain below, we do not plan to implement these temporary measures for FY 2024. The circumstances for which the measures were temporarily implemented have changed. The National Emergency COVID-19 pandemic has ended[141] and the national economy is rebounding.[142] We seek comment on the following proposals.

43. For FY 2023, the Commission directed the Office of the Managing Director to continue to

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[137] 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.

[138] 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.

[139] 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).

[140] *FY 2020 Report and Order,* 36 FCC Rcd at 1760-61, paras. 80-84; *FY 2021 Report and Order*, 36 FCC Rcd at 13024-25, paras. 69-71; *FY 2022 Report and Order* at para. 105. In FY 2023, the Commission continued three of the six temporary relief measures, one in modified form, and codified the remaining three temporary measures. *FY 2023 Regulatory Fees NPRM* at paras. 16-17; *FY 2023 Report and Order* at paras. 130, 131. The changes were codified in 47 CFR §§ 1.1914 and 1.1166. Pursuant to the Paperwork Reduction Act, because approval of the information collection by the Office of Management and Budget of revised section 1.1914 did not conclude in time for parties seeking installment relief to proceed under the codified revisions to section 1.1914 for FY 2023, the Commission continued the revisions to section 1.1914 as a temporary measure until the codification becomes effective.

[141] 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).

[142] David J. Lynch, *Falling Inflation, Rising Growth Give U.S. the World's Best Economy*, The Washington Post, January 28, 2024, at https://www.washingtonpost.com/business/2024/01/28/global-economy-gdp-inflation/ (last visited Mar. 28, 2024).

exercise its delegated authority to partially waive section 1.1910 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 relief requests.[143] For fiscal year 2024, we do not intend to direct the Office of the Managing Director to exercise its discretion in this manner in this proceeding. This means that absent grant of individual requests for waiver of section 1.1910 of our rules, the Commission would not act on a request for waiver, reduction and/or deferral of a regulatory fee filed by a fee payor on red light until full payment of the fee payor's delinquent debt and that the Commission would dismiss the request if the debt was not paid in full within 30 days of the filing of the request.[144]

44. During FY 2023 the Commission also directed OMD to offer a nominal interest rate and waive its down payment requirement for installment payment of regulatory fee debt.[145] For FY 2024, the Commission does not intend to direct Office of the Managing Director to fix the interest rate charged on installment debt at a nominal rate[146] or to waive the requirement that regulatory fee debtors seeking installment payment relief make a downpayment. That means that the Office of the Managing Director will have authority to, but will not be required to, assess a minimum interest rate on regulatory fee installment debt, and will have 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.[147] In addition, the Office of the Managing Director will have authority to require a down payment from a regulatory fee payor seeking installment payment relief.

45. During FY 2023, the Commission partially waived section 1.1166 of our rules to permit fee payors seeking waiver, reduction and/or deferral of their FY 2023 regulatory fees based on financial hardship to submit financial documentation supporting their requests after their underlying requests are submitted, but the Commission modified the waiver to permit only one post-filing submission of supplemental financial documents by a deadline of January 31, 2023.[148] This was a change from FY 2022, in that we limited our rule waiver to more closely align it with the requirements of section 1.1166, anticipating a return to the normal operation of section 1.1166.[149] For fiscal year 2024, we do not intend

[143] *FY 2023 Report and Order* at paras. 130, 131.

[144] 47 CFR §§ 1.1910, 1.1164. *See e.g., Delta Radio Radio Network, LLC,* Memorandum Opinion and Order, 32 FCC Rcd 1770, fn.2 (2017) ("Under its 'red light' policy, the Commission examines each application to determine if the applicant is delinquent in a debt owed to the Commission (including but not limited to the payment of regulatory fees), withholds action on the application if there is such a delinquency, and dismisses the application if the delinquency is not cured after notice is given to the applicant.").

[145] *Id.* In accordance with the Commission's instructions to the Office of the Managing Director to charge a low rate of interest on installment debt as part of the Commission's FYs 2020 – 2023 temporary relief measures, the Office of the 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).

[146] As noted, 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). However, an agency 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).

[147] 31 U.S.C. § 3717(a)(1), 31 CFR § 901.9(b)(2), 47 CFR § 1.1914(b)(2).

[148] *FY 2023 Report and Order* at para. 125. In extending the temporary measure in modified form, the Commission reminded regulatory fee payors that a good faith effort must be made to submit all necessary documentation with their initial regulatory fee waiver requests. *Id*.

[149] *Id.* Under 47 CFR § 1.1166(c), regulatory fee payors seeking waiver, reduction and/or deferral of their regulatory fees must submit their supporting documentation with their requests in order for the documentation to be considered.

to direct OMD to waive any aspect of this rule in this proceeding. Absent individual waiver requests being granted, this means that parties seeking waiver, reduction and/or deferral relief to submit with their requests all such financial documentation necessary to justify the relief sought on financial hardship grounds.[150] Documents submitted after a request is filed would not be considered, and failure to submit any supporting financial documentation with a request would result in dismissal and/or denial of the request.

46. We recognize that some regulatory fee payors may be experiencing lingering or continuing financial difficulties related to the pandemic's economic effects, but we believe that sections 1.1166 and 1.1914 of our rules, now streamlined and simplified, offer those fee payors a straightforward path to regulatory fee relief.[151] Commenters that disagree with our proposals should explain why any continued relief based on the COVID-19 pandemic is necessary or justified, and to the extent continuation of any measure requires waiver of a Commission's rule, commenters should explain why good cause exists for, and the public interest would be served by, waiver or modification of the relevant rule.[152]

F. Non-Operating Broadcast Stations

47. We seek comment on ending a policy of presuming that dark or silent stations have experienced financial hardship and therefore merit grant of a request for waiver of regulatory fees on the basis of financial hardship,[153] without requiring submission of evidence of actual financial hardship. This policy was first mentioned by the Commission in 1995, observing that when a broadcast station is dark, it is "generally based on financial hardship."[154] The Commission then concluded that "it is unnecessary to require a licensee to make a further showing of financial hardship" when requesting a waiver of

[150] 47 CFR § 1.1166.

[151] Section 1.1166 of the Commission's rules was amended to permit parties seeking regulatory fee waiver, reduction and/or deferral to make a single request for all forms of relief sought, rather than requiring separate filings for each form of relief, and require all requests made under the rule to be submitted electronically to a dedicated email address. The Commission amended section 1.1914 of the rules to allow parties to combine their installment payment requests with their requests under section 1.1166 and to submit those requests to the same dedicated email address. *FY 2023 NPRM* at paras. 16-17.

[152] 47 U.S.C. § 159A(d); 47 CFR § 1.1166. As part of the FY 2023 regulatory fee rulemaking, the State Broadcasters Associations advocated for making permanent the remaining three temporary measures, stating that without them, the Commission's processes and rules, particularly with respect to installment payment requests, are sufficiently onerous as to prevent distressed fee payors from effectively accessing the relief. State Broadcasters Associations FY 2023 NPRM Reply at 17. Because the Commission did not propose to codify the remaining temporary measures in the *FY 2023 NPRM*, in the *FY 2023 Report and Order*, the Commission concluded that the record was insufficient to consider the State Broadcasters Associations' proposal and therefore declined to consider it at that time. *See FY 2023 Report and Order* at para. 126.

[153] *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.").

[154] *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*).

regulatory fees.[155] In articulating this policy in 1995, the Commission assumed that most stations go dark because of financial hardship and observed that "broadcast stations which are dark must request permission to suspend operation" under FCC rules.[156] In 1996, the Commission's Office of the Managing Director applied the presumption to regulatory fees assessed in the first year of a station's operation by a licensee that purchased a recently dark or bankrupt station.[157]

48. The Commission 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 our rules. Licensees might go dark for different reasons depending on each station's particular circumstances.[158] 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.

49. In considering whether a licensee is experiencing financial hardship sufficient to justify a waiver under section 1.1166 of our rules, the Commission considers the financial circumstances of the licensee, including all of its assets and revenue streams.[159] In the case of a licensee with multiple stations, the silence of one of its stations does not automatically mean that the licensee's overall financial circumstances are such that it cannot pay its stations' regulatory fees and continue operating its remaining stations. Similarly, it is not always the case that a newly purchased station that was previously dark or bankrupt is insufficiently funded in its first year of operations such that its regulatory fees cannot be paid.[160] A new station owner may have other revenue sources, including from its other stations it operates, or financing for the new station's start-up costs. In other words, while a station's silence or reduced operation may be the result of, or may cause financial hardship, we tentatively conclude that the question of whether that is in fact the case is more appropriately determined on a case-by-case basis.

50. For these reasons, we propose to end the assumption that stations are dark or were recently

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[155] *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*).

[156] *1995 Regulatory Fee Order*, 10 FCC Rcd at 12762, para. 15 (citing 73.1740(a)(4)).

[157] *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).

[158] For example, causes of a station seeking an 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).

[159] 47 CFR § 1.1166; s*ee Mt. Rushmore Order*, 28 FCC Rcd at 5947 (In which the Commission held that producing financial documentation for licensee's two silent stations was insufficient for an ability to pay determination, and that instead, the Commission required information about all of the licensee's financial resources", including its ll radio stations, to determine the licensee's ability to pay a forfeiture.)

[160] Similarly, the Commission recognizes that while the bankruptcy or receivership of a regulatory fee payor may be sufficient proof that the payor is experiencing financial hardship, the Commission considers each case on an individual basis, requiring consideration of a number of different factors and evidence to determine whether the regulatory fee payor is experiencing financial hardship sufficient to justify waiver of its regulatory fee. *Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Further Notice of Proposed Rulemaking, 34 FCC Rcd 8189, 8208, para. 51 (2019).

dark or bankrupt are experiencing financial distress when they file a request for waiver of regulatory fees. We propose instead to require these licensees to 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.[161] In order to give regulatory fee payors more time to make any necessary changes to comply with this change in policy, we propose to make the change effective for fiscal year 2025. We seek comment on this proposal.

G. Improving the Regulatory Fee Process

51. We have a statutory obligation to assess and collect regulatory fees each fiscal year to meet the Commission's S&E appropriation.[162] At the same time, we are committed to ensuring that the regulatory fee process is administratively manageable and reasonably predictable for both the Commission and regulatory fee payors. We therefore seek comment on ways in which the Commission might improve the regulatory fee process to ensure that regulatory fee payors can timely meet their annual regulatory fee obligations. We ask that commenters explain the legal bases for any proposals they make and how such proposals fit within the Commission's statutory authorizations and our existing regulatory fee methodology.

52. *Providing Accountability Through Transparency Act*. Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of this document will be available on https://www.fcc.gov/proposed-rulemakings.

H. New Regulatory Fee Categories

53. Finally, we continue to seek additional comment on "whether we should adopt new regulatory fee categories and on ways to improve our regulatory fee process regarding any and all categories of service."[163] We invite additional comment in order to help inform our consideration of these issues.

IV. PROCEDURAL MATTERS

54. 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.

55. *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 customer can be no more than $24,999.99 (hereinafter the "Maximum Daily Limit") and the total monthly transactions processed from a single customer (based on a rolling 30-day period) can be no more than $100,000.00 (hereinafter the "Maximum Monthly Limit").[164] Transactions greater than the Maximum Daily Limit will be rejected. If a customer 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

[161] 47 CFR § 1.1166.

[162] 47 U.S.C. § 159(a), (b); *supra* n.1.

[163] *FY 2023 NPRM* at para. 95; *FY 2022 NPRM* at para. 53; see also *FY 2021 Report and Order* at para. 73 ("[S]hould the Commission assess regulatory fees on large technology companies based on a different basis, such as any advantages they receive because of the Commission's universal service or other activities?").

[164] *See* Bureau of the Fiscal Service, Treasury Financial Manual, https://tfx.treasury.gov/tfm/volume1 (Treasury Financial Manual) (last visited Mar. 28, 2024). Customers who owe an amount on a bill, debt, or other obligation due to the federal government are prohibited from splitting the total amount due into multiple payments. Splitting an amount owed into several payment transactions violates the credit card network and Fiscal Service rules. An amount owed that exceeds the Maximum Daily Limit, $24,999.99, may not be split into two or more payment transactions in the same day by using one or multiple cards.

a single transaction subject to the $24,999.99 limit. Customers who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, Automates Clearing House (ACH) debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in CORES. Further details will be provided regarding payment methods and procedures at the time of FY 2024 regulatory fee collection in Fact Sheets, https://www.fcc.gov/regfees.

56. *Payment Methods*. During the fee season for collecting regulatory fees, regulatees can pay their fees by credit card through Pay.gov, ACH, debit card, or by wire transfer. Additional payment instructions are posted on the Commission's website at https://www.fcc.gov/licensing-databases/fees/wire-transfer. The receiving bank for all wire payments is the U.S. Treasury, New York, NY (TREAS NYC). Any other form of payment (e.g., checks, cashier's checks, or money orders) will be rejected. For payments by wire, an FCC Form 159-E should still be transmitted via fax so that the Commission can associate the wire payment with the correct regulatory fee information. The fax should be sent to the Commission at (202) 418-2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at https://www.fcc.gov/licensing-databases/fees/wire-transfer.

57. *Standard Fee Calculations and Payment Dates*. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services*: Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 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.
- *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.[165] 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.[166] The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2023.
- *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, 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.
- *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

[165] Audio bridging services are toll teleconferencing services.

[166] 47 CFR § 52.103.

wireless regulatory fees."[167] 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.

- *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.[168] 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.
- *International 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.[169] Licensees of small satellites that were licensed and operational on or before October 1, 2023 must also pay regulatory fees. Proposals have also been made to assess regulatory fees on all space stations that are authorized only (earth stations are feeable when they become licensed or authorized).[170] Proposals have also been made to adopt regulatory fees for Rendezvous and Proximity Operations (RPO), On-Orbit Servicing (OOS), and Orbital Transfer Vehicles (OTV).[171] 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.
- *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

[167] These multiyear licenses are for PLMRS (exclusive), PLMRS (shared), Microwave, Marine (ship), Aviation (aircraft), Marine (coast), and Aviation (ground).

[168] 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 2024, rather than on a count as of December 31, 2024.

[169] There is a proposed rulemaking pending that would make space stations regulatory feeable after they are authorized for a license, but not yet operational. *See Space and Earth Station Regulatory Fees NPRM*. If this proposal is adopted, licensees will pay a regulatory fee when a license is authorized before October 1st in a particular year.

[170] *Space and Earth Station Regulatory Fees NPRM* at paras. 57-65.

[171] *Id.* at paras. 46-56.

for voice or data is not relevant for purposes of determining that they are active circuits.[172] 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.

58. *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").[173] We have included non-geographic numbers in the calculation of the number of subscribers for each CMRS provider in Appendix B and the CMRS regulatory fee factor proposed in Appendix C. CMRS provider regulatory fees will be calculated and should be paid based on the inclusion of non-geographic numbers. CMRS providers can adjust the total number of subscribers, if needed. This information of telephone numbers (subscriber count) will be posted on the Commission's Registration System (CORES) along with the carrier's Operating Company Numbers (OCNs).

59. 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.[174] 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,[175] 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.

60. 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, 2024), 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.

61. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),[176] 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

[172] 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.

[173] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12264, paras. 38-44 (2005) (*FY 2005 Report and Order*).

[174] In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change.

[175] 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).

[176] 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).

substantial number of small entities."[177] Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy change proposals on small entities in the NPRM. The IRFA is set forth in Appendix H. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the NPRM indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

62. *Initial Paperwork Reduction Act of 1995 Analysis.* This document may contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on any information collection requirements contained in this document, as required by the PRA. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

63. *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/.

- 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.

64. *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).

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

66. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. When the FCC Headquarters reopens to the public, these documents will also be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554.

67. *Ex Parte Information.* The proceeding initiated by this Notice of Proposed Rulemaking, in

[177] 5 U.S.C. § 605(b).

which we seek comment on proposals as described above,[178] shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[179] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

V. ORDERING CLAUSES

68. 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 Notice of Proposed Rulemaking IS HEREBY ADOPTED.

69. 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

[178] *See supra* para. 1.

[179] 47 CFR §§ 1.1200 *et seq.*

APPENDIX A

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	266,175	4,589	4,590	266,220
AM Class B[1]	1,305	1	3,556,605	3,302,737	2,531	2,530	3,301,650
AM Class C[1]	784	1	1,273,910	1,182,590	1,508	1,510	1,183,840
AM Class D[1]	1,325	1	4,208,245	3,906,677	2,948	2,950	3,908,750
FM Classes A, B1 & C3[1]	3,021	1	8,885,560	8,238,364	2,727	2,725	8,232,225
FM Classes B, C, C0, C1 & C2[1]	3,064	1	10,872,945	10,087,736	3,292	3,290	10,080,560
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	1,512,193	243.3	245	1,522,675
CARS Stations	105	1	206,400	190,963	1,818.7	1,820	191,100
Cable TV Systems, including IPTV & DBS	50,000,000	1	68,880,000	63,437,881	1.2688	1.27	63,500,000
Interstate Telecommunication Service Providers	$22,100,000,000	1	135,540,000	122,486,646	0.005542	0.005540	122,434,000
Toll Free Numbers	35,000,000	1	4,511,000	4,208,697	0.12025	0.12	4,200,000
CMRS Mobile Services (Cellular/Public Mobile)	562,000,000	1	88,480,000	90,320,215	0.1607	0.16	89,920,000
CMRS Messaging Services	600,000	1	104,000	48,000	0.0800	0.080	48,000
BRS/[3]	1,200	1	836,500	870,000	725	725	870,000

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
LMDS	370	1	252,000	268,250	725	725	268,250
Per Gbps circuit Int'l Bearer Circuits Terrestrial (Common & Non-Common) & Satellite (Common & Non-Common)	20,000	1	442,000	329,712	16.5	17	340,000
Submarine Cable Providers (See chart at bottom of Appendix B)[4]	71.56	1	8,228,605	6,264,533	87,542	87,540	6,264,362
Earth Stations	2,900	1	1,667,500	3,244,837	1,119	1,120	3,248,000
Space Stations (Geostationary)	134	1	15,990,880	31,112,505	232,183	232,185	31,112,790
Space Stations (Non-Geostationary, Other)	8	1	3,129,795	5,975,115	746,889	746,890	5,975,120
Space Stations (Non-Geostationary, Less Complex)	6	1	782,430	1,496,939	249,490	249,490	1,496,940
Space Stations (Non-Geostationary, Small Satellite)	12	1	85,505	311,340	25,945	25,945	311,340
******** Total Estimated Revenue to be Collected**			**392,991,324**	**389,916,319**			**390,621,601**
******** Total Revenue Requirement**			**390,192,000**	**390,192,000**			**390,192,000**
Difference			**2,799,324**	**(275,681)**			**429,601**

Notes on Appendix A

[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 B.

[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 B 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 A is a weighted average of the various fee payers in the chart at the end of Appendix B.

[5] The actual digital television regulatory fees to be paid by call sign are identified in Appendix F.

APPENDIX B

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 F for fee amounts due, also available at https://www.fcc.gov/licensing-databases/fees/regulatory-fees

Digital TV Construction Permits	5,200
Low Power TV, Class A TV, TV/FM Translators & FM Boosters (47 CFR part 74)	245
CARS (47 CFR part 78)	1,820
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)	.00554
Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules)	.12
Earth Stations (47 CFR part 25)	1,120
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	232,185
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Other)	746,890
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Less Complex)	249,945
Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)	25,945
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	$5,475
50 Gbps or greater, but less than 250 Gbps	.125 Units	$10,945
250 Gbps or greater, but less than 1,500 Gbps	.25 Units	$21,885
1,500 Gbps or greater, but less than 3,500 Gbps	.5 Units	$43,770
3,500 Gbps or greater, but less than 6,500 Gbps	1.0 Unit	$87,540
6,500 Gbps or greater	2.0 Units	$175,080

APPENDIX C

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 (Combined VHF/UHF units)	Based on LMS data, fee rate adjusted for exemptions, and population figures are calculated based on individual station

	parameters.
AM/FM/TV Construction Permits	Based on LMS data, adjusted for exemptions, and actual FY 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 D

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 E

Space Station Satellite Charts for FY 2024 Regulatory Fees

Listing of Satellites Under Existing Methodology

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 T11	GSO
DIRECTV Enterprises, LLC	S2711	DIRECTV RB-1	GSO
DIRECTV Enterprises, LLC	S2632	DIRECTV T8	GSO
DIRECTV Enterprises, LLC	S2669	DIRECTV T9S	GSO
DIRECTV Enterprises, LLC	S2641	DIRECTV T10	GSO
DIRECTV Enterprises, LLC	S2797	DIRECTV T12	GSO
DIRECTV Enterprises, LLC	S2930	DIRECTV T15	GSO
DIRECTV Enterprises, LLC	S2673	DIRECTV T5	GSO
DIRECTV Enterprises, LLC	S2133	SPACEWAY 2	GSO
DIRECTV Enterprises, LLC	S3039	DIRECTV T16	GSO
DISH Operating L.L.C.	S2931	ECHOSTAR 18	GSO
DISH Operating L.L.C.	S2738	ECHOSTAR 11	GSO
DISH Operating L.L.C.	S2694	ECHOSTAR 10	GSO
DISH Operating L.L.C.	S2740	ECHOSTAR 7	GSO
DISH Operating L.L.C.	S2790	ECHOSTAR 14	GSO

EchoStar Satellite Operating Corporation	S2811	ECHOSTAR 15	GSO
EchoStar Satellite Operating Corporation	S2844	ECHOSTAR 16	GSO
EchoStar Satellite Services L.L.C.	S2179	ECHOSTAR 9	GSO
ES 172 LLC	S2610	EUTELSAT 174A	GSO
ES 172 LLC	S3021	EUTELSAT 172B	GSO
Horizon-3 Satellite LLC	S2947	HORIZONS-3e	GSO
Hughes Network Systems, LLC	S2663	SPACEWAY 3	GSO
Hughes Network Systems, LLC	S2834	ECHOSTAR 19	GSO
Hughes Network Systems, LLC	S2753	ECHOSTAR XVII	GSO
Intelsat License LLC/ViaSat, Inc.	S2160	GALAXY 28	GSO
Intelsat License LLC	S2414	INTELSAT 10-02	GSO
Intelsat License LLC	S2972	INTELSAT 37e	GSO
Intelsat License LLC	S2854	NSS-7	GSO
Intelsat License LLC	S2409	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	S2154	GALAXY 25	GSO
Intelsat License LLC	S2253	GALAXY 11	GSO
Intelsat License LLC	S2381	GALAXY 3C	GSO
Intelsat License LLC	S2887	INTELSAT 30	GSO
Intelsat License LLC	S2924	INTELSAT 31	GSO
Intelsat License LLC	S2647	GALAXY 19	GSO
Intelsat License LLC	S2687	GALAXY 16	GSO
Intelsat License LLC	S2733	GALAXY 18	GSO
Intelsat License LLC	S2385	GALAXY 14	GSO
Intelsat License LLC	S2386	GALAXY 13	GSO
Intelsat License LLC	S2422	GALAXY 12	GSO
Intelsat License LLC	S2387	GALAXY 15	GSO
Intelsat License LLC	S3016	GALAXY 30	GSO
Intelsat License LLC	S3078	GALAXY 32	GSO
Intelsat License LLC	S3148	GALAXY 36	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.	S2713	AMC-18	GSO
SES Americom, Inc.	S3097	SES-19	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	XM-8	GSO
Skynet Satellite Corp.	S2933	TELSTAR 12V	GSO
Skynet Satellite Corporation	S2357	TELSTAR 11N	GSO
ViaSat, Inc.	S2747	VIASAT-1	GSO
ViaSat, Inc.	S2917	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
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 Americom, Inc.	S3037	NSS-11	GSO
SES Americom, Inc.	S2964	SES-11	GSO
SES DTH do Brasil Ltda	S2974	SES-14	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
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 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, GeoEye-1	S2129/S2348	Less Complex
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
O3b Ltd.	O3b	S2935	Other
Globalstar License LLC	GLOBALSTAR	S2115	Other
Swarm Technologies (Space Exploration Holdings, LLC)	SWARM	S3041	Other
WorldVu Satellites Ltd.	ONEWEB	S2963	Other

Space Station Satellite Charts for Proposed FY 2024 Regulatory Fees

Table 1 – Space Stations Potentially Subject to Regulatory Fees in FY 2024

These charts publish a list of space stations and systems that would be subject to regulatory fees in FY 2024, including under the proposal made in the *Space and Earth Station Regulatory Fees Notice of*

Proposed Rulemaking to assess regulatory fees on all authorized space stations, not only operational space stations.

Italicized entries reflect that the space station or system of NGSO space stations are authorized, but not operational for FY 2024, or are collocated with another GSO space station, and thus would be required to pay regulatory fees for FY 2024 if the proposals made in the *Space and Earth Station Regulatory Fees Notice of Proposed Rulemaking* to amend the existing methodology or under the alternative methodology are adopted, but would not otherwise be required to pay regulatory fees under the existing methodology.

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 T11	GSO
DIRECTV Enterprises, LLC	S2711	DIRECTV RB-1	GSO
DIRECTV Enterprises, LLC	S2632	DIRECTV T8	GSO
DIRECTV Enterprises, LLC	S2669	DIRECTV T9S	GSO
DIRECTV Enterprises, LLC	S2641	DIRECTV T10	GSO
DIRECTV Enterprises, LLC	S2797	DIRECTV T12	GSO
DIRECTV Enterprises, LLC	S2930	DIRECTV T15	GSO
DIRECTV Enterprises, LLC	S2673	DIRECTV T5	GSO
DIRECTV Enterprises, LLC	S2133	SPACEWAY 2	GSO
DIRECTV Enterprises, LLC	S3039	DIRECTV T16	GSO
DISH Operating L.L.C.	S2931	ECHOSTAR 18	GSO
DISH Operating L.L.C.	S2738	ECHOSTAR 11	GSO
DISH Operating L.L.C.	S2694/*S3093*	ECHOSTAR 10/*ECHOSTAR 23*	GSO

DISH Operating L.L.C.	S2740	ECHOSTAR 7	GSO
DISH Operating L.L.C.	S2790	ECHOSTAR 14	GSO
EchoStar Satellite Operating Corporation	S2811	ECHOSTAR 15	GSO
EchoStar Satellite Operating Corporation	S2844	ECHOSTAR 16	GSO
EchoStar Satellite Services L.L.C.	S2179	ECHOSTAR 9	GSO
ES 172 LLC	S2610	EUTELSAT 174A	GSO
ES 172 LLC	S3021	EUTELSAT 172B	GSO
Horizon-3 Satellite LLC	S2947	HORIZONS-3e	GSO
Hughes Network Systems, LLC	S2663	SPACEWAY 3	GSO
Hughes Network Systems, LLC	S2834	ECHOSTAR 19	GSO
Hughes Network Systems, LLC	S2753	ECHOSTAR XVII	GSO
Hughes Network Systems, LLC	*S3017*	*EchoStar XXIV*	*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	S2154	GALAXY 25	GSO
Intelsat License LLC	S2253	GALAXY 11	GSO
Intelsat License LLC	S2381	GALAXY 3C	GSO
Intelsat License LLC	S2887	INTELSAT 30	GSO
Intelsat License LLC	S2924/*S3143*	INTELSAT 31/*GALAXY 35*	GSO
Intelsat License LLC	S2647	GALAXY 19	GSO
Intelsat License LLC	S2687	GALAXY 16	GSO
Intelsat License LLC	S2733	GALAXY 18	GSO
Intelsat License LLC	S2385	GALAXY 14	GSO
Intelsat License LLC	S2386	GALAXY 13	GSO
Intelsat License LLC	S2422/*S3083*	GALAXY 12/*GALAXY 34*	GSO
Intelsat License LLC	S2387/*S3015*	GALAXY 15/*GALAXY 33*	GSO
Intelsat License LLC	S3016	GALAXY 30	GSO
Intelsat License LLC	S3078	GALAXY 32	GSO
Intelsat License LLC	S3148	GALAXY 36	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.	S2892/*S3096/S3098*	SES-3/*SES-18/SES-20*	GSO
SES Americom, Inc.	S2180	AMC-15	GSO
SES Americom, Inc.	S2713	AMC-18	GSO
Telesat Canada	*S2433*	*AMC-11*	*GSO*
SES Americom, Inc.	S3097/*S3138*	SES-19/*SES-22*	GSO
SES Americom, Inc.	S3099	SES-21	GSO
Silkwave Africa, LLC	*S2666*	*AfriStar-2*	*GSO*
Silkwave Africa, LLC	S3074	AsiaStar	GSO
Sirius XM Radio Inc.	S2710	FM-5	GSO
Sirius XM Radio Inc.	S3034/*S2617/S2616/S3033*	XM-8/*XM-3/XM-4//XM-7*	GSO

Skynet Satellite Corporation	S2933	TELSTAR 12V	GSO
Skynet Satellite Corporation	S2357	TELSTAR 11N	GSO
ViaSat, Inc.	S2747	VIASAT-1	GSO
ViaSat, Inc.	S2917/*S3050*	VIASAT-3/*VIASAT-89US*	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
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	S2870	SES-6	GSO

B.V.			
New Skies Satellites B.V.	S3048	NSS-6	GSO
New Skies Satellites B.V.	S2828	SES-4	GSO
New Skies Satellites B.V.	S2950	SES-10	GSO
Satelites Mexicanos, S.A. de C.V.	S2695	EUTELSAT 113 WEST A	GSO
Satelites Mexicanos, S.A. de C.V.	S2926	EUTELSAT 117 WEST B	GSO
Satelites Mexicanos, S.A. de C.V.	S2938	EUTELSAT 115 WEST B	GSO
Satelites Mexicanos, S.A. de C.V.	S2873	EUTELSAT 117 WEST A	GSO
SES Satellites (Gibraltar) Ltd.	S2676	AMC 21	GSO
SES Americom, Inc.	S3037	NSS-11	GSO
SES Americom, Inc.	S2964	SES-11	GSO
SES DTH do Brasil Ltda	S2974	SES-14	GSO
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
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
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
Lynk Global, Inc.	*Lynk Tower 1-10*	*S3087*	*Small Satellite*
Outpost Technologies	*Outpost Mission 2*	*S3174*	*Small Satellite*

Corporation			
Odyssey SpaceWorks	*OSW Cazorla*	*S3176*	*Small Satellite*
ICEYE US, Inc.	ICEYE Second Tranche	S3165	Small Satellite

Space Stations (Non-Geostationary Orbit)—Less Complex

ITU NAME (if available)	Common Name	Call Sign	TYPE	Number of Space Stations Authorized
Planet Labs	Flock/Skysats	S2912	Less Complex	566
Maxar License	WorldView 1,2 & 3, GeoEye-1	S2129/S2348	Less Complex	15
BlackSky Global	Global	S3032	Less Complex	16
Orbital Sidekick, Inc.	GHOSt	S3139	Less Complex	6
Hawkeye 360	HE360	S3042	Less Complex	174
Spire Global	LEMUR & MINAS	S2946/S3045	Less Complex	636

Space Stations (Non-Geostationary Orbit)—Other (Small Constellation)

ITU NAME (if available)	Common Name	Call Sign	Number of Space Stations Authorized
ORBCOMM License Corp	ORBCOMM	S2103	72
Iridium Constellation LLC	IRIDIUM	S2110	99
Telesat Canada	TELESAT Ku/Ka-Band	S2976	117
Kepler Communications, Inc.	KEPLER	S2981	140
Myriota Pty. Ltd	*MYRIOTA*	*S3047*	*26*
O3b Ltd.	O3b	S2935	42
Globalstar License LLC	GLOBALSTAR	S2115	96
Swarm Technologies (Space Exploration Holdings, LLC)	SWARM	S3041	150
Theia Holdings A, Inc.	*THEIA*	*S2986*	112
Space Norway AS	*ARCTIC SATELLITE BROADBAND MISSION*	*S2978*	*2*
Kinéis	*KINÉIS*	*S3054*	25

Space Stations (Non-Geostationary Orbit)—Other (Large Constellation)

ITU NAME (if available)	Common Name	Call Sign	Number of Space Stations Authorized
Space Exploration Holdings, LLC	SPACEX Ku/Ka-Band	S2983/S3018/	4408
Space Exploration Holdings, LLC	*SPACEX GEN 2*	*S3069*	*7500*
WorldVu Satellites Ltd.	ONEWEB	S2963	720
WorldVu Satellites Limited, Debtor-in-Possession	*ONEWEB V-BAND*	*S2994*	2000
Kuiper Systems LLC	*KUIPER*	*S3051*	5236

Table 2 - FY 2024 Space and Earth Station Regulatory Fees Calculations if Proposals to Amend the Existing Fee Methodology are Adopted and Effective

The following chart provides an analysis of potential regulatory fees for space and earth stations for FY 2024 assuming all the proposals to amend the existing methodology for determining space and earth station fees in the *Space and Earth Station Regulatory Fees Notice of Proposed Rulemaking* (NPRM), FCC 24-31, are adopted and effective for FY 2024. These proposals include reallocation of the split of space station regulatory fees between GSO and NGSO from 80/20 to 60/40, creation of new fee categories for Large and Small Constellations in the NGSO "other" category, assessment of fees on authorized, not just operational, space stations, establishment of a fixed fee for small satellites/spacecraft fee, assessing fees on rendezvous and proximity operations (RPO), on-orbit servicing (OOS), and orbital transfer vehicle (OTV) space stations using the fee category for small satellites, and an allocation of 20% of Space Bureau regulatory fees to earth stations. It assumes the same number of earth station payors in FY 2024 as there were in FY 2023 (2900 units). It does not incorporate the proposals included in the alternative methodology.

Space Bureau Share of FCC FY 2024 Appropriation Equals $390,192,000 times 10.8%	**$42,140,736 (rounded up to nearest dollar)**
Earth Station Share of Space Bureau FTE Burden Equals Space Bureau Share of FCC FY 2024 Appropriation * 20% (proposed)	**$8,428,148 (rounded up to nearest dollar)**
Per Unit Fee - Earth Stations: Transmit/Receive & Transmit only (per authorization or registration)	**$2,907 (rounded up to nearest dollar)**

Equals Earth Station Share of Space Bureau FTE Burden / 2,900 units (FY 2023)	
Space Station Share of Space Bureau FTE Burden (Includes GSO and NGSO Satellites) Equals GSO Space Bureau Share of FCC FY 2024 Appropriation * 80% (proposed) Equals GSO Space Station Share of Space Bureau FTE Burden * 60% (proposed)	**$33,712,589 (rounded up to nearest dollar)** **$26,970,070 divided by 136 GSO Satellites = $198,309 per satellite** **$20,227,553 divided by 136 GSO Satellites = $148,732**
Small Satellite Share of Space Station Share Equals FY 2023 small satellite fee ($12,215) * 20 estimated small satellite fee payors in FY 2024 (including RPO, OOS, or OTV space stations)	**$244,300 (rounded up to nearest dollar)** **NGSO – Other Revenue Portion - $195,440** **NGSO – Less Complex Portion - $48,860**
NGSO Space Station Share of Space Bureau FTE Burden Equals NGSO Space Station Share of Space Bureau FTE Burden * 40% (proposed)) NGSO – Other at 80% NGSO – Less Complex at 20%	**$13,485,035 (rounded up to nearest dollar)** **$10,788,028 divided by 16 units = $674,252 fee** **With Small Satellite Reduction = $662,037$2,697,007 divided by 6 units = $449,501fee** **With Small Satellite Reduction = $441,358**
NGSO Space Station Share of Space Bureau FTE Burden **Share** at 20% (proposed) Equals NGSO Space Station Share – 20% NGSO – Other at 80% NGSO – Less Complex at 20%	**$6,742,518 (rounded up to nearest dollar)** **$5,394,014 divided by 16 units = $337,126** **With Small Satellite Reduction = $324,911** **$1,348,504 divided by 6 units = $224,751** **With Small Satellite Reduction = $216,607**
Space Stations (Non-Geostationary Orbit) – Other (Large Constellations) Share Equals NGSO Other * 50% - Proposed 20%	**$5,394,014 divided by 50% = $2,697,007**
Per System Fee - Space Stations (Non-Geostationary Orbit) – Other (Large	**$5,394,014 divided by 3 = $1,798,005 (rounded up to nearest dollar)**

Constellations) Equals NGSO Other (Large Constellation) Share / 3 authorized (SpaceX, OneWeb, Kuiper)	
Space Stations (Non-Geostationary Orbit) – Other (Small Constellations) Share Equals NGSO Other * 50% - Proposed 20%	**$5,394,014 divided by 50% = $2,697,007**
Per System Fee - Space Stations (Non-Geostationary Orbit) – Other (Small Constellations) Equals NGSO Other (Small Constellation) Share / 12 authorized (O3b, Kepler , Swarm, Iridium, Globalstar, Orbcomm Space Norway, Theia, Viasat, Myriota, Kineis, Telesat)	**$5,394,014 divided by 12 = $449,501 (rounded up to nearest dollar)**
Space Stations (Non-Geostationary Orbit) – Other (Large Constellations) Share Equals NGSO Other * 50% - Proposed 40%	**$10,788,028 divided by 50% = $5,394,014**
Per System Fee - Space Stations (Non-Geostationary Orbit) – Other (Large Constellations) Equals NGSO Other (Large Constellation) Share / 3 authorized (SpaceX, OneWeb, Kuiper)	**$10,788,028 divided by 3 = $3,596,009 (rounded up to nearest dollar)**
Space Stations (Non-Geostationary Orbit) – Other (Small Constellations) Share Equals NGSO Other * 50% - Proposed 40%	**$10,788,028 divided by 50% = $5,394,014**
Per System Fee - Space Stations (Non-Geostationary Orbit) – Other (Small Constellations) Equals NGSO Other (Small Constellation) Share / 12 authorized (O3b, Kepler , Swarm, Iridium, Globalstar, Orbcomm Space Norway, Theia, Viasat, Myriota, Kineis, Telesat)	**$10,788,028 divided by 12 = $899,002 (rounded up to nearest dollar)**

Table 3 – FY 2024 Space and Earth Station Regulatory Fees Calculated if the Proposed Alternative Fee Methodology is Adopted and Effective

The following chart provides an analysis of potential regulatory fees for space and earth stations for FY 2024 if the alternative methodology for assessing space station fees in the *Space and Earth Station Regulatory Fees Notice of Proposed Rulemaking* (NPRM), FCC 24-31, is adopted and effective for FY 2024. It assumes that the share of space station regulatory fees will be 80% of all Space Bureau fees for FY 2024 ($33,712,589), and that 20 small satellite payors (including RPO, OOS, and OTV space stations) will contribute $244,300 in collections, resulting in $33,468,289 to be collected from remaining space station payors. It also assumes that the proposal to assess regulatory fees on authorized, not just operational, space stations is adopted.

Number of GSO Units: 150 (estimate of 135 operational and 15 authorized GSO space stations for FY 2024)

Number of NGSO Units (non-small sats): 70 (using 500 space station tiers); 49 (using 1,000 space station tiers)

Total Number of Units (GSO + NGSO (non-small sats)): 220 (using 500 space station tiers); 199 (using 1000 space station tiers)

Fee per Unit/Tier: $152,129 (500 space station tier); $168,182 (1,000 space station tier) (This number would be the annual fee for all authorized GSO space stations; for NGSO space stations – other than small satellites – the fee would be calculated by taking the fee per unit for the first 100 authorized space stations per system, and adding the number of additional units, on either per 500 or per 1000 authorized space stations for each additional tier)

Licensee – Call Sign(s)	**No. of Authorized Space Stations**	**Number of Units Assessed (500 tier)**	**Total Estimated Fee (500 tier)**	**Number of Units Assessed (1,000 tier)**	**Total Estimated Fee (1,000 tier)**
Maxar (WORLDVIEW 1, 2, and 3 / WORLDVIEW LEGION 1-12) S2129	15	1	$152,129	1	$168,183
Planet FLOCK/SKYSAT/PELICAN S2912	566	3	$456,386	2	$336,365
SPIRE GLOBAL S2946 /S3045	636	3	$456,386	2	$336,365
BlackSky Global S3032	16	1	$152,129	1	$168,183
Hawkeye 360 S3042	174	2	$304,258	2	$336,365
Swarm S3041	150	2	$304,258	2	$336,365
Orbital Sidekick S3139	16	1	$152,129	1	$168,183

Myriota *S3047*	26	1	$152,129	1	$168,183
Kineis *S3054*	25	1	$152,129	1	$168,183
ORBCOMM License Corp. S2103	72	1	$152,129	1	$168,183
Iridium Constellation LLC S2110	99	1	$152,129	1	$168,183
GLOBALSTAR S2115	96	1	$152,129	1	$168,183
O3b S2935	42	1	$152,129	1	$168,183
WorldVU Satellites Ltd. (OneWeb) Ku-/Ka-band/V-band S2963/ S2994	2720	6	$912,772	4	$672,730
Telesat Canada (Ku/Ka-band) S2976	117	2	$304,258	2	$336,365
Theia S2986	112	2	$304,258	2	$336,365
Space Norway *S2978*	2	1	$152,129	1	$168,183
Kepler Communications, Inc. S2981	140	2	$304,258	2	$336,365
Viasat S2985	20	1	$152,129	1	$168,183

Kuiper *S3051*	5236	12	$1,825,544	7	$1,177,277
SpaceX (Ku/Ka-band/Gen-2) S2983/S3018/S3069	11,908	25	$3,803,215	13	$2,186,371
Total Number of NGSO Units		70	$10,659,001	49	$8,240,936
Total Number of GSO Units		150	$22,812,889	150	$25,227,354
Totals		220	$33,468,289	199	$33,468,289

APPENDIX F

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
33543	KATV	1,285,451	1,265,986	$ 8,353

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
35909	KBVO	1,911,833	1,684,206	$ 11,112

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
64444	KCWE	2,642,880	2,641,432	$ 17,428

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
41983	KELO-TV	767,130	715,437	$ 4,720

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
21613	KFNE	53,059	52,392	$ 346

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
10061	KGNS-TV	283,777	274,877	$ 1,814

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
16950	KIFR	2,356,175	2,330,021	$ 15,373

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
38430	KLCS	17,868,933	16,310,676	$ 107,618

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
40875	KMGH-TV	4,484,612	4,211,082	$ 27,785

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
59363	KNIN-TV	861,563	857,065	$ 5,655

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Facility Id.	Call Sign	Population	Population	Fee Amount
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
35388	KOKH-TV	1,800,124	1,797,602	$ 11,861

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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
47973	KPNE-TV	89,112	84,360	$ 557

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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
8378	KQSL	209,114	145,828	$ 962

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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
48360	KRXI-TV	802,294	612,918	$ 4,044

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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
166546	KSQA	391,323	383,112	$ 2,528

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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
2787	KTHV	1,302,388	1,276,430	$ 8,422

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
5290	KTVH-DT	244,448	199,923	$ 1,319

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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
41429	KUMV-TV	70,878	70,314	$ 464

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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
25735	KVOA	1,386,793	1,069,725	$ 7,058

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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
14674	KWYB	91,657	72,951	$ 481

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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
61062	KZSD-TV	40,148	34,607	$ 228

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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
54938	WAWD	661,368	661,287	$ 4,363

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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
59281	WBUP	124,208	111,143	$ 733

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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
71297	WCSC-TV	1,188,482	1,188,482	$ 7,842

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
6476	WDPX-TV	7,354,860	7,283,151	$ 48,054

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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
60653	WETM-TV	844,248	745,266	$ 4,917

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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
60555	WFUT-DT	21,842,105	21,428,169	$ 141,383

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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
66285	WGTE-TV	2,250,689	2,250,689	$ 14,850

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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
68058	WHSG-TV	6,744,093	6,678,392	$ 44,064

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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
11260	WIVT	831,941	612,317	$ 4,040

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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
73153	WKBN-TV	4,870,043	4,522,748	$ 29,841

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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
68542	WLBT	930,984	929,897	$ 6,135

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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
54452	WLXI	3,243,843	3,015,382	$ 19,895

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
10221	WMSN-TV	2,030,916	2,010,636	$ 13,266

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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
71905	WNLO	1,911,934	1,834,562	$ 12,104

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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
50147	WOUB-TV	739,667	721,384	$ 4,760

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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
48772	WPWR-TV	10,111,733	10,105,397	$ 66,675

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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
3359	WRBL	1,573,722	1,534,121	$ 10,122

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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
21258	WSES	1,905,067	1,866,312	$ 12,314

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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
67993	WTBY-TV	16,997,114	16,897,718	$ 111,491

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
74138	WTTO	1,966,252	1,931,949	$ 12,747

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
69124	WUNG-TV	4,065,099	4,049,218	$ 26,717

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
18753	WVIZ	3,694,957	3,687,740	$ 24,332

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
61251	WWSB	3,830,838	3,830,838	$ 25,276

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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
5875	WYZZ-TV	1,008,995	1,002,743	$ 6,616

		Service Area	Terrain Limited	Terrain Limited
Facility Id.	Call Sign	Population	Population	Fee Amount
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 G

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
Low Power TV, Class A TV, TV/FM Translators & FM Boosters (47 CFR	260

Fee Category	Annual Regulatory Fee (U.S. $s)
part 74)	
CARS (47 CFR part 78)	1,720
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 H

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 by the policies and rules proposed in the *Notice of Proposed Rulemaking* (*NPRM*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM*. The Commission will send a copy of the *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[2] In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the *Federal Register*.[3]

A. Need for, and Objectives of, the Proposed Rules

2. For fiscal year (FY) 2024, the Commission is required to collect $390,192,000 in regulatory fees, an amount equal to our 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. In the annual *NPRM*, we seek comment on the Commission's proposed methodology and regulatory fees for FY 2024, as set forth in Appendices A, B, and C.[7] In 2023, the Commission

[1] 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

[2] 5 U.S.C. § 603(a).

[3] *Id.*

[4] 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).

[7] FY 2024 started on October 1, 2023, and ends on September 30, 2024. The proposed regulatory fee schedule for FY 2024 is set forth in Appendices A and B of the *NPRM*. The proposed regulatory fee rates for space and earth station payors for FY 2024 is set forth at Appendix E. Additionally, for comparison purposes, the FY 2023 regulatory fee schedule is provided in Appendix G of the *NPRM*. On March 13, 2024, we commenced a separate rulemaking proceeding seeking comment on changes to the methodology for assessing regulatory fees for space and earth station payors. *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*). We initiated this proceeding ahead of our annual Commission-wide proceeding this fiscal year in order to adopt amendments to the existing space and earth station fee categories, or to adopt new fee categories, in time for those changes to be effective for FY 2024. *Id*. at paras. 5-6; 47 U.S.C. §§ 159A(b)(2), 159(d) (requiring 90-days

(continued….)

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.[8] In light of these actions, for FY 2024, we reviewed the FY 2023 reallocations to determine if any changes are warranted, and propose to slightly revise the FY 2023 reallocations to the core bureaus, including the new Space Bureau and the new Office of International Affairs.

3. We also seek 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.

B. Legal Basis

4. The proposed action is authorized pursuant to sections 4(i), 4(j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended.[9]

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.[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]

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.[14] First, while there

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prior notification to Congress before changes to the regulatory fee categories can become effective). We will address any comments raised in response to the *Space and Earth Station Regulatory Fees NPRM* in a subsequent Report and Order. In this proceeding, we seek comment on the proposed regulatory fee rates for space and earth station payors for FY 2024.

[8] *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*).

[9] 47 U.S.C. §§ 154(i), 154(j), 159, 159A, and 303(r).

[10] 5 U.S.C. § 603(b)(3).

[11] *Id.* at § 601(6).

[12] *Id.* at § 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).

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]

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."[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]

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."[20] U.S. Census Bureau data from the 2022 Census 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

[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).

[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.

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 da

9. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.[27] Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services.[28] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[29] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[30]

10. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[31] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[32] Of this number, 2,964 firms operated

[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] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[28] *Id.*

[29] *Id.*

[30] Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

[31] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[32] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

with fewer than 250 employees.[33] 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.[34] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[35] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

11. *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[36] is the closest industry with an SBA small business size standard.[37] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[38] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[39] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[40] Of this number, 2,964 firms operated with fewer than 250 employees.[41] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were fixed local exchange service providers.[42] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[43] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

12. *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[44] is the closest industry with an SBA small business size standard.[45]

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[33] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[34] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[35] *Id.*

[36] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[37] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[38] Fixed Local Exchange Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

[39] *Id.*

[40] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[41] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[42] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[43] *Id.*

[44] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[45] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[46] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[47] Of this number, 2,964 firms operated with fewer than 250 employees.[48] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 1,212 providers that reported they were incumbent local exchange service providers.[49] Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees.[50] Consequently, using the SBA's small business size standard, the Commission estimates that the majority of incumbent local exchange carriers can be considered small entities.

13. *Competitive Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. Providers of these services include several types of competitive local exchange service providers.[51] Wired Telecommunications Carriers[52] is the closest industry with a SBA small business size standard. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[53] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[54] Of this number, 2,964 firms operated with fewer than 250 employees.[55] Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 3,378 providers that reported they were competitive local exchange service providers.[56] Of these providers, the Commission estimates that 3,230 providers have

[46] *Id.*

[47] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[48] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[49] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[50] *Id.*

[51] Competitive Local Exchange Service Providers include the following types of providers: Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, Local Resellers, and Other Local Service Providers.

[52] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[53] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[54] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[55] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[56] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

1,500 or fewer employees.[57] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

14. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA have developed a small business size standard specifically for Interexchange Carriers. Wired Telecommunications Carriers[58] is the closest industry with a SBA small business size standard.[59] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[60] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.[61] Of this number, 2,964 firms operated with fewer than 250 employees.[62] Additionally, based on Commission data in the 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.[63] Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

15. *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[64] 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.[65] Mobile virtual network operators (MVNOs) are included in this industry.[66] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[67] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale

[57] *Id.*

[58] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[59] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[60] *Id.*

[61] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[62] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[63] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[64] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[65] *Id.*

[66] *Id*.

[67] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

services for the entire year.[68] Of that number, 1,375 firms operated with fewer than 250 employees.[69] Additionally, based on Commission data in the 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.[70] Of these providers, the Commission estimates that 61 providers have 1,500 or fewer employees.[71] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

16. *Local Resellers*. Neither the Commission nor the SBA have developed a small business size standard specifically for Local Resellers. Telecommunications Resellers is the closest industry with a SBA small business size standard.[72] The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households.[73] Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.[74] Mobile virtual network operators (MVNOs) are included in this industry.[75] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[76] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[77] Of that number, 1,375 firms operated with fewer than 250 employees.[78] 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.[79] Of these providers, the Commission estimates that 202 providers have 1,500 or fewer employees.[80] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

17. *Toll Resellers.* Neither the Commission nor the SBA have developed a small business size

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[68] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517911, https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[69] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[70] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[71] *Id.*

[72] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[73] *Id.*

[74] *Id*.

[75] *Id*.

[76] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[77] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517911, https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[78] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[79] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[80] *Id.*

standard specifically for Toll Resellers. Telecommunications Resellers[81] is the closest industry with a SBA small business size standard. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure.[82] Mobile virtual network operators (MVNOs) are included in this industry.[83] The SBA small business size standard for Telecommunications Resellers classifies a business as small if it has 1,500 or fewer employees.[84] U.S. Census Bureau data for 2017 show that 1,386 firms in this industry provided resale services for the entire year.[85] Of that number, 1,375 firms operated with fewer than 250 employees.[86] Additionally, based on Commission data in the 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.[87] Of these providers, the Commission estimates that 438 providers have 1,500 or fewer employees.[88] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

18. *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[89] is the closest industry with a SBA small business size standard.[90] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[91] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[92] Of this number, 2,964 firms operated with fewer than 250 employees.[93] Additionally, based on

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[81] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517911 Telecommunications Resellers,*" https://www.census.gov/naics/?input=517911&year=2017&details=517911.

[82] *Id.*

[83] *Id*.

[84] *See* 13 CFR § 121.201, NAICS Code 517911 (as of 10/1/22, NAICS Code 517121).

[85] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517911, https://data.census.gov/cedsci/table?y=2017&n=517911&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[86] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[87] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[88] *Id.*

[89] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[90] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[91] *Id.*

[92] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[93] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

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.[94] Of these providers, the Commission estimates that 87 providers have 1,500 or fewer employees.[95] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

19. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.[96] Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.[97] The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[98] U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.[99] Of that number, 2,837 firms employed fewer than 250 employees.[100] Additionally, based on Commission data in the 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.[101] Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.[102] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

20. *Television Broadcasting.* This industry is comprised of "establishments primarily engaged in broadcasting images together with sound."[103] These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.[104] These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA small business size standard for this industry classifies businesses having $41.5 million or less in annual receipts as small.[105] 2017

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[94] 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.

[95] *Id.*

[96] *See* U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite),"* https://www.census.gov/naics/?input=517312&year=2017&details=517312.

[97] *Id.*

[98] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[99] *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.

[100] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[101] Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf.

[102] *Id.*

[103] *See* U.S. Census Bureau, *2017 NAICS Definition, "515120 Television Broadcasting,*" https://www.census.gov/naics/?input=515120&year=2017&details=515120.

[104] *Id.*

[105] *See* 13 CFR § 121.201, NAICS Code 515120 (as of 10/1/22 NAICS Code 516120).

U.S. Census Bureau data indicate that 744 firms in this industry operated for the entire year.[106] Of that number, 657 firms had revenue of less than $25,000,000.[107] Based on this data we estimate that the majority of television broadcasters are small entities under the SBA small business size standard.

21. As of March 31, 2024, there were 1,382 licensed commercial television stations.[108] Of this total, 1,263 stations (or 91.4%) had revenues of $41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on April 4, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates as of March 31, 2024, there were 383 licensed noncommercial educational (NCE) television stations, 379 Class A TV stations, 1,829 LPTV stations and 3,118 TV translator stations.[109] 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.

22. *Radio Stations*. This industry is comprised of "establishments primarily engaged in broadcasting aural programs by radio to the public." 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 firms having $41.5 million or less in annual receipts as small. U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year. Of this number, 1,879 firms operated with revenue of less than $25 million per year. Based on this data and the SBA's small business size standard, we estimate a majority of such entities are small entities.

23. The Commission estimates that as of March 31, 2024, there were 4,427 licensed commercial AM radio stations and 6,663 licensed commercial FM radio stations, for a combined total of 11,090 commercial radio stations. Of this total, 11,088 stations (or 99.98 %) had revenues of $41.5 million or less in 2022, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Database (BIA) on April 4, 2024, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates that as of March 31, 2024, there were 4,320 licensed noncommercial (NCE) FM radio stations, 1,960 low power FM (LPFM) stations, and 8,913 FM translators and boosters. 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.

24. We note, however, that in assessing whether a business concern qualifies as "small" under the above definition, business (control) affiliations[110] must be included. Our estimate, therefore, likely

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[106] *See* U.S. Census Bureau, *2017 Economic Census of the United States*, *Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false.

[107] *Id*. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, *see* https://www.census.gov/glossary/#term_ReceiptsRevenueServices.

[108] *Broadcast Station Totals as of March 31, 2024*, Public Notice, DA 24-323 (rel. Apr. 4, 2024) (*April 2024 Broadcast Station Totals PN*), https://docs.fcc.gov/public/attachments/DA-24-323A1.pdf.

[109] *Id*.

[110] "[Business concerns] are affiliates of each other when one concern controls or has the power to control the other (continued….)

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.

25. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standard for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide.[111] Based on industry data, there are about 420 cable companies in the U.S.[112] Of these, only seven have more than 400,000 subscribers.[113] In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers.[114] Based on industry data, there are about 4,139 cable systems (headends) in the U.S.[115] Of these, about 639 have more than 15,000 subscribers.[116] Accordingly, the Commission estimates that the majority of cable companies and cable systems are small.

26. *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."[117] 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.[118] Based on industry data, only six cable system operators have more than 498,000 subscribers.[119] Accordingly, the Commission estimates that the majority of cable system operators are small under this size standard. We note however, that the Commission neither

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or a third party or parties controls or has the power to control both." 13 CFR § 21.103(a)(1).

[111] 47 CFR § 76.901(d).

[112] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[113] 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).

[114] 47 CFR § 76.901(c).

[115] S&P Global Market Intelligence, S&P Capital IQ Pro, U.S. MediaCensus, *Operator Subscribers by Geography* (last visited May 26, 2022).

[116] S&P Global Market Intelligence, S&P Capital IQ Pro, *Top Cable MSOs 12/21Q (*last visited May 26, 2022).

[117] 47 U.S.C. § 543(m)(2).

[118] *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).

[119] 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).

requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[120] 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.

27. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription *service* that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. DBS is included in the Wired Telecommunications Carriers industry which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks.[121] Transmission facilities may be based on a single technology or combination of technologies.[122] 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.[123] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[124]

28. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[125] U.S. Census Bureau data for 2017 show that 3,054 firms operated in this industry for the entire year.[126] Of this number, 2,964 firms operated with fewer than 250 employees.[127] Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service - DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation.[128] 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.

29. *Satellite Telecommunications.* This industry comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and

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[120] 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).

[121] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[122] *Id.*

[123] *See id*. Included in this industry are: broadband Internet service providers (*e.g.*, cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed-circuit television (CCTV) services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (DTH) services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (MMDS).

[124] *Id*.

[125] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[126] *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.

[127] *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.

[128] *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).

broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications."[129] 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.[130] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[131] Of this number, 242 firms had revenue of less than $25 million.[132] 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.[133] Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.[134] Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

30. *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.[135] 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.[136] 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.[137] The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small.[138] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[139] Of those firms, 1,039 had revenue of less than $25 million.[140] Based

[129] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[130] *See* 13 CFR § 121.201, NAICS Code 517410.

[131] *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.

[132] *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.

[133] 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.

[134] *Id.*

[135] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[136] *Id.*

[137] *Id.*

[138] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[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 517919, https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false.

[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.

on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

31. *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.[141] 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.[142] 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.

32. *Carrier RespOrgs*. Neither the Commission nor the SBA have developed a small business size standard for Carrier RespOrgs. *Wired Telecommunications Carriers*,[143] and *Wireless Telecommunications Carriers (except Satellite)*[144] are the closest industries with a SBA small business size applicable to Carrier RespOrgs.[145]

33. *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.[146] 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.[147] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[148] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated for the entire year.[149] Of this number, 2,964 firms operated

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[141] *See* 47 CFR § 52.101(b).

[142] *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. SOMOS serves as the North American Numbering Plan Administrator (NANPA) for more than 800 million local and wireless telephone numbers and as the Reassigned Number Database Administrator. *See also* 2022 NANPA Annual Report at 6. https://nationalnanpa.com/reports/2022_NANPA_Annual_Report.pdf.

[143] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[144] *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.

[145] The industry descriptions selected for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

[146] *See supra* note **Error! Bookmark not defined.**.

[147] *Id*.

[148] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[149] *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.

with fewer than 250 employees.[150] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

34. *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.[151] The SBA small business size standard for this industry classifies a business as small if it has 1,500 or fewer employees.[152] For this industry, U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated for the entire year.[153] Of this number, 2,837 firms employed fewer than 250 employees.[154] Based on this data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

35. *Non-Carrier RespOrgs*. Neither the Commission, nor the SBA have developed a small business size standard Non-Carrier RespOrgs. *Other Services Related to Advertising* [155] and *Other Management Consulting Services*"[156] are the closest industries with a SBA small business size applicable to Non-Carrier RespOrgs. [157]

36. The *Other Services Related to Advertising* industry 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).[158] The SBA small business size standard for this industry classifies a business as small that has annual receipts of $16.5 million or less.[159] U.S. Census Bureau data for 2017 show that 5,650 firms operated in this industry

[150] *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.

[151] *See* U.S. Census Bureau, *2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (except Satellite),"* https://www.census.gov/naics/?input=517312&year=2017&details=517312.

[152] *See* 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

[153] *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.

[154] *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.

[155] *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.

[156] *See* U.S. Census Bureau, *2017 NAICS Definition, "541618 Other Management Consulting Services,"* https://www.census.gov/naics/?input=541618&year=2017&details=541618.

[157] The industry descriptions selected for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

[158] *See supra* note **Error! Bookmark not defined.**.

[159] *See* 13 CFR § 121.201, NAICS Code 541890.

for the entire year.[160] Of that number, 3,693 firms operated with revenue of less than $10 million.[161] Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.

37. The *Other Management Consulting Services* industry contains establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). 162 Establishments providing telecommunications or utilities management consulting services are included in this industry.163 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.164 U.S. Census Bureau data for 2017 show that 4,696 firms operated in this industry for the entire year.[165] Of that number, 3,700 firms had revenue of less than $10 million.[166] Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

38. The *NPRM* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or 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 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 prior to the COVID-19 pandemic.

39. The *NPRM* proposes changes to the current fee waiver process which may impact small

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[160] *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.

[161] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. 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.

[162] *See U.S. Census Bureau, 2017 NAICS Definition, "541618 Other Management Consulting Services," https://www.census.gov/naics/?input=541618&year=2017&details=541618*.

[163] *Id.*

[164] *See* 13 CFR § 121.201, NAICS Code 541618.

[165] *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.

[166] *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.

entities. The *NPRM* proposes to return to normal, pre-COVID-19 pandemic operations and discontinue temporary waiver relief from regulatory fees available in the *FY 2023 Report and Order* that was not codified at that time. This includes reinstating the Commission's policy of requiring down payments for installment payment of regulatory fee debt.[167] The proposed changes would also 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. We propose to make this change effective for fiscal year 2025 to allow regulatory fee payors more time to comply with this change in policy. Small entities that continue to have financial difficulties related to the economic impact of the pandemic may be able to take advantage of the streamlined waiver processes codified in the *FY 2023 Report and Order*, including permitting parties to submit a single waiver request for various forms of relief electronically, instead of separate filings.

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

40. The RFA requires an agency to describe any significant alternatives that could minimize impacts to small entities it has considered in reaching its proposed approach, which may include the following four alternatives, among others: "(1) the establishment of differing compliance and 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."[168]

41. *Assessment of Regulatory Fees.* For FY 2024, we propose to employ the same methodology as the Commission did in FY 2023, however, we conclude that changes within the Commission's organizational structure and 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,[169] the International Bureau was eliminated by establishing a new Space Bureau and a new Office of International Affairs,[170] and the Public Safety and Homeland Security Bureau have since hired 11 additional staff members. We therefore analyzed the work being done by the new staff within the Public Safety and Homeland Security Bureau to determine whether their work is being spent on the regulation and oversight of a regulatory fee payor such that their work should be allocated as direct to a core bureau, solely for regulatory fee purposes. 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. We limited our analytical efforts for FY 2024 to address the specific changes within the Commission, and while we considered conducting a high-level analysis this fiscal year of all FTEs within the Commission, we opted not to because we believe the adjustments we made for FY 2024 reasonably reflect the major changes in the burden of work within the Commission. Based on the results of our evaluation, we propose that certain indirect FTEs could be reassigned as direct FTEs and incorporate these into the count of FTEs of the relevant core bureau for

[167] 47 CFR §§ 1.1910, 1.1164.

[168] 5 U.S.C. § 603(c)(1) – (4).

[169] *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).

[170] *See Space Bureau Order*.

purposes of calculating regulatory fees for FY 2024, which could reduce regulatory fee obligations for some small and other regulatory payees.

42. 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.[171] In the *NPRM*, we propose regulatory fee rates based on the proposals set forth in the *Space and Earth Station Regulatory Fees NPRM*.[172] However, our proposed space and earth station regulatory fee rates are estimates because we recognize that, ultimately, final space and earth station regulatory fee rates are dependent upon the outcome of the *Space and Earth Station Regulatory Fees* proceeding. Accordingly, we do not seek comment again in this proceeding on the specific proposals to adjust our existing methodology for assessing space and earth station regulatory fees, or to adopt an alternative methodology for assessing space station regulatory fees, which were set forth in the *Space and Earth Station Regulatory Fees NPRM.* Instead, comments pertaining to the proposals set forth in the *Space and Earth Station Regulatory Fees NPRM* regarding the categories and allocation of fees for space and earth stations should be submitted in the proceeding, MD Docket No. 24-85, and need not be submitted again in response to this *NPRM*.[173] If any of the proposals are adopted as part of the subsequent *Space and Earth Station Regulatory Fees Report and Order*, it may increase or reduce the regulatory fee burden on some satellite entities.

43. *Broadcast Regulatory Fees.* In the *NPRM*, we propose to continue to assess fees for full-power broadcast television stations based on the population covered by a full-service broadcast television station's contour which 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. In addition, small licensees experiencing financial hardship will continue to have access to fee relief, such as waiver, reduction, deferral and/or installment payment of their regulatory fees and may be exempt from paying a regulatory fee if the assessed fee is below the de minimis threshold that the Commission has established.

44. *Temporary Relief Measures Due to Economic Effects of COVID-19 Pandemic*. 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.[174] In the *NPRM*, we do not plan to implement these temporary

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[171] *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*).

[172] *Id.*

[173] *Space and Earth Station Regulatory Fees NPRM* at para. 96.

[174] *FY 2020 Report and Order,* 36 FCC Rcd at 1760-61, paras. 80-84; *FY 2021 Report and Order*, 36 FCC Rcd at 13024-25, paras. 69-71; *FY 2022 Report and Order* at para. 105. In FY 2023, the Commission continued three of the six temporary relief measures, one in modified form, and codified the remaining three temporary measures. *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, FCC 23-34, at paras. 16-17 (rel. May 15, 2023) (*FY 2023 NPRM*); *Review of the Commission's Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, MD Docket Nos. 23-159, 22-30, Report and Order, FCC 23-66, at paras. 130, 131 (rel. Aug. 10, 2023) (*FY 2023 Report and* Order). The changes were codified in 47 CFR §§ 1.1914 and 1.1166. Pursuant to the Paperwork Reduction Act, because approval of the information collection by the Office of Management and Budget of revised section 1.1914 did not conclude in time for parties seeking installment relief to proceed under the codified revisions to section 1.1914 for FY 2023, the Commission continued the revisions to section 1.1914 as a temporary measure until the codification becomes effective.

measures for FY 2024. The circumstances for which the measures were temporarily implemented have changed. The National Emergency COVID-19 pandemic has ended[175] and the national economy is rebounding.[176] We recognize that some regulatory fee payors may be experiencing lingering or continuing financial difficulties related to the pandemic's economic effects, but we believe that sections 1.1166 and 1.1914 of our rules, now streamlined and simplified, offer those fee payors a straightforward path to regulatory fee relief.[177]

45. *Non-Operating Broadcast Stations*. In the *NPRM*, we seek comment on ending a policy of presuming that dark or silent stations have experienced financial hardship and therefore merit grant of a request for waiver of regulatory fees on the basis of financial hardship,[178] without requiring submission of evidence of actual financial hardship. This policy was first mentioned by the Commission in 1995,[179] and then applied by the Commission's Office of the Managing Director in 1996.[180] 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.[181] Licensees might go dark for different

[175] 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).

[176] David J. Lynch, *Falling Inflation, Rising Growth Give U.S. the World's Best Economy*, The Washington Post, January 28, 2024, at https://www.washingtonpost.com/business/2024/01/28/global-economy-gdp-inflation/ (last visited Mar. 28, 2024).

[177] Section 1.1166 of the Commission's rules was amended to permit parties seeking regulatory fee waiver, reduction and/or deferral to make a single request for all forms of relief sought, rather than requiring separate filings for each form of relief, and require all requests made under the rule to be submitted electronically to a dedicated email address. We amended section 1.1914 of our rules to allow parties to combine their installment payment requests with their requests under section 1.1166 and to submit those requests to the same dedicated email address. *FY 2023 NPRM* at paras. 16-17 (2023).

[178] *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.").

[179] *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*).

[180] *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).

[181] 47 CFR § 73.1740(a)(4).

reasons depending on each station's particular circumstances.[182] 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 *NPRM*, we therefore propose to 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. We propose instead to require these licensees to 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.183 In order to give regulatory fee payors more time to make any necessary changes to comply with this change in policy, we propose to make the change effective for fiscal year 2025.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

46. None.

[182] 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).

[183] 47 CFR § 1.1166.

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

In the Matter of	)	
	)	
ASUSTeK Computer, Inc.	)	File No.: EB-SED-23-00035119
Asus Computer International	)	NAL/Acct. No.: 202432100003
	)	FRNs: 0033432428
		0033602921

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: June 13, 2024 **Released: June 14, 2024**

By the Commission: Commissioner Carr issuing a statement.

I. INTRODUCTION

1. We propose to assess a collective penalty of $367,436 against ASUSTeK Computer Inc. (ASUSTeK Computer) and its wholly owned subsidiary, Asus Computer International (Asus Computer, ASUSTeK Computer, and Asus Computer referred collectively as Company or ASUSTeK) for marketing a WiFi adapter, the PCE-AC51, and a WiFi router, the GT-AXE11000 (GT-AXE), in apparent violation of the Commission's equipment marketing rules. ASUSTeK, without seeking the required authority from the Commission, modified both equipment models to operate in excess of their previously authorized power limits, in apparent violation of section 302(b) of the Communications Act of 1934, as amended, (Act) and sections 2.803(b), 2.1043(a), and 15.407(a)(5) of the Commission's rules.[1] Radio frequency equipment capable of operating at excess power risks causing harmful interference to other radio frequency devices. Moreover, violations of this type may give the violator an unfair competitive advantage. For example, by circumventing the Commission's equipment authorization process, marketers of unlawful radio frequency devices may benefit from reduced costs as compared to their competitors that market similar devices that are in compliance with the Commission's rules.

2. ASUSTeK's apparent violations here are very similar to previous violations to which ASUSTeK Computer admitted to in a consent decree in 2014 with the Enforcement Bureau (Bureau).[2] In the *2014 Consent Decree*, ASUSTeK admitted to marketing WiFi routers and adapters, *inter alia*, that were modified to exceed authorized power limits.[3] Here too, the present investigation has uncovered apparent violations that ASUSTeK marketed a WiFi router and a WiFi adapter that were modified to exceed authorized power limits. The record further indicates that ASUSTeK continued to market the GT-AXE WiFi router for more than a year after it became aware that the model was noncompliant with its authorization. For these and additional reasons set forth below, we propose that ASUSTeK pay a forfeiture of $367,436, the statutory maximum fine calculated using our existing forfeiture calculation methodology for equipment marketing violations.

3. Finally, we are concerned that in equipment marketing enforcement cases like this one—with a small number of noncompliant equipment *models* but a large volume of *units* sold—our existing "per-model" forfeiture calculation, even with substantial upward adjustments, may fail to yield an

[1] 47 U.S.C. § 302a(b); 47 CFR §§ 2.803(b), 2.1043(a), 15.407(a)(5).

[2] *ASUSTeK Computer, Inc.,* Order and Consent Decree, 29 FCC Rcd 9974 (EB 2014) (*2014 Consent Decree*).

[3] *Id.* at 9978-79, paras. 5, 8 (admission of liability for violations of sections 2.803, 2.1043, 2.1093, 15.247, and 15.407 of the Commission's rules).

appropriate forfeiture amount. Accordingly, in future equipment marketing cases we may change our methodology for calculating forfeitures in a way that better aligns forfeitures with the harms caused by the underlying violations, including, where appropriate, increased forfeitures. Doing so would provide stronger incentives to electronic equipment manufacturers and marketers to comply with the Act and the Commission's equipment marketing rules.

II. BACKGROUND

A. Legal Framework

4. The Act and the Commission's equipment marketing rules collectively require marketers of radio frequency devices to ensure, prior to advertising or selling such devices, that the devices will not cause harmful interference to authorized radio communications.[4] Specifically, section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section."[5] The Commission has promulgated long-standing regulations pursuant to section 302(b) of the Act, including technical and authorization requirements, designed to prevent interference from devices that emit radio frequency energy and to inform entities inside the United States that wish to import, sell, or operate radio frequency equipment regarding whether the equipment has been properly authorized.

5. Section 2.803(b)(1) of the Commission's rules provides that no person may market a radio frequency device that is subject to certification unless the device has been authorized in accordance with the rules and is properly identified and labeled.[6] In the context of the Commission's equipment marketing rules, the term "marketing" means the "sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease."[7]

6. Certification is an equipment authorization process that uses third-party, Commission-recognized Telecommunication Certification Bodies to evaluate applications submitted by responsible parties (e.g., manufacturers or importers) to determine whether a radio frequency device meets the Commission's technical requirements for authorization.[8] Intentional radiators must be properly authorized and labeled in accordance with the Commission's equipment certification process prior to marketing.[9] Once a device is certified, section 2.1043(a) of the Commission's rules prohibits, *inter alia*,

[4] 47 U.S.C. § 302a(b); 47 CFR § 2.803; *see*, *e.g.*, *Sound Around, Inc.*, Notice of Apparent Liability for Forfeiture, FCC 23-113, 2023 WL 8782439 (Dec. 14, 2023) (*Sound Around 2023 NAL*); *Sound Around, Inc.,* Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 3478 (2020) (*Sound Around 2020 NAL*), *forfeiture ordered,* Forfeiture Order, 37 FCC Rcd 9907 (2022) (*Sound Around 2022 Forfeiture Order*); *ABC Fulfillment Services LLC d/b/a HobbyKing USA LLC and HobbyKing.com, and Indubitably, Inc. d/b/a/ HobbyKing Corp., HobbyKing USA LLC, HobbyKing and HobbyKing.com*, Forfeiture Order, 35 FCC Rcd 7441, 7442, para. 5 (2020).

[5] 47 U.S.C. § 302a(b).

[6] *See* 47 CFR § 2.803(b)(1).

[7] *Id*. § 2.803(a).

[8] *See id*. § 2.907. The Commission's equipment certification procedures are set forth in part 2, subpart J, of the Commission's rules. *See id.* §§ 2.901-2.1093.

[9] *See id*. § 2.803(b)(1). An intentional radiator is "[a] device that intentionally generates and emits radio frequency energy by radiation or induction." *Id*. § 15.3(o). Both the PCE-AC51 and the GT-AXE are "intentional radiators" under part 15 of the Commission's rules because both models intentionally generate and emit radio frequency energy by radiation. *See id*. "[A]ll intentional radiators operating under the provisions of this part shall be certified by the Telecommunication Certification Bodies pursuant to the procedures in subpart J of part 2 of this chapter prior to marketing." *Id.* § 15.201(b).

changes to its maximum power without application for and authorization of a new grant of certification.[10] Section 15.407(a)(5) of the Commission's rules states that "[f]or an indoor access point operating in the 5.925-7.125 GHz band, the maximum power spectral density must not exceed 5 dBm e.i.r.p. in any 1-megahertz band, and the maximum e.i.r.p. over the frequency band of operation must not exceed 30 dBm."[11]

B. Factual Background

1. ASUSTeK Computer and Asus Computer

7. ASUSTeK Computer is a Taiwanese multinational corporation and one of the world's largest providers of computer and computer component-related products. In 2022, ASUSTeK Computer had operating revenues of $17.2 billion (New Taiwan (NT) $537 billion) and gross profits of $2.4 billion (NT $74 billion).[12] ASUSTeK Computer markets its products (including the PCE-AC51 and the GT-AXE) in the United States through its wholly owned U.S. affiliate, Asus Computer.[13] Specifically, Asus Computer markets and distributes in the United States the products at issue here.[14] ASUSTeK Computer received and holds the underlying equipment authorizations for the PCE-AC51 and GT-AXE.[15] Employees of ASUSTeK Computer signed the declarations supporting the LOI Responses on behalf of both companies.[16] This interrelationship between the two companies extends to certain common officers and directors.[17]

2. The 2014 Consent Decree

8. On August 6, 2014, ASUSTeK Computer entered into the *2014 Consent Decree* with the Bureau, resolving the Bureau's investigation of violations very similar to those that are the subject of this *NAL*, namely the marketing of WiFi adapters and routers that exceed their authorized power limits in violation of section 302(b) of the Act and sections 2.803, 2.1043, and 15.407 of the Commission's rules.[18] In the *2014 Consent Decree*, ASUSTeK Computer agreed to, *inter alia*, adopt and implement a 38-month compliance plan "to ensure future compliance with the Communications Laws and with the terms and

[10] *See id*. § 2.1043(a).

[11] *Id.* § 15.407(a)(5). Effective Isotropic Radiated Power (e.i.r.p.) is the radiated output power of an antenna calculated by using the transmitter output power, cable loss, and antenna gain.

[12] *See* ASUSTeK Computer, Inc. 2022 Annual Report at 154 (listing 2022 operating revenues and gross profits), https://www.asus.com/EVENT/Investor/Content/attachment_en/2022_Annual_Report_en.pdf (last visited May 9, 2024) (2022 Annual Report).

[13] Initial Response to Letter of Inquiry (Revised), from ASUSTeK Computer, Inc., and Asus Computer International, to Spectrum Enforcement Division, FCC Enforcement Bureau, at 5, Response to Inquiry 1 (June 14, 2023) (on file in EB-SED-23-00035119) (LOI Response).

[14] LOI Response at 5, 12, Response to Inquiry 1, 8.

[15] *See* LOI Response at 11, Response to Inquiry 6; LOI Response at Exhibit 2; *infra* at notes 22 & 27.

[16] *See* LOI Response, Declarations of Alan Huang and Also Lo; Response to Follow-up Letter of Inquiry, from ASUSTeK Computer, Inc., and Asus Computer International, to Spectrum Enforcement Division, FCC Enforcement Bureau at Declarations of Alan Huang and Also Lo (Nov. 3, 2023) (on file in EB-SED-23-00035119) (FLOI Response); Supplemental Response to Follow-up Letter of Inquiry, from ASUSTeK Computer, Inc., and Asus Computer International, to Spectrum Enforcement Division, FCC Enforcement Bureau at Declaration of Also Lo (Dec. 1, 2023) (on file in EB-SED-23-00035119) (FLOI Response Supplement).

[17] S.Y. Hsu (Shian) serves as Director, Co-Chief Executive Officer, for ASUSTeK Computer and as Director for Asus Computer. *See* LOI Response at 6, 9, Response to Inquiry 2. Joe Hsieh serves as Director, Chief Operating Officer of ASUSTeK Computer and as Director of Asus Computer. *See id*.

[18] *See generally 2014 Consent Decree*, *supra* note 2.

conditions of this Consent Decree."[19] It also agreed to "report any noncompliance with the Equipment Marketing Rules . . . within fifteen (15) calendar days after discovery of such noncompliance."[20] ASUSTeK Computer further agreed to pay a $240,000 civil fine.[21]

3. The PCE-AC51 WiFi Adapter

9. On October 3, 2016, the Commission granted ASUSTeK an authorization for the PCE-AC51, with an authorized maximum power level of 0.187 Watts (the equivalent of 22.7 dBm).[22] On November 11, 2016, ASUSTeK began marketing the PCE-AC51.[23] On September 20, 2023, ASUSTeK stopped sales and marketing of the PCE-AC51.[24] In the last year in which it marketed the model, ASUSTeK sold 3,281 noncompliant units with gross revenues of {[ ]} from which ASUSTeK generated estimated gross profits of {[ ]}.[25] It was not until November 3, 2023, that ASUSTeK admitted it had modified the PCE-AC51 at some point after initial testing, but before marketing the device, so that on certain frequencies the model could operate at "up to 23 dBm" (the equivalent of 0.200 Watts).[26] In other words, the model was apparently operating above its authorized power level by 0.013 Watts (or approximately seven percent).

4. The GT-AXE WiFi Router

10. On August 4, 2020, the Commission granted ASUSTeK an authorization for the GT-AXE, with an authorized maximum power level between 0.242 and 0.991 Watts.[27] On January 21, 2021, ASUSTeK began marketing the model in the United States.[28] However, at some point after initial testing, ASUSTeK (directly or through its contractor) made changes to the model, such that the model exceeded the power limits in its authorization since at least November 1, 2021.[29]

11. Subsequently, the Bureau received a complaint (Complaint) stating that the complainant purchased three off-the-shelf GT-AXE units and had them tested by a certified test laboratory.[30] According to the Complaint, all three units exceeded the model's authorized power output limits by between 4 and 9 dB.[31] In other words, the units were apparently operating at nearly eight times the authorized output power level on some frequencies.

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[19] *Id.* at 9980, 9982, paras. 12, 15.

[20] *Id.* at 9981, para. 13.

[21] *Id*. at 9982, para. 16.

[22] Authorization for FCC ID MSQ-PCEAC1N00, (Oct. 3, 2016), https://apps.fcc.gov/oetcf/tcb/reports/Tcb731GrantForm.cfm?mode=COPY&RequestTimeout=500&tcb_code=&application_id=WXOLXxL5UmR4tkznvVNnuw%3D%3D&fcc_id=MSQ-PCEAC1N00.

[23] FLOI Response, *supra* note 16, at 4, Response to FLOI Inquiry 5(d).

[24] *Id.* at 5, Response to FLOI Inquiry 5(d).

[25] *See* FLOI Response Supplement, *supra* note 16, Spreadsheet Exhibit 1. Material that is set off by double brackets {[ ]} is subject to a request for confidential treatment and is redacted from the public version of this document.

[26] FLOI Response, *supra* note 16, at 1-2, Response to FLOI Inquiry 3, 3(a) (admitting that "the PCE-AC51 is capable of operating up to 23 dBm in certain frequency ranges.").

[27] Authorization for FCC ID MSQ-RTAXJF00, (Aug. 4, 2020), https://apps.fcc.gov/oetcf/tcb/reports/Tcb731GrantForm.cfm?mode=COPY&RequestTimeout=500&tcb_code=&application_id=PF9vm2eioKqJjrbIhlU0Kg%3D%3D&fcc_id=MSQ-RTAXJF00.

[28] LOI Response, *supra* note 13, at 16, Response to Inquiry 15(d).

[29] *Id.* at 19, Response to Inquiry 18.

[30] *See* Complaint (on file in EB-SED-23-00035119).

[31] *Id*.

12. On November 19, 2021, Netgear, Inc. (Netgear), a major competitor of ASUSTeK in the wireless router market, filed a lawsuit against ASUSTeK in the U.S. District Court for the Northern District of California alleging, inter alia, that ASUSTeK was marketing the GT-AXE beyond its authorized power limits, in violation of the Commission's rules.[32] On January 10, 2023, more than a year after Netgear sued ASUSTeK, ASUSTeK stopped accepting new orders for the model.[33] Between May 8, 2022,[34] and January 16, 2023, ASUSTeK sold 4,495 noncompliant units with gross revenues of {[ ]} from which ASUSTeK generated estimated gross profits of {[ ]}.[35] On February 1, 2023, nearly 14 months after Netgear filed its lawsuit, ASUSTeK met with the Commission's Office of Engineering and Technology (OET) to inform OET of the GT-AXE's noncompliance and discuss steps needed to bring the model into full compliance.[36] ASUSTeK has admitted that it marketed the GT-AXE outside of the parameters of the Commission's authorization.[37] ASUSTeK reported that on June 19, 2023, it brought the GT-AXE into compliance with the device model's authorized power limits.[38] On March 6, 2024, ASUSTeK informed the Commission that it intended to resume marketing the GT-AXE.[39]

5. Investigative History

13. On April 10, 2023, the Bureau sent ASUSTeK a Letter of Inquiry (LOI) requesting information regarding the GT-AXE model, as well as all other wireless routers and WiFi boosters that ASUSTeK sold in the United States.[40] ASUSTeK responded on May 17,[41] June 14,[42] and July 19, 2023.[43]

[32] Complaint, *Netgear, Inc. v ASUSTeK Computer, Inc. and Asus Computer International, Inc.*, Case 5:21-cv-08993-NC (N.D. Ca1.) (filed Nov. 19, 2021); LOI Response at 12-13, Response to Inquiry 10; Ex. 3(A). On May 30, 2023, ASUSTeK and Netgear entered into a settlement agreement voluntarily dismissing Netgear's claims against ASUSTeK. *See* LOI Response, *supra* note 13, at 13, Response to Inquiry 10; Exs. 3(A), 3(B).

[33] LOI Response, *supra* note 13, at 14, Response to Inquiry 12.

[34] On May 8, 2023, ASUSTeK and the Bureau entered into a tolling agreement which tolled the statute of limitations until June 14, 2024, related to the Bureau's investigation of potential violations into ASUSTeK's marketing of the GT-AXE. *See infra* note 49.

[35] *See* FLOI Response Supplement, *supra* note 16, Spreadsheet Exhibit 1.

[36] *See* LOI Response, *supra* note 13, at 14, Response to Inquiry 12.

[37] *Id.* at 19, Response to Inquiry 18 ("During the Inquiry Period, the GT-AXE was capable of operating at a higher power level than what was specified in the original equipment authorization."). ASUSTeK also admitted during the course of its litigation with Netgear that the GT-AXE was noncompliant with its authorization. *See id.*, Ex. 3(B), "Joint Case Management Statement" at 2 (Apr. 14, 2023) (ASUSTeK informed the court "that the [GTE-AXE]'s maximum power . . . exceeds the FCC maximum output level of 5 dBm/MHz in the 6 GHz band.") (citing 47 CFR § 15.407(a)(5)).

[38] *See* Supplemental Response to Letter of Inquiry, from ASUSTeK Computer, Inc., and Asus Computer International, Spectrum Enforcement Division, FCC Enforcement Bureau, at 1 (July 19, 2023) (on file in EB-SED-23-00035119) (LOI Response Supplement).

[39] *See* Further Supplemental Response to Follow-up Letter of Inquiry, from ASUSTeK Computer, Inc., and Asus Computer International, to Spectrum Enforcement Division, FCC Enforcement Bureau, at 1 (Mar. 6, 2024) (on file in EB-SED-23-00035119) (FLOI Further Response Supplement).

[40] Letter of Inquiry from Spectrum Enforcement Division, FCC Enforcement Bureau, to ASUSTeK Computer, Inc., and Asus Computer International (Apr. 10, 2023) (on file in EB-SED-23-00035119) (LOI).

[41] Initial Response to Letter of Inquiry, from ASUSTeK Computer, Inc., and Asus Computer International, to Spectrum Enforcement Division, FCC Enforcement Bureau (May 17, 2023) (on file in EB-SED-23-00035119). Because ASUSTeK submitted a revised version of its LOI Response, we cite primarily to that version. *See supra* note 13.

[42] LOI Response, *supra* note 13.

[43] *See generally* LOI Response Supplement.

On October 20, 2023, the Bureau sent ASUSTeK a Follow-up LOI (FLOI).[44] ASUSTeK submitted responses on November 3,[45] and December 1, 2023,[46] and on March 6, 2024.[47]

III. DISCUSSION

14. We find that ASUSTeK apparently willfully and repeatedly violated section 302(b) of the Act and sections 2.803(b), 2.1043(a), and 15.407(a)(5) of the Commission's rules when the Company marketed the PCE-AC51 WiFi adapter and the GT-AXE WiFi router in excess of the models' authorized power limits.[48] Such violations risk causing harmful interference to other radio frequency devices and unfairly give a violating company a competitive advantage over other companies marketing similar devices while adhering to the Commission's equipment marketing rules. We also find that significant upward adjustments to the base forfeiture amount are warranted because (i) these violations followed similar, prior violations to which ASUSTeK admitted in its *2014 Consent Decree* with the Bureau, and (ii) ASUSTeK continued marketing the GT-AXE for more than a year after ASUSTeK became aware of allegations that the model was noncompliant with its authorization. Accordingly, we propose a forfeiture of $367,436, the aggregate statutory maximum under the Commission's current forfeiture calculation methodology, for the apparent violations for the two equipment models that occurred within the one-year statute of limitations.[49]

A. ASUSTeK Marketed Noncompliant Radio Frequency Equipment in Apparent Violation of Section 302(b) of the Act and Sections 2.803(b), 2.1043(a), and 15.407(a)(5) of the Commission's Rules

15. Devices that unintentionally or intentionally emit radio frequency energy typically must be authorized in accordance with the Commission's rules prior to their being advertised or sold in the United States.[50] Specifically, section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section."[51] Section 2.803(b)(1) of the Commission's rules provides that no person may market a radio frequency device that is subject to certification unless the device has previously been authorized in accordance with the rules and is properly identified and labeled.[52] Section 2.1043(a) of the Commission's rules provides in relevant part that changes to maximum power ratings shall not be performed without application for and authorization of a new grant of certification.[53] Section 15.407(a)(5) of the Commission's rules, which applies to the GT-

[44] Follow-up Letter of Inquiry, from Spectrum Enforcement Division, FCC Enforcement Bureau, to ASUSTeK Computer, Inc., and Asus Computer International (Oct. 20, 2023) (on file in EB-SED-23-00035119) (FLOI).

[45] *See generally* FLOI Response, *supra* note 16.

[46] *See generally* FLOI Response Supplement, *supra* note 16.

[47] *See generally* FLOI Further Response Supplement, *supra* note 39.

[48] 47 U.S.C. § 302a(b); 47 CFR §§ 2.803(b), 2.1043(a), 15.407(a)(5).

[49] 47 U.S.C. § 503(b)(6)(B). The one-year statute of limitations for the PCE-AC51 runs from September 20, 2023, the date that ASUSTeK stopped marketing the model, to September 19, 2024. *See supra* para. 9. The one-year statute of limitations for the GT-AXE that would have run from January 16, 2023, the date that ASUSTeK stopped marketing the model, to January 15, 2024, was extended by a tolling agreement that expires on June 14, 2024. *See supra* para. 12 and note 34.

[50] *See* 47 CFR part 2, subpart I.

[51] 47 U.S.C. § 302a(b); *supra* para. 4.

[52] 47 CFR § 2.803(b)(1); *supra* para. 5.

[53] 47 CFR § 2.1043(a); *supra* para. 6.

AXE, establishes a maximum power density for indoor operations.[54] Because ASUSTeK increased the power limits of the PCE-AC51 and GT-AXE models beyond each device model's authorized levels without applying for and receiving a new grant of certification, the models were unauthorized.[55] Accordingly, ASUSTeK marketed the PCE-AC51 and GT-AXE models in apparent willful and repeated violation of section 302 of the Act and sections 2.803(b), 2.1043(a), and—with respect to the GT-AXE model—15.407(a)(5) of the Commission's rules.[56]

16. ASUSTeK marketed the PCE-AC51 in apparent violation of the Act and the Commission's rules. The Commission certified the PCE-AC51 on October 3, 2016, with an authorized maximum power level of 0.187 Watts (the equivalent of 22.7 dBm).[57] Approximately one month later, ASUSTeK began marketing the PCE-AC51 wireless adapter in the United States and continued to do so for almost seven years.[58] The Bureau's investigation revealed that, during the entire time ASUSTeK marketed the PCE-AC51, it could operate at up to 23 dBm (the equivalent of 0.200 Watts), in excess of its Commission-authorized power limits.[59] ASUSTeK never sought nor received a new grant of certification for these higher power levels. Accordingly, ASUSTeK apparently willfully and repeatedly violated section 302(b) of the Act and sections 2.803(b) and 2.1043(a) of the Commission's rules by marketing the PCE-AC51 in violation of its authorized power limits.

17. ASUSTeK also marketed the GT-AXE wireless router in apparent violation of the Act and the Commission's rules. The Commission certified the GT-AXE on August 4, 2020.[60] About five months later, ASUSTeK began marketing the GT-AXE wireless router in the United States.[61] Section 15.407(a)(5) limits the allowed power spectrum density for "indoor access points" like the GT-AXE to 5 dBm/MHz.[62] ASUSTeK has admitted that it continuously marketed the GT-AXE in excess of this limit since at least November 1, 2021.[63] ASUSTeK neither sought nor received a new grant of certification for these higher power levels prior to marketing. Accordingly, ASUSTeK apparently willfully and repeatedly violated section 302(b) of the Act and sections 2.803(b), 2.1043(a), and 15.407(a)(5) of the Commission's rules by marketing the GTE-AXE with power spectrum density output in excess of allowable levels.

B. Proposed Forfeiture

18. Section 503(b) of the Act authorizes the Commission to impose a forfeiture against any entity that "willfully or repeatedly fail[s] to comply with any of the provisions of [the Act] or of any rule, regulation, or order issued by the Commission[.]"[64] Here, section 503(b)(2)(D) of the Act authorizes us to assess a forfeiture against ASUSTeK of up to $24,496 for each day of a continuing violation, up to a

[54] 47 CFR § 15.407(a)(5); *supra* para. 6.

[55] *See supra* paras. 9-12.

[56] 47 U.S.C. § 302a(b); 47 CFR §§ 2.803(b)(1), 2.1043(a), 15.407(a)(5).

[57] *See supra* para. 9 and note 22.

[58] FLOI Response, *supra* note 16, at 5, Response to FLOI Inquiry 5(d).

[59] *See, e.g.*, *id.* at 1, Response to FLOI Inquiry 3.

[60] *See supra* para. 10 and note 27.

[61] LOI Response, *supra* note 13, at 16, Response to Inquiry 15(d).

[62] 47 CFR § 15.407. An "indoor access point" is "an access point that operates in the 5.8505.895 GHz or the 5.9257.125 GHz band, is supplied power from a wired connection, has an integrated antenna, is not battery powered, and does not have a weatherized enclosure." *Id.* § 15.403. The GT-AXE is such a device. *See supra* note 27.

[63] LOI Response, *supra* note 13, at 12-13, Response to Inquiry 10; Ex. 3(A).

[64] 47 U.S.C. § 503(b).

statutory maximum of $183,718 for a single act or failure to act.[65] In exercising our forfeiture authority, we must consider 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."[66] In addition, the Commission has established forfeiture guidelines, which provide base penalties for certain violations and identify criteria that we consider when determining the appropriate penalty in any given case.[67] Under these guidelines, we may adjust a forfeiture upward for violations that are egregious, intentional, or repeated, or that cause substantial harm or generate substantial economic gain for the violator.[68]

19. Section 1.80(b) of the Commission's rules sets a base forfeiture of $7,000 for marketing of unauthorized equipment for each violation or each day of a continuing violation.[69] Based on the record, ASUSTeK marketed two noncompliant radio frequency device models during the entirety of the one-year statute of limitations period.[70] Accordingly, we propose a total base forfeiture of $14,000 (2 x $7,000).

20. In addition, given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that a significant upward adjustment is warranted for ASUSTeK's (i) intentional marketing of noncompliant radio frequency devices; (ii) history of prior violations of the Act and the Commission's rules; (iii) repeated and continuous noncompliant marketing; (iv) substantial economic gain; and (v) ability to internalize the costs of more modest proposed forfeitures as a mere cost of doing business (i.e., ability to pay).[71]

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[65] *See* 47 U.S.C. § 503(b)(2)(D); 47 CFR § 1.80(b)(10) (setting the current inflation adjusted statutory maximum for a violation of 47 U.S.C. § 503 (b)(2)(D) at $183,718). *See 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 January 15, 2024 as the effective date for the increases).

[66] 47 U.S.C. § 503(b)(2)(E); *see also* 47 CFR § 1.80(b)(11); *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17100-17101, para. 27 (1997) (*Forfeiture Policy Statement*), *recons. denied*, 15 FCC Rcd 303 (1999).

[67] 47 CFR § 1.80(b)(11), Table 1 to paragraph (b)(11); *Forfeiture Policy Statement*, 12 FCC Rcd at 17098-99, para. 22.

[68] *See* 47 CFR § 1.80(b)(11), Table 3 to paragraph (b)(11); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17098-99, para. 22 (noting that "[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act").

[69] 47 CFR § 1.80(b). The Commission typically applies the base forfeiture on a per-model basis and proposes to do so here. *See*, *e.g.*, *Bear Down Brands, LLC d/b/a Pure Enrichment,* Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5449, 5457, para. 22 (2018) (*Pure Enrichment NAL*); *C.T.S. Technology Co., et al.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 8107, 8113, para. 16 & n.38 (2014) (citing cases), *forfeiture ordered*, 31 FCC Rcd 6126 (2016) (citing cases); *Behringer USA, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 21 FCC Rcd 1820, 1827, para. 21 (2006) (*Behringer NAL*), *forfeiture ordered*, 22 FCC Rcd 10451 (2007) (forfeiture paid). However, in future cases, we may alter this approach in a way that results in increased forfeitures (for example, using a per-unit marketed methodology or other approach) to create strong disincentives for violations of our equipment authorization and marketing rules. *See infra* para. 28.

[70] *See supra* note 49.

[71] *See Forfeiture Policy Statement*, 12 FCC Rcd at 17100-17101, para. 27; 47 CFR § 1.80(b)(11), Table 3 to paragraph (b)(11) (upward adjustment criteria includes the following: egregious misconduct; ability to pay/relative disincentive; intentional violation; substantial harm; prior violations; substantial economic gain; and repeated or continuous violation).

21. *First*, ASUSTeK's marketing of apparently noncompliant radio frequency devices was intentional and therefore warrants a significant upward adjustment. The record reflects that by November 19, 2021, at the latest, ASUSTeK knew, through the lawsuit filed by ASUSTeK's competitor, Netgear,[72] that the GT-AXE may have been operating in excess of its authorized power limits. Yet it continued to market the GT-AXE for more than a year—until January 16, 2023. The Company's further marketing of this apparently noncompliant model demonstrates that its failure to comply with section 302(b) of the Act and section 2.803 of the Commission's rules was intentional, thereby supporting an upward adjustment for the GT-AXE apparent violation.[73]

22. *Second*, we propose an upward adjustment based on the Company's prior conduct. ASUSTeK has a history of violating section 302 of the Act and sections 2.803, 2.1043, and 15.407 of the Commission's rules, the same provisions that we are proposing to fine the Company for here. On August 6, 2014, ASUSTeK Computer entered into a consent decree with the Bureau resolving an investigation that included almost identical violations as those in this investigation: marketing WiFi routers and adapters that exceeded authorized power limits.[74] In that consent decree, ASUSTeK Computer admitted the violations[75] and agreed to implement Operating Procedures "specifically designed to ensure . . . all radio frequency devices to be marketed by ASUSTeK comply with applicable technical standards [and] have been properly authorized . . . ."[76] An upward adjustment for each of the two apparent violations is therefore warranted based on these prior violations.[77]

23. *Third*, an upward adjustment to the proposed forfeiture is appropriate given ASUSTeK's repeated and continuous marketing of the noncompliant models. The investigation reveals that the Company marketed the PCE-AC51 model from 2016 to 2023 and the GT-AXE model from 2021 to 2023, and that the Company modified both models after receiving equipment authorizations for both models.[78]

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[72] *See supra* para. 12.

[73] *Presidential Who's Who DBA Presidential Who's Who, Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8989, 8994, paras. 12-13 (2011) (proposing an upward adjustment where the company continued violative conduct "deliberately, given its disregard for the Commission's previous warnings" after the company received a citation and notices of apparent liability), Forfeiture Order, 29 FCC Rcd 3451 (2014); *Rocky Mountain Radar,* Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 1334, 1339, para. 14 (EB 2007) (proposing an upward adjustment where the company intentionally continued marketing noncompliant devices following a citation and failed challenge of the citation at the Commission and the U.S. Court of Appeals for the Tenth Circuit), Forfeiture Order, 22 FCC Rcd 15174 (EB 2007); *Ramko Distributors Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 7161, 7169, para. 23 (2007) (proposing an upward adjustment where company intentionally continued marketing noncompliant devices following a citation); *Pilot Travel Centers, LLC*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 23113, 23117, para. 17 (2004) (proposing an upward adjustment where company intentionally continued marketing noncompliant devices following nine citations and devices had the potential to interfere with authorized devices), Order and Consent Decree, 21 FCC Rcd 5308 (2006).

[74] *See generally 2014 Consent Decree*, *supra* note 2.

[75] *See id.* at 9979, para. 8.

[76] *Id.* at 9980, para. 12(a). Although the term of this consent decree was three years, ASUSTeK would have had no reason to affirmatively undo operating procedures designed to ensure compliance with the Act and the Commission's rules at issue in that consent decree and in this case.

[77] *Cunningham Broadcasting Corporation*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042, 11048, para. 17 (2022) (explaining that the Commission's proposed forfeitures were warranted due to, *inter alia*, licensee's "lengthy history of prior offenses for similar violations"); *Patrick Keane a/k/a The Street Map Co.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 13757, 13762, para. 13 (2012) (providing a proposed maximum penalty for target's "egregious," "intentional," and "repeated," violations, as well as "history of prior offenses"); *Union Broadcasting, Inc.*, Forfeiture Order, 19 FCC Rcd 18588, 18590, para. 10 (EB 2004) (explaining that prior rule violations warranted an upward adjustment).

[78] *See supra* paras. 9-10.

This repeated and continuous noncompliant marketing also justifies an upward adjustment for each of the two models.[79]

24. *Fourth,* we propose a significant upward adjustment to account for ASUSTeK's substantial economic gain from both models. In recent investigations where the Commission has utilized upward adjustments for this factor, it has generally looked at gross revenue from the sale of unauthorized devices.[80] We do the same here. However, we also recognize that ASUSTeK also generated significant gross profits.[81] For the PCE-AC51 model, ASUSTeK sold 3,281 noncompliant units in its last year of sales with gross revenues of {[ ]} on these sales and gross profit of {[ ]}.[82] For the GT-AXE model, ASUSTeK sold 4,495 noncompliant units between May 8, 2022 (the earliest date within the statute of limitations)[83] and January 16, 2023 (date the Company stopped marketing the model) with gross revenues of {[ ]} on these sales and {[ ]} in gross profit.[84] Accordingly we propose an upward adjustment based on the substantial economic gain that ASUSTeK realized through the sale of these noncompliant units.

25. *Fifth*, under section 503(b)(2)(E) of the Act, and as codified in section 1.80(b)(11) of our rules, we must take into account a target's ability to pay a forfeiture.[85] Here, an upward adjustment is

[79] *ABC Fulfillment Servs. LLC d/b/a Hobbyking USA LLC & Hobbyking.com; & Indubitably, Inc. d/b/a Hobbyking Corp., Hobbyking USA LLC, Hobbyking, & Hobbyking.com*, Notice of Apparent Liability for Forfeiture, 33 FCC Rcd 5530, 5540–41, para. 22 (2018), *affirmed*, Forfeiture Order, 35 FCC Rcd 7441, 7442, para. 5 (2020) (upward adjustment for repeated and continuous marketing of noncompliant devices for several years). Some apparent violations are not actionable due to the expiration of the statute of limitations period, however, the Commission may consider facts arising before the expiration date in determining an appropriate forfeiture amount for acts that occurred inside of the statute of limitations period. *See Enserch Corp.*, Forfeiture Order, 15 FCC Rcd 13551, 13554, para. 11 (2000).

[80] *See, e.g.*, *Pure Enrichment NAL*, 33 FCC Rcd at 5458, para. 24 (explaining that the company earned $34.4M in gross revenues in 2016 and finding that an upward adjustment for substantial economic gain was warranted due to intentional conduct and gross revenues for the noncompliant models within a year of the release date of the NAL); *Behringer NAL*, 21 FCC Rcd at 1827, para. 22 (upward adjustment for substantial economic gain was warranted due to post-investigation total retail sales of unauthorized devices amounting to approximately $28.5 million).

[81] *See* FLOI Response Supplement, *supra* note 16, Spreadsheet Exhibit 1.

[82] *See id*.

[83] *See supra* para. 12 and notes 34, 49 (discussing the applicable statute of limitations period for the GT-AXE model).

[84] *See* FLOI Response Supplement, *supra* note 16, Spreadsheet Exhibit 1.

[85] 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(11); *see Forfeiture Policy Statement*, 12 FCC Rcd at 17099-17100, paras. 23-24 (cautioning all entities and individuals that the Commission will take into account the violator's ability to pay in determining a forfeiture to guarantee that large or highly profitable entities do not consider forfeitures merely an affordable cost of doing business, and noting that such entities should expect proposed forfeitures against them to be well above the applicable base amount); *Sound Around 2023 NAL*, 2023 WL 8782439 at *9, para. 30 (explaining that an upward adjustment for ability to pay "is warranted to deter the Company from treating the proposed fine as merely a cost of doing business"); *Lumen Technologies, Inc.*, Notice of Apparent Liability for Forfeiture, 2023 WL 8540521, *15, para. 53 (2023) (*Lumen 2023 NAL*) (explaining that the upward adjustment for ability to pay is "to ensure that the forfeiture is an effective deterrent and not simply a cost of doing business" as well as to "protect the interests of consumers and deter entities from violation the Commission's rules."); *Viacom, Inc.*, Forfeiture Order, 30 FCC Rcd 797, para. 22 (2015) (noting that an upward adjustment is appropriate in light of Viacom's reported annual revenues and the revenues of ESPN's parent); *Tesla Exploration, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 9808, 9811, para. 10 & n.20 (2012), *consent decree ordered* Order and Consent Decree, 31 FCC Rcd 844 (EB 2016); *Union Oil Company of California, A Subsidiary of Chevron Corporation*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 13806, 13810, para. 10 (2012), *forf. paid*; *SM Radio, Inc.*, Order on Review, 23 FCC Rcd 2429, 2433, para. 12 (2008) (citations omitted); *SBC Communications Inc.*, Order on

(continued)

warranted. Based on its financial documentation, ASUSTeK Computer and its affiliated companies, including Asus Computer, had 2022 operating revenues of $17.2 billion (NT $537 billion), with gross profits of $2.4 billion (NT $74 billion).[86] A significant upward adjustment of the base forfeiture amount is warranted to ensure that the proposed forfeiture is an effective deterrent and not simply internalized by ASUSTeK as a cost of doing business.[87]

26. Adding the applicable upward adjustments together would produce a forfeiture amount that significantly exceeds the $183,718 statutory maximum for each of the Company's two apparent equipment marketing violations. Accordingly, we propose significant upward adjustments for both violations, but only to the statutory maximum of $367,436 ($183,718 x 2) for the two violations.

27. In applying the applicable statutory factors, we also consider whether there is any basis for a downward adjustment of the proposed forfeiture. Here, we find none. Therefore, after applying the *Forfeiture Policy Statement*, section 1.80 of the Commission's rules, and the statutory factors, we propose a total forfeiture of $367,436, the statutory maximum, for which ASUSTeK is apparently liable.

28. Finally, between 2022 and 2023, ASUSTeK generated gross revenues of {[ ]} from the sales of two noncompliant models and gross profits of nearly {[ ]}.[88] These amounts are well above the statutory maximum that can be calculated in this case applying the section 1.80 base forfeiture amount of $7,000 "per model," even with substantial upward adjustments. We are concerned that continuing to use this method of calculating forfeitures in equipment marketing enforcement cases may fail to yield an appropriate forfeiture amount commensurate with the seriousness of the violations. This is particularly evident in cases such as the present one where gross revenues and even gross profits greatly exceed the statutory maximum calculated under the current forfeiture methodology. We are concerned that a per-model approach will incentivize companies to view the possibility of a Commission forfeiture as merely a cost of doing business rather than a deterrent to violating our rules. Because the "per-model" approach may be insufficient in a particular case, we note that, in future equipment marketing cases, the Commission may change its methodology for calculating forfeitures in a way that results in more appropriate, and often increased, forfeitures (for example, using a per-unit marketed methodology or other approach). Changing forfeiture methodologies in this manner is consistent with Commission precedent.[89]

(Continued from previous page)
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").

[86] *See* 2022 Annual Report, *supra* note 12, at 154 (stating 2022 operating revenues and gross profits).

[87] *See, e.g.*, *Forfeiture Policy Statement*, 12 FCC Rcd at 17098, para. 20 (1997) (recognizing the relevance of creating the appropriate deterrent effect in choosing a forfeiture); *see also* 47 CFR § 1.80(b)(11), Table to paragraph (b)(11) (identifying adjustment criteria for section 503 forfeitures).

[88] *See* FLOI Response Supplement, *supra* note 16, Spreadsheet Exhibit 1; *see also* paras. 9, 12.

[89] *See Cesar Ayora and Luis Angel Ayora, Queens, New York*, Notice of Apparent Liability for Forfeiture, 38 FCC Rcd 2562, 2569, para. 15 (2023) (establishing a new base forfeiture for violations of the PIRATE Act), *forfeiture ordered*, Forfeiture Order, 2023 WL 6843186 (2023); *see also Lumen 2023 NAL*, 2023 WL 8540521 at *13, para. 48 (establishing a new base forfeiture of $1,000 per failed 911 call and noting that "if we determine that $1,000 per call does not appear to be a strong enough deterrent for carriers to comply with the Commission's 911 rules, we may in future cases assess a larger per call amount"); *Cunningham Broadcasting Corp.*, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 11042, 11047, para. 13 (2022) (advising FCC regulated entities that "the Commission may revise our approach to forfeiture calculations . . . in future cases"), *forf. paid, by certain licensees*; *T-Mobile USA, Inc., a subsidiary of T-Mobile US, Inc.*, Forfeiture Order, 29 FCC Rcd 10752, 10756-57, paras. 12-13 (2014) (affirming the change in forfeiture methodology in the underlying notice of apparent liability and finding that the same is not "inequitably retroactive"); *Easy Tel. Servs. d/b/a Easy Wireless*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 14433, 14438-39, para. 16 (changing the base forfeiture calculation methodology because the "prior framework fails to reflect the extent and gravity of the alleged violations") (2013), *consent decree*
(continued)

IV. CONCLUSION

29. We have determined that ASUSTeK apparently willfully and repeatedly violated section 302(b) of the Act and sections 2.803, 2.1043(a), and 15.407(a)(5) of the Commission's rules. As such, ASUSTeK is apparently liable for a forfeiture of $367,436.

V. ORDERING CLAUSES

30. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, ASUSTeK Computer, Inc. and Asus Computer International are hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of three hundred and sixty-seven thousand four hundred and thirty-six dollars ($367,436) for willful and repeated violations of section 302(b) of the Act, 47 U.S.C. § 302a(b), and sections 2.803(b), 2.1043(a), and 15.407(a)(5) of the Commission's rules, 47 CFR §§ 2.803(b), 2.1043(a), and 15.407(a)(5).

31. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission's rules, 47 CFR § 1.80,[90] within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, ASUSTeK Computer, Inc. and Asus Computer International **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 34 below.

32. In order for ASUSTeK Computer, Inc. and Asus Computer International to pay the proposed forfeiture, ASUSTeK Computer, Inc. and Asus Computer International shall notify the Spectrum Enforcement Division at EB-SED-Response@fcc.gov of their intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at https://apps.fcc.gov/cores/userLogin.do. Upon payment, ASUSTeK Computer, Inc. and Asus Computer

(Continued from previous page)
ordered, Order and Consent Decree, 32 FCC Rcd 10932 (2017); *Regent U.S.A., Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 10520, 10526, para. 15 (2007) (warning that the Commission "may revisit and change our approach if this forfeiture calculation methodology does not adequately deter future violations or as other circumstances require"); *Syntax-Brillian Corporation*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 10530, 10536, para. 15 (2007) (applying a new, sliding scale forfeiture methodology and noting that, "consistent with the Act and precedent, we may impose more severe sanctions and/or utilize different forfeiture calculation methodologies") (citing *Globcom, Inc. D/B/A Globcom Global Communications*, Order of Forfeiture, 21 FCC Rcd at 4723-25, paras. 37-38, 41 (2006) (warning that the Commission may again increase the forfeiture calculation methodology if it "is not adequate to deter violations" and that "our statutory authority permits the imposition of much larger penalties and we will not hesitate to impose them")), *forf. ordered*, Forfeiture Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6323, 6332, para. 21 (2008) (finding that "[t]he [Administrative Procedure Act] does not mandate that the Commission issue notice and request comment each time it proposes a forfeiture or a forfeiture approach for rule violations not specifically contemplated at the time the *Forfeiture Policy Statement* was adopted").

The Commission has also recently issued notices of apparent liability warning that the Commission has the authority to impose larger upward adjustments in future enforcement actions to more effectively deter noncompliance. *See Telco Experts, LLC*, Notice of Apparent Liability for Forfeiture, 2024 WL 2699862, *12, para. 36 (2024) (putting service providers "on notice that we are prepared to continue to impose higher upward adjustments in future enforcement actions for prior violations and for repeated or continuous violations"); *Stage 2 Networks, LLC*, Notice of Apparent Liability for Forfeiture and Order, 2023 WL 6119239, *12, para. 35 (2023) ("Given the accumulating record on . . . non-compliance" the Commission is "prepared to impose substantially higher upward adjustments in future enforcement actions"); *Westel, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 2023 WL 4682651, *8, para. 24 (2023) (stating that service providers "have been provided notice that the Commission could impose substantially higher upward adjustments for prior violations and for repeated or continuous violations"); *Enhanced Communications Group, LLC*, Notice of Apparent Liability for Forfeiture, 2023 WL 4587311, *17, para. 52 (2023) (same).

[90] 47 CFR § 1.80.

International shall send electronic notification of payment to the Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, at EB-SED-Response@fcc.gov on the date said payment is made. Payment of the forfeiture must be made by credit card using CORES at https://apps.fcc.gov/cores/userLogin.do, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:[91]

- 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[92] or printed CORES form[93] 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).[94] 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 NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the "Pay by Credit Card" option. Please note that there is a $24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at https://apps.fcc.gov/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 NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the "Pay from Bank Account" option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

33. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 45 L Street,

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

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

[93] 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.

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

NE, Washington, D.C. 20554.[95] Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

34. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission's rules.[96] The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 45 L Street, NE, Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division and must include the NAL/Account Number referenced in the caption. The statement must also be e-mailed to the Spectrum Enforcement Division at EB-SED-Response@fcc.gov.

35. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits the following documentation: (1) federal tax returns for the past three years; (2) financial statements for the past three years prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status.[97] Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we retain the discretion to decline reducing or canceling the forfeiture if other prongs of 47 U.S.C. § 503(b)(2)(E) support that result.[98]

36. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to Jonney Shih, Chairman, ASUSTeK Computer, Inc., 48720 Kato Rd., Fremont, CA 94538; Steve Chang, Co-CEO, Asus Computer International, 48720 Kato Rd., Fremont, CA 94538; S.Y. Hsu, Co-CEO, Asus Computer International, 48720 Kato Rd., Fremont, CA 94538; and to Matthew DelNero, Esq., Corey Walker, Esq., and Andrew Longhi, Esq., Covington & Burling LLP, One City Center, 850 Tenth Street, NW, Washington, DC 20001.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[95] *See* 47 CFR § 1.1914.

[96] *Id.* §§ 1.16, 1.80(g)(3).

[97] 47 U.S.C. § 503(b)(2)(E).

[98] *See, e.g.*, *Ocean Adrian Hinson, Surry County, North Carolina,* Forfeiture Order, 34 FCC Rcd 7619, 7621, para. 9 & n.21 (2019); *Vearl Pennington and Michael Williamson*, Forfeiture Order, 34 FCC Rcd 770, paras. 18-21 (2019); *Fabrice Polynice, Harold Sido and Veronise Sido, North Miami, Florida*, Forfeiture Order, 33 FCC Rcd 6852, 6860-62, paras. 21-25 (2018); *Adrian Abramovich, Marketing Strategy Leaders, Inc., and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018); *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892, 14903-04, paras. 32-33 (2015); *TV Max, Inc., et al.*, Forfeiture Order, 29 FCC Rcd 8648, 8661, para. 25 (2014).

STATEMENT OF
COMMISSIONER BRENDAN CARR

Re: *In the Matter of ASUSTeK Computer, Inc.*; *Asus Computer International*, Notice of Apparent Liability for Forfeiture.

I approve of today's Notice of Apparent Liability. I write separately to note that I do not read this item as determining whether the FCC's upward adjustment factor applies based on the line of business relevant to the FCC's enforcement action or based on a company's entire operations. With respect to the statement in the NAL that the FCC may change its forfeiture methodology in the future, I am open to the FCC considering reasonable changes in the context of an appropriate Commission proceeding.

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

In the Matter of	)	
	)	
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
	)	
	)	

REPORT AND ORDER

Adopted: June 13, 2024 **Released: June 13, 2024**

By the Commission:

I. INTRODUCTION

1. Pursuant to section 9 of the Communications Act of 1934, as amended,[1] (Communications Act or Act), we adopt a methodology change for one category of fee payors and include a type of space station in an existing category on an interim basis. These changes will be effective for the fiscal year 2024 (FY 2024) assessment and collection of regulatory fees.[2] Specifically, we adopt a new methodology for assessing regulatory fees for small satellites and spacecraft licensed under sections 25.122 and 25.123 of our rules,[3] and include space stations that are principally used for Rendezvous & Proximity Operations (RPO) or On-Orbit Servicing (OOS), including Orbit Transfer

[1] 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 applicable to application and regulatory fees, e.g., notice to Congress and waiver provisions).

[2] The Commission has sought comment on the assessment and collection of all FCC regulatory fees for FY 2024. *See Review of the Commission's Assessment and Collection of Regulatory Fees for Fiscal Year 2024*, Second Notice of Proposed Rulemaking, MD Docket No. 24-86, FCC 24-68 (Jun. 13, 2024) (*FY 2024 Regulatory Fees NPRM*).

[3] 47 CFR §§ 25.122 and 25.123. The methodology for assessing fees for small satellites was adopted in 2022. *Assessment and Collection of Regulatory Fees for Fiscal Year 2021, Assessment and Collection of Regulatory Fees for Fiscal Year 2022,* Report and Order and Notice of Proposed Rulemaking, 37 FCC Rcd. 7003 (2022). A "small satellite" is an non-geostationary orbit (NGSO) space station eligible for authorization under the application process described in § 25.122, and a "small spacecraft" is an NGSO space station operating beyond Earth's orbit that is eligible for authorization under the application process described in section 25.123. 47 CFR § 25.103. Throughout this *Report and Order*, we use the terms "space station," "satellite," and "spacecraft." "Space station" is defined in the Commission's rules as "[a] station" located on an object which is beyond, is intended to go beyond, or has been beyond, the major portion of the Earth's atmosphere." 47 CFR §§ 2.1, 25.103. The Commission's rules define "satellite" as "[a] body which revolves around another body of preponderant mass, and which has a motion primarily and permanently determined by the force of attraction of that other body." 47 CFR § 2.1. In this *Report and Order*, we refer only to artificial satellites. The Commission's rules define "spacecraft" as "[a] man-made vehicle which is intended to go beyond the major portion of the Earth's atmosphere." 47 CFR § § 2.1, 25.103. These terms are used interchangeably in this *Report and Order,* but we observe that "satellite" and "spacecraft" are more broadly defined than "space station."

Vehicles (OTV),[4] in the existing fee category for "small satellites" on an interim basis until the Commission can develop more experience in how these space stations will be regulated. For the reasons discussed below, we find that these changes better serve the requirements and purpose of section 9 of the Act, and there is unopposed support in the record for adoption of these two proposals in time for the changes to be effective for FY 2024.

2. At this time, we defer action on other proposals made in the Notice of Proposed Rulemaking that was adopted and released on March 13, 2024.[5] We are continuing to consider the other proposals in light of the record received on those issues and will decide which, if any, may benefit from further development of the record. We anticipate acting on the remaining proposals in the *Space and Earth Station Regulatory Fees NPRM* in the near term.[6]

II. BACKGROUND

3. Section 9 of the Act obligates the Federal Communications Commission (Commission or FCC) to assess and collect regulatory fees each year in an amount that can reasonably be expected to equal the amount of its annual salaries and expenses (S&E) appropriation.[7] Thus, the Commission has no discretion regarding the total amount to be collected in any given fiscal year. In accordance with the statute, each year the Commission proposes adjustments to the prior fee schedule under section 9(c) to "(A) reflect unexpected increases or decreases in the number of units subject to the payment of such fees; and (B) result in the collection of the amount required" by the Commission's annual appropriation.[8] The Commission will also propose amendments to the fee schedule under section 9(d) "if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that

[4] OOS and RPO missions can include satellite refueling, inspecting and repairing in-orbit spacecraft, capturing and removing debris, and transforming materials through manufacturing while in space. *Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, MD Docket No. 23-159, Report and Order, FCC 23-66, 2023 WL 5197492 at *33, para. 108 (Aug. 10, 2023) (*FY 2023 Report and Order*).

[5] *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) (*Space and Earth Station Regulatory Fees NPRM*).

[6] Because of the short window each year for our regulatory fee proceeding, it is not unusual for the Commission to adopt proposals over time or seek further notice on certain items to further distill the legal and factual issues. As the Commission observed previously, in regulatory fee matters, the Commission proceeds "with careful consideration and make[s] changes in our process only after fully developing the record. This may mean . . . that the Commission considers the adoption of a new fee category or a change in categories multiple times and only proceeds with making a change when it develops sufficient basis for making the change. This meticulous approach to making changes moreover serves the goal of ensuring that our actions in assessing regulatory fees are fair, administrable, and sustainable." *Assessment and Collection of Regulatory Fees for Fiscal Year 2020, Assessment and Collection of Regulatory Fees for Fiscal Year 2019*, Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, 4979-80, para. 8 (2020).

[7] 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. *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).

[8] 47 U.S.C. § 159(c). For example, if the number of units in a regulatory fee category increases, the amount due per unit may decrease. This would also include proportionate increases in a given fee category to reflect an overall increase in the annual FY appropriation. It is rare, however, for the Commission to solely propose adjustments under section 9(c). Pursuant to section 9A(b)(1) of the Act, the Commission must notify Congress immediately upon adoption of any adjustment under section 9(c) of the Act. 47 U.S.C. § 159A(b)(1).

are reasonably related to the benefits provided to the payor of the fee by the Commission's activities."[9] In administering our regulatory fee program, the agency strives to adhere to the goals of ensuring that the program is fair, administrable, and sustainable.[10]

4. The Commission released the *Space and Earth Station Regulatory Fees NPRM* on March 13, 2024, which initiated an examination and review of regulatory fees for space and earth station payors that are regulated by the new Space Bureau.[11] When the Commission adopted regulatory fees for FY 2023, it noted that it would be the last year for doing so using the nomenclature of certain fee payors being regulated by the International Bureau. The Commission noted that the creation of the Space Bureau and Office of International Affairs could result in changes in the assessment of regulatory fees for space and earth station fee payors resulting from changes in FTEs,[12] due to increased oversight on various relevant industries.[13] The Commission anticipated that the changes in the industry that resulted in the creation of the Space Bureau would likely also result in changes in the relative FTE burdens between and among space and earth station fee payors.[14] Accordingly, the Commission sought comment in the *Space and Earth Station Regulatory Fees NPRM* on a range of proposed changes related to the assessment of regulatory fees for space and earth stations under our existing regulatory fee methodology, as well as under a proposed alternative methodology for assessing space station regulatory fees.[15]

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[9] 47 U.S.C. § 159(d). Pursuant to section 9A(b)(2) of the Act, the Commission must notify Congress at least 90 days prior to making effective any amendments under section 9(d) of the Act. 47 U.S.C. § 159A(b)(2). Amendments under section 9(d) would need to be notified to Congress in early June 2024 to satisfy this requirement before end of the fiscal year on September 30, 2024.

[10] *See Procedures for Assessment and Collection of Regulatory Fees*, Notice of Proposed Rulemaking, 27 FCC Rcd 8458, 8464-8465 paras. 14-16 (2012) (explanation of the three longstanding program goals). The Commission, however, has explained that such application of our overarching program goals must work within the language of the statute. *Id.* Moreover, in administering the fee regulatory program, we are also mindful of other general limits of fee authority. *See National Cable Television Ass'n v. United States*, 415 U.S. 336, 340-41 (1974) (construing Independent Offices Appropriations Act) (IOAA)); *see also National Cable Television Ass'n v. FCC*, 554 F.2d 1094, 1106 & n.42 (D.C. Cir. 1976). We are mindful that IOAA no longer applies to the Commission. *See* House of Representatives Report No. 99-453 (1985) at page 433 (noting the significance of *National Cable* and explaining that IOAA no longer applies to the Commission with the passage of other specific fee authority, application fees, in COBRA-85). We, nevertheless, are cognizant of broader legal issues raised by user fee and/or regulatory fee precedent.

[11] *Space and Earth Station Regulatory Fees NPRM* at para. 3. The *Space and Earth Station Regulatory Fees NPRM* was published in the Federal Register on March 25, 2024. *See* 89 Fed. Reg. 20582 (Mar. 25, 2024). Effective April 10, 2023, the Commission eliminated the International Bureau, established a new Space Bureau and a new Office of International Affairs, and reallocated the International Bureau's authorities and functions between 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*).

[12] One FTE, a "Full Time Equivalent" or "Full Time Employee," is a unit of measure equal to the work performed annually by a full-time person (working a 40-hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget. *See generally* Executive Office of the President, Office of Management and Budget, Circular No. A-11, Preparation, Submission, and Execution of the Budget (August 2022), https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf. *See* section 85.5(c) for a detailed explanation of how FTEs are calculated. In this proceeding 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.

[13] *FY 2023 Report and Order* at *22, para. 72.

[14] *FY 2023 Report and Order* at *32, para. 106.

[15] *Space and Earth Station Regulatory Fees NPRM* at paras. 3-4.

5. Comments in response to the *Space and Earth Station Regulatory Fees NPRM* were due on April 12, 2024, and replies were due on April 29, 2024. We received 16 comments and 17 reply comments.[16] In addition, several entities made presentations to the Commission pursuant to our rules governing *ex parte* communications.[17]

6. In addition, on June 13, 2024, the Commission released the *FY 2024 Regulatory Fees NPRM*, seeking comment on the Commission's proposed methodology and regulatory fees for FY 2024.[18] The *FY 2024 Regulatory Fees NPRM* does not seek comment again on the methodology for assessing space and earth station regulatory fees; rather, it seeks comment on the proposed regulatory fee rates for space and earth station payors for FY 2024 that were based on the existing methodology used in FY 2023 and also the proposals set forth in the *Space and Earth Station Regulatory Fees NPRM*.[19] The proposed regulatory fee rates are set forth in Appendices A, B, and E of the *FY 2024 Regulatory Fees NPRM*. Comments in response to the *FY 2024 Regulatory Fees NPRM* are due on July 15, 2024, and reply comments are due on July 29, 2024.

III. DISCUSSION

7. We adopt at this time two proposals made in the *Space and Earth Station Regulatory Fees NPRM*: amending the methodology for assessing fees for small satellites, and including space stations that are principally used for Rendezvous & Proximity Operations or On-Orbit Servicing, as well as Orbit Transfer Vehicles, in the existing fee category for "small satellites" on an interim basis. Commenters express strong support in the record for adoption of these two proposals, and no comments oppose adoption of these proposals. Accordingly, we adopt these proposals to be effective for FY 2024, for the reasons set forth below.

A. Adoption of New Methodology for Assessing Fees for Small Satellites

8. We adopt the proposal in the *Space and Earth Station Regulatory Fees NPRM* to set the regulatory fee for "Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)" for FY 2024 at the level set for FY 2023 ($12,215), with annual adjustments thereafter to reflect the percentage change in the FCC appropriation, unit count, and FTE allocation percentage from

[16] The following entities filed comments: Anuvu Licensing Holdings, LLC (Anuvu); Astro Digital US, Inc.; Astroscale U.S., Inc. (Astroscale); Blue Origin, LLC (Blue Origin); Commercial Smallsat Spectrum Management Association (CSSMA); Intelsat License LLC (Intelsat); Kepler Communications Inc. (Kepler); Kinéis; Myriota Pty. Ltd. (Myriota); NCTA – The Internet & Television Association (NCTA); Planet Labs PBC; SES Americom, Inc., O3b Limited, and their affiliates (SES); Space Exploration Holdings, LLC (SpaceX); Telesat Canada (Telesat); Varda Space Industries, Inc. (Varda); and WorldVu Satellites Limited and Eutelsat S.A. (Eutelsat Group). The following entities filed reply comments: CONFERS; EchoStar Corporation and DIRECTV, LLC; Intelsat; Iridium Constellation LLC; Kepler; Kinéis; Kuiper Systems LLC; Maxar Technologies Inc.; Myriota; National Association of Broadcasters; NCTA; SES; SpaceX; Telesat; Vast Space, LLC (Vast); Viasat, Inc. (Viasat); and Eutelsat Group.

[17] *See*, *e.g.*, Letters from Jameson Dempsey, Director, Satellite Policy, SpaceX, to Marlene H. Dortch, Secretary, FCC, dated May 9, 2024 and May 24, 2024; Letters from W. Ray Rutngamlug, Associate General Counsel, Intelsat, to Marlene H. Dortch, Secretary, FCC, dated May 16, 2024, May 28, 2024, June 3, 2024, and June 11, 2024; Letter from Jarrett S. Toubman, VP & Deputy Chief Government Affairs and Regulatory Officer, and Christopher D. Bair, Associate General Counsel, Government Affairs and Regulatory, Viasat, to Marlene H. Dortch, Secretary, FCC, dated May 16, 2024; Letter from James S. Blitz, Senior Vice President, Regulatory Counsel, Sirius XM Radio Inc., to Marlene H. Dortch, Secretary, FCC, dated May 22, 2024; Letter from Will Lewis, Counsel to Myriota Pty. Ltd., to Marlene H. Dortch, Secretary, FCC, dated May 28, 2024; Letter from Cynthia J Grady, Assistant General Counsel, Intelsat, to Marlene H. Dortch, Secretary, FCC, dated May 28, 2024; Letter of Suzanne Malloy, SES, to Marlene H. Dortch, Secretary, FCC, dated June 7, 2024.

[18] *See generally FY 2024 Regulatory Fees NPRM*.

[19] *Id*. at para. 17.

the previous fiscal year.[20] Comments received in response to the *Space and Earth Station Regulatory Fees NPRM* support adoption of this proposal,[21] and no party opposes it.

9. As observed in the *Space and Earth Station Regulatory Fees NPRM*,[22] the small satellite fee rate is currently calculated by taking the average of the calculated fee rate for space stations in the Space Stations (Non-Geostationary Orbit)—Other ("NGSO-Other") and Space Stations (Non-Geostationary Orbit)—Less Complex ("NGSO-Less Complex") categories, multiplying this average by 5% (1/20) and rounding it to the nearest $5.[23] The small satellite fee rate is then multiplied by the number of small satellite units and deducted from the share of space station regulatory fees allocated to non-geostationary orbit (NGSO) space stations.[24] This remaining amount is then divided between NGSO-Other and NGSO-Less Complex based on an 80/20 split and reduced from the target goals of NGSO-Other and NGSO-Less Complex respectively.[25] Because the small satellite fee is based on the fees assessed for NGSO-Other and NGSO-Less Complex categories, the increased fees expected for these two categories could lead to greatly increased fees for the small satellite regulatory fee category beginning in FY 2024 if the current method for assessing regulatory fees for small satellites is unchanged.[26]

10. As the *Space and Earth Station Regulatory Fees NPRM* noted, the FTE burden arising from licensing and regulating small satellite matters has not increased since FY 2023.[27] The additional FTE resources allocated to the Space Bureau are not intensively involved in the licensing and regulatory oversight of small satellites. As a result, the overall percentage of FTE burden for small satellites is less than the 1/20th burden of NGSO space stations previously estimated.[28] For this reason, we will continue to use the FY 2023 regulatory fee for FY 2024. We find that the regulatory fee for small satellites established for FY 2023 appropriately estimates the benefits received by such fee payors from the FTEs spent on licensing and regulating small satellites, without analyzing the FTE benefits as a proportion of another category of space station. In addition, the proposals made in the *Space and Earth Station Regulatory Fees NPRM* to create subcategories within the NGSO-Other category for "small" and "large" constellations would add to the complexity of calculating the appropriate share of FTE resources allocated to small satellites, if those proposals were to be adopted.[29] This added complexity does not correspond to any additional benefit to the calculation of FTE resources allocated to small satellites. Furthermore, separation of the methodology for assessing regulatory fees for small satellites from the regulatory fees for NGSO space stations permits freer consideration of the appropriate regulatory fee categories for

[20] *Space and Earth Station Regulatory Fees NPRM* at paras. 44-45.

[21] Astroscale Comments at 4; Blue Origin Comments at 5; CONFERS Reply at 2; Vast Reply at 2.

[22] *Space and Earth Station Regulatory Fees NPRM* at para. 9.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.* at para. 44.

[27] *Id.* at para. 45.

[28] *Id.*

[29] *Id.* at paras. 28-35. In reviewing any particular methodology, it is important to note that the agency is not required to calculate its costs with "scientific precision." *Central & Southern Motor Freight Tariff Ass'n v. United States*, 777 F.2d 722, 736 (D.C. Cir. 1985). Instead, reasonable approximations will suffice. *Id.*; *Mississippi Power & Light*, 601 F.2d at 232; *National Cable Television Ass'n v. FCC*, 554 F.2d 1094, 1105 (D.C. Cir. 1976); 36 Comp. Gen. 75 (1956). Thus, adopting a complex methodology without a clear showing that it facilitates the achievement of the Commission's overarching goals of a fair, administrable, and sustainable regulatory fee program is not consistent with our program goals or required by the statute.

NGSO space stations without necessitating consideration of potential unintended consequences for small satellite fee payors.

11. For FY 2024, we do not make any other changes to how small satellite regulatory fees are incorporated into the existing methodology for assessing space station regulatory fees. That is, 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, divided between NGSO-Other and NGSO-Less Complex based on an 80/20 split and reduced from the target goals of NGSO-Other and NGSO-Less Complex respectively.[30] We will implement the changes to the methodology for assessing fees for small satellites made herein as part of the order adopting FCC-wide regulatory fees for FY 2024.[31]

B. Interim Assessment of Regulatory Fees on RPO, OOS, and OTV as Small Satellites

12. We adopt the proposal made in the *Space and Earth Station Regulatory Fees NPRM* to assess regulatory fees 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. 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.[32] We also conclude that it is appropriate to assess regulatory fees on Orbital Transfer Vehicles (OTV) in the same manner. The record in this proceeding supports adoption of these proposals, effective for FY 2024, and no party opposes adoption.[33]

13. The Commission has adopted the following regulatory fee categories for space stations: Space Stations (Geostationary Orbit); Space Stations (Non-Geostationary Orbit)-Less Complex; Space Stations (Non-Geostationary Orbit)-Other; and Space Station (Small Satellites).[34] Currently, due to the nascent nature of OOS and RPO industry, or more generally "in-space servicing" industries, the Commission has not adopted a distinct regulatory fee category for such operations, despite that fact that spacecraft have begun to operate under part 25 of the Commission's rules for radiocommunications while conducting these types of operations.[35] Previously, we determined that the record was insufficiently

[30] Although the *Space and Earth Station Regulatory Fees NPRM* proposed, under the alternative fee methodology proposal, to subtract the amount of small satellite regulatory fees from the amount to be assessed on all remaining space station payors regardless of orbit utilized, *see Space and Earth Station Regulatory Fees NPRM* at para. 78, we defer action on this proposal until such time as we are able to act on proposals for assessing space station regulatory fees either under the alternative methodology or under the amended existing methodology.

[31] We note that the change of methodology for assessing fees for small satellites affects only other space station fee payors and should not substantially impact the proposed fee rates for other space station fee payors, given the small share of fees collected for small space station fee payors under both the prior and new methodology.

[32] *FY 2023 Report and Order* at *33, para. 108.

[33] Astroscale Comments at 1; CONFERS Reply at 2; Varda Comments at 3 (endorsing proposal to assess fees on RPO, OOS, and OTV space stations on an interim basis using the small satellite fee category, if the Commission finds that such space stations warrant a regulatory fee); Vast Reply at 2-3.

[34] 47 CFR § 1.1156(a).

[35] *Space and Earth Station Regulatory Fees NPRM* at paras. 48-50. To date, the former International Bureau's Satellite Division (Division) has authorized two spacecraft for communications while conducting these types of operations with GSO satellites. *Space Logistics, LLC*, IBFS File No. SAT-LOA-20170224-00021; Call Sign S2990 (granted Jun. 20, 2019) (MEV-1); *Space Logistics, LLC*, IBFS File No. SAT-LOA-20191210-00144; Call Sign S3059 (granted Mar. 25, 2020) (MEV-2). The Division also authorized on an STA basis several U.S. earth stations to communicate with the non-U.S-licensed NGSO spacecraft for telemetry, tracking and command operations during a mission involving RPO. *See, e.g.*, IBFS File Nos. SES-STA-20200113-00043, SES-STA-20200811-00859, SES-STA-20200117-00055.

complete to adopt a separate regulatory fee category for spacecraft performing OOS and RPO.[36] In the *Space and Earth Station Regulatory Fees NPRM*, we explained that it is not appropriate to assess regulatory fees on RPO, OOS, and OTV space stations under existing regulatory fee categories for Space Stations (Geostationary orbit) or Space Stations (Non-Geostationary Orbit) – Other or Less Complex because the regulatory burden of RPO, OOS, and OTV space stations is currently far less than that of other geostationary orbit (GSO) and NGSO space stations in those existing fee categories.[37] As we stated in the *Space and Earth Station Regulatory Fees NPRM*, we believe that further delay in addressing the appropriate regulatory fee is no longer appropriate even where, as here, we have not adopted a separate regulatory category for this type of operation. We tentatively concluded in the *Space and Earth Station Regulatory Fees NPRM* that the regulatory burden of RPO, OOS, and OTV space stations is more similar to that presented by small satellite space station licensees. For instance, these type of licensees are few in number and involve a relatively small number of space stations that have limited duration and scope of use, and operate using shared spectrum resources, which require far fewer FTE resources to license and regulate.[38] We adopt our 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.[39] Moreover, we agree with comments that the Commission will be in a better position to adopt separate new fee categories, if appropriate, for RPO, OOS, and OTV space stations after it gains more experience with their licensing and regulation.[40]

14. Solely for the purpose of assessing regulatory fees, we will include space stations primarily performing RPO and OOS, as well as OTVs, within the existing Space Stations (Small Satellite) regulatory fee category, on an interim basis, rather than creating a new regulatory fee category for RPO, OOS, and OTV space stations. The International Bureau and Space Bureau have considered applications for RPO, OOS, and OTV space stations and issued licenses for such space stations under the existing regulatory framework of part 25 of the Commission's rules,[41] and such stations are already operational and subject to payment of regulatory fees. Given this immediate need to assess regulatory fees on RPO, OOS, and OTV space stations now and in the near future, we conclude that the purposes of section 9 of the Act would be best met by assessing regulatory fees on an interim basis under the existing category of

[36] *Space and Earth Station Regulatory Fees NPRM* at para. 48.

[37] *Id.* at para. 51. It is possible that, in the future, the regulatory burden of RPO, OOS, and OTV space stations may significantly increase and justify revisiting the regulatory burden presented by these types of operations.

[38] *Id.*

[39] Regulatory fee categories need not be unduly granular. The overall goal is to group fee payors into categories overseen by the same Bureau or Office that represent the same regulatory burden on the agency. Thus, fee categories need not be drawn narrowly and all the entities within a category do not need to be regulated identically. For example, in 2015, the Commission explained that the fee category Interstate Telecommunications Service Providers (ITSP), also include a range of carriers that may not be regulated identically. So when interconnected Voice over Internet Protocol (VoIP) providers were added to the ITSP, the Commission observed that "the costs and benefits associated with our regulation of interconnected VoIP providers are not identical as those associated with regulating interstate telecommunications service and CMRS." *Assessment and Collection of Regulatory Fees for Fiscal Year 2015*, Notice of Proposed Rulemaking, Report and Order, and Order, 30 FCC Rcd. 5354, 5369, para. 33 (*citing Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712, 15719, para. 19 (2007). The key is whether the FTE burden imposed on the Commission is sufficiently similar that the including the different types of fee payors in one regulatory fee category is a reasonable mechanism for assessing fees on a particular group of entities. *Id*.

[40] Blue Origin Comments at 3; Vast Reply at 3 ("In line with the Commission's views on RPO, OOS, and OTV spacecraft, Vast supports the Commission's efforts to allow its record of licensing the communications of spacecraft performing novel space activities to further mature before creating any new regulatory fee categories for such space stations.")

[41] *See, e.g.*, Space Logistics LLC, IBFS File No. SAT-LOA-20191210-00144 (granted Mar. 25, 2020); Space Logistics LLC, IBFS File No. SAT-LOA-20170224-00021 (granted June 20, 2019).

fees associated with the least-burdensome set of space station regulatees. We believe this approach is preferable to waiting for additional experience and, in the interim, potentially subjecting existing RPO, OOS, and OTV space stations subject to regulatory fees that do not reflect the amount of regulatory work required by these nascent services. As we gain more experience with the regulation of RPO, OOS, OTV space stations, we will be in a better position to decide if we should adopt a new, separate fee category for RPO, OOS, and OTV space stations or make any further modifications.

15. We also adopt the proposal to assess RPO, OOS, and OTV space stations using the small satellite fee category regardless of the orbit utilized.[42] We affirm the tentative conclusion in the *Space and Earth Station Regulatory Fees NPRM*,[43] and agree with comments,[44] that the rationale above for using the small satellite regulatory fee category to assess fees on RPO, OOS, and OTV space stations applies regardless of whether the RPO, OOS, or OTV space stations operate in geostationary or non-geostationary orbit. We also adopt the proposal to assess the regulatory fee for RPO, OOS, and OTV space stations on a "per license/call sign" basis as is the case for small satellites payors, rather than on the "per system" basis used for Space Stations (Non-geostationary Orbit).[45] Although no party commented on this proposal, we conclude that the reasons that supported assessing regulatory fees on small satellites on a "per license/call sign" basis support treating RPO, OOS, and OTV space stations in the same manner.[46] We will implement the changes to the methodology for assessing fees for RPO, OOS, and OTV space stations adopted herein as part of the order adopting FCC-wide regulatory fees for FY 2024.

16. At this time, we decline to assess regulatory fees on all "ISAM space stations" using the small satellite fee category, as proposed in some comments in this proceeding.[47] In 2022, the Commission initiated a Notice of Inquiry regarding the regulatory needs related to in-space servicing, assembly, and manufacturing – or "ISAM" – that could include such services as RPO and OOS.[48] The Commission has since adopted a Notice of Proposed Rulemaking seeking comment on a framework for

[42] We note that small satellites are limited to NGSO operations under our part 25 rules, and we continue to stress that we do not propose or suggest that RPO, OOS, or OTV space stations would meet the definition of a "small satellite" or "small spacecraft" under our part 25 rules by adopting the proposal to assess RPO, OOS, and OTV space stations using the existing small satellite fee category, regardless of the orbit utilized. *See Space and Earth Station Regulatory Fees NPRM* at para. 53.

[43] *Space and Earth Station Regulatory Fees NPRM* at para. 53.

[44] *See* Blue Origin Comments at 3 (arguing that small satellite licenses are the appropriate baseline against which to assess regulatory fees for RPO, OOS, OTV space stations, regardless of whether the application is for GSO or NGSO operations).

[45] The fee assessed for Space Stations (Non-Geostationary Orbit), either Less Complex or Other, is per "system" of satellites with no limit on the number of satellites per system. This unit of assessment reflects the ability of applicants to apply for, and be authorized to operate, a "system" of NGSO space stations with no limit on the number of space stations per system. Each initial application for authority is granted under a single "call sign" as a regulatory identifier. In many cases the Commission has assessed a single regulatory fee for an NGSO system consisting of space stations requested and authorized under different call signs. *See Space and Earth Station Regulatory Fees NPRM* at para. 29. In contrast, fees for Space Stations (Small Satellites) are assessed per license/call sign, which can include up to 10 satellites or spacecraft. *Id.* at para. 10.

[46] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2021, Assessment and Collection of Regulatory Fees for Fiscal Year 2022,* Report and Order and Notice of Proposed Rulemaking, 37 FCC Rcd. 7003, 7019 para. 37 (2022) (observing the correlation between the time spent by FTEs in regulating small satellites and the number of licenses for a small satellite system when issuing multiple licenses to a small satellite operator, and the expectation that a per-license fee basis will be more efficient and administrable because it avoids potential complications and additional FTE time spent in determining whether various sets of small satellites are part of the same "system.").

[47] *See* Astroscale Comments at 2; CONFERS Reply at 1-2. ISAM refers to in-space, servicing, assembly, and manufacturing.

[48] *See Space Innovation; Facilitating Capabilities for In-space Servicing, Assembly, and Manufacturing*, Notice of Inquiry, 37 FCC Rcd 10022 (2022).

licensing ISAM space stations.[49] This rulemaking proceeding, which is considering the regulatory framework for such services, remains pending. We find that it is premature to make a decision regarding the assessment of regulatory fees on ISAM space stations for which the definition and regulatory framework are still being considered and for which there are no applications pending or licenses issued. We expect to revisit this issue in the future, after conclusion of the ISAM rulemaking, when the framework and expected FTE burdens for licensing and regulating ISAM space stations are better known. In addition, although one commenter suggests that we more clearly define RPO, OOS, and OTV by their characteristics in order to remove uncertainty by applicants with regards to their expected regulatory fees,[50] we decline to do so at this time, because the proposed characteristics for defining RPO, OOS, and OTV, such as limited duration of operations, ability to share spectrum, and low number of stations, have not been defined in our rules and are outside the scope of a regulatory fee proceeding. We also decline at this time to include missions involving 'habitable' or 'crewed' space stations in the existing fee category for small satellites, as proposed by one commenter,[51] finding it is premature to make a decision regarding the assessment of regulatory fees for potential future types of space stations for which the FTE benefits are not reasonably known and for which there are no applications pending or licenses issued.

17. Finally, we decline to address at this time the proposal in the *Space and Earth Station Regulatory Fees NPRM* 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.[52] The Commission had previously tentatively concluded that RPO and OOS space stations joined to GSO space stations during servicing or mission extension operations should not be assessed separate regulatory fees, despite the RPO or OOS space stations being assigned their own call signs, which is the unit usually used to assess regulatory fees for space stations.[53] Although this tentative conclusion was never adopted, currently RPO or OOS space stations attached to another space station have not been assessed separate regulatory fees. The *Space and Earth Station Regulatory Fees NPRM* sought comment on this prior tentative conclusion and suggested that the requirements and purpose of section 9 of the Act would be better met by assessing regulatory fees on such attached RPO or OOS space stations.[54]

18. We find that consideration of this proposal would benefit from consideration of and action on the proposal in the *Space and Earth Station Regulatory Fees NPRM* to assess regulatory fees on all authorized space stations, not just on operational space stations as is currently the case,[55] because the rationale for assessing fees on authorized stations would support the rationale for assessing regulatory fees on RPO and OOS space stations regardless whether they are attached to a serviced space station. Action on this issue may benefit from our consideration of the proposal regarding assessing regulatory fees on authorized, not just operational, space stations. Thus, we plan to consider those matters at the same time in a future Commission item acting on the proposals made in the *Space and Earth Station Regulatory Fees NPRM*.

[49] *See Space Innovation; Facilitating Capabilities for In-space Servicing, Assembly, and Manufacturing*, Notice of Proposed Rulemaking, FCC 24-21 (Feb. 16, 2024).

[50] Blue Origin Comments at 2.

[51] Vast Reply at 2.

[52] *Space and Earth Station Regulatory Fees NPRM* at paras. 55-56.

[53] *FY 2023 Report and Order* at *33, para. 110.

[54] *Space and Earth Station Regulatory Fees NPRM* at paras. 55-56.

[55] *Id.* at paras. 57-65.

IV. PROCEDURAL MATTERS

19. *Regulatory Flexibility Act*. The Regulatory Flexibility Act of 1980, as amended (RFA),[56] 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."[57] 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.

20. *Paperwork Reduction Act.* This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. § 3506(c)(4).

21. *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).

22. *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

23. Accordingly, IT IS ORDERED that, pursuant to the authority found in sections 4(i) and (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.

24. 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.

25. IT IS FURTHER ORDERED that the Commission's Office of the Managing Director, Performance and Program Management 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).

26. IT IS FURTHER ORDERED that the amendments adopted in the *Report and Order* shall be effective 90 days after notice to Congress, pursuant to section 159A(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 159A(b).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[56] *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).

[57] *See* 5 U.S.C. § 605(b).

APPENDIX

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 Notice of Proposed Rulemaking in *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*, released in March 2024 (*Space and Earth Station Regulatory Fees NPRM*).[2] The Federal Communications Commission (Commission or FCC) sought written public comment on the proposals in the *Space and Earth Station Regulatory Fees NPRM*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[3]

A. Need for, and Objectives of, the Report and Order

2. The Commission is required by Congress pursuant to section 9 of the Communications Act of 1934, as amended (Communications Act or Act) to assess and collect regulatory fees each year to recover the regulatory costs associated with the Commission's oversight and regulatory activities in an amount that can reasonably be expected to equal the amount of its annual appropriation.[4] As part of last year's adoption of regulatory fees,[5] the Commission noted that FY 2023 would be the last year where the Commission will do so for the International Bureau, given the creation of the Space Bureau, and Office of International Affairs.[6] The Commission also noted that an examination of the regulatory fees, and categories for non-geostationary orbit (NGSO) space stations would be useful in light of changes resulting from the creation of the Space Bureau, and as part of a more holistic review of the FTE[7] burden of the Space Bureau in fiscal year 2024 (FY 2024). The *Space and Earth Station Regulatory Fees NPRM* commenced the examination and review of regulatory fees for space and earth station payors regulated by the new Space Bureau, specifically seeking comment on a range of proposed changes to the assessment of regulatory fees for space and earth stations under the existing methodology. The *Space and Earth Station Regulatory Fees NPRM* also proposed an alternative methodology for assessing space station regulatory

[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] *Assessment and Collection of Space and Earth Station Regulatory Fees for Fiscal Year 2024;* MD Docket Nos. 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) (*Space and Earth Station Regulatory Fees NPRM*).

[3] 5 U.S.C. § 603.

[4] *See* 47 U.S.C. § 159 (requiring the Commission to assess and collect regulatory fees to recover the costs of carrying out its activities in the total amounts provided for in the Appropriations Act.

[5] *Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, Report and Order, FCC 23-66, 2023 WL 5197492 (Aug. 10, 2023) (*FY 2023 Report and Order*).

[6] *Id*. at *22, para. 72.

[7] One FTE, a "Full Time Equivalent" or "Full Time Employee," is a unit of measure equal to the work performed annually by a full-time person (working a 40-hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget. *See generally* Executive Office of the President, Office of Management and Budget, Circular No. A-11, Preparation, Submission, and Execution of the Budget (August 2022), https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf. *See* section 85.5(c) for a detailed explanation of how FTEs are calculated. In this proceeding 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.

fees that would eliminate the distinction between geostationary orbit (GSO), NGSO, and all the subcategories of NGSO, while preserving a separate fee category for small satellites.

3. In the *Report and Order*, the Commission adopts two changes to the assessment and collection of its annual regulatory fees for space station payors for FY 2024. The adopted changes implement a new methodology for assessing fees for small satellites and spacecraft licensed under sections 25.122 and 25.123 of the Commission's rules that sets the regulatory fee for "Space Stations (per license/call sign in non-geostationary orbit) (47 CFR part 25) (Small Satellite)" for FY 2024 and future fiscal years at the level set for FY 2023, annually adjusted to reflect the percentage change in the appropriation from the previous fiscal year. The Commission also implements a change that includes, on an interim basis, space stations that are principally used for Rendezvous & Proximity Operations (RPO) or On-Orbit Servicing (OOS), including Orbit Transfer Vehicles (OTV), in the existing fee category for "small satellites" until the Commission can develop more experience in how these space stations will be regulated. The Commission defers actions on other proposals contained in the *Space and Earth Station Regulatory Fees NPRM* to allow for further development of the record and expects to address these matters to be effective for FY 2025.

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

4. There were no comments filed that specifically addressed the proposed rules and policies in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

5. 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.[8] The Chief Counsel did not file any comments in response to the proposed rules or policies in this proceeding.

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

6. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.[9] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[10] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[11] A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[12]

7. *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

[8] 5 U.S.C. § 604(a)(3).

[9] *Id*. § 604(a)(4).

[10] *Id*. § 601(6).

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

[12] 15 U.S.C. § 632.

the outset, three broad groups of small entities that could be directly affected herein.[13] 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.[14] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.[15]

8. 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."[16] 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.[17] 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.[18]

9. 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."[19] U.S. Census Bureau data from the 2022 Census of Governments[20] indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[21] Of this number, there were

[13] 5 U.S.C. § 601(3)-(6).

[14] *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).

[15] *Id*.

[16] 5 U.S.C. § 601(4).

[17] 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.

[18] *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).

[19] 5 U.S.C. § 601(5).

[20] 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.

[21] *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.

36,845 general purpose governments (county,[22] municipal, and town or township[23]) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts[24]) with enrollment populations of less than 50,000.[25] 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."[26]

10. *Direct Broadcast Satellite (DBS) Service*. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic "dish" antenna at the subscriber's location. DBS is included in the Wired Telecommunications Carriers industry which comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks.[27] Transmission facilities may be based on a single technology or combination of technologies.[28] 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]

11. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[31] U.S. Census Bureau data for 2017 show that 3,054

[22] *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.

[23] *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.

[24] *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.

[25] 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.

[26] This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,845) 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.

[27] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[28] *Id.*

[29] *See id*. Included in this industry are: broadband Internet service providers (*e.g.*, cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); closed-circuit television (CCTV) services; VoIP service providers, using own operated wired telecommunications infrastructure; direct-to-home satellite system (DTH) services; telecommunications carriers (wired); satellite television distribution systems; and multichannel multipoint distribution services (MMDS).

[30] *Id*.

[31] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

firms operated in this industry for the entire year.[32] Of this number, 2,964 firms operated with fewer than 250 employees.[33] Based on this data, the majority of firms in this industry can be considered small under the SBA small business size standard. According to Commission data however, only two entities provide DBS service - DIRECTV (owned by AT&T) and DISH Network, which require a great deal of capital for operation.[34] 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.

12. *Fixed Satellite Small Transmit/Receive Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Fixed Satellite Small Transmit/Receive Earth Stations. Satellite Telecommunications[35] is the closest industry with an SBA small business size standard. The SBA size standard for this industry classifies a business as small if it has $38.5 million or less in annual receipts.[36] For this industry, U.S. Census Bureau data for 2017 show that there was a total of 275 firms that operated for the entire year.[37] Of this total, 242 firms had revenue of less than $25 million.[38] 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.[39] Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.[40] Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

13. *Fixed Satellite Very Small Aperture Terminal (VSAT) Systems.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Fixed Satellite Very Small Aperture Terminal (VSAT) Systems. A VSAT is a relatively small satellite antenna used for satellite-based point-to-multipoint data communications applications.[41] VSAT networks provide support for credit verification, transaction authorization, and billing and inventory management.[42] Satellite

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[32] *See* U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017,* Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false.

[33] *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

[34] *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).

[35] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[36] *See* 13 CFR § 121.201, NAICS Code 517410.

[37] *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.

[38] *Id*. The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. 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.

[39] 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.

[40] *Id.*

[41] HARRY NEWTON WITH STEVE SCHOEN, NEWTON'S TELECOM DICTIONARY 1382 (31st ed. 2018).

[42] *Id.*

Telecommunications[43] is the closest industry with an SBA small business size standard. The SBA size standard for this industry classifies a business as small if it has $38.5 million or less in annual receipts.[44] For this industry, U.S. Census Bureau data for 2017 show that there were a total of 275 firms that operated for the entire year.[45] Of this total, 242 firms had revenue of less than $25 million.[46] 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.[47] Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.[48] Consequently using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

14. *Home Satellite Dish (HSD) Service.* HSD or the large dish segment of the satellite industry is the original satellite-to-home service offered to consumers and involves the home reception of signals transmitted by satellites operating generally in the C-band frequency. Unlike DBS, which uses small dishes, HSD antennas are between four and eight feet in diameter and can receive a wide range of unscrambled (free) programming and scrambled programming purchased from program packagers that are licensed to facilitate subscribers' receipt of video programming. Because HSD provides subscription services, HSD falls within the industry category of Wired Telecommunications Carriers.[49] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[50] U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated for the entire year.[51] Of this total, 2,964 firms operated with fewer than 250 employees.[52] Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

15. *Mobile Satellite Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Mobile Satellite Earth Stations. Satellite Telecommunications[53] is the closest industry with a SBA small business size standard. The SBA small

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[43] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

[44] *See* 13 CFR § 121.201, NAICS Code 517410.

[45] *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.

[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. 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.

[47] 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.

[48] *Id.*

[49] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[50] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[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 517311, https://data.census.gov/cedsci/table?y=2017&n=517311&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, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

business size standard classifies a business with $38.5 million or less in annual receipts as small.[54] For this industry, U.S. Census Bureau data for 2017 show that there were 275 firms that operated for the entire year.[55] Of this number, 242 firms had revenue of less than $25 million.[56] Thus, for this industry under the SBA size standard, the Commission estimates that the majority of Mobile Satellite Earth Station licensees are small entities. Additionally, based on Commission data as of February 1, 2024, there were 16 Mobile Satellite Earth Stations licensees.[57] The Commission does not request nor collect annual revenue information, and is therefore unable to estimate the number of mobile satellite earth stations that would be classified as a small business under the SBA size standard.

16. *Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs)*. SMATV systems or PCOs are video distribution facilities that use closed transmission paths without using any public right-of-way. They acquire video programming and distribute it via terrestrial wiring in urban and suburban multiple dwelling units such as apartments and condominiums, and commercial multiple tenant units such as hotels and office buildings. SMATV systems or PCOs are included in the Wired Telecommunications Carriers' industry which includes wireline telecommunications businesses.[58] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[59] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[60] Of this total, 2,964 firms operated with fewer than 250 employees.[61] Thus, under the SBA size standard, the majority of firms in this industry can be considered small.

17. *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."[62] Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business

[54] *See* 13 CFR § 121.201, NAICS Code 517410.

[55] *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.

[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. 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.

[57] Based on a FCC Space Bureau, International Communication Filing System (ICFS), Advanced Search on February 1, 2024, https://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr030b.hts?set=. Search Terms used - Nature of Application Service = SES - Satellite Earth Station; Application Type = All; Class of Station = MES – Mobile Earth Station; and under "Filing Status" = Current.

[58] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[59] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[60] *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.

[61] *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.

[62] *See* U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* https://www.census.gov/naics/?input=517410&year=2017&details=517410.

with $38.5 million or less in annual receipts as small.[63] U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.[64] Of this number, 242 firms had revenue of less than $25 million.[65] 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.[66] Of these providers, the Commission estimates that approximately 42 providers have 1,500 or fewer employees.[67] Consequently, using the SBA's small business size standard, a little more than half of these providers can be considered small entities.

18. *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.[68] 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.[69] 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.[70] The SBA small business size standard for this industry classifies firms with annual receipts of $35 million or less as small.[71] U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.[72] Of those firms, 1,039 had revenue of less than $25 million.[73] Based on this data, the Commission estimates that the majority of "All Other Telecommunications" firms can be considered small.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

19. The *Report and Order* does not change the Commission's current information collection, reporting, recordkeeping, or compliance requirements for small entities. Small and other regulated entities are required to pay regulatory fees on an annual basis. The cost of compliance with the annual

[63] *See* 13 CFR § 121.201, NAICS Code 517410.

[64] *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.

[65] *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.

[66] 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.

[67] *Id.*

[68] *See* U.S. Census Bureau, *2017 NAICS Definition*, "*517919 All Other Telecommunications,*" https://www.census.gov/naics/?input=517919&year=2017&details=517919.

[69] *Id.*

[70] *Id*.

[71] *See* 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

[72] *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.

[73] *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.

regulatory assessment for small entities is the amount assessed for their regulatory fee category and should not require small entities to hire professionals to comply.

20. Small entities that qualify can take advantage of the exemption from payment of regulatory fees allowed under the de minimis threshold. As discussed in the *Space and Earth Station Regulatory Fees NPRM*, small entities may also request a waiver, reduction, deferral, and/or installment payment of their regulatory fees.[74] The waiver process provides smaller entities that may not be familiar with the Commission's procedural filing rules an easier filing process.

F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

21. 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."[75]

22. In the *Report and Order*, the Commission adopts the proposal in the *Space and Earth Station Regulatory Fees NPRM* to set the regulatory fee for "Space Stations (per license/call sign in non-geostationary order) (47 CFR part 25) (Small Satellite)" for FY 2024 at the level set for FY 2023 ($12,215), with annual adjustments thereafter to reflect the percentage change in the FCC appropriation, unit count, and FTE allocation percentage from the previous year.[76] The *Report and Order* finds that the administrability and sustainability of regulatory fees for small satellites would be better served by treating them as the Commission has historically treated the regulatory fees for earth stations – that is, a fixed regulatory fee that is adjusted from year-to-year on, rather than as a percentage of the Space Bureau's overall share of regulatory fee allocation, or as a percentage of other categories of space station fee payors. This change would significantly minimize the economic impact of regulatory fees potentially faced by small satellites. Without this change, the fee amount for the small satellite category for FY 2024 could be substantially greater than the fee assessed for FY 2023. Further, the record contains no objections to this approach.

23. The *Report and Order* also adopts the proposal, to assess regulatory fees on spacecraft primarily performing RPO and OOS, including OTV, by including them, on an interim basis, in the existing regulatory fee category "Space Stations (per license/call sign in non-geostationary orbit) (Small Satellites)" regardless of the orbit in which they are designed to operate in. The record in this proceeding not only supports this proposal, but no commenting party opposed it. The Space Bureau has received relatively few applications for RPO, OOS, or OTV space stations, and although it anticipates receiving more in the near future, the amount of FTE resources required at the present time to regulate these services is more similar to that presented by small satellite space station licensees, which are also few in number, and involve a relatively small number of space stations that have limited duration and scope of use and operate using shared spectrum resources. The Commission considered the alternative of adopting a separate regulatory fee category for spacecraft performing OOS and RPO, however, the record is insufficiently complete to justify supporting such a proposal. Additionally, the Commission considered assessing regulatory fees on RPO, OOS, and OTV space stations under other existing regulatory fee categories, however space stations in those categories are subject to a much greater regulatory burden. Therefore, the *Report and Order* finds that the purposes of section 9 of the Act would be best met by erring on the side of caution and assessing regulatory fees under the category of fees associated with the least-burdensome set of space station regulations which would result in lower regulatory fees, and have less economic impact on small entities in that sector.

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[74] *Space and Earth Station Regulatory Fees NPRM*, Appendix at para. 20

[75] 5 U.S.C. § 604(a)(6).

[76] *Space and Earth Station Regulatory Fees NPRM* at paras 44-45.

24. The Commission considered but declined to assess regulatory fees on all "ISAM space stations" using the small satellite fee category, as proposed in some comments in this proceeding.[77] In light of the current proceeding involving ISAM, the Commission finds it is premature to make a decision regarding the assessment of regulatory fees on ISAM space stations for which the definition and regulatory framework are still being considered and for which there are no applications pending or licenses issued.[78] The Commission expects to revisit this issue in the future, after conclusion of the ISAM rulemaking, when the framework and expected FTE burdens for licensing and regulating ISAM space stations are better known. The Commission also considered the suggestion of one commenter that it more clearly define RPO, OOS, and OTV by their characteristics in order to remove uncertainty by applicants with regards to their expected regulatory fees.[79] The Commission declined to do so at this time, because the proposed characteristics for defining RPO, OOS, and OTV, such as limited duration of operations, ability to share spectrum, and low number of stations, have not been defined in the Commission's rules and are outside the scope of a regulatory fee proceeding. The Commission also considered but declined at this time, to include missions involving 'habitable' or 'crewed' space stations in the existing fee category for small satellites, as proposed by one commenter,[80] finding it is premature to make a decision regarding the assessment of regulatory fees for potential future types of space stations for which the FTE benefits are not reasonably known and for which there are no applications pending or licenses issued.

G. Report to Congress

25. 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.[81] 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*.[82]

[77] *See* Astroscale Comments at 2; CONFERS Reply at 1-2. ISAM refers to in-space, servicing, assembly, and manufacturing.

[78] In 2022, the Commission initiated a Notice of Inquiry regarding the regulatory needs related to ISAM that could include such services as RPO and OOS. The Commission has since adopted a Notice of Proposed Rulemaking seeking comment on a framework for licensing ISAM space stations. *See Space Innovation; Facilitating Capabilities for In-space Servicing, Assembly, and Manufacturing*, Notice of Proposed Rulemaking, FCC 24-21 (Feb. 16, 2024). This rulemaking proceeding, which is considering the regulatory framework for such services, remains pending.

[79] Blue Origin Comments at 2.

[80] Vast Reply at 2.

[81] *See* 5 U.S.C. § 801(a)(1)(A).

[82] *See id*. § 604(b).

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

In the Matter of	)	
	)	
Jurisdictional Separations and Referral to the Federal-State Joint Board	)	CC Docket No. 80-286
	)	
	)	

FURTHER NOTICE OF PROPOSED RULEMAKING AND ORDER

Adopted: July 1, 2024 **Released: July 1, 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:

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I. INTRODUCTION

1. In this Further Notice of Proposed Rulemaking (*Further Notice*), we propose to extend, for an additional six years, the jurisdictional separations category relationships and cost allocation factors (together, separations rules) freeze for rate-of-return incumbent local exchange carriers (LECs). The current freeze extension is set to expire on December 31, 2024. Further extending this freeze will enable the Commission to continue to work with the Federal-State Joint Board on Jurisdictional Separations (Joint Board)[1] to determine next steps in amending the separations rules in light of sweeping technological and regulatory changes since these rules were initially adopted.[2] Due to the breadth and complexity of the separations rules, as well as their narrow applicability, the Commission has repeatedly

[1] The Commission established the Joint Board in 1980. *See Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80-286, Notice of Proposed Rulemaking and Order Establishing a Joint Board, 78 FCC 2d 837 (1980).

[2] *See MTS and WATS Market Structure, Amendments of Part 67 (New Part 36) of the Commission's Rules and Establishment of a Federal-State Joint Board*, CC Docket Nos. 78-72, 80-286, 86-297, Report and Order, 2 FCC Rcd 2639 (1987). The vast majority of the jurisdictional separations rules were last updated more than 35 years ago and reflect the mix of services and the marketplace circumstances of that time. *Id.*

extended the freeze that was first adopted in 2001.[3] Today, the rules remain applicable to only a limited and declining number of incumbent LECs that continue to rely on costs to calculate rates or universal service support.[4] We expect that the benefits of further extending the separations rules' freeze likely outweigh the costs of allowing it to end. In the accompanying Order, we renew the existing outstanding referrals to the Joint Board that include both comprehensive and interim reform measures to the separations process.

II. BACKGROUND

2. *Jurisdictional Separations Process*. Rate-of-return incumbent LECs use their networks and other resources to provide both interstate and intrastate telecommunications services. To help prevent the recovery of the same costs from both the interstate and intrastate jurisdictions, the separations rules require that rate-of-return incumbent LECs divide their costs and revenues between the respective jurisdictions.[5] These jurisdictional separations rules were designed to ensure that rate-of-return incumbent LECs apportion the costs of their regulated services between the interstate or intrastate jurisdictions in a manner that reflects the relative use of their networks to provide interstate or intrastate telecommunications services.[6]

3. Jurisdictional separations is the third step in a four-step regulatory cost-based rate-making process.[7] First, a rate-of-return carrier records its costs and revenues in various accounts using the Uniform System of Accounts prescribed by the Commission's Part 32 rules.[8] Second, the carrier divides the costs in these accounts between regulated and nonregulated activities in accordance with the Commission's Part 64 rules, a step that helps ensure that the costs of nonregulated activities will not be recovered through regulated interstate rates.[9] Third, the carrier separates the regulated costs and revenues between the interstate and intrastate jurisdictions using the Commission's Part 36 jurisdictional separations rules.[10] Finally, the carrier apportions the interstate regulated costs among the interexchange services and the rate elements that form the cost basis for its exchange access tariffs. Carriers subject to rate-of-return regulation perform this apportionment in accordance with the Commission's Part 69 rules.[11]

4. To comply with these rules, rate-of-return incumbent LECs must perform annual cost studies that include jurisdictional separations. After separating non-regulated from regulated costs and revenues, the cost study directly assigns or allocates the regulated costs and revenues to various Part 36 categories.[12] Amounts in categories that are used exclusively for interstate or intrastate communications are directly assigned to the appropriate jurisdiction.[13] Amounts in categories that support both interstate

[3] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382 (2001) (*2001 Separations Freeze Order*).

[4] *See infra* paras. 9-10.

[5] *See* 47 CFR pt. 36.

[6] *See id.* § 36.1(c) (positing that "[t]he fundamental basis on which separations are made is the use of telecommunications plant in [interstate and intrastate] operations").

[7] *See 2001 Separations Freeze Order*, 16 FCC Rcd at 11384, para. 3.

[8] 47 CFR pt. 32.

[9] The Part 64 cost allocation rules are codified in 47 CFR §§ 64.901-904.

[10] 47 CFR pt. 36.

[11] *Id.* pt. 69.

[12] *See, e.g.*, 47 CFR § 36.3. In some instances, the incumbent LEC further disaggregates costs and revenues among subcategories. For convenience, this *Further Notice* uses "categories" to refer to both categories and subcategories.

[13] For example, the cost of private line service that is wholly intrastate is directly assigned to the intrastate jurisdiction. *See* 47 CFR § 36.154(a), (b).

and intrastate services are divided between the jurisdictions using allocation factors developed in accordance with Part 36 that reflect relative use or a fixed percentage.[14]

5. *Attempts at Separations Reform and Separations Freezes.* In 1997, recognizing that "changes in the law, technology, and market structure of the telecommunications industry" necessitated a thorough reevaluation of the jurisdictional separations process, the Commission initiated a proceeding to comprehensively reform the separations rules.[15] At the same time, pursuant to section 410(c) of the Communications Act of 1934, as amended (the Communications Act),[16] the Commission referred the matter of jurisdictional separations reform to the Joint Board for a recommended decision.[17]

6. In 2000, the Joint Board—comprised of both State and Federal members—issued a recommendation that the Commission freeze the Part 36 category relationships and jurisdictional allocation factors pending resolution of comprehensive reform.[18] In 2001, the Commission adopted an order concluding that a freeze would stabilize the separations process pending reform by minimizing any impact of cost shifts on separations results due to circumstances—such as the growth of Internet usage, new technologies, and local competition—not contemplated by the rules.[19] The Commission also determined that a freeze would simplify the separations process by eliminating the need for many separations studies until separations reform was implemented.[20] Accordingly, the Commission froze all Part 36 allocation factors and allowed rate-of-return carriers to voluntarily freeze their category relationships, enabling each carrier to determine whether such a freeze would be beneficial "based on its own circumstances and investment plans."[21] In 2009, the Commission made another referral, asking the Joint Board to consider comprehensive jurisdictional separations reform as well as "an interim adjustment of the current jurisdictional separations freeze."[22] In 2018, the Commission tasked the Joint Board with addressing two specific issues during the interim period pending comprehensive reform. These included exploring the possibility of amending separations rules to acknowledge that certain carriers are no longer bound by them, as well as updating existing recordkeeping requirements to align with the current

[14] For example, for lines that are jointly used for local exchange service and exchange access for intrastate and interstate interexchange services, 25 percent of the loop costs are allocated to the interstate jurisdiction and 75 percent of the costs to the intrastate jurisdiction. *See id.* § 36.154(c). Otherwise, costs for telecommunications plant that is used jointly for state and interstate operations like tandem switching systems generally are allocated, or apportioned, based on minutes of use or a similar measure. *See id.* §§ 36.2(b)(3), 36.124.

[15] *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking, 12 FCC Rcd 22120, 22122, para. 2 (1997) (*1997 Separations Reform NPRM and Referral*).

[16] 47 U.S.C. § 410(c). Section 410(c) requires the Commission to "refer any proceeding regarding the jurisdictional separation of common carrier property and expenses between interstate and intrastate operations, which it initiates pursuant to a notice of proposed rulemaking" to a Joint Board. *Id.* Section 410(c) further specifies that after such a referral, the Joint Board "shall prepare a recommended decision for prompt review and action by the Commission." *Id.*

[17] *1997 Separations Reform NPRM and Referral*, 12 FCC Rcd at 22124, para. 5.

[18] *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Recommended Decision, 15 FCC Rcd 13160 (Fed.-State Jt. Bd. 2000) (*Joint Board Recommended Decision*).

[19] *2001 Separations Freeze Order*, 16 FCC Rcd at 11389, para. 12.

[20] *Id.* at 11390, paras. 13-14.

[21] *Id.* at 11393, paras. 18, 21 (citing *Joint Board Recommended Decision*, 15 FCC Rcd at 13172, para. 20). The Commission also froze all category relationships and allocation factors for price cap carriers. *Id*.

[22] *2009 Separations Freeze Extension Order and Second Referral*, CC Docket No. 80-286, Report and Order, 24 FCC Rcd 6162, 6167, para. 15 (2009) (*2009 Separations Freeze Extension Order and Second Referral*).

applicability of separations rules.[23] The Joint Board has not to date submitted a recommended decision on comprehensive separations reform or on any interim adjustments.

7. The Commission specified that the 2001 freeze would last five years or until the Commission completed comprehensive separations reform, whichever came first.[24] The Commission also concluded that, prior to the expiration of the five-year period, the Commission would, in consultation with the Joint Board, determine whether the freeze period should be extended, explaining that "the determination of whether the freeze should be extended at the end of the five-year period shall be based upon whether, and to what extent, comprehensive reform of separations has been undertaken by that time."[25]

8. Since 2001, the Commission has extended the separations freeze eight times, for periods ranging from one year to six years, the most recent extension of which expires on December 31, 2024.[26] In repeatedly extending the freeze, the Commission has explained that the freeze would stabilize and simplify the separations process while the Joint Board and the Commission continued to work on separations reform.[27]

9. *Declining Relevance of Jurisdictional Separations*. The jurisdictional separations rules no longer apply to the majority of carriers currently providing telecommunications services.[28] The separations rules were never applicable to wireless carriers, and in 2008, the Commission granted price cap incumbent LECs forbearance from the separations rules, leaving rate-of-return incumbent LECs as the only remaining carriers required to comply with the separations rules.[29] In addition, in 2018, the

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[23] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order and Waiver, 33 FCC Rcd 12743, 12758, paras. 42-43 (2018) (*2018 Separations Freeze Extension Order*).

[24] *2001 Separations Freeze Order*, 16 FCC Rcd at 11387-88, 11397, paras. 9, 29.

[25] *Id.* at 11397, para. 29.

[26] *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 5516, 5517, 5523, paras. 1, 16 (2006) (*2006 Separations Freeze Extension Order and Further Notice*) (extending the initial separations freeze for three years, through June 30, 2009); *2009 Separations Freeze Extension Order and Second Referral*, 24 FCC Rcd at 6162, para. 1 (extending the separations freeze for one year through June 30, 2010); *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 25 FCC Rcd 6046, para. 1 (2010) (*2010 Separations Freeze Extension Order*) (extending the separations freeze for one year through June 30, 2011); *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 26 FCC Rcd 7133, para. 1 (2011) (*2011 Separations Freeze Extension Order*) (extending the separations freeze for one year through June 30, 2012); *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 27 FCC Rcd 5593, para. 1 (2012) (*2012 Separations Freeze Extension Order*) (extending the separations freeze for two years through June 30, 2014); *Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 29 FCC Rcd 6470, para. 1 (2014) (*2014 Separations Freeze Extension Order*) (extending the separations freeze for three years through June 30, 2017); *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 32 FCC Rcd 4219, para. 1 (2017) (*2017 Separations Freeze Extension Order*) (extending the separations freeze for 18 months through December 30, 2018); *2018 Separations Freeze Extension Order*, 33 FCC Rcd at 12744, para. 4.

[27] *See, e.g.*, *2017 Separations Freeze Extension Order*, 32 FCC Rcd at 4223, paras. 10-11 (citing rural carrier associations comments); *2001 Separations Freeze Order*, 16 FCC Rcd at 11388-90, paras. 10, 12.

[28] Currently, out of 1,079 rate-of-return carriers, only about 247 carriers that receive cost-based Universal Service Fund (USF) support make the full use of separations to set end-user common line, business data services (BDS), and Consumer Broadband-Only Loop service rates, as well as to determine the level of USF support. Approximately 374 Alternative-Connect America Cost Model and Alaska Plan carriers use separations only for setting BDS rates.

[29] *See* 47 U.S.C. § 332(c)(3). In 2008, the Commission conditionally granted petitions for forbearance from the Part 36 jurisdictional separations rules to AT&T, BellSouth, Verizon, and Qwest. *See, e.g., Petition of AT&T Inc. for*

(continued….)

Commission offered rate-of-return carriers the option to receive fixed or model-based high-cost universal service support[30] with the ability to elect incentive regulation for their business data services (BDS).[31] Carriers electing both model-based support and incentive regulation for BDS no longer need to engage in separation of their costs for any federal regulatory purpose, whether for universal service funding or rate-making.[32] What is more, we expect additional rate-of-return carriers will take advantage of the Commission's latest Enhanced A-CAM program for universal service support and will also select to be subject to incentive regulation for BDS—thus, we expect the number of carriers that will be subject to the separations rules to decrease even further.[33]

10. For carriers that remain subject to the separations rules, the separations process has increasingly limited application because of regulatory reforms by the Commission that remove the need to

Forbearance under 47 U.S.C. § 160 from Enforcement of Certain of the Commission's Cost Assignment Rules; *Petition of BellSouth Telecommunications, Inc. for Forbearance under 47 U.S.C. § 160 from Enforcement of Certain of the Commission's Cost Assignment Rules*, WC Docket Nos. 07-21, 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302, 7307, para. 12 (2008). In 2013, the Commission extended the conditional forbearance grant to the remaining price cap incumbent LECs. *Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations et al.*, WC Docket No. 12-61 et al., Memorandum Opinion and Order and Report and Order and Further Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking, 28 FCC Rcd 7627, 7646-54, paras. 31-51 (2013), *pet. for rev. denied sub nom. Verizon v. FCC,* 770 F.3d 961 (D.C. Cir. 2014). In 2017, the Commission terminated the conditions placed on these carriers when they were granted forbearance. *Comprehensive Review of the Part 32 Uniform System of Accounts; Jurisdictional Separations and Referral to the Federal-State Joint Board*, WC Docket No. 14-130, CC Docket No. 80-286, Report and Order, 32 FCC Rcd 1735, 1748-49, para. 44 (2017) (*Part 32 Reform Order and Referral to the Joint Board*).

[30] These carriers are referred to as fixed support carriers and include rate-of-return carriers receiving support based on the Alternative-Connect America Cost Model (A-CAM carriers), rate-of-return carriers receiving fixed support under the Commission's Alaska Plan, price cap affiliated rate-of-return carriers receiving support based on the Connect America Cost Model, and rate-of-return carriers that accept future offers of A-CAM support. *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers et al.*, WC Docket No. 17-144 et al., Report and Order, Second Further Notice of Proposed Rulemaking, and Further Notice of Proposed Rulemaking, 33 FCC Rcd 10403, 10404, para. 1 (2018) (*Rate-of-Return BDS Order*). Most recently, the Commission initiated its third offering of fixed, model-based A-CAM support, referred to as Enhanced A-CAM, that followed the A-CAM I and A-CAM-II support programs. *Expanding Broadband Service Through the A-CAM Program*, WC Docket Nos. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23-60 (July 24, 2023) (*Enhanced A-CAM Order*).

[31] *See, e.g., Rate-of-Return BDS Order*, 33 FCC Rcd at 10404, para. 1 (allowing rate-of-return carriers that receive model-based or other forms of fixed high cost universal service support to voluntarily elect to transition their BDS offerings out of rate-of-return regulation to incentive regulation). "Under th[is] framework . . . electing carriers will not be required to provide cost-based justifications for their BDS rates and will therefore no longer need to conduct annual cost studies to justify those rates." *Id.* at 10405, para. 4. This Order also provided that "[b]usiness data services rates for carriers accepting future offers of A-CAM support or otherwise transition away from legacy support mechanisms will be effective on July 1 in the year following their election." *Id.* at 10421-22, para. 44. Carriers receiving Enhanced A-CAM may also elect incentive regulation. "Pursuant to the *Rate-of-Return BDS Order*, Enhanced A-CAM recipients that have not already done so will also be eligible to move their business data services offerings to incentive regulation." *Enhanced A-CAM Order* at 39, para. 91.

[32] Currently, 232 A-CAM carriers have elected incentive regulation for BDS. Moreover, apart from a handful of carriers performing sample cost studies, the separations rules do not apply to rate-of-return carriers that are "average schedule companies." At present, 226 companies participate in NECA's average schedule. These companies do not perform jurisdictional separations; they receive pool revenues, or settlements, from the National Exchange Carrier Association, Inc. for interstate telecommunications services based on a series of statistical formulas, approved by the Commission, that approximate the amounts received by a similar cost company. *See* 47 CFR § 69.606.

[33] *See Wireline Competition Bureau Authorizes 368 Companies in 44 States to Receive Enhanced Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, DA 23-1025 (Oct. 30, 2023); *Enhanced A-CAM Order* at 39, para. 91.

engage in the separations process. For example, as part of comprehensive reform and modernization of the universal service and intercarrier compensation systems, the Commission adopted rate caps for the switched access services of rate-of-return carriers (including a transition to bill-and-keep for certain rate elements), thereby eliminating the need to apply separations rules for calculating switched access rates.[34] Further, rate-of-return carriers receiving high-cost universal service support based on the Commission's A-CAM programs but not electing incentive regulation for business data services no longer need to use jurisdictional separations to quantify the amount of high-cost support for the interstate portion of their common line services or to set interstate rates for these services.[35]

III. FURTHER NOTICE OF PROPOSED RULEMAKING

11. We propose to extend the separations freeze for another six years and invite comment on this proposal. Several factors—recent changes to the composition of the Joint Board, the complex nature of the work required to develop comprehensive recommendations for separations reform, and the fact that the current freeze expires at the end of this calendar year—have combined to leave limited and insufficient time within which to develop and advance recommended decisions. Moreover, allowing the freeze to expire without further extension would force rate-of-return carriers to engage in unnecessary, costly and burdensome cost studies based on outdated rules and assumptions that bear little relationship to the marketplace today. Accordingly, after weighing the likely benefits of extending the current freeze against the likely costs of allowing it to expire, we propose extending the separations freeze until December 31, 2030. We seek comment on this proposal as well as whether we should change any aspect of the separations freeze should we extend the freeze as proposed.

12. *Process Considerations*. The proposal to extend the freeze through December 31, 2030, would allow the Joint Board to consider next steps in addressing separations reform. This Joint Board has quite recently seated several new members who are just beginning their opportunity to delve into the complicated issues they need to grapple with in considering reform measures.[36] In short the new Board

[34] *Connect America Fund et al.,* WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17934-35, para. 801 & Fig. 9 (2011) (*USF/ICC Transformation Order*), *aff'd sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

[35] *Connect America Fund et al.,* WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3097, para. 21 (2016) ("[E]lection of model-based support places those carriers in a different regulatory paradigm. They no longer will be subject to rate-of-return regulation for common line offerings, and they no longer will participate in the National Exchange Carrier Association's (NECA's) common line pool. Effectively, the carriers that choose to take the voluntary path to the model are electing incentive regulation for common line offerings."). The administrator of the universal service support program, the Universal Service Administrative Company, also uses separations categorization results for calculating high-cost loop support for certain non-fixed support carriers, but without applying jurisdictional allocations. 47 CFR § 54.1310. Some states also use separations results to determine the amount of intrastate universal service support and to calculate regulatory fees, and some states perform rate-of-return ratemaking using intrastate costs.

[36] *Federal-State Joint Board on Universal Service, Federal-State Joint Board on Jurisdictional Separations*, *et al.*, CC Docket Nos. 96-45, 80-286, et al., Order, FCC 24-15 (2024) (naming Commissioner Geoffrey Starks as the federal chair of the Federal-State Joint Board on Jurisdictional Separations and Commissioners Nathan Simington and Anna Gomez as new members); *Federal-State Joint Board on Universal Service, Federal-State Joint Board on Jurisdictional Separations*, *et al.*, CC Docket Nos. 96-45, 80-286, et al., Order, FCC 24-53 (2024) (naming Commissioners Mary Pat Regan, Karen Charles, Maida J. Coleman and Steven M. DeFrank as new State members) *See also* Letter from James Bradford Ramsay, General Counsel, NARUC, to the Honorable Jessica Rosenworcel, Chairwoman, FCC, CC Docket No. 80-286 (Mar. 15, 2024) (nominating Commissioners Karen Charles, Mary Pat Regan, and Maida J. Coleman to serve as members of the Separations Joint Board). Letter from James Bradford Ramsay, General Counsel, NARUC, to the Honorable Jessica Rosenworcel, Chairwoman, FCC, CC Docket No. 80-286 (Apr. 9, 2024) (nominating Commissioner Steven M. DeFrank to serve as a member of the Separations Joint Board).

will need time to develop a meaningful recommendation.[37] The combination of these recent changes and the procedural process necessary for any recommendation render it unlikely that the Joint Board could issue a recommended decision on comprehensive reform and that the Commission could consider that recommendation, and then act upon it before the current freeze expires.[38] Section 410(c) contemplates a Joint Board recommendation before the Commission moves forward on comprehensive separations reform.[39] Therefore, as a practical matter, we are limited at this point to either extending the separations freeze or allowing the long-fallow and outdated separations rules to take effect on January 1, 2025.

13. *Benefits Outweigh the Costs*. We seek comment on the limited options available to the Commission under the current circumstances. The Commission has consistently found that letting the freeze expire would impose significant burdens on rate-of-return carriers, particularly smaller rural carriers, and create undue instability.[40] In extending the most recent freeze in 2018, the Commission explained that lifting the freeze and reinstating the separations rules after an absence of more than two decades, would make it extremely difficult, if not impossible, for most carriers to perform all of the studies needed to remain in full compliance.[41] This would require substantial training and investment by rural incumbent LECs, and could cause significant disruptions to regulated rates, cost recovery, and other operating conditions when applying the outdated separations rules to today's operations.[42] The Commission has thus previously concluded that the benefits that will result from granting a further extension of the freeze far exceed any possible harms.[43] We agree that these prior conclusions are compelling and remain relevant today. We propose to find that an additional extension of the freeze far outweighs any potential harms and we seek comment on this proposal.

14. In extending the separations freeze, we also propose to direct rate-of-return incumbent LECs to continue to use the same frozen category relationships and jurisdictional allocation factors. When the Commission allowed a one-time unfreeze of category relationships in 2018, only three carriers capitalized on this opportunity.[44] We seek comment on whether the Commission should reintroduce the option to unfreeze category relationships at this time. We also seek comment on the comparative costs and benefits of maintaining the separations freeze without offering an option to unfreeze category relationships.

15. *Length of the Freeze Extension*. We propose an extension period of up to six years. Under this proposal, the freeze would be extended until December 31, 2030 or until comprehensive reform of the Part 36 rules is achieved, whichever occurs earlier. We seek comment on this proposal. In

[37] In 2018, the Commission referred a couple of discrete issues to the Joint Board, but the Joint Board has not been able to issue a recommended decision on them. *See also 2018 Separations Freeze Extension Order*, 33 FCC Rcd at 12757-58, paras. 41-42.

[38] Even if the Joint Board could develop a recommendation for consideration, the Commission would likely seek comment on that recommendation before issuing an order revising the rules.

[39] *See* 47 U.S.C. § 410(c) (requiring the Commission to refer jurisdictional separations reform to the Joint Board and requiring the Joint Board to "prepare a recommended decision for prompt review and action by the Commission").

[40] *See, e.g., 2018 Separations Freeze Extension Order*, 33 FCC Rcd at 12750-51, paras. 21-23.

[41] *See, e.g., id.* at 12750-51, para. 21.

[42] *See, e.g., id.* at 12751, para 22. Indeed, the Commission concluded that requiring carriers to reinstate their separations systems "would be unduly burdensome when there is a significant likelihood that there would be no lasting benefit to doing so." *2017 Separations Freeze Extension Order*, 32 FCC Rcd at 4224, para. 11.

[43] *See, e.g., 2018 Separations Freeze Extension Order,* 33 FCC Rcd at 12750, para. 19.

[44] *Id.* at 12753-57, paras. 29-40. *See* Letter from Darin T. LaCoursiere, President and CEO, Endeavor Commc'ns, to Kris Monteith, Chief, Wireline Competition Bureau, FCC, CC Docket No. 80-286 (filed Apr. 25, 2019); Letter from Bobby Dorries, Vice President, Valliant Telephone Co., to Kris Monteith, Chief, Wireline Competition Bureau, FCC, CC Docket No. 80-286 (filed Apr. 30, 2019); Letter from Peter Louviere, Chief Financial Officer, Lafourche Telephone Co., to Kris Monteith, Wireline Competition Bureau, FCC, CC Docket No. 80-286 (filed May 1, 2019).

2018, given the difficulty of achieving reform up to that point, the Commission initially proposed a fifteen-year freeze because short-term extensions adopted in the past would "not provide the Joint Board, the Commission, and interested stakeholders sufficient time" to revise its rules.[45] After considering comments submitted in response to that proposal, including from the State members of the Joint Board, the Commission found that an extension of up to six years was more appropriate.[46]

16. When the Commission extended the freeze for six years in 2018, it concluded that this time period best "balances the competing considerations" of enabling the Joint Board to focus on solving the complex issues versus the Commission's experience in granting a series of short-term separations extensions in the past when attempts at separations reform stalled.[47] Does this assessment continue to weigh in favor of the Commission granting another six-year freeze extension? Have any circumstances changed that would lead to a different assessment, or do parties have other views on the length of an extension? Should the freeze be extended for a longer period of time than six years? Repeated short-term freeze extensions necessarily consume Commission, State, and industry resources. Alternatively, should we permanently extend the separations freeze, as some commenters have suggested in the past?[48]

17. We ask commenters to discuss the advantages and disadvantages of a temporally defined extension period versus an unlimited extension until comprehensive reform is achieved. We seek comment on the specific reasons in support of recommended timeframes. In this regard, we recognize that the Federal and State members of the Joint Board have not issued a recommended decision on comprehensive separations reform in the more than two decades since the Commission originally proposed such reform. Commenters supporting shorter extension periods than our proposed six years should also take into account the time necessary for the Commission and the industry to adopt and implement revised separations rules and procedures.

18. We also invite comment on what effect, if any, particular extension periods would have on rates and ratepayers. Would a relatively long or permanent extension be inconsistent with section 201(b) of the Act's prohibition on unjust and unreasonable charges?[49] For example, in the past, some commenters have supported extending the freeze for 15 years,[50] while others expressed concern that such a long freeze would result in unjust and unreasonable rates because of the frozen allocation of the underlying costs to the interstate and intrastate jurisdictions.[51]

19. *Joint Board Consultation on the Freeze Extension.* Consistent with Commission precedent, the Commission is not seeking an additional referral to, or expecting an additional recommended decision from, the Joint Board to extend the separations rules freeze.[52] At the same time, we find it appropriate to renew the Commission's prior reform referrals to the Joint Board in the accompanying Order. In previously extending the freeze, the Commission has found such extensions to fall within the scope of the Joint Board's recommended decision granting the first freeze.[53] In the *2001*

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[45] *2018 Separations Freeze Extension Order,* 33 FCC Rcd at 12752, para. 25.

[46] *Id.* at 12752-53, paras. 25, 27.

[47] *Id.*

[48] *Id.* at 12753, para. 28 & n.76 (citing USTelecom Comments).

[49] *See* 47 U.S.C. § 201(b).

[50] *See 2018 Separations Freeze Extension Order,* 33 FCC Rcd at 12752, para. 25 & n.67 (citing comments by Concerned Rural LECs, NECA, NTCA, and WTA).

[51] *See id.* at 12761, para. 49 & n.144 (citing NARUC Comments).

[52] *Id.* at 12758-59, paras. 44-45; *2001 Separations Freeze Order,* 16 FCC Rcd at 11383, 11397, paras. 2, 29.

[53] *2018 Separations Freeze Extension Order,* 33 FCC Rcd at 12758-59, paras. 44-45 (citing *2001 Separations Freeze Order,* 16 FCC Rcd at 11383, 11397, paras. 2, 29; *2006 Separations Freeze Extension Order*, 21 FCC Rcd at 5525, para. 21).

Separations Freeze Order following the Joint Board recommendation, in adopting the first separations freeze, the Commission recognized that it might need to extend the freeze if comprehensive reform was not completed before the freeze expired.[54] Since then, the Commission has extended the freeze eight times without an additional referral of the freeze to the Joint Board.[55] We nevertheless value the Joint Board's input, and commit to engage in consultations with the Joint Board regarding this proposed extension and any interim separations reform measures that may be needed during the freeze.[56]

IV. ORDER

20. *Renewal of Joint Board Referrals*. By this *Order*, we renew the existing referrals to the Joint Board, including both the 1997 and 2009 comprehensive reform referrals and the 2018 interim reform measures referral.[57] We renew these referrals in light of the substantial changes that have unfolded within the telecommunications market alongside extensive changes in federal and state regulatory frameworks since these referrals were first made. The Commission is committed to working with the Joint Board to develop an efficient modern ratemaking system for all carriers for the longer term, as well as any interim adjustments that may be necessary while comprehensive reform remains pending.

V. PROCEDURAL MATTERS

21. *Deadlines and 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 in CC Docket No. 80-286.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the Electronic Comment Filing System: http://apps.fcc.gov/ecfs/.[58]
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
    - Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
    - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
    - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.
    - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings at its headquarters. This is a temporary measure

[54] *2001 Separations Freeze Order,* 16 FCC Rcd at 11383, 11397, paras. 2, 29.

[55] *See 2018 Separations Freeze Extension Order,* 33 FCC Rcd at 12759, para. 45 & n.132 (citing seven orders extending the freeze without an additional referral). When the Commission extended the freeze in 2018, it also did not seek an additional referral. *Id.* at 12758-59, paras. 44-45.

[56] *See id.* at 12759, para. 45.

[57] *1997 Separations Reform NPRM and Referral*, 12 FCC Rcd at 22124, para. 5; *2009 Separations Freeze Extension Order and Second Referral*, 24 FCC Rcd at 6167, para. 15; *2018 Separations Freeze Extension Order*, 33 FCC Rcd at 12758, paras. 42-43.

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

taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.[59]

- *People with Disabilities*: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).
- *Availability of Documents*. Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS.

22. *Ex Parte Requirements*. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.[60] 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.

23. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),[61] 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."[62] Accordingly, we have prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible/potential impact of the rule and policy changes contained in this *Further Notice*. The IRFA is set forth in Appendix B. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comment on this *Further Notice*. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines for comments on the first page of this document.[63]

24. *Final Regulatory Flexibility Analysis*. Although in previous orders that included comprehensive and interim reform referrals to the Joint Board the Commission incorporated a Final

[59] *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, 35 FCC Rcd 2788 (OMD 2020), https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.

[60] 47 CFR § 1.1200 *et seq.*

[61] *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).

[62] *Id.* § 605(b).

[63] *See* 5 U.S.C. § 603(a).

Regulatory Flexibility Analysis (FRFA),[64] such analysis is not required here because the renewed referral is not a rule adopted through notice and comment rulemaking under 5 USC § 553(b).[65]

25. *Paperwork Reduction Act.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.[66]

26. *Providing Accountability Through Transparency Act*. The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule.[67] Accordingly, the Commission will publish the required summary of this *Further Notice* on https://www.fcc.gov/proposed-rulemakings.

27. For further information about this proceeding, please contact Marv Sacks, Wireline Competition Bureau, Pricing Policy Division, 45 L Street NE, Washington, D.C. 20554, (202) 418-2017, marvin.sacks@fcc.gov.

VI. ORDERING CLAUSES

28. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i) and (j), 205, 220, 221(c), 254, 303(r), 403, and 410 of the Communication Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (j), 205, 220, 221(c), 254, 303(r), 403, 410, and section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. § 1302, that this Further Notice of Proposed Rulemaking and Order IS ADOPTED.

29. IT IS FURTHER ORDERED that, pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 410(c), this Order renews the prior referrals to the Federal-State Joint Board on Separations for preparation of a recommended decision.

30. IT IS FURTHER ORDERED, pursuant to section 220(i) of the Communications Act, 47 U.S.C. § 220(i), that notice be given to each state commission of the above rulemaking proceeding, and that the Secretary SHALL SERVE a copy of this Further Notice of Proposed Rulemaking and Order on each state commission.

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[64] *1997 Separations Reform NPRM and Referral*, 12 FCC Rcd at 22169-70, paras. 112-14; *2009 Separations Freeze Extension Order and Second Referral*, 24 FCC Rcd at 6169-70, paras. 21-25; *2018 Separations Freeze Extension Order*, 33 FCC Rcd at 12762, para. 55.

[65] *See* 5 USC §604(a) (requiring a final regulatory flexibility analysis "[w]hen an agency promulgates a final rule"); 5 USC §553(b) (defining a "rule" as "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy . . .").

[66] *See* 44 U.S.C. § 3506(c)(4).

[67] 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act, Pub. L. No. 118-9 (2023), amended section 553(b) of the Administrative Procedure Act.

31. IT IS FURTHER ORDERED that the Commission's Office of the Secretary SHALL SEND a copy of this Further Notice of Proposed Rulemaking and Order, including the Initial Regulatory Flexibility Analysis and Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Draft Proposed Rules for Public Comment

For the reasons set forth above, the Federal Communications Commission proposes to amend part 36 of Title 47 of the Code of Federal Regulations, 47 CFR part 36, as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

AUTHORITY: 47 U.S.C. 151, 152, 154(i) and (j), 201, 205, 220, 221(c), 254, 303(r), 403, 410, and 1302 unless otherwise noted.

2. Amend the following rules and sections of the rules in 47 CFR part 36 by removing the date "December 31, 2024" everywhere it appears and adding in its place the date "December 31, 2030":

a. Section 36.3(a), (b), (c), (d) introductory text, and (e);

b. Section 36.123(a)(5) and (6);

c. Section 36.124(c) and (d);

d. Section 36.125(h) and (i);

e. Section 36.126(b)(5)-(6), (c)(4), (e)(4), and (f)(2);

f. Section 36.141(c);

g. Section 36.142(c);

h. Section 36.152(d);

i. Section 36.154(g);

j. Section 36.155(b);

k. Section 36.156(c);

l. Section 36.157(b);

m. Section 36.191(d);

n. Section 36.212(c);

o. Section 36.214(a);

p. Section 36.372;

q. Section 36.374(b) and (d);

r. Section 36.375(b)(4) and (5);

s. Section 36.377(a) introductory text, (a)(1)(ix), (a)(2)(vii), (a)(3)(vii), (a)(4)(vii); (a)(5)(vii), and (a)(6)(vii);

t. Section 36.378(b)(1);

u. Section 36.379(b)(1) and (2);

v. Section 36.380(d) and (e);

w. Section 36.381(c) and (d); and

x. Section 36.382(a).

APPENDIX B

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[68] 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 by the policies and rules imposed in the *Further Notice of Proposed Rulemaking* (*Further 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 specified in the *Further Notice.* The Commission will send a copy of the *Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[69] In addition, the *Further Notice* and IRFA (or summaries) will be published in the *Federal Register*.[70]

A. Need for, and Objectives of, the Proposed Rules

2. The Commission's part 36 rules regarding jurisdictional separations category relationships and cost allocation factors (separations rules) originated more than 35 years ago when the Commission and its State counterparts used costs to set rates, and the rules were designed to help prevent local exchange carriers (LECs) from recovering the same costs from both the interstate and intrastate jurisdictions.[71] In 1997, the Commission initiated a proceeding to comprehensively reform those rules in light of the statutory, technological, and marketplace changes that had affected the telecommunications industry.[72] In 2001, the Commission, pursuant to a recommendation by the Federal-State Joint Board on Jurisdictional Separations (Joint Board), froze the part 36 separations rules for a five-year period beginning July 1, 2001, or until the Commission completed comprehensive separations reform, whichever came first.[73] The Commission has extended the freeze eight times, with the most recent extension set to expire on December 31, 2024.[74]

3. In repeatedly extending the freeze, the Commission has explained that the freeze would stabilize and simplify the separations process while the Joint Board and the Commission continued to work on separations reform.[75] This Joint Board has quite recently seated several new members who are just beginning their opportunity to delve into the complicated issues they need to grapple with in considering reform measures. In short, the new Joint Board will need time to develop a meaningful recommendation. The combination of these recent changes and the procedural process necessary for any recommendation render it unlikely that the Joint Board could issue a recommended decision on comprehensive reform and that the Commission could consider that recommendation, and then act upon it

[68] 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-12, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

[69] *Id.* § 603(a).

[70] *Id.*

[71] *See* 47 CFR Part 36.

[72] *See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking, 12 FCC Rcd 22120, 22126, para. 9 (1997).

[73] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order, 16 FCC Rcd 11382, 11393–408, paras. 18-55 (2001) (*2001 Separations Freeze Order*).

[74] *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Report and Order and Waiver, 33 FCC Rcd 12743, 12750, para. 19 (2018) (*2018 Separations Freeze Extension Order*).

[75] *See*, *e.g.*, *Jurisdictional Separations and Referral to the Federal-State Joint Board,* CC Docket No. 80-286, Report and Order, 32 FCC Rcd 4219, 4223, paras. 10-11 (2017) (*2017 Separations Freeze Extension Order*) (citing rural carrier associations comments); *2001 Separations Freeze Order*, 16 FCC Rcd at 11388-90, paras. 10, 12.

before the current freeze expires.[76] Section 410(c) of the Communications Act of 1934, as amended, contemplates a Joint Board recommendation before the Commission moves forward on comprehensive separations reform.[77] Therefore, as a practical matter, the Commission is limited at this point to either extending the separations freeze or allowing the outdated separations rules to take effect on January 1, 2025.

4. The Commission expects that permitting the freeze to expire would impose significant burdens on rate-of-return carriers, many of which include small carriers, that would far exceed the benefits, if any, of requiring those carriers to comply with rules that they have not implemented since 2001. As a result, the *Further Notice* proposes to extend for up to six years the freeze of part 36 category relationships and jurisdictional cost allocation factors to enable the Joint Board to address the complex nature of the work involved in developing comprehensive recommendations for separations reform. Under this proposal, this extension would continue until the earlier of December 31, 2030, or the completion of comprehensive reform of the part 36 jurisdictional separations rules. The Commission invites comments on this proposal.

B. Legal Basis

5. The proposed action is authorized pursuant to sections 1, 4(i) and (j), 205, 220, 221(c), 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i) and (j), 205, 220, 221(c), 254, 303(r), 403, 410, and section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. § 1302.

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

6. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[78] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[79] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[80] 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.[81]

7. *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.[82] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis,

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[76] Referrals by the Commission pending before the Joint Board include both the 1997 and 2009 comprehensive reform referrals and the 2018 interim reform referral measures. *See*, *e.g.*, *2018 Separations Freeze Extension Order*, 33 FCC Rcd at 12757-58, paras. 41-42.

[77] *See* 47 U.S.C. § 410(c) (requiring the Commission to refer jurisdictional separations reform to the Joint Board and requiring the Joint Board to "prepare a recommended decision for prompt review and action by the Commission").

[78] 5 U.S.C. § 603(b)(3).

[79] *See id.* § 601(6).

[80] *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."

[81] 15 U.S.C. § 632.

[82] 5 U.S.C. § 601(3)-(6).

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.[83] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.[84]

8. 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."[85] 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.[86] 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.[87]

9. 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."[88] U.S. Census Bureau data from the 2022 Census of Governments[89] indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[90] Of this number, there were

[83] *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).

[84] *Id*.

[85] 5 U.S.C. § 601(4).

[86] 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.

[87] *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).

[88] 5 U.S.C. § 601(5).

[89] 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.

[90] *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.

36,845 general purpose governments (county,[91] municipal, and town or township[92]) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts[93]) with enrollment populations of less than 50,000.[94] 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."[95]

10. *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.[96] 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.[97] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[98] Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.[99]

11. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[100] U.S. Census Bureau data for 2017 show that there

[91] *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.

[92] *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.

[93] *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.

[94] 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.

[95] 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.

[96] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[97] *Id.*

[98] *Id.*

[99] 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.

[100] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

were 3,054 firms that operated in this industry for the entire year.[101] Of this number, 2,964 firms operated with fewer than 250 employees.[102] 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.[103] Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.[104] Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

12. *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[105] is the closest industry with an SBA small business size standard.[106] The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.[107] U.S. Census Bureau data for 2017 show that there were 3,054 firms in this industry that operated for the entire year.[108] Of this number, 2,964 firms operated with fewer than 250 employees.[109] 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.[110] Of these providers, the Commission estimates that 916 providers have 1,500 or fewer employees.[111] 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.

13. We have included small incumbent LECs in this RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."[112] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs

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[101] *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.

[102] *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.

[103] 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.

[104] *Id.*

[105] *See* U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* https://www.census.gov/naics/?input=517311&year=2017&details=517311.

[106] *See* 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

[107] *Id.*

[108] *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.

[109] *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.

[110] 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.

[111] *Id.*

[112] *See* 5 U.S.C. § 601(3).

are not dominant in their field of operation because any such dominance is not "national" in scope.[113] Because our proposal to freeze the part 36 rules will affect incumbent LECs, some entities employing 1,500 or fewer employees may be affected by the rule changes proposed in the *Further Notice.* We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

14. The proposed rules, if adopted, would not impose any new or additional requirements on small or other entities. The *Further Notice* proposes to extend an existing freeze, and the Commission does not anticipate small entities will incur additional compliance costs, or be required to hire professionals to comply with the rule proposals, if adopted.

E. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for such small entities.[114]

16. The Commission's proposed rules to extend the separations freeze is not expected to have a significant economic impact on a substantial number of small entities. To the contrary, an extension of the separations freeze constitutes an essential step towards reducing unnecessary and burdensome costs to small entities when compared to the alternative of not doing so. For example, if the freeze was allowed to expire and was not extended, the outmoded separations rules would be reinstated. The Commission has consistently over the years found that such a result would impose new significant economic burdens on rate-of-return carriers, particularly smaller rural carriers, and create undue instability for those carriers.[115] Indeed, if the separations rules were reinstated after an absence of more than two decades, most affected carriers would find it extremely difficult, if not impossible, to perform all of the studies needed to remain in full compliance.[116] This would require substantial training and investment by affected rural incumbent LECs, and could cause significant disruptions in regulated rates, cost recovery, and other operating conditions when applying the outdated separations rules to today's operations.[117]

17. In addition, the jurisdictional freeze has eliminated the need for many rate-of-return incumbent LECs that still perform cost studies, including incumbent LECs with 1,500 employees or fewer, to complete certain annual separations studies that otherwise would be required by the Commission's Part 36 jurisdictional separations rules. Thus, an extension of this freeze would avoid

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[113] *See* Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to Chairman William E. Kennard, FCC (filed May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." 15 U.S.C. § 632(a); 5 U.S.C. § 601(3). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 CFR § 121.102(b).

[114] 5 U.S.C. § 603(c)(1)-(4).

[115] *See, e.g., 2018 Separations Freeze Extension Order,* 33 FCC Rcd at 12750-51, paras. 21-23.

[116] *See, e.g., id.* at 12750-51, para. 21.

[117] *See, e.g., id.* at 12751, para 22. Indeed, the Commission concluded that requiring carriers to reinstate their separations systems "would be unduly burdensome when there is a significant likelihood that there would be no lasting benefit to doing so." *2017 Separations Freeze Extension Order*, 32 FCC Rcd at 4224, para. 11.

increasing the administrative burden of regulatory compliance for these carriers, including small incumbent LECs.

18. The Commission has thus previously concluded that the benefits that will result from an additional extension of the freeze far exceed any possible harms and anticipates that those prior conclusions are compelling and remain relevant today.[118] We therefore propose to extend the separations freeze to permit rate-of-return incumbent LECs to continue to use the same frozen category relationships and jurisdictional allocation factors. We invite comment on this proposal and on the relative costs and benefits of continuing the separations freeze.

19. When the Commission granted a six-year freeze in 2018, it concluded that this time period best "balances the competing considerations" of enabling the Joint Board to focus on solving the complex issues versus the Commission's experience in granting a series of short-term separations extensions in the past when attempts at separations reform stalled.[119] The Commission seeks comment on whether this assessment continues to weigh in favor of the Commission granting another six-year freeze extension, whether any circumstances changed that would lead to a different assessment, and whether parties have other views on the length of an extension.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

20. None.

[118] *See, e.g., 2018 Separations Freeze Extension Order,* 33 FCC Rcd at 12750, para. 19.

[119] *Id.* at 12752-53, paras. 25, 27.

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

In the Matter of	)	
	)	
Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications	)	PS Docket No. 15-80
	)	
	)	
Improving 911 Reliability	)	PS Docket No. 13-75
	)	
New Part 4 of Commission's Rules Concerning Disruptions to Communications	)	ET Docket No. 04-35
	)	

ORDER ON RECONSIDERATION

Adopted: July 10, 2024 **Released: July 11, 2024**

By the Commission:

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I. INTRODUCTION

1. In this *Order on Reconsideration*, we deny the Competitive Carriers Association's (CCA) Petition for Reconsideration[1] of the Commission's 2022 *Second Report and Order*[2] in this proceeding

[1] See Petition for Reconsideration of Competitive Carriers Association, PS Docket Nos. 15-80, 13-75, ET Docket No. 04-35 (filed Mar. 17, 2023), https://www.fcc.gov/ecfs/document/1031746539270/1 (Petition).

[2] 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, PS Docket Nos. 15-80 and 13-75, ET Docket No. 04-35, Second Report and Order, 37 FCC Rcd 13847 (2022) (Second Report and Order).

with respect to the obligations of originating service providers (OSPs)[3] to notify Public Safety Answering Points (PSAPs)[4] of 911 service outages. CCA asks us to reconsider two elements of the *Second Report and Order*: (1) the requirement that OSPs initially notify PSAPs "as soon as possible, but no later than within 30 minutes of discovering" 911 service outages;[5] and (2) the requirement that OSPs use "special diligence" to obtain, maintain, and update PSAP contact information.[6] We deny the Petition and affirm the Commission decision in the *Second Report and Order*, that the final rules are in the public interest and on balance the public interest benefits of the rules outweigh the costs.

II. BACKGROUND

2. Prior to the adoption of the *Second Report and Order*, the rules imposed distinct 911 outage notification requirements on OSPs and covered 911 service providers.[7] Specifically, covered 911 service providers were required to notify PSAPs of outages that potentially affect them as soon as possible, but no later than 30 minutes after discovering the outage. On the other hand, OSPs were required to notify PSAPs of outages as soon as possible but were not subject to the 30-minute deadline. In addition, covered 911 service providers were required to follow-up with 911 special facilities within two hours of transmitting the initial notification, while there was no equivalent follow-up requirement for OSPs. Finally, although both OSPs and covered 911 service providers were required to notify PSAPs of 911 outages, the rules did not require them to maintain accurate and up-to-date PSAP contact information for purposes of providing such notifications.

3. In the *Second Report and Order*, the Commission harmonized its 911 outage notification rules to apply the same PSAP notification requirements to both OSPs and covered 911 service providers.[8] Regarding timing of initial notifications, the Commission required both OSPs and covered 911 service providers to "provide a 911 outage notification to a potentially affected 911 special facility as soon as possible, but no later than within 30 minutes of discovering that they have experienced on any facilities

[3] This *Order on Reconsideration* uses the term OSP to refer to providers of wireline, wireless, cable, satellite, and interconnected Voice over Internet Protocol (VoIP) services that enable end user customers to originate 911 calls and texts. The definitions for wireline, wireless, cable, satellite and interconnected VoIP service provider includes "affiliated and non-affiliated entities" that maintain or provide communications networks or services used by the provider. 47 CFR § 4.3(a) (cable); (d) (satellite); (f) (wireless); (g) (wireline); (h) (interconnected VoIP).

[4] The Communications Act of 1934, as amended, and the Wireless Communications and Public Safety Act of 1999, as amended, define PSAP as "a facility that has been designated to receive 9-1-1 calls and route them to emergency service personnel." 47 U.S.C. §§ 222(h)(4), 615b(3). PSAPs are sometimes referred to as Public Safety Answering Centers (PSACs), 911 call centers, emergency call centers (ECCs), 911 facilities, and (in 47 CFR §§ 4.5(e) and 4.9(h)) "911 special facilities." This *Order on Reconsideration* uses the terms PSAPs and 911 special facilities interchangeably, except where the term 911 special facilities is more specific and accurate.

[5] Petition at 4.

[6] Petition at 5; *see Second Report and Order*, 37 FCC Rcd at 13854-55, paras. 19-22 (outage notification deadline); *id.* at 13850, paras. 8-9 (special diligence to obtain and update PSAP contact information).

[7] The Commission's outage reporting requirements, codified in part 4 of the rules, require communications service providers to report network outages that exceed specified magnitude and duration thresholds. *See* 47 CFR § 4. Outage data allow for critical situational awareness that enables the Commission to be an effective participant in emergency response and service restoration efforts, particularly in the early stages of communications disruption. The Commission collects network outage information in the Network Outage Reporting System (NORS) through reports submitted by communications service providers. In addition to obligations to report service outages to the Commission, the part 4 rules also require service providers to report outage information to potentially affected 911 special facilities, including PSAPs. *See* 47 CFR § 4.9. Part 4 rules currently contain distinct 911 special facility outage notification requirements for OSPs and covered 911 service providers that deliver traffic directly to 911 special facilities, including PSAPs.

[8] *See Second Report and Order*, 37 FCC Rcd at Appendix A.

that they own, operate, lease, or otherwise utilize, an outage that potentially affects a 911 special facility."[9] In addition, the Commission required both OSPs and covered 911 service providers to "exercise special diligence to identify, maintain, and, on an annual basis, confirm current contact information appropriate for 911 outage notification for each 911 special facility that serves areas that the service provider serves."[10]

4. *CCA Petition*. CCA seeks reconsideration of two aspects of the *Second Report and Order* as they apply to OSPs. First, CCA argues that it is unreasonable to require OSPs to initially notify PSAPs of 911 outages within 30 minutes of discovering an outage.[11] CCA argues that OSP compliance with the 30-minute rule (1) is infeasible or impossible, (2) should not apply to outages attributable to third-party vendors, (3) will cause over-notification to PSAPs, and (4) will overburden small and rural carriers.[12] CCA argues that the Commission should instead revert to the previous rule that required OSPs to notify PSAPs "as soon as possible" with no time limitation.[13] In the alternative, if the Commission retains the 30-minute rule, CCA argues that the Commission should define "discovery" of an outage to be when an OSP receives notification of the outage from its third-party vendor or service provider, rather than when the third-party vendor or service provider itself discovers the outage. CCA also argues that the Commission should modify the 30-minute rule to deem OSPs compliant if they begin notifying affected PSAPs within 30 minutes, even if they do not complete notification to all potentially affected PSAPs within that timeframe.[14]

5. Second, CCA requests that the Commission reconsider the requirement that OSPs use "special diligence" to identify, maintain, and annually confirm contact information for PSAPs in their service areas.[15] CCA argues that the Commission materially erred in estimating the cost to OSPs of complying with this requirement, and that the rule will overburden small and rural carriers.[16] Accordingly, CCA argues that the Commission should create and operate a centralized PSAP contact information database rather than requiring OSPs to maintain PSAP contact information themselves.[17]

6. The Commission provided the opportunity for interested parties to file oppositions to the Petition and replies to oppositions.[18] In addition to filings from CCA, the Commission received two comments and nine replies.[19] Among them, two public safety organizations filed oppositions to the

[9] *See Second Report and Order*, 37 FCC Rcd at Appendix A. The part 4 rules for the threshold criteria triggering outage notifications to the Commission by OSPs, refer to OSPs "discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration." 47 CFR § 4.9(a) (cable); (c) (satellite); (e) (wireless); (f) (wireline); (g) (interconnected VoIP).

[10] *See Second Report and Order*, 37 FCC Rcd at Appendix A.

[11] Petition at 2-10.

[12] *Id.* at 5-9.

[13] *Id*.

[14] *Id.* at 10.

[15] *Id.* at 5.

[16] *Id.* at 3, 10-14.

[17] *Id.* at 14-15.

[18] Public Safety and Homeland Security Bureau Announces Filing Deadlines for Oppositions and Replies Thereto Regarding a Petition for Reconsideration of the 911 Outage Notification for PSAPs Second Report and Order, Public Notice, PS Docket Nos. 15-80 and 13-75, ET Docket No. 04-35, DA-23-512 (PSHSB 2023).

[19] *See infra* Appendix A (List of Commenters).

Petition, arguing that CCA failed to offer support for its assertions.[20] Nine communications industry commenters filed replies in support of CCA's petition, generally reiterating the points made by CCA and arguments that were received in the preceding comment period.[21] The Commission also received three *ex parte* filings addressing issues raised in the Petition.[22]

III. DISCUSSION

7. We deny CCA's Petition for Reconsideration. With respect to the 30-minute notification requirement, CCA and supporting commenters repeat arguments previously considered and rejected in the *Second Report and Order,* and overstate the burdens the requirement imposes on OSPs, including small carriers. With respect to the requirement to maintain PSAP contact information, we have adjusted our estimate from the *Second Report and Order* of the cost to comply with this requirement. Nevertheless, we affirm the Commission's prior decision and deny CCA's petition because the benefits of this requirement continue to far exceed the costs.

A. Application of a 30-Minute Initial PSAP Notification Deadline to OSPs

1. Feasibility and Effectiveness of Notification Within 30 Minutes

8. In the *Second Report and Order*, the Commission balanced the interests of stakeholders and concluded that requiring OSPs to notify PSAPs of outages within 30 minutes of discovery would best serve the public interest.[23] CCA argues that the Commission should have retained the prior "as soon as possible" notification standard for OSPs without a 30-minute limitation.[24] CCA and supporting commenters assert that providing initial outage notification to PSAPs within 30 minutes of when the outage is discovered is "infeasible" or "impossible."[25] They argue that more than 30 minutes is necessary for OSPs to (1) obtain information about an outage, (2) determine which PSAPs may be affected by the

[20] Association of Public-Safety Communications Officials-International, Inc., Opposition of APCO International, PS Docket Nos. 15-80, and 13-75, ET Docket No. 04-35 (filed June 26, 2023) (APCO Opposition) (arguing that "CCA's concerns have been fully considered and rejected in the Second Report and Order, and its Petition fails to present any material error, omission, or reason warranting reconsideration."); Boulder Regional Emergency Telephone Service Authority, BRETSA's Opposition to CCA's Petition for Reconsideration, PS Docket Nos. 15-80, and 13-75, ET Docket No. 04-35 (filed June 26, 2023) (BRETSA Opposition).

[21] In addition, Intrado Life & Safety, Inc. (Intrado) and a coalition consisting of ACA Connects, CCA, NCTA, and USTelecom (Associations) submitted filings in the dockets listed above in response to the Commission's Paperwork Reduction Act (PRA) Notice and Request for Comment on the information collection requirements in the *Second Report and Order*. *See Information Collection Being Reviewed by the Federal Communications Commission*, Request for Comment, 88 FR 77093-94 (Nov. 8, 2023). The Associations' filing also addressed the information collection requirements in *Ensuring the Reliability and Resiliency of the 988 Suicide & Crisis Lifeline*, Report and Order, PS Docket Nos. 23-5, 15-80, WC Docket No. 18-336, FCC-23-57 (rel. July 21, 2023) (*988 Outage Notification Order*). The established OMB review process is the appropriate forum for addressing perceived deficiencies in the PRA analysis associated with the Commission's part 4 requirements. *See Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Notice of Proposed Rulemaking, Second Report and Order and Order on Reconsideration, PS Docket No. 15-80 and ET Docket No. 04-35, 30- FCC Rcd 3206, 3229 para. 68 (2015) (*2015 Order on Reconsideration*).

[22] *See* Letter from Eddie M. Pope, General Counsel, FailSafe Communications Inc., to Shabbir Hamid, Attorney Advisor, FCC, PS Docket Nos. 15-80, and 13-75, ET Docket No. 04-35 (filed June 20, 2023); Letter from Howard W. Waltzman, Counsel, Viiz Communications, to Marlene H. Dortch, Secretary, FCC, PS Docket Nos. 15-80, and 13-75, ET Docket No. 04-35 (filed June 30, 2023). *See also* NENA: The 9-1-1 Association Notice of *Ex Parte*, PS Docket Nos. 15-80, and 13-75, ET Docket No. 04-35 (filed May 17, 2024) (NENA *Ex Parte*).

[23] *Second Report and Order*, 37 FCC Rcd at 13851-52, para. 9.

[24] Petition at 5.

[25] *Petition* at 4-10; CCA Reply at 2; NCTA Comments at 1; CTIA Comments at 3-4; Southern Linc Comments at 5; ATIS Comments at 3.

outage, and (3) successfully make the required notifications.[26] CCA further argues that requiring notification within 30 minutes will result in OSPs only being able to report the existence of an outage with no additional detail, leading to more questions than answers or inaccurate reporting to PSAPs that can cause confusion and delay.[27]

9. Two public safety organizations disagree with CCA and its supporters. BRETSA asserts that PSAPs need prompt information about outages potentially impacting 911 services in order to "implement contingency plans or public notifications of alternative means for OSP customers to get help in an emergency *during* the outage."[28] As BRETSA noted in its previous comments: "Knowledge of general outages of wireless, wireline and other services as well as 9-1-1 system outages are part of the situational awareness PSAPs should have. The existence of such outages may quickly become critical when a significant public safety incident occurs."[29] APCO similarly argues that the Commission should dismiss CCA's Petition and uphold the 30-minute deadline for initial notification by OSPs.[30] Indeed, in its original comments, APCO advocated requiring OSPs to provide notification within fifteen minutes rather than 30 minutes.[31]

10. We find CCA's arguments unpersuasive and conclude that the Commission was reasonable in adding a time limit to the OSP notification rules. As the Commission determined in the *Second Report and Order*, in the absence of a time limit, the "as soon as possible" standard does not incentivize OSPs to provide timely outage notifications, but instead incentivizes them to take a passive approach to monitoring and detecting outages.[32] This in turn could "allow service providers . . . to delay outage notifications for hours after discovery," and "would not serve the public safety purposes of the rule."[33] Such delays in receiving outage notifications undermine the ability of PSAPs to provide timely information to the public, on available means to contact emergency services, when an outage impacts 911 service. Thus, reverting to a notification standard with no time limit, as CCA advocates, would exacerbate the very harm the rule was adopted to address.

11. We also disagree with CCA's contention that a 30-minute time limit on OSP notifications is infeasible or unreasonable. In the *Second Report and Order*, the Commission considered and rejected similar arguments that 30 minutes is an insufficient amount of time for OSPs to obtain initial information about outages, and provide notification to PSAPs.[34] CCA and supporting commenters have provided no basis for reconsidering that decision. As the Commission previously noted, "thirty minutes has already proven to be a realistic timeframe for covered 911 service providers to gather clear and useful information about network outages to include in a notification, even though such providers also frequently contract for

[26] Petition at 4, 9; CTIA Comments at 4; Blooston Rural Carriers Comments at 3; Southern Linc Comments at 5; ATIS Comments at 3.

[27] *Id.* at 3-5, 9.

[28] BRETSA Opposition at 2 (emphasis in original). *See also* BRETSA Comments, PS Docket Nos. 15-80 and 13-75, ET Docket No. 04-35 at 1 (filed July 30, 2021) (BRETSA 2021 Comments).

[29] BRETSA 2021 Comments at 7.

[30] APCO Opposition at 2.

[31] APCO Comments, PS Docket Nos. 15-80 and 13-75, ET Docket No. 04-35 at 4 (filed July 30, 2021) (APCO 2021 Comments).

[32] *Second Report and Order,* 37 FCC Rcd at 13858, para. 19.

[33] *Id.* at 13859, para. 21 (responding directly to comments filed by Lumen and CTIA asking for the 30-minute deadline to start notification, not complete it).

[34] *Second Report and Order*, 37 FCC Rcd at 13858, para. 19. The Commission also considered but did not adopt public safety requests for a shorter initial notification timeframe than 30 minutes. *Second Report and Order,* 37 FCC Rcd at 13859, para. 22.

services from vendors."[35] We are not persuaded by CCA and supporting commenters that OSPs should have a longer notification window because of alleged difficulty identifying the appropriate PSAPs to notify.[36] We believe that this issue is addressed in the rules we adopted requiring OSPs to maintain PSAP contact information, discussed below.

12. We also reject the argument that a 30-minute limit will result in notifications that lack meaningful information and are likely to confuse or mislead PSAPs that receive them. The rule provides that the 30-minute period is initiated by discovery of a reportable outage under the Commission's part 4 rules. To be reportable, the outage must have already lasted at least 30 minutes and triggered the part 4 thresholds for combined user minutes.[37] Thus, as a practical matter, providers will have at least an hour, and potentially more, from the start of any outage to gather information to include in the initial outage notifications to PSAPs. Moreover, the purpose of the initial notification is not to provide complete information about the outage, but to serve as a "preliminary notice of a potential problem to a 911 special facility."[38] Therefore, we affirm the Commission's conclusion in the *Second Report and Order* that a 30-minute notification deadline strikes an appropriate balance between the need for timely 911 outage information and the accuracy of that information.[39]

2. OSP Responsibility for Third-Party Discovery of an Outage

13. The *Second Report and Order* defines an OSP's "discovery" of an outage to include when the outage is discovered by its third-party vendor or service provider.[40] Thus, if an OSP's third-party vendor discovers an outage that requires notification to PSAPs under the rules, the 30-minute window for providing the initial notification begins at the time of the vendor's discovery, and is attributable to the OSP. CCA argues that the Commission should define discovery of an outage in this scenario to be when the OSP receives notification of the outage from its third-party vendor or service provider, after which the OSP would have 30 minutes to provide the notification to affected PSAPs.[41] CCA argues that there is necessarily a delay from the time that the third party discovers the outage until the OSP receives the notification.[42] CCA further states that "OSPs have no control over the timing and

[35] *See 988 Report and Order* at 21, para. 36; *see also* 47 CFR § 4.9(h).

[36] *See* Petition at 4 and 5.

[37] 47 CFR § 4.9(h) provides that notice to PSAPs must be provided no later than 30 minutes after an OSP discovers it has experienced an outage that potentially affects a PSAP, as defined in section 4.5(e). In turn, section 4.5(e) provides that an outage potentially affects a PSAP when there is a loss of service that lasts 30 minutes or more. Moreover, in some cases an outage would not be reportable until potentially much later than 30 minutes, as per section 4.5(e). *See* 47 CFR § 4.5(e) ("An outage that potentially affects a 911 special facility occurs whenever: (1) There is a loss of communications to PSAP(s) potentially affecting at least 900,000 user-minutes *and*: The failure is neither at the PSAP(s) nor on the premises of the PSAP(s); no reroute for all end users was available; and the outage lasts 30 minutes or more") (emphasis added). *See generally Improving 911 Reliability; Reliability and Continuity of Communications Networks, Including Broadband Technologies*, PS Docket Nos. 13-75 and 11-60, Report and Order, 28 FCC Rcd 17476, 17526-17528, paras. 139-147 (2013) (adopting rules requiring covered 911 service providers to notify PSAPs of outages within 30 minutes). *See also 988 Report and Order* at 21 n.154 (providing illustrative example for calculating the relevant threshold in support of finding that OSPs serving fewer customers will have to experience longer outages to reach the threshold required for notification.).

[38] *Second Report and Order*, 37 FCC Rcd at 13858, para. 19.

[39] *See 988 Report and Order* at 21, para. 36; *see also* 47 CFR § 4.9(h).

[40] *Second Report and Order*, 37 FCC Rcd at 13859, para. 20.

[41] Petition at 7.

[42] *Id*.

distribution of outage notices, and there may be multiple parties involved in the chain of notifications, which may cause inadvertent spam filter/firewall delays."[43]

14. We find that the *Second Report and Order* properly defined an OSP's discovery of an outage to include when the outage is discovered by its third-party vendor or service provider. Based upon Commission precedent, OSPs may rely on third-party service providers to manage, route, or otherwise contribute to 911 call processing, but OSPs who do so are responsible for the actions of those third parties. The outage reporting rules state that OSPs must notify PSAPs upon discovery of a reportable outage "experienced on any facilities that they own, operate, lease, or otherwise utilize."[44] CCA's proposed approach would relieve the OSP of responsibility for timely notification, if its third-party vendor discovered an outage, and failed to notify the OSP, or delayed doing so. This would undermine the purpose of the requirement to provide PSAPs with timely notice of outages so they can quickly take mitigating actions. Indeed, as the Commission observed in the *Second Report and Order*, it would "disincentivize providers from learning as much about an outage as quickly as possible."[45] Our decision is consistent with long-held Commission precedent that licensees and other regulatees are responsible for the acts and omissions of their contractors, and that it does not serve the public interest to create a means for OSPs to "contract away" their obligations to alleviate regulatory obligations.[46] As noted by ACA Connects, Commission precedent establishes that service providers have an obligation to take reasonable measures, to discover outages even on facilities that they lease or otherwise utilize.[47]

15. We also reject CCA's contention that OSPs cannot obtain information about outages from their vendors in sufficient time to enable the OSP to meet the 30-minute deadline for notification to the PSAP. As we stated in response to similar objections made by CCA in the *988 Report and Order*, "[t]o the extent that service providers find that their own vendors' coordination failures are causing them to violate the Commission's outage notification requirements we believe that is a matter to be resolved between those parties and does not change the service provider's obligation to comply with the Commission's notification requirements."[48] We agree with ACA Connects that an OSP may satisfy its

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[43] *Id*.

[44] 47 CFR § 4.9(a) (cable); (c) (satellite); (e) (wireless); (f) (wireline); (h) (interconnected VoIP).

[45] *Second Report and Order*, 37 FCC Rcd at 13858, para. 19; *see also 988 Report and Order* at 21, para. 37 (coming to a similar conclusion); Maryland NG911 Commission Comments, PS Docket Nos. 15-80, and 13-75, ET Docket No. 04-35, at 5 (rec. July 27, 2021) ("When the PSAP is not informed in a thorough or punctual manner, their ability to trigger alternative methods for their populations to contact emergency services is severely compromised.") (Maryland NG911 2021 Comments).

[46] See Eure Family Limited Partnership, Memorandum Opinion and Order, 17 FCC Rcd 21861, 21863-64 (2002) (citing Application for Review of Liability of MTD, Inc., Permittee of Station KWMW(FM), Maljamar, New Mexico for a Forfeiture, Memorandum Opinion and Order, 6 FCC Rcd 34, 35 (1991)); Liability of Wagenvoord Broadcasting Co., Licensee of Station WVOG, New Orleans, LA. for Forfeiture, Memorandum Opinion and Order, 35 F.C.C.2d 361 (1972). See also Amendment of the Commission's Rules to Provide Spectrum for the Operation of Medical Body Area Networks, First Report and Order and Further Notice of Proposed Rulemaking, 17 FCC Rcd 6422, 6439 n.108 (2012); Courier Communications Corp., Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 2593, 2595 n.25 (EB 2008).

[47] ACA Connects Reply to Oppositions at 6 (suggesting that "[a[t minimum, the Commission should provide that the 30-minute notification deadline runs from when a provider actually discovers an outage, consistent with Commission precedent. In doing so, the Commission could affirm its 2015 guidance that "providers have an obligation to take reasonable steps to discover outages."); *see Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications*, PS Docket Nos. 15-80 and 13-75, ET Docket No. 04-35, Notice of Proposed Rulemaking, Second Report and Order, and Order on Reconsideration, 30 FCC Rcd 3206, 3229, para. 69 (2015).

[48] *See 988 Report and Order* at 21, para. 36 (disagreeing with "CCA that a 30-minute notification timeframe would be unreasonable and unrealistic, particularly for originating service providers utilizing vendors for 988 solutions.").

obligation to notify a PSAP of an outage "if the party that actually discovers the outage – which may be a third party – notifies the PSAP within these timeframes."[49] In fact, if an outage occurs in a vendor's facilities, and affects delivery of 911 calls by multiple OSPs that have contracted with the vendor, notification to PSAPs by the vendor could satisfy the notification requirement for each of the contracting OSPs.[50] We note, however, that vendor notifications would still be required to include the required contents with respect to each OSP, including the names of the OSPs experiencing the outage, the service types of the OSPs affected by the outage, and the geographic areas served by the OSPs that are affected by the outage.

3. Over-notification of PSAPs

16. CCA and industry commenters assert that the 30 minute rule will force OSPs to send blanket notifications to PSAPs that may not be directly affected by an outage, leading to over-notification, notification fatigue, and overburdening of PSAPs.[51] CCA asserts that over-notification is already happening, followed in some instances by OSPs withdrawing preliminary outage reports made to the Commission and to PSAPs.[52] CCA and industry commenters argue that this results in PSAPs not obtaining actionable or accurate information within the required time period, and having to divert valuable resources from outages that actually require attention.[53] On the other hand, APCO contends that over-notification is not a problem, stating that "the current problem for ECCs is not too many notifications, but that outages often occur without ECCs receiving notifications at all."[54] APCO has also noted that it is "unaware of ECC 'fatigue' concerns related to notifications via phone and electronic means or supplemental notifications currently required for covered 9-1-1 service providers. Extending these obligations to originating service providers is appropriate."[55] In a recent *ex parte* filing, NENA indicates that it has received complaints from PSAPs about over-notification, although it does not have empirical data regarding the scale of the problem.[56]

17. We find that proper application of the rule should limit the risk of over-notification. First, as noted above, OSPs are only required to notify PSAPs of outages that have triggered the part 4 reporting thresholds for combined user minutes.[57] Thus, only particularly large outages are likely to result in PSAPs receiving notifications from multiple OSPs, and smaller OSPs serving fewer customers will have to experience particularly long outages to reach the part 4 thresholds required for notification. Second, the PSAP complaints cited by NENA do not call the rule into question but suggest that some

[49] ACA Connects Reply to Oppositions at 6 (stating that "[u]nder this clarification, originating service providers would retain their obligation "to follow up with additional material information as soon as possible after it becomes available . . . until the outage is completely repaired and service is fully restored," ensuring that PSAPs continue to receive relevant updates as the situation progresses.").

[50] *See Second Report and Order*, 37 FCC Rcd at 13855, para. 14.

[51] Petition at 6, 9; CCA Reply at 5; CTIA Comments at 5.

[52] Petition at 9.

[53] Petition at 9; Southern Linc Comments at 7; NCTA Comments at 3-4; USTelecom Comments at 3; CTIA Comments at 2-4, 6.

[54] APCO Opposition at 3.

[55] APCO 2021 Reply Comments at 3.

[56] NENA *Ex Parte* at 1. NENA recommends that the Commission coordinate with state 911 authorities and NASNA "to further investigate the scope of the problem." *Id.* at 1-2.

[57] Section 4.5(e)(2) establishes that "a loss of 911 call processing capabilities in one or more E-911 tandems/selective routers for at least 30 minutes duration," is considered an outage that potentially affects a 911 special facility, without any regard to the number of user-minutes affected. 47 CFR § 4.5(e)(2). However, providers do not typically operate E-911 tandems and/or selective routers in their capacity as OSPs.

providers have chosen to implement the rule in an overinclusive and uncoordinated manner.[58] Nothing precludes OSPs from working together to establish more coordinated and efficient outage notification processes that reduce the likelihood of unnecessary notifications.

18. Ultimately, even if the rule results in occasional unnecessary notifications, the overriding objective is for OSPs to notify PSAPs to better enable PSAPs to more quickly reduce the impact of an outage. We agree with APCO that "[w]hen an outage impacts 9-1-1, the value of the notification to an ECC does not differ based on the type of service provider."[59] We continue to believe that, as noted by APCO, a uniform set of expectations will enhance the situational awareness of PSAPs, and enable them to be more efficient when mitigating the impacts of outages.[60] Moreover, even if over-notification occurs at the initial notification stage (e.g., if subsequent information reveals that the outage affected fewer PSAPs than were initially believed to be affected), public safety commenters strongly support retaining the 30 minute rule, and agree with the Commission's determination in the *Second Report and Order* that "public safety interests outweigh any inconvenience over-notification poses."[61] In light of this record and support by public safety entities, we affirm that the risks of over-notification are outweighed by the benefits of providing initial notification within 30 minutes, which will greatly accelerate PSAPs' ability to coordinate emergency response resources with first responders.

4. Burden on Small and Rural Carriers

19. CCA argues that the 30 minute notification requirement will overburden small and rural carriers that have time and resource limitations.[62] Southern Linc states that this requirement "is especially weighty for small and rural carriers that often must contend with smaller workforces, limited internal capabilities, and remote and diverse geographic territory and whose resources will already be strained in responding to a network outage."[63] We find that the Commission took the potential burden on small and rural carriers fully into account in the *Second Report and Order*. We also agree with APCO that the interests of small carriers must be balanced against public safety's need for outage information, and that "[f]rom the perspective of an ECC, the most important question when determining whether an outage notification should be made is whether the ECC would take steps to mitigate the outage's impact."[64]

20. We disagree with CCA's assertion that the 30 minute requirement will overburden small or rural carriers. In fact, the burden on smaller carriers to provide notifications is likely to be less than for larger carriers. This is because the notification requirement is in part based upon the potential user minutes impacted. As the Commission explained in the *988 Report and Order*, OSPs that operate lines that serve fewer customers, would have to experience longer outages to reach the user-minute threshold required for notification, which effectively allows more time for them to investigate the outages.[65] Indeed, APCO argues that "the Commission should base the thresholds on the benefit to public safety, not

[58] NENA *Ex Parte* at 1 (stating that "Notifications may cover all PSAPs for a very large area, such as multiple states, without geospatial or other information to communicate the exact scope of the notification or whether the PSAP should act on it").

[59] APCO 2021 Comments at 2.

[60] *Id*.

[61] *Second Report and Order*, 37 FCC Rcd at 13859, para. 21 & n.80 ("On balance, we believe the public safety interests served by PSAPs quickly receiving outage notifications outweigh the risk of inaccuracies or over-notification.").

[62] Petition at 8-9; Southern Linc Comments at 6; Blooston Rural Carriers Comments at 2-4; ACA Connects Comments at 3; NTCA Comments at 3-4.

[63] Southern Linc Comments at 6.

[64] APCO 2021 Comments at 2.

[65] 988 Report and Order at 21, para 36.

service providers' preferences."[66] In addition, neither CCA nor other commenters opposing the rules have provided specific cost estimates to support their claims that small carriers would be disproportionately affected. Therefore, we find no basis for reconsideration of the *Second Report and Order* on these grounds.

B. Using Special Diligence to Maintain Up-to-Date PSAP Contact Information

1. Commission Creation/Operation of Centralized PSAP Database

21. In the *Second Report and Order*, the Commission required both OSPs and covered 911 service providers to "exercise special diligence to identify, maintain, and, on an annual basis, confirm current contact information appropriate for 911 outage notification for each 911 special facility that serves areas that the service provider serves."[67] The Commission adopted the "special diligence" standard because it found that failure to take sufficient care regarding this contact information could lead to particularly serious public harms.[68] The Commission also deferred consideration of proposals for creation of a centralized contact database, which were proposed in the *Third Notice* and supported by some commenters, noting "conflicting evidence in the record about the potential costs and benefits" of such proposals.[69]

22. In its Petition, CCA argues that the Commission should create and operate a centralized PSAP contact database and defer requiring OSPs to exercise special diligence with respect to maintaining contact information until the database is complete.[70] CCA and supporting commenters contend that the Commission is better positioned than OSPs to bear the cost and responsibility of maintaining a database.[71] In addition, they argue that the burdens of this rule will also be felt by PSAPs, which will find themselves fielding duplicative and frequent requests for information from various OSPs.[72]

23. We reject CCA's proposal to have the Commission create a centralized database before OSPs would be required to exercise special diligence in maintaining PSAP contact information. As the Commission found in the *Second Report and Order*, this compliance obligation can be readily met by other means, including by the service providers developing their own database capabilities rather than waiting for the Commission to do so.[73] Moreover, whether or not industry or the Commission eventually establishes a database, PSAP contact information is currently available to OSPs through a variety of sources. CCA's proposal ignores the fact that the rules have long required OSPs to contact PSAPs in the

[66] APCO 2021 Comments at 2.

[67] *See Second Report and Order*, 37 FCC Rcd at Appendix A.

[68] *Id.* at 13852, para. 9.

[69] *Id.* at 13852, para. 9 & n.26.

[70] Petition at 14.

[71] Petition at 11-14; Southern Linc Comments at 10; NCTA Comments at 2, 4-5; CTIA Comments at 8; ACA Connects Comments at 7-8; CCA Reply at 7-9.

[72] CCA Reply at 7-9; ACA Connects Comments at 5; Southern Linc Comments at 9; NCTA Comments at 4 ("it is likely overwhelming and inefficient for PSAPs to respond to many individual requests for updated contact information rather than being able to update one centralized database").

[73] *Second Report and Order* at para. 8 (agreeing with APCO that "service providers possess the necessary resources, are already required under Commission rules to notify [911 special facilities] of outages, and already maintain their own databases for contacting [911 special facilities]").

event of an outage, which necessitates their having current PSAP contact information. We find no basis for deferring this requirement while database options remain under consideration.[74]

24. We also disagree with CCA and its supporters that suggest the Commission adopt a "safe harbor" provision, either permanently or in the interim, to protect OSPs that attempt to reach PSAPs to obtain contact information or rely on third party database providers.[75] We decline to establish a safe harbor at this time because it would act as a disincentive for OSPs to create methods to affirmatively confirm PSAP contact information, effectively nullifying the special diligence standard. We note that this does not preclude consideration of safe harbor options in the future.

25. Finally, we are not persuaded by arguments that the special diligence standard for maintaining up-to-date PSAP contact information is confusing and fails to provide certainty on how to comply.[76] In response to CCA's Petition, several commenters reiterate alternatives raised previously in this proceeding that the Commission rejected in the *Second Report and Order*. For example, CTIA again proposes defining special diligence as "making at least three attempts to contact the 911 special facility using at least two different types of media."[77] Alternatively, ACA Connects suggests that a "good-faith effort" to obtain contact information directly from PSAPs should be sufficient.[78] NCTA suggests a "reasonable best efforts" standard should be adopted.[79] ATIS objects to the diligence obligation remaining with providers when PSAPs are the source of the required contact information.[80]

26. We find that the *Second Report and Order* fully explained the special diligence standard and properly rejected commenters' proposed alternatives.[81] The *Second Report and Order* defined special diligence as "the diligence expected from a person practicing in a particular field of specialty under circumstances like those at issue," and provided an example of what special diligence may require.[82] The Commission also noted that it "has imposed this higher level of care in circumstances where a failure to

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[74] We also note that other database options besides having the Commission develop and operate a database were proposed. For example, APCO favors a centralized database, and proposes that the Commission require it to be built and operated by industry. APCO Comments at 7 ("Given that service providers possess the necessary resources ... and already maintain their own databases for contacting ECCs (in some cases pursuant to consent decrees with the Commission), they are well-suited to fund, establish, and maintain a contact database.") In addition, as the Commission noted in the *Second Report and Order,* nothing precludes industry from developing a database voluntarily to support PSAP notification. *Second Report and Order,* 37 FCC Rcd at 13852, para. 9 & n.26.

[75] CCA Reply at 8-9; NCTA Comments at 5-6.

[76] *See* ATIS Comments at 5 (stating, "ATIS NRSC continues to believe that the 'special diligence' requirement is a confusing, abstract concept that is difficult to implement in the context of the maintenance of PSAP contact information"); Southern Linc Comments at 8 (calling the standard "confusing and abstract"); NCTA Comments at 4 (asserting that the standard is confusing and "renders OSPs unsure how to achieve compliance"); USTelecom at 4 (agreeing with ATIS's characterization of the standard); CCA Reply at 8-9.

[77] CTIA Comments at 8; CTIA *et al. Ex Parte* at 6.

[78] ACA Connects Comments at 8.

[79] NCTA Comments at 6 (stating, "Pursuant to a "reasonable best efforts" standard, the Commission should find that a service provider will be deemed to comply with the PSAP contact information requirements if it "communicates with a PSAP via email at least annually requesting that the PSAP provide any updates to email and telephone contact information and timely undertakes reasonable follow-up measures if no response is provided.").

[80] ATIS Comments at 5.

[81] *See Second Report and Order*, 37 FCC Rcd at 13852, para. 9 (stating, "In these circumstances, 'special diligence' would require, for example, actively seeking to confirm the accuracy of contact information and not relying on the absence of a response.").

[82] *Id.* (stating, "'[S]pecial diligence' would require, for example, actively seeking to confirm the accuracy of contact information and not relying on the absence of a response").

take sufficient care can lead to particularly serious public harms."[83] In response to CTIA's proposal that three attempts to contact 911 special facilities would satisfy the special diligence requirement, the *Second Report and Order* stated: "[w]e believe that this approach would defeat the purpose of this requirement, as instead of incentivizing providers to ascertain and update such contact information to prepare for anticipated natural disasters or other emergencies, it would allow 911 service providers and OSPs to satisfy their obligations during such emergencies by simply reaching out to what may well be an outdated point of contact."[84] We find no basis in the record for reconsideration of this finding.

2. Burden on Small and Rural Carriers

27. We disagree with the assertion by CCA and supporting commenters that it will be particularly difficult for small and rural carriers to comply with the requirement to obtain, maintain, and annually confirm up-to-date accurate contact information for 911 special facilities.[85] Commenters contend that while small and rural service providers serve fewer PSAPs than larger carriers, they also lack "the resources to develop and maintain databases when PSAP personnel and contact information may change."[86]

28. We find that the *Second Report and Order* correctly took the interests and capabilities of small carriers into account, in adopting the special diligence requirement for maintaining PSAP contact information. The Commission took specific steps to reduce the impact on small entities,[87] and found that the costs and administrative burdens associated with the requirement would not unduly burden them.[88] The Commission also concluded that the public safety benefits of the requirement outweighed the estimated costs to small entities.[89] CCA and supporting commenters have provided no compelling basis for reconsideration of this finding.

3. Benefits and Costs

29. CCA argues that the Commission "materially erred" in estimating the compliance costs for providers to maintain up-to-date PSAP contact information.[90] According to CCA the cost for OSPs to maintain and update PSAP contact information will be much higher than the $68 per year per provider that was estimated in the *Second Report and Order*.[91] Specifically, CCA cites AT&T's estimate that its personnel average 20 hours per week for approximately 46 weeks per year to maintain PSAP contact

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[83] *Id*.

[84] *Id.* (stating, "Obtaining, maintaining, and annually confirming up-to-date accurate contact information for 911 special facilities is the overarching goal of this requirement, so requiring a higher level of care than reaching out to the prior contact is imperative to ensure public safety").

[85] Petition at 13-14; NTCA Comments at 3-4; Blooston Rural Carriers Comments at 4.

[86] Blooston Rural Carriers Comments at 4; NTCA Comments at 4.

[87] *Second Report and Order*, Appendix B at para. 31 (stating, "The Commission has taken several steps that could reduce the economic impact for small entities. First, the elements for 911 special facility outage notifications that we adopt largely track the NRSC Task Force's template. Therefore, to the extent small entities have or will implement the ATIS NRSC Task Force's template, compliance with the Commission's rules should not impose significant additional costs. Next, we adopt an approach that establishes a baseline expectation of shared information while otherwise preserving flexibility for service providers to determine the means by which they present this information to 911 special facilities. Similarly, we do not specify the particular procedures that service providers must develop or follow to elicit 911 special facility contact information.").

[88] *Second Report and Order,* Appendix B, 37 FCC Rcd at 13883, para 27.

[89] *Id*.

[90] Petition at 13.

[91] *Id*.

information.[92] CCA also criticizes the *Second Report and Order* for responding to comments addressing time and cost concerns "only in a short footnote," and argues that the *Second Report and Order* "did not demonstrate any meaningful consideration of the other parts of the record that cast significant doubt on whether its estimates were truly accurate."[93]

30. We have reviewed the *Second Report and Order* cost estimate in light of CCA's arguments, and have made upward revisions to better reflect the cost information provided by AT&T.[94] Nonetheless, we find that the benefits of the requirement for maintaining PSAP contact information continue to outweigh the costs. To ensure an accurate estimate, we revise the methodology to calculate a new cost based on the average number of providers that offer service in each PSAP's jurisdiction. While this method assumes that AT&T's cost estimate would be accurate for nationwide providers that must provide notifications to every PSAP, we also find that non-nationwide providers serve fewer PSAPs, and therefore are likely to spend considerably less time on this task. Although this change has resulted in a considerable increase in costs, we find that it is still low enough for us to conclude that the benefits of our requirements outweigh them.

31. We now estimate the total annual cost of obtaining and maintaining up-to-date PSAP contact information across the United States by all carriers would be approximately $8.42 million, including $3.52 million for wireless providers, $4.8 million for switched access, cable, and interconnected VoIP providers, and $102,120 for satellite providers. We calculate this cost as the product of (1) the cost to a single OSP or covered 911 service provider for obtaining and maintaining up-to-date contact information for a single PSAP; and (2) our estimate of the total number of PSAPs in the service areas of each individual OSP and covered 911 service provider, summed across providers. To calculate the cost of obtaining and maintaining up-to-date contact information for a single PSAP, we use estimates provided by AT&T as their annual estimated cost of compliance for this requirement. AT&T reports that personnel spend on "average 20 hours per week for approximately 46 weeks per year validating, updating and maintaining" PSAP contact information.[95] Therefore, we find that for a covered 911 service provider or OSP that must obtain updated PSAP contact information for all PSAPs in the country, the annual cost of obtaining and maintaining contact information would be $34,040.[96] Since AT&T is a nationwide carrier,

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[92] *Id.* at 12.

[93] *Id*.

[94] AT&T Comments PS Docket Nos. 15-80, and 13-75, ET Docket No. 04-35, at 14 (rec. July 30, 2021) (AT&T Comments).

[95] *See* Petition at 12 (quoting AT&T Comments on *Third NPRM* at 14).

[96] We assume that a communications equipment operator, earning $37/hour (including benefits), would perform this task. Therefore, the annual cost of updating the contact information for all PSAPs in the nation would be $34,040 [$37/hour × 20 hours × 46 weeks]. We use the job category of "Communications Equipment Operators, All Other" in this estimate to avoid under-estimating labor costs for tasks that are likely performed by lower-paid workers. *See* Economic News Release, Bureau of Labor Statistics, National Employment and Wage Data from the Occupational Employment Statistics Survey by Occupation, May 2022 (May 2022) https://www.bls.gov/news.release/ocwage.t01.htm. We begin with the average hourly wage [$24.11] and multiply by 1.45 to account for benefits and by 105.5% for inflation adjustment between 2022 and 2023, then round up to $37.

According to the Bureau of Labor Statistics, as of June 2023, civilian wages and salaries averaged $29.86/hour and benefits averaged $13.39/hour. Total compensation therefore averaged $29.86 + $13.39, rounded to $43.26. *See* Press Release, Bureau of Labor Statistics, Employer Costs for Employee Compensation—June 2023 (Sept. 12, 2023), https://www.bls.gov/news.release/pdf/ecec.pdf. Using these figures, benefits constitute a markup of $13.39/$29.86 ~ 45% (Compensation Benefit Mark-up). We therefore markup wages by 45% to account for benefits. The 105.5% multiplier represents our adjustment for inflation. *See* Federal Reserve Bank of St. Louis, Average Hourly Earnings of All Employees, Total Private (CES0500000003),

(continued….)

AT&T's estimate of the total cost is premised on its need to contact all 5,748 primary and secondary PSAPs in the U.S.; thus, we divide AT&T's annual cost by 5,748 to arrive at a per-PSAP annual cost of $6.[97]

32. To estimate the number of PSAPs served by all individual covered 911 service providers and OSPs, we use disaggregated provider data for wireless, wireline, cable, interconnected Voice-over Internet Protocol (VoIP), and satellite communications providers. For facilities-based wireless service providers, as well as for switched access (wireline), cable, and interconnected VoIP providers, we rely on Form 477 and/or information from the Broadband Data Collection.[98] For wireless Mobile Virtual Network Operators (MVNOs), we rely on Form 499 data concerning the states that each MVNO serves.[99] For satellite providers, we rely on information from the Broadband Data Collection.[100]

33. The cost of obtaining and maintaining up-to-date contact information is calculated as the product of the per-PSAP cost and the number of PSAPs served by each of the providers in each of the above mentioned categories (assuming that each provider would need to contact each PSAP in the areas it serves every year), aggregated across providers. This yields an estimated cost of $3.52 million for wireless providers, including all facilities-based providers and MVNOs; $4.8 million for switched access, cable, and interconnected VoIP providers; and $102,120 for satellite providers. Summing across all categories, the total estimated cost of obtaining and maintaining up-to-date contract information would be annually $8.42 million.

34. *Wireless Calculation.* We calculate the cost to wireless providers separately for facilities-based providers and MVNOs. For the three nationwide facilities-based providers, we assume that the annual cost to obtain and maintain up-to-date PSAP contact information is the same as for AT&T [$34,040]. We assume that the remaining facilities-based providers collectively must maintain contact information for the full national set of 5,748 PSAPs.[101] This results in an estimated combined cost of $136,160 [[=$[= $34,040 × 4]. For MVNOs, we first calculate the number of PSAPs that each MVNO would need to reach to obtain and maintain contact information. We calculate this by summing state-level PSAP counts across all states in which an individual MVNO reports providing service based on Form 499.[102] In doing so, we assume that if an MVNO reports providing service in a state, then it must

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https://fred.stlouisfed.org/series/CES0500000003 (last visited Feb. 7, 2024) (Inflation Adjustment) (showing that according to Bureau of Labor Statistics data, the average hourly private wage increased by 5.5% between May 2022 and August 2023).

[97] The annual per-PSAP cost for an individual provider is estimated to be $6 [$34,040 per year / 5,748 PSAPs ~ $5.92, rounding up to $6]. *See Second Report and Order*, 37 FCC Rcd at 13848, para. 1 ("approximately 5,748 primary and secondary Public Safety Answering Points").

[98] With respect to facilities-based wireless service providers, *see* FCC*, Mobile Deployment Form 477 Data* (updated Dec. 30, 2022), https://www.fcc.gov/mobile-deployment-form-477-data. For switched access (wireline), cable, and interconnected VoIP, staff calculation are based on Form 477 filings certified as of July 24, 2023 and Broadband Data Collection filings certified as of August 4, 2023.

[99] *See* FCC*, Form 499 Filer Database* (updated Sept. 20, 2023), https://apps.fcc.gov/cgb/form499/499a.cfm.

[100] *See* FCC*, Broadband Data Collection* (updated July 25, 2023), https://www.fcc.gov/BroadbandData.

[101] Staff analysis of Form 477 data suggests that when there is a fourth non-nationwide wireless provider in any particular location, it is usually the only one. *See FCC, Mobile Deployment Form 477 Data* (Jul. 29, 2022), https://www.fcc.gov/mobile-deployment-form-477-data.

[102] For each provider in the Form 499 Filer Database, Columns 61-119 identify each state for which that provider reports providing service. *See* FCC*, Form 499 Filer Database* (updated Sept. 20, 2023), https://apps.fcc.gov/cgb/form499/499a.cfm. Staff analysis suggests that there are 333 operational MVNOs nationwide. To arrive at this figure, we restricted Form 499 data to filers who reported end-user mobile revenue for CY 2022. We further restricted this data by removing all facilities-based providers using Form 477 data. We note

(continued….)

reach out to all PSAPs in that state.[103] Following this methodology, we estimate that MVNOs would make 563,944 contacts with PSAPs, leading to a cost of $3.38 million [563,944 × $6].[104] The overall estimated cost for wireless providers would therefore be approximately $3.52 million [=$3.38 million + $136,160].

35. *Switched Access (Wireline), Cable, and Interconnected VoIP Calculation*. To calculate costs for this category, we rely on county-level data on the number of providers per county. We calculate costs by first estimating the number of PSAPs in each county, and then multiplying this by the number of providers in that county.[105] We conservatively assume that every provider in a county serves the entire county, and would therefore be required to contact all PSAPs in that county. In doing so, we likely overestimate the costs of obtaining and maintaining contact information.[106] Conversely, while in principle, our approach could understate costs if voice providers serving different counties each needed to maintain the information of PSAPs serving these counties, we find that we are more likely to overestimate than to underestimate costs.[107] Multiplying the PSAP-provider product by the per-PSAP cost and adding across counties, we estimate a combined cost of $4.8 million for all providers of switched access, cable, and interconnected VoIP.

36. *Satellite Calculation*. Our analysis of information from the Broadband Data Collection indicates that there are three nationwide satellite communications providers. Assuming that each of these

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that our approach likely overstates costs because it relies on an overly inclusive definition of MVNO that includes, for instance, filers whose principal line of business does not enable consumers to call 911 (e.g., paging and messaging). We conservatively use this approach because we do not have information on whether filers engage in other lines of business that do offer 911 capabilities.

[103] Assuming that an MVNO's presence in a state implies state-wide service is a conservative assumption that is likely to overstate costs. In reality, many MVNOs will only be required to contact the PSAPs located in their service areas, leading to lower costs than what we calculate here.

[104] To obtain our estimate of 563,944, we multiply the number of MVNOs by the number PSAPs in the state, then sum over instances of contacts with PSAPs across states.

[105] Because PSAP counts are available at the level of a state, we disaggregate PSAP counts to the level of a county using population-based weighting. This is a reasonable assumption, as more populated counties are likely to receive more 9-1-1 calls which will require more PSAPs. Staff constructed population-based weights for each county by dividing the population of that county by the total state population. *See U.S. Census Bureau, County Population Totals and Components of Change: 2020-2022*, (Jun. 23, 2023), https://www.census.gov/data/tables/time-series/demo/popest/2020s-counties-total.html.

[106] The average number of unduplicated voice providers of cable, switched access and interconnected VoIP service in a county is approximately 50. Because, in reality, providers are likely to contact only the PSAPs which operate in their area of service, which may not necessarily span the entire county, our assumption leads to an overestimate of the number of PSAPs that providers, on average, need to reach to obtain contact information. For comparison, the average number of unduplicated voice providers of cable, switched access and interconnected VoIP service in a census tract is approximately 16, which tells us that most providers do not serve the entire county.

[107] For instance, suppose that there are two equally populated counties, each receiving service from a provider that serves one county in its entirety but not the other and consider the following two scenarios. Scenario (1): there are two PSAPS and each PSAP covers one county, but not the other, so that each service provider needs to update information for a single PSAP. Scenario (2): both PSAPs cover parts of each county, so that both service providers need to update information for both PSAPs, which doubles the cost. Our population weighing procedure leads to a cost estimate equivalent to the cost in scenario (1), and therefore underestimates costs in scenario (2). However, on average, each county contains approximately 1.8 PSAPs, so that it is more likely that counties contain individual PSAPs than not. Moreover, because the average number of unduplicated voice providers in any part of a county is well below the average number of providers serving the county, contrary to our estimates, many service providers in any county do not need to update contact information for every PSAP in that county.

providers needs to obtain and maintain contact information for all PSAPs nationwide, we estimate an annual cost of $102,120 [= $34,040 × 3].[108]

37. As discussed above, we believe that OSPs and covered 911 service providers across the country actually would incur annual costs that are substantially less than the estimated cost calculated using the methodology described above ($8.42 million). But, even if this cost estimate were accurate, we believe it is far exceeded by the benefits of ensuring that PSAPs receive timely information about outages in their jurisdictions that threaten residents' ability to reach 911. Ensuring that public safety officials have prompt awareness about situations where the public cannot reach them will strengthen their ability to trigger alternative methods for communication and lead to significant benefits in lives saved and risks mitigated. We have observed that when PSAPs receive actionable 911 outage notifications, they are empowered to use reverse 911, post on social media platforms, work with local media to run on-screen text crawls, and use other tools at their disposal to notify the public of alternative means to reach their 911 call takers.[109] During AT&T Mobility's nationwide 911 outage, for example, PSAPs in Orange County, Florida took measures to notify the public of their alternative 10-digit phone number as a means to reach their 911 call takers, receiving 172 calls to that number over the course of 90 minutes.[110] Extrapolating this to a nationwide figure, we estimate that approximately 900,000 additional such phone calls might have been made per year were our proposed rules in effect.[111] Assuming 6.35% of these phone calls

[108] We do not include Big Bend Telephone, a local wireline provider that also reports satellite connections largely overlapping its wireline territory in our satellite calculations, because its costs are already accounted for in our joint calculations for switched access, cable, and interconnected VoIP providers.

[109] See Public Safety and Homeland Security Bureau Announces Agenda for Workshop on Improving Situational Awareness During 911 Outages, PS Docket No. 17-68, Public Notice (PSHSB 2017); PSHSB, Improving Situational Awareness During 911 Outages (Sep. 11, 2017) (PSHSB 911 Workshop Webcast) at 144:51, https://www.fcc.gov/news-events/events/2017/09/improving-situational-awareness-during-911-outages (David Mulholland, Administrator, Arlington County, VA, Emergency Communications Center on PSAPs' use of reverse 911); *id.* at 84:00 (John Haynes, Deputy Director, Chester County, Pennsylvania Emergency Service on PSAPs' use of social media); *id*. at 87:21 (Evelyn Bailey, Executive Director, NASNA, on PSAPs' use of local media); PSHSB, March 8, 2017 AT&T VoLTE 911 Outage Report and Recommendations, PS Docket No, 17-68, at 12-13 (2017), https://apps.fcc.gov/edocs_public/attachmatch/DOC-344941A1.pdf (AT&T VoLTE 911 Outage Report) (stating that PSAP's leveraged their alternative 10-digit number to receive calls for emergency service during the 911 outage, and relied on text-to-911 and ham radio); see also Workshop Recommended Practices Public Notice, 33 FCC Rcd at 11-13 (recommending that PSAPs become authorized to use Wireless Emergency Alerts and ensure that their notifications to the public are "accessible to all consumers, including those with hearing or other disabilities and those with limited English proficiency").

[110] AT&T VoLTE 911 Outage Report at 13.

[111] We obtained subscriber data from the Numbering Resource Utilization Forecast (NRUF) for 2017. NRUF provides a measure of the number of mobile wireless connections or connected devices that have assigned telephone numbers. *See Communications Marketplace Report et al.*, GN Docket No. 18-231 et al., Report, 33 FCC Rcd 12558, 12563, para. 8, n.24 (2018). We extrapolate the 172 alternative 10-digit calls during the 90-minute window to a nationwide figure of 75,000 calls per hour that could be redirected via the alternative measure, which is rounded to the next thousand to preserve the confidentiality of the NRUF data and avoid the false appearance of precision in these estimates. We estimate that, during 2019 through 2023, an average of 4.1 billion user-hours were reported. Divide the 4.1 billion user-hours by the U.S. population (331 million), this is equivalent to an average of 12-hour outage per person in the U.S. each year. Multiplying the 75,000 10-digit alternative calls per hour by 12 hours of the average outages U.S. population experience per year, we estimate that approximately 900,000 911-calls could can be redirected via alternative means under our rules. Our estimation is based on the assumption that Orange County, FL is representative of PSAP responses throughout the United States and that AT&T and other voice subscribers would have likewise dialed the relevant 10-digit number elsewhere. See U.S. Census Bureau, Quick Facts United States, https://www.census.gov/quickfacts/fact/table/US/POP010220#POP010220 (last visited Mar. 27, 2024) (according to Census data on Apr. 1, 2020, the U.S. population was around 331,449,281, rounded to 331 million for calculation simplicity).

represent life-threatening medical emergencies, our rules would have hastened response to 57,150 such emergencies during 911 outages.[112] Even with just 10% of these responses resulting in life-saving (57,150 × 10% = 5,715), the benefit to enhance the public safety would be tremendous. We believe our estimate of the benefit is conservative because not only the actual life-saving rate via emergency responses could be higher than 10%, but also our estimate does not take into account of the benefits of preventing and reducing property damages and bodily harms during these drastic events. Because the public safety value of the requirement at issue here is reasonably likely to exceed the total costs of implementing it, we deny the Petition for Reconsideration.

IV. ORDERING CLAUSES

38. ACCORDINGLY IT IS ORDERED that, pursuant to the authority contained in sections 1, 4(i), 4(j), 4(n), 201(b), 214, 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, and 403, of the Communications Act of 1934, as amended, and sections 3(b) and 6 of the Wireless Communications and Public Safety Act of 1999, as amended, 47 U.S.C. §§ 151, 154(i), 154(j) 154(n), 201(b), 214, 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 332, 403, 615, 615a-1, and section 1.429 of the Commission's rules, 47 CFR 1.429, that this Order on Reconsideration IS ADOPTED and the Competitive Carriers Association's Petition for Reconsideration IS DENIED.

39. IT IS FURTHER ORDERED that this ORDER SHALL BE EFFECTIVE upon publication in the *Federal Register*.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch

Secretary

[112] For instance in 2018, citywide data for New York City reported 571,633 Segment 1-3 incidents—which consist of cardiac arrest and choking cases and life-threatening medical emergencies. With an average of 9 million 911 calls that New York City received per year, about 6.35% are associated with life-threatening emergency medical service. *See* Fire Department, City of New York, Statistics, Citywide Performance Indicators 01/01/18 – 12/31/2018 at 1 (2018), available at https://www1.nyc.gov/assets/fdny/downloads/pdf/about/citywide-stat-2018-annual-report.pdf (*2018 NYC 911 Statistics Report*) (reporting 571,633 Segment 1-3 incidents). *See also* New York City Office of Technology & Innovation, NYC's Next Generation 911 on Target for 2024 Completion (Dec. 29, 2022), https://www.nyc.gov/content/oti/pages/press-releases/next-gen-911-on-target-2024-completion (stating that New York City receives around 9 million 911 calls annually). We multiply the estimated 900,000 10-digit calls via alternative means by 6.35% to arrive at the 57,150 potentially life-threatening emergency events.

APPENDIX

List of Commenters

Oppositions to CCA Petition for Reconsideration

Association of Public-Safety Communications Officials-International, Inc. (APCO)
Boulder Regional Emergency Telephone Service Authority (BRETSA)

Replies to Oppositions

ACA Connects-America's Communications Association (ACA Connects)
Alliance for Telecommunications Industry Solutions (ATIS)
Blooston Rural Carriers
CTIA-The Wireless Association (CTIA)
FailSafe Communications, Inc. (FailSafe)
NCTA-The Internet & Television Association (NCTA)
NTCA-The Rural Broadband Association (NTCA)
Southern Communications Services, Inc. d/b/a Southern Linc
USTelecom-The Broadband Association (USTelecom)